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

THIS IS THE END OF MUR # 1617

Date Filmed 6/19/84 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

Routing and misc slips
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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 D Curry

date 6-13-84

FEC 9-21-77

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Closed
6/14/84

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1617
House Democratic Caucus, et. al.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 14, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1617:

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

(Continued)

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

17. Close the file.

(Continued)

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18. Approve the letters as attached to the General Counsel's Report signed May 9, 1984.

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

Attest:

May 15, 1984
Date

Jody C. Ransom
for Marjorie W. Emmons
Secretary of the Commission

8404041606032

Received in Office of Commission Secretary: 5-10-84, 10:40
Circulated on 48 hour tally basis: 5-10-84, 4:00

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Eric Adam Brass
WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134

RE: MUR 1617
WGBH Educational
Foundation

Dear Mr. Brass:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

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OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.[2/]

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Steven R. Ross
General Counsel to the Clerk
Office of the Clerk
U.S. House of Representatives
Washington, D.C. 20515

RE: MUR 1617
House Democratic
Caucus

Dear Mr. Ross:

On January 25 and February 18, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

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II. FACTUAL AND LEGAL ANALYSIS

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The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

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a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

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Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

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(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

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The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Ronald C. Peterson, Treasurer
Cranston for President Committee, Inc.
1120 G Street, N.W., Rm. 801
Washington, D.C. 20005

RE: MUR 1617
Cranston for President
Committee, Inc.

Dear Mr. Peterson:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
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House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

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GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

George Cunningham
General Chairman
P.O. Box 1984
Washington, D.C. 20009

RE: MUR 1617
McGovern for
President, Inc.

Dear Mr. Cunningham:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

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Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Ralph C. Thomas, III
Jesse Jackson for President Committee
1101 14th Street, N.W. #1000
Washington, D.C. 20005

RE: MUR 1617
Jesse Jackson for
President Committee

Dear Mr. Thomas:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.[2/]

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Kenneth J. Guido, Jr.
Donald J. Simon
Sonosky, Chambers, Sachse & Guido
1050 31st Street, N.W.
Washington, D.C. 20007

RE: MUR 1617
Americans With Hart
Committee

Dear Mr. Guido and Mr. Simon:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Harlan Pomeroy
Baker & Hostetler
818 Connecticut Avenue, N.W.
Washington, D.C. 20006

RE: MUR 1617
John Glenn Presidential
Committee

Dear Mr. Pomeroy:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

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OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Donald M. Middlebrooks
Steele Hector & Davis
Southeast Bank Building
Miami, Florida 33131

RE: MUR 1617
Askew for President
Committee

Dear Mr. Middlebrooks:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Douglas M. Steenland
Verner, Liipfert, Bernard and McPherson
1660 L Street, Suite 1000
Washington, D.C. 20036

RE: MUR 1617
Dartmouth College and
Nelson A. Rockefeller
Center for Social
Sciences

Dear Mr. Steenland:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)
	)
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	) MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

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(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

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11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Lawrence Miller
Swartz, Woods & Miller
Suite 206, The Palladium
1325 Eighteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1617
University of New Hampshire Public Television

Dear Mr. Miller:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	MUR 1617

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GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Nancy Hendry
Deputy General Counsel
Public Broadcasting Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20024

RE: MUR 1617
Public Broadcasting
Service

Dear Ms. Hendry:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
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House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

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(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

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Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Arnold P. Lutzker
Dow, Lohnes & Albertson
1225 Connecticut Avenue
Washington, D.C. 20036

RE: MUR 1617
Phil Donohue

Dear Mr. Lutzker:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Carl R. Ramey
McKenna Wilkinson & Kittner
1150 Seventeenth Street N.W.
Washington, D.C. 20036

RE: MUR 1617
Ted Koppel

Dear Mr. Ramey:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3). A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Linda Colvard Dorian, Vice President,
General Counsel and Secretary
Susan Dillon, Deputy Assistant General Counsel
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

RE: MUR 1617
Corporation for Public
Broadcasting and
Program Fund

Dear Ms. Dorian and Ms. Dillon:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 10 A10: 40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	)	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.[2/]

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

David M. Ifshin, General Counsel
Carolyn Oliphant, Deputy General Counsel
Mondale for President, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

RE: MUR 1617
Mondale for President, Inc.

Dear Mr. Ifshin and Ms. Oliphant:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.2/

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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2/ According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Stephen A. Koczak
2923 Macomb Street, N.W.
Washington, D.C. 20008

D.C.

Re: MUR 1617

Dear Mr. Koczak:

The Federal Election Commission has reviewed the allegations of your complaint dated January 17, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. 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).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

James H. Rowe, III
Curtis, Mallet-PreVost, Colt & Mosle
1735 I Street, N.W.
Washington, D.C. 20006

RE: MUR 1617
Hollings for President, Inc.

D.C.

Dear Mr. Rowe:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David M. Ifshin, General Counsel
Carolyn Oliphant, Deputy General Counsel
Mondale for President, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

D.C.

RE: MUR 1617
Mondale for President, Inc.

Dear Mr. Ifshin and Ms. Oliphant:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Linda Colvard Dorian, Vice President,
General Counsel and Secretary
Susan Dillon, Deputy Assistant General Counsel
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

RE: MUR 1617
Corporation for Public
Broadcasting and
Program Fund

Dear Ms. Dorian and Ms. Dillon:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Carl R. Ramey
McKenna Wilkinson & Kittner
1150 Seventeenth Street N.W.
Washington, D.C. 20036

RE: MUR 1617
Ted Koppel

Dear Mr. Ramey:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Arnold P. Lutzker
Dow, Lohnes & Albertson
1225 Connecticut Avenue
Washington, D.C. 20036

D.C.

RE: MUR 1617
Phil Donohue

Dear Mr. Lutzker:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Nancy Hendry
Deputy General Counsel
Public Broadcasting Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20024

D.C.

RE: MUR 1617
Public Broadcasting
Service

Dear Ms. Hendry:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Lawrence Miller
Swartz, Woods & Miller
Suite 206, The Palladium
1325 Eighteenth Street, N.W.
Washington, D.C. 20036

D.C.

RE: MUR 1617
University of New Hampshire Public Television

Dear Mr. Miller:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Douglas M. Steenland
Verner, Liipfert, Bernard and McPherson
1660 L Street, Suite 1000
Washington, D.C. 20036

D.C.

RE: MUR 1617
Dartmouth College and
Nelson A. Rockefeller
Center for Social
Sciences

Dear Mr. Steenland:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Donald M. Middlebrooks
Steele Hector & Davis
Southeast Bank Building
Miami, Florida 33131

RE: MUR 1617
Askew for President
Committee

Dear Mr. Middlebrooks:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Harlan Pomeroy
Baker & Hostetler
818 Connecticut Avenue, N.W.
Washington, D.C. 20006

D.C.

RE: MUR 1617
John Glenn Presidential
Committee

Dear Mr. Pomeroy:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Kenneth J. Guido, Jr.
Donald J. Simon
Sonosky, Chambers, Sachse & Guido
1050 31st Street, N.W.
Washington, D.C. 20007

RE: MUR 1617
Americans With Hart
Committee

Dear Mr. Guido and Mr. Simon:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ralph C. Thomas, III
Jesse Jackson for President Committee
1101 14th Street, N.W. #1000
Washington, D.C. 20005

RE: MUR 1617
Jesse Jackson for
President Committee

Dear Mr. Thomas:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

George Cunningham
General Chairman
P.O. Box 1984
Washington, D.C. 20009

D.C.

RE: MUR 1617
McGovern for
President, Inc.

Dear Mr. Cunningham:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ronald C. Peterson, Treasurer
Cranston for President Committee, Inc.
1120 G Street, N.W., Rm. 801
Washington, D.C. 20005

D.C.

RE: MUR 1617
Cranston for President
Committee, Inc.

Dear Mr. Peterson:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Steven R. Ross
General Counsel to the Clerk
Office of the Clerk
U.S. House of Representatives
Washington, D.C. 20515

RE: MUR 1617
House Democratic
Caucus

Dear Mr. Ross:

On January 25 and February 18, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Eric Adam Brass
WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134

D.C

RE: MUR 1617
WGBH Educational
Foundation

Dear Mr. Brass:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 14, 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.	MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 110.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences[1/] staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

1/ According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.[2/]

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

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[2/] According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility for federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

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11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

> the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over $5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the $5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the dabate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R.§ 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.3/ The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

3/ From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate ...." 11 C.F.R. § 110.7(b)(2) and 11 C.F.R § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

> Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act ....

The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

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and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

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17. Close the file.

18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Responses from Respondents (pages 1-77)
2. Letters to Respondents (pages 78-93)
3. Letter to Complainant (page 94)

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ATTACHMENT I

LAW OFFICES
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ROBERT R. BRINKER
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RICHARD J. HORVITZ
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THOMAS R. HOWELL
DOUGLAS W. STEENLAND
MARYANN CLIFFORD
ELIZABETH A. CAMPBELL
MICHAEL J. MILLIGAN
JAMES F. HIRSY
KATHLEEN MURPHY KING
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OF COUNSEL
LISLE C. CARTER, JR.
HOWITT RAHLEN
WHITNEY GALLIANO
JOHN D. GREENWALD*
DAVID E. MERRITT

*NOT ADMITTED IN THE DISTRICT OF COLUMBIA
PRACTICE LIMITED TO FEDERAL MATTERS

CABLE ADDRESS: VERLIP
TELEX: 89-4614 VERLIPWSH

WRITER'S DIRECT DIAL NUMBER

452-7476

MUR 1617
Curry

March 9, 1984

9 AM 10:25

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

Re: MUR 1617

Dear Mr. Gross:

This letter constitutes the response of The Trustees of Dartmouth College ("Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences ("Center") to the complaint filed by Mr. Stephen A. Koczak ("Koczak") with the Federal Election Commission ("Commission") alleging violations by Dartmouth and the Center of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, Mr. Koczak's complaint appears to allege, inter alia, that Dartmouth and the Center violated the Act by failing to permit Koczak to particpate in the debate between significant candidates for the Democratic Party's presidential nomination that was sponsored by Dartmouth on January 15, 1984.

As to the allegations regarding Dartmouth and the Center, Mr. Koczak's complaint is totally without merit. Accordingly, the Commission should take no action against Dartmouth or the Center and should dismiss the complaint as it pertains to each institution. Dartmouth's actions in sponsoring the January 15, 1984 debate were fully consistent with the Act, the Commission's specific regulations governing political debates and the Commission's decisions interpreting and enforcing those regulations. As the Commission's regulations and previous enforcement decisions make clear, an organization staging a political debate is not obligated to invite every single declared

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candidate for the elective office at issue so long as the criteria used to select the participants are both nonpartisan and objective. Rather, a staging organization may invite to its debate only those candidates that it determines are significant.

That is exactly what happened here. Nonpartisan and objective criteria, patterned after those used by the League of Women Voters' Education Fund, were employed to select the participants in the January 15 debate. Mr. Koczak simply did not pass muster under these criteria. Accordingly, there was no obligation to invite Mr. Koczak to participate in the debate. For these reasons, Mr. Koczak's allegations have no merit and should be dismissed.

As further support for this conclusion, Dartmouth submits the following:

1. Dartmouth is a private educational institution located in Hanover, New Hampshire. In addition to the four-year undergraduate college, other major academic centers at Dartmouth include the Dartmouth Medical School, the Thayer School of Engineering, the Amos Tuck School of Business Administration and the Rockefeller Center.[1/]

As a private educational institution, Dartmouth is an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. In addition, it has never been Dartmouth's policy or practice to support or oppose candidates for elective office or to support one political party over another.

2. In deciding to sponsor the January 15 Democratic Presidential Debate, Dartmouth's intention was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process. In order to achieve this

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1/ As an academic center within Dartmouth College, the Center has no status independent of Dartmouth and, thus, should not have been named as a separate respondent in Mr. Koczak's complaint.

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objective, it was determined, in consultation with the Democratic Caucus of the House of Representatives ("Caucus"),[2] that only those Democratic presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate.

As experience with the political debate framework has shown, there is an inverse relationship between the number of participants, on the one hand, and the time available for the expression of views and the opportunity for effective interchange between or among the participants, on the other. Debates that are too lengthy or that include candidates for whom the public has little voting interest will not be effective.

3. Because of the limited amount of time available in the January 15 debate, it was decided that it was necessary to limit participation to candidates whom the public would regard as truly significant candidates. To do the opposite, i.e., invite all declared candidates for the Democratic presidential nomination would have been impossible. For example, in New Hampshire alone, there were 22 candidates on the ballot contesting for the Democratic presidential nomination.[3]

Therefore, nonpartisan and objective criteria were developed to determine which candidates should be invited to appear in the

---

2/ From the outset, Dartmouth, in its role as sponsor of the debate, worked closely with the Caucus. Dartmouth affirmatively sought the Caucus' active assistance and expertise to help manage and implement the complex tasks involved in staging a televised, multi-candidate debate.

3/ Traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000.00 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions.

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debate. These criteria were modeled after the criteria employed on numerous occasions by the League of Women Voters' Education Fund. See Attachment A. The basic tests for determining participation in the January 15 debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility of federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

Based on these criteria, it was determined that Mr. Koczak was not eligible to participate in the Dartmouth debate.

4. In view of these facts, the allegations raised by Mr. Koczak against Dartmouth and the Center must be dismissed as groundless. Under the Commission's regulations, Dartmouth, as a nonpartisan and nonprofit organization exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, "may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b)."[4/] Section 110.13(b) states that "[t]he structure of debates...is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another."

4/ 11 C.F.R. § 110.13(a)(1).

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In promulgating the debate regulations, the Commission expressly recognized that "[a] nonpartisan candidate debate...provides a forum for significant candidates to communicate their views to the public." Explanation and Justification, 44 Fed. Reg. 76734 (Dec. 27, 1979) (emphasis added). In providing such a forum, debate sponsors may, in accordance with the express provisions of 11 C.F.R. § 110.13(b)(2), exercise "discretion" so long as debates "are nonpartisan in that they do not promote or advance one candidate over another." According to the Commission, "[t]he primary question in determining nonpartisanship is the selection of candidates to participate in the debates." Explanation and Justification, 44 Fed. Reg. 76735.

The criteria for inviting candidates to participate in the Dartmouth debate comply with the letter and the spirit of the Commission's regulations as reflected in the Commission's holding in MUR 1287 where selection criteria similar to those employed for the Dartmouth debate were found to be objective and nonpartisan.

Therefore, for the above stated reasons, the Commission should take no action against either Dartmouth or the Center in connection with the allegations in the Koczak complaint.

Sincerely,

Douglas M. Steenland

Douglas M. Steenland
Counsel for The Trustees of
Dartmouth College

cc: Cary Clark, Esq.
Dartmouth College
P.O. Box 31
Hanover, NH 03755

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1984 LEAGUE OF WOMEN VOTERS EDUCATION FUND
DEMOCRATIC PRESIDENTIAL PRIMARY DEBATES
PARTICIPANT SELECTION CRITERIA

The League of Women Voters Education Fund will sponsor during the 1984 election season a series of primary debates among significant candidates for the Democratic Party's nomination for President. The purpose of these debates is to educate the nation's electorate in a nonpartisan manner about the issues in the 1984 Presidential campaign and about the positions of candidates on these issues and to stimulate increased voter interest and participation in the electoral process.

The League's goal of fostering voter education and participation in the electoral process is furthered by inviting to debate only candidates in whom a substantial number of voters has an interest. Inclusion of candidates in whom there is little voter interest would result in debates that are too long or that do not provide sufficient time for the meaningful expression of views by significant candidates. Accordingly, the League has chosen to limit participation in its 1984 Democratic primary Debates to candidates who present a significant national candidacy for the Democratic nomination for President.

Candidates who meet the following criteria will be invited to participate in the League's 1984 Democratic primary debates:

1. The candidate must have made a public announcement of his or her intention to run for the Democratic Party's nomination for President.

2. The candidate must be legally qualified to hold the office of President.

3. The candidate must be a significant candidate for the Democratic Party's nomination for President.

In assessing the significance of a candidacy, the League will consider a number of factors including the following:

-- Eligibility for matching payments under the Presidential Primary Matching Payment Account Act (26 U.S.C. Chapter 96). This criterion furthers the identification of significant candidates by focusing on those candidates who are significant enough to solicit, and have sufficient voter support to receive, contributions from a number of persons in a

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number of states.

-- Active campaigning in a number of states for the Democratic Party's nomination. Candidates who have established an active campaign presence in several different states may pose a significnt national candidacy for the Democratic Presidential nomination. A candidate's efforts to be named on primary ballots, his or her fundraising activities, the extent of the candidate's campaign organization, the amount of his or her campaign appearances, as well as any other factors evidencing substantial campaign activity, may be considered.

-- Recognition by the national media as a candidate meriting media attention. Since media coverage of particular candidates by major newspapers and television networks tends to evidence a recognition by the national media of substantial voter interest in a candidate and serves independently to foster such interest, this criterion is an appropriate consideration in determining the significance of particular candidates in the national campaign.

-- Other factors. The League may consider such other factors which in the League's good faith judgment may provide substantive evidence of nationwide voter interest in a candidate, such as the extent of campaign contributions and national voter poll results.

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Benjamin L. Guthrie
Clerk

M. Raymond Colley
Deputy Clerk

Office of the Clerk
U.S. House of Representatives
Washington, D.C. 20515

March 9, 1984

MUR1617

92 MAR 12 P2:26

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

Dear Mr. Steele:

I am writing in reference to your recent communications with Congressman Gillis W. Long, as Chairman of the House Democratic Caucus. By letters dated January 25, 1984, and February 10, 1984, you notified Congressman Long of the Commission's receipt of a "Compliance Complaint and Petition" (Commission Number MUR 1617), and a subsequent "Amendment and Supplement to Compliance Complaint and Petition" which had been submitted by Stephen A. Koczak, identified as a candidate for the office of President of the United States.

Before discussing some of the specific concerns which are pertinent to the Commission's further action on Mr. Koczak's "complaint", I submit that a fair reading of Mr. Koczak's papers fails to reveal either the required differentiation between statements based on personal knowledge and statements based upon information and belief or the required conformity to the provisions of 11 C.F.R. §111.4(d). (Requirement that complaint: (1) clearly identify each respondent; (2) supply the identification of the source of information giving rise to the complainant's belief in statements not based upon the personal knowledge of the complainant; (3) contain a clear and concise recitation of the facts which describe a violation; and (4) accompanied by any documentation supporting the facts alleged.)

It would seem that strict adherence to these threshold requirements is particularly appropriate before the Commission embarks on the statutorily and constitutionally questionable exercise of conducting an enforcement procedure relative to the actions of a component part of the United States House of Representatives. The "complaint's" deficiencies in this regard require the Commission's dismissal.

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Your letter stated that Mr. Koczak's submission had alleged that Congressman Long's "committee" had been alleged to have violated certain sections of the Federal Election Campaign Act of 1971, as amended. A review of Mr. Koczak's submissions reveal that the "committee" which you refer to is apparently the Democratic Caucus of the United States House of Representatives and your letters were addressed to Congressman Long in his capacity as Chairman of the Caucus.

The House Democratic Caucus is an official entity within the House of Representatives. Its status is recognized by House Rule; see H.R. Rule XXXI, Rules of the House of Representatives, §918, reprinted in Constitution, Jefferson's Manual and Rules of the House of Representatives, H.R. Doc. No. 97-271, 97th Cong., 2d Sess., 642-43 (1983) (Rules of the 98th Congress providing for the use of the Hall of the House only for the "business of the House and for the caucus meetings of its Members . . . "), H.R. Rule X, cl. 6(a), Rules of the House of Representatives, §701(a), id. at 398; statutory provision, 2 U.S.C. 29(a)(1)(1)(A) (provision of transportation and per diem to Members and aides to attend caucus meetings), Legislative Branch Appropriations Act for 1976, Pub. L. No. 94-59. (permanent staff for caucuses).

The specific "violation" averred by Mr. Koczak is that the caucus failed to register with the Commission as a political committee. As you are well aware, the statute and the Commission's regulations specifically exclude from the definition of "person" the federal government or any authority of the federal government. 2 U.S.C. §431(11), 11 C.F.R. 110.10. This statutory exclusion would prevent the caucus from being defined as a political committee, 11 C.F.R. §110.5 ("any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 or which makes expenditures aggregating in excess of $1,000 during a calendar year is a political committee), or from receiving contributions, 11 C.F.R. § 100.7, or making expenditures, 11 C.F.R. §100.8. Pursuant to these specific statutory and regulatory exemptions, the Caucus is not required to register as a "political committee." This definitional exemption would also appear to preclude Commission enforcement action directed at the Caucus.

The Commission's jurisdiction over the official actions of the Caucus is restricted by the above-referenced statutory and regulatory provisions. Further limitation is

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provided by the constitutionally based doctrine of separation of powers. See In Re: Grand Union Company, Docket No. 9121, 95 F.T.C. 926, 927 (June 30, 1980) (" . . . Congress never intended to authorize us [the FTC] to make such an inquiry because it legislated on the assumption that the doctrine of separation of powers and the speech or debate clause foreclose the issuance of Commission subpoenas to Congress.")

Mr. Koczak has previously sought to invoke the jurisdiction of the United States District Court for the District of Columbia. I am enclosing a copy of the transcript of the emergency hearing before District Judge Johnson. This transcript reveals that Dartmouth College was the "staging" organization for the debate. This, and the conduct of the Debate, would appear to be in conformity with the Commission's regulations.

For the foregoing reasons, Mr. Koczak's complaint should be dismissed.

Respectfully submitted,

Steven R. Ross
General Counsel to the Clerk

SRR:kj

cc: The Honorable Gillis Long

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

(11)

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STEPHEN A. KOCZAK,

PLAINTIFF,

V.

DAVID T. MC LAUGHLIN, ET AL.,

DEFENDANTS.

- - - - - - - - - - - - - - - - - - X

CIVIL ACTION
NO. 84-0146

COURTROOM NO. 4
WASHINGTON, D.C.

SATURDAY, JANUARY 14, 1984

THE ABOVE-ENTITLED MATTER CAME ON FOR HEARING ON MOTION FOR TEMPORARY RESTRAINING ORDER BEFORE THE HONORABLE NORMA HOLLOWAY JOHNSON, UNITED STATES DISTRICT JUDGE, AT 2 P.M.

APPEARANCES:

FOR THE PLAINTIFF:

STEPHEN A. KOCZAK
PRO SE

FOR THE DEFENDANTS:

NICHOLAS FELS, ESQ.
ERIC BRASS, ESQ.

BARRY REINGOLD, ESQ.

DOUGLAS N. STEENLAND, ESQ.

THEODORE FRANK, ESQ.
NANCY HENDRY, ESQ.

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Gloria I. Williams
Official Reporter
4800-F U.S. Courthouse
Washington, D.C. 20001

PROCEEDINGS

THE DEPUTY CLERK: CIVIL ACTION 84-0146, STEPHEN A. KOCZAK VERSUS DAVID T. MC LAUGHLIN AND OTHERS.

THE COURT: THANK YOU.

I NOTE THAT MR. KOCZAK IS PRESENT, AND YOU ARE REPRESENTING YOURSELF; IS THAT CORRECT, MR. KOCZAK?

MR. KOCZAK: YES, MA'AM.

THE COURT: I WONDER IF COUNSEL WOULD BE GOOD ENOUGH TO IDENTIFY YOURSELVES AND THE PARTIES THAT YOU REPRESENT.

MR. FELS: YOUR HONOR, I'M NICHOLAS FELS. I'M A MEMBER OF THE DISTRICT OF COLUMBIA BAR. I AM HERE WITH ERIC BRASS, A MEMBER OF THE MASSACHUSETTS BAR. WE ARE BOTH HERE ON BEHALF OF DEFENDANT NEWMAN TO THE EXTENT NECESSARY.

I WOULD LIKE TO MOVE THE ADMISSION FOR THIS PROCEEDING OF MR. BRASS.

THE COURT: AND HE IS IN GOOD STANDING WITH THE HIGHEST COURT IN HIS STATE?

MR. BRASS: YES, YOUR HONOR.

THE COURT: HE MAY BE ADMITTED PRO HAC VICE, MR. FELS. THANK YOU.

MR. REINGOLD: YOUR HONOR, MY NAME IS BARRY REINGOLD. I AM A MEMBER OF THE DISTRICT OF COLUMBIA BAR AND I AM HERE REPRESENTING MR. TIMMENY AND THE HOUSE DEMOCRATIC CAUCUS.

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1 THE COURT: THANK YOU VERY MUCH, MR. REINGOLD.

2 MR. STEENLAND: YOUR HONOR, MY NAME IS DOUGLAS N.

3 STEENLAND. I AM A MEMBER OF THE BAR OF THE DISTRICT OF

4 COLUMBIA AND I AM HERE ON BEHALF OF THE TRUSTEES OF DARTMOUTH

5 COLLEGE AND MR. MC LAUGHLIN.

6 THE COURT: THANK YOU, MR. STEENLAND.

7 MR. FRANK: MY NAME IS THEODORE FRANK. I AM A

8 MEMBER OF THE D.C. BAR AND I AM HERE REPRESENTING THE DEFENDANT,

9 PUBLIC BROADCASTING SERVICE.

10 THE COURT: PUBLIC BROADCASTING?

11 MR. FRANK: RIGHT.

12 THE COURT: THANK YOU, MR. FRANK.

13 MS. HENDRY: MY NAME IS NANCY HENDRY. I AM THE

14 DEPUTY GENERAL COUNSEL FOR THE PUBLIC BROADCASTING SERVICE.

15 I AM HERE WITH MR. FRANK.

16 THE COURT: THANK YOU.

17 MR. KOCZAK FILED ON LATE YESTERDAY A PLEADING

18 ENTITLED "COMPLAINT, PETITION TO OBTAIN RESTRAINING ORDER,"

19 AND UPON READING THAT COMPLAINT IT IS CLEAR THAT WHAT

20 MR. KOCZAK SEEKS IS A TEMPORARY RESTRAINING ORDER TO ENJOIN

21 THE DEBATE AND THE BROADCAST OF THE DARTMOUTH COLLEGE DEBATE

22 THAT IS PLANNED FOR TOMORROW.

23 I KNOW THAT MOST OF THE DEFENDANTS WERE NOT SERVED

24 BEFORE 6 P.M. YESTERDAY. I KNOW THAT AS A FACT. I DON'T

25 KNOW WHEN YOU WERE SERVED, BUT I KNOW YOU WERE NOT SERVED

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BEFORE 5 P[illegible], AND I HAVE NOT RECEIV[illegible] ANY OTHERS PAPERS, BUT I HOPE THAT YOU ARE PREPARED TO BE HEARD TODAY.

14

NOW, MR. KOCZAK, THIS IS YOUR OPPORTUNITY TO COME FORWARD AND TELL ME WHY YOU BELIEVE THIS COURT, ONE, HAS JURISDICTION TO HEAR YOUR COMPLAINT AND, TWO, IF I HAVE JURISDICTION TO HEAR IT, WHY ON THE MERITS THE DEBATE SHOULD BE ENJOINED.

MR. KOCZAK: YES. I BELIEVE THIS COURT, YOUR HONOR, HAS JURISDICTION BECAUSE THE CASE INVOLVES THE CONSTITUTION OF THE UNITED STATES, AN OFFICE SPECIFICALLY ENUMERATED IN THAT CONSTITUTION, AND THE STATUTES WHICH GOVERN THE HOLDING OF ELECTIONS FOR THAT OFFICE. SPECIFICALLY THIS ARTICLE II OF THE CONSTITUTION AND THE FIRST AMENDMENT AND THE FOURTEENTH AMENDMENT, AND THAT IS WHY I BELIEVE THIS COURT HAS JURISDICTION.

AS TO THE MERITS OF THE CASE, I HAVE, IN PRESENTING MY PETITION, CITED THE CASE OF EUGENE MC CARTHY AND GIVE A REFERENCE TO THE PAGES IN THE AMERICAN BAR ASSOCIATION, AND I WOULD LIKE TO ENTER THOSE AS PART OF THE POINTS AND JUSTIFICATIONS OF MY CASE.

IN THE PRESENT INSTANCE, I HAVE SOUGHT BY ALL MEANS AVAILABLE TO ME TO ENJOY MY RIGHTS FIRST AS A CANDIDATE RECOGNIZED BY THE FEDERAL ELECTION COMMISSION, AVOWED ON THE 13TH OF DECEMBER, AND I HAVE BEEN ACCEPTED AS A CANDIDATE FOR THE OFFICE OF THE PRESIDENT OF THE UNITED STATES.

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1 ON THE 28TH OF DECEMBER I FILED WITH THE SECRETARY
2 OF STATE IN NEW HAMPSHIRE. THE SECRETARY OF STATE HAS
3 ADMITTED ME TO THE PRIMARY IN NEW HAMPSHIRE.
4 ONE OF THE PROBLEMS -- ON THE 14TH OF DECEMBER,
5 FOLLOWING MY FILING WITH THE FEDERAL ELECTION COMMISSION, I
6 UNDERTOOK TRIPS TO ILLINOIS, THE STATES OF OREGON, WASHINGTON
7 AND CALIFORNIA, IOWA AND NEBRASKA, MASSACHUSETTS, NEW HAMPSHIRE
8 AND FLORIDA, AND I FOUND THAT IN ALL INSTANCES THE SECRETARIES
9 OF STATE THERE TOLD ME THAT ABSENT SOME SORT OF INDICATION IN
10 THE PRESS, PARTICULARLY THE PRESS IN WASHINGTON, D.C. AND THE
11 NATIONAL TELEVISION MEDIA, THEY HAD NO WAY OF DETERMINING
12 WHETHER IN FACT I WAS A SERIOUS CANDIDATE.
13 I POINTED OUT TO THE SECRETARIES OF STATE THAT
14 DESPITE MY HAVING VISITED THE WASHINGTON POST PERSONALLY AFTER
15 I WAS TOLD BY THEIR REPORTERS, FIRST, ON THE NATIONAL DESK THAT
16 MY CANDIDACY WAS A LOCAL MATTER, SECOND, BY THE LOCAL DESK
17 THAT IT WAS A NATIONAL MATTER, I CALLED ON MR. BRADLEY, THE
18 EXECUTIVE EDITOR, AND I DEPOSITED WITH HIM SIX PAGES INDICAT-
19 ING MY CANDIDACY HAD BEEN FILED AND MY BIOGRAPHY, AND HE FOR
20 TWO WEEKS DELAYED PLACING ANYTHING INTO THE POST.
21 THE COURT: WELL, LET ME SAY THIS, SIR. I THINK
22 I WOULD PREFER IT IF YOU WOULD ADDRESS YOURSELF TO THE ISSUES
23 BEFORE ME RATHER THAN SOME OF THE OTHER PROBLEMS THAT YOU MAY
24 HAVE EXPERIENCED.
25 I AM CONCERNED NOW PRIMARILY WITH YOUR COMPLAINT

15

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THAT THE DARTMOUTH COLLEGE DEBATE SHALL NOT PROCEED TOMORROW, AND I WISH YOU WOULD ADDRESS THAT.

16

MR. KOCZAK: YES.

RECOGNIZING HOW SERIOUSLY I WOULD BE HANDICAPPED BY DENIAL OF ACCESS TO THAT DEBATE, I WROTE TO THE PRESIDENT OF DARTMOUTH COLLEGE AND ASKED THAT UNDER THE REGULATIONS ISSUED FOR THE FEDERAL ELECTION COMMISSION, WHICH STATES THAT IF A CANDIDATE SEEKS TO BE ADMITTED TO A DEBATE, THAT CANDIDATE FOR PRESIDENTIAL OFFICE SHALL BE ADMITTED, I WROTE AND ASKED THAT EITHER THE PRESIDENT WITHDRAW FROM THE SPONSORSHIP OR THE CO-SPONSORSHIP OR PROVIDING FACILITIES FOR THAT DEBATE OR, ALTERNATIVELY, PROVIDE EQUAL FACILITIES AND TIME TO ME.

HE NEVER ANSWERED MY LETTER. IT WAS SENT BY EXPRESS MAIL. HIS ATTORNEY CALLED ME AND SAID THAT I WOULD BE RECEIVING A TELEGRAM, WHICH HAS NOT ARRIVED -- A COPY OF THAT TELEGRAM, WHICH TO THIS DATE HAS NOT ARRIVED.

I HAD PREVIOUSLY TELEPHONED HIM, HIS OFFICE, ON THE 28TH OF DECEMBER AND WAS REFERRED TO THE ROCKEFELLER CENTER FOR THE SOCIAL SCIENCES ON THE GROUNDS THAT IT WAS ARRANGING A DEBATE. THEY TOLD ME THAT THEY HAD NOTHING TO DO WITH THE DEBATE; IT WAS ALL BEING HANDLED BY MR. MICHAEL TIMMENY, WHO THEY ALLEGED WAS WORKING FOR THE CONGRESSIONAL DEMOCRATIC CAUCUS.

THAT DEMOCRATIC CAUCUS ITSELF HAS QUESTIONABLE

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1 STANDING TO HOLD SUCH A DEBATE. UNDER THE SEPARATION OF
2 POWERS OF THE UNITED STATES, I HAVE NO OBJECTION TO A SENATOR
3 OR A CONGRESSMAN IN NEW HAMPSHIRE COMING IN AND ENDORSING A
4 CANDIDATE, BUT WHEN THAT CAUCUS ON ITS OWN AUTHORITY, IN AN
5 ELECTION WHICH DOESN'T INVOLVE ANY CONGRESSMAN OR SENATOR,
6 DOES NOT INVOLVE IT, ARROGATES TO ITSELF THE POWERS AND THE
7 RIGHTS THAT THE DEMOCRATIC CONVENTION HAS --
8 THE COURT: LET ME SAY AGAIN, SIR, I DON'T THINK THAT
9 IS AN ISSUE TODAY. I REALLY DON'T. THAT IS NOT SOMETHING YOU
10 HAVE ASKED ME TO DECIDE. YOU HAVE ASKED ME TO DECIDE SIMPLY
11 WHETHER OR NOT THE DEBATE SHOULD BE ENJOINED BECAUSE YOU HAVE
12 NOT BEEN PERMITTED TO JOIN IN THE DEBATE. WHETHER THE
13 DEMOCRATIC CAUCUS IS DOING SOMETHING RIGHT OR IS DOING SOME-
14 THING WRONG OR SHOULD OR SHOULD NOT DO WHAT IT IS DOING, I
15 THINK IT IS A LITTLE IRRELEVANT.
16 WHEN YOU SEEK A TEMPORARY RESTRAINING ORDER,
17 MR. KOCZAK, THERE ARE CERTAIN ELEMENTS THAT YOU HAVE TO
18 ADDRESS AND PROVE: ONE, YOUR LIKELIHOOD OF SUCCESS ON THE
19 MERITS OF THIS COMPLAINT; TWO, IRREPARABLE INJURY; THREE,
20 WHETHER MORE HARM WILL COME TO YOU THAN TO OTHERS IF SUCH
21 RELIEF IS NOT GRANTED; AND FINALLY, THE PUBLIC INTEREST.
22 I HAVE READ YOUR PAPERS. SO I KNOW WHAT YOUR
23 CONCERNS ARE ABOUT THE DEMOCRATIC CAUCUS. I KNOW YOUR
24 CONCERNS ABOUT MR. TIMMENY. THOSE THINGS MAY HAVE SOME
25 RELEVANCE IF WE GET TO ANOTHER STAGE IN THE PROCEEDINGS, BUT

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RIGHT NOW I DON'T THINK THAT IS IMPORTANT.

MR. KOCZAK: MAY I PROCEED, THEN, TO ANSWER WHY IRREPARABLE HARM?

THE COURT: ABSOLUTELY.

MR. KODZAK: AS YOU KNOW, THE ELECTION HAS BEGUN AND THIS IS GOING TO BE THE 15TH AND IT ENDS ON THE 28TH. BY THE DENIED ACCESS AND NOT BEING AFFORDED EQUIVALENT TIME AND SPACE EITHER BY THE CAUCUS, BY DARTMOUTH COLLEGE, OR BY PUBLIC BROADCASTING SERVICE AND THE ENDORSEMENT THAT IS GIVEN TO THEM, I AM PLACED INTO A POSITION WHICH I CANNOT OVERCOME IN ANY WAY. THERE ARE NO ALTERNATIVES GIVEN TO ME BY THESE INSTITUTIONS, ALL OF WHICH HAVE ENTERED INTO THIS ELECTION CAMPAIGN ON THEIR OWN AUTHORITY, AND AS THE SUPREME COURT HAS HELD THAT SINCE THERE IS NO ALTERNATIVE, THIS BY ITSELF IS A DENIAL OF A CONSTITUTIONAL RIGHT, AND I AM ASSERTING THAT I CANNOT OVERCOME THAT BECAUSE THERE IS NO INDICATION THAT I RECEIVED FROM ANY OF THESE AUTHORITIES THAT THEY WILL DO ANYTHING AT ALL TO PUT ME INTO EQUAL STANDING, SO THAT MY RIGHTS ARE SERIOUSLY VIOLATED AND IRREPARABLE DAMAGE IS GIVEN TO ME.

NOW, THERE IS NO DAMAGE CAUSED TO THEM EITHER BY PUTTING OFF THE DEBATE AND HOLDING A TRIAL IMMEDIATELY, WHICH CAN BE ORDERED RIGHT AWAY -- THERE'S NO HARM CAUSED TO THEM BECAUSE THERE'S ANOTHER SUNDAY.

THERE IS ALSO NO HARM CAUSED TO THEM IF THEY DECIDE TO ADMIT ME TO THE DEBATE, IN WHICH CASE MY PETITION

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FOR AN INJUNCTION I WILL WITHDRAW IF THEY AGREE.

I HAVE TO DEMONSTRATE FIRST THAT THERE IS IRREPARABLE DAMAGE AND THAT THIS IS BEING CAUSED TO ME UNCONSTITIONALLY, AND THAT IS WHAT I HAVE SOUGHT TO DO.

NOW, I DO SUGGEST IF THEY WISH TO PROCEED TO TRIAL, AND I BELIEVE I HAVE EVERY REASON TO BELIEVE I WILL SUCCEED ON THE TRIAL ON THE LIGHT OF THE DECISION TAKEN BY THE SUPREME COURT, THAT IN FACT I WAS NOT AFFORDED ANY OPPORTUNITY WHATSOEVER BY MR. TIMMENY OR OTHER PARTIES EVEN TO PRESENT MY CREDENTIALS. HE NEVER EVEN PERMITTED ME TO COME TO HIM. SO THAT I COULD NOT DEMONSTRATE THAT PERHAPS I AM A CANDIDATE THAT QUALIFIES EVEN UNDER THE DETERMINATIONS OF THE HOUSE DEMOCRATIC CAUCUS.

WHERE ONE IS DENIED ANY ACCESS WHATSOEVER TO DEMONSTRATE A CLAIM, I BELIEVE THIS DOES SHOW THAT IT IS INTENDED BY THAT CAUCUS AND BY THE OTHER PARTIES INVOLVED, THE PUBLIC BROADCASTING SERVICE AND DARTMOUTH COLLEGE, NOT TO AFFORD ME ANY KIND OF REMEDY EQUIVALENT TO THE SERVICES THEY HAVE PROVIDED TO THE OTHER CANDIDATES.

SO THAT I WOULD SUGGEST IF THAT IS A PROBLEM AS TO WHETHER I WOULD PREVAIL IN COURT, WE PROCEED IMMEDIATELY TO A HEARING AND FOR A TRIAL. I AM PREPARED TO GO TO TRIAL ON THIS CASE AND TO TAKE IT TO THE SUPREME COURT.

THE COURT: THANK YOU, MR. KOCZAK.

MR. KOCZAK: THANK YOU. NOW, I DO NOT --

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1 THE COURT: DID YOU HAVE SOMETHING FURTHER TO SAY?

2 MR. KOCZAK: YES. I DID WISH TO STATE THAT THERE

3 ARE IMPROPRIETIES INVOLVED. IN FACT, I THINK DARTMOUTH COLLEGE

4 NOT ONLY IS A DEFENDANT IN THIS CASE, IN FACT, IT SHOULD BE

5 A PLAINTIFF WITH ME ON THE BASIS OF ITS UNDERSTANDING AND ITS

6 OWN HISTORY, HAVING SOUGHT RELIEF FROM THE COURTS BY AN ACTION

7 OF THE LEGISLATURE OF NEW HAMPSHIRE DENYING ITS RIGHTS, AN

8 ACTION WHICH IN FACT THERE IS SIMILAR, BECAUSE IT ISN'T THE

9 ENTIRE CONGRESS, THE HOUSE OF REPRESENTATIVES, BUT A PART OF

10 IT, THE DEMOCRATIC CAUCUS, WHICH HAS INTERVENED AND HAS

11 AUTHORIZED A PAID EMPLOYEE -- NOT EVEN AN ELECTED EMPLOYEE --

12 TO DECIDE WHETHER I AM A QUALIFIED CANDIDATE, EVEN THOUGH THE

13 FEDERAL ELECTION COMMISSION HAS APPROVED MY ELECTION OR MY

14 CANDIDACY AND THE SECRETARY OF STATE OF NEW HAMPSHIRE HAS

15 ENDORSED IT AND I AM ON THE BALLOT.

16 AND YET HERE A PERSON WHO IS NOT EVEN ELECTED IS

17 SOMEHOW AUTHORIZED BY THIS CAUCUS -- I DON'T KNOW BY WHAT

18 STATUTE, BY WHAT LAW -- ARBITRARILY NOT EVEN TO RECEIVE ME.

19 NOW, UNLESS THIS COURT FINDS THAT THAT ACTION IS

20 ARBITRARY AND THAT THE CAUCUS ITSELF HAS DELEGATED POWERS TO

21 THIS INDIVIDUAL AND HAS NOT PROPERLY SUPERVISED HIM AND HAS

22 ALLOWED HIM TO INTERVENE IN A FUNDAMENTAL DEBATE AFFECTING THE

23 OUTCOME OF A PRESIDENTIAL CANDIDACY, THEN I WOULD SAY THAT

24 PERSONS LIKE JESSE JACKSON WHO COMPLAINED OF LESSER PROBLEMS

25 ALSO WILL HAVE NO HEARING AT ALL.

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1 SO I DO FEEL THAT THIS IS A FUNDAMENTAL, MOST
2 IMPORTANT CONSTITUTIONAL ISSUE IN WHICH I BELIEVE THAT THE
3 CITIZENS OF NEW HAMPSHIRE, THE SECRETARY OF STATES OF THE OTHER
4 STATES AND THE CITIZENS OF THE ENTIRE UNITED STATES ARE BEING
5 DEPRIVED OF THEIR RIGHT TO HEAR WHAT IS A PLATFORM AND A
6 PROGRAM.
7 I AM BRINGING THIS SUIT REALLY BECAUSE OF MY RIGHT,
8 A RIGHT ESTABLISHED BY THE FEDERAL ELECTION COMMISSION, BY THE
9 CONSTITUTION, AND BY THE LAWS OF THE STATE OF NEW HAMPSHIRE,
10 AND I AM BEING DENIED ALL MY RIGHTS SIMPLY BY A UKASE OF A
11 PERSON WHO REFUSES TO SEE ME AND I THINK WHO HAS NO PUBLIC
12 AUTHORITY TO MAKE THIS DECISION.
13 PUBLIC BROADCASTING SERVICE HAS EX PARTE NEGOTIATED
14 WITH THIS INDIVIDUAL, AS HAVE OTHER PEOPLE LIKE MR. KOPPEL.
15 NONE OF THEM HAVE GIVEN ME PERMISSION TO SPEAK TO THEM. NONE
16 OF THEM HAVE LISTENED TO MY COMPLAINTS. THE PRESIDENT OF
17 DARTMOUTH COLLEGE HAS NOT IN ANY WAY INDICATED THAT HE AGREED
18 WITH ME. HE PERMITS THE FACILITIES AND GROUNDS OF THAT GREAT
19 UNIVERSITY TO BE USED IN A SITUATION WHERE HE KNOWS THE
20 CIRCUMSTANCES, BECAUSE THE NAME OF MR. TIMMENY WAS GIVEN TO ME
21 BY AN OFFICIAL OF THE ROCKEFELLER CENTER.
22 SO THEY ALL ARE PARTIES TO AN UNDERTAKING IN WHICH
23 THEY IN EFFECT ARE DENYING ME MY RIGHTS AS A CANDIDATE, BOTH AS
24 AN AMERICAN CITIZEN AND AS A CANDIDATE REGISTERED IN NEW
25 HAMPSHIRE, AND I BELIEVE THAT -- AND I AM PREPARED IMMEDIATELY

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1 TO GO TO COURT IF YOU FEEL THAT --

2 THE COURT: WELL, YOU KNOW, SIR, THAT IS ABSOLUTELY

3 IMPOSSIBLE. THE PARTIES WERE JUST SERVED YESTERDAY OR TODAY.

4 THEY MUST, UNDER THE CONSTITUTION, HAVE NOTICE AND HAVE A

5 RIGHT TO RESPOND AND TO PREPARE TO DEFEND THEMSELVES.

6 SO THERE IS NO WAY UNDER THE SUN YOUR SUGGESTION OF

7 AN IMMEDIATE TRIAL COULD BECONSIDERED.

8 MR. KOCZAK: MAY I ASK ONE PETITION FROM YOU? IF

9 THEY ARE PREPARED TO ADMIT ME TO THE DEBATE --

10 THE COURT: WELL --

11 MR. KOCZAK: WELL, I'M JUST SAYING --

12 THE COURT: THAT IS SOMETHING, OF COURSE, THAT THIS

13 COURT CANNOT INVOLVE ITSELF IN. THAT IS SOMETHING YOU WILL

14 HAVE TO DEAL WITH THEM ON. I CAN ONLY DEAL WITH THE LEGAL

15 ISSUES THAT YOU HAVE RAISED. I CANNOT DEAL WITH ANY PERSONAL

16 MATTERS BETWEEN YOU AND THE DEFENDANTS, ALL RIGHT.

17 MR. KOCZAK: MAY I ENTER THIS? I DON'T KNOW

18 WHETHER YOU HAVE A COPY OF THIS.

19 THE COURT: BEG PARDON?

20 MR. KOCZAK: I DON'T KNOW WHETHER YOU HAVE A COPY

21 OF THIS ARTICLE.

22 THE COURT: I DO NOT, BUT WE DO HAVE IT HERE IN

23 THE COURT.

24 MR. KOCZAK: YES. AND THE REFERENCES AND THE

25 ARGUMENTS AND AUTHORITIES ARE --

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1 THE COURT: WE REVIEWED LAST NIGHT. THANK YOU
2 VERY MUCH, MR. KOCZAK.
3 MR. KOCZAK: THANK YOU.
4 THE COURT: MR. BRASS, DO YOU WISH TO RESPOND NOW
5 OR WHO WISHES TO RESPOND FIRST?
6 MR. STEENLAND: YOUR HONOR, I THINK IT MIGHT BE
7 APPROPRIATE --
8 THE COURT: MR. STEENLAND?
9 MR. STEENLAND: YES.
10 THE COURT: ALL RIGHT. YOU ARE ON BEHALF OF
11 DARTMOUTH AND ITS PRESIDENT?
12 MR. STEENLAND: YES, MA'AM.
13 THE COURT: YES, FINE.
14 MR. STEENLAND: MAY IT PLEASE THE COURT.
15 I THINK THE FIRST POINT I WOULD LIKE TO MAKE IS
16 JUST TO NOTE THAT I DON'T BELIEVE MR. KOCZAK HAS ESTABLISHED
17 PERSONAL JURISDICTION OVER DARTMOUTH OR MR. MC LAUGHLIN IN
18 THIS COURT, BUT NOTWITHSTANDING THAT, I WOULD LIKE TO FURTHER
19 POINT OUT THAT I BELIEVE HE IS NOT -- HE HAS MADE NO ALLEGATION
20 THAT MERITS ESTABLISHING A CAUSE OF ACTION IN HIS COMPLAINT.
21 IN PARTICULAR, I WOULD LIKE TO JUST ADDRESS HIS
22 DISCUSSIONS REGARDING THE FEDERAL ELECTION COMMISSION AND
23 DARTMOUTH'S INVOLVEMENT IN THIS DEBATE.
24 DARTMOUTH COLLEGE IS WHAT IS KNOWN UNDER THE REGULA-
25 TIONS PROMULGATED BY THE FEDERAL ELECTIONS COMMISSION AS A

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1 STAGING OR[illegible]NIZATION OF THIS DEBATE [illegible] THESE REGULATIONS WERE
2 PROMULGATED AND WERE DESIGNED TO PERMIT NOT FOR PROFIT
3 ORGANIZATIONS SUCH AS DARTMOUTH TO, IN A NONPARTISAN FASHION,
4 ESTABLISH DEBATES. THERE ARE SPECIFIC REGULATIONS THAT PRO-
5 VIDE FOR THIS. I BELIEVE MR. KOCZAK CITED THEM OR INTERPRETED
6 THEM INCORRECTLY.

24

7 IN ANY EVENT, IF THERE IS ANY ALLEGED VIOLATION,
8 IF THERE IS ANY PROBLEM UNDER THOSE REGULATIONS, IT IS THE
9 JURISDICTION OF THE FEDERAL ELECTION COMMISSION, I SUGGEST,
10 THAT HAS THE PRIMARY ROLE IN INITIALLY ESTABLISHING WHETHER
11 THERE IS A PROBLEM. THEY HAVE AN ELABORATE ENFORCEMENT
12 MECHANISM. IT IS DESIGNED TO HANDLE COMPLAINTS SUCH AS THIS.
13 IT HAS PROCEDURES FOR EXPEDITION IF NECESSARY. THE FEDERAL
14 ELECTIONS COMMISSION DOES HAVE CIVIL LITIGATING AUTHORITY, SO
15 IF IT NEEDS TO ENFORCE ANY JUDGMENT OR ANY RULING IN WHICH IT
16 MIGHT ENTER INTO, IT HAS THE AUTHORITY TO DO THAT, AND
17 MR. KOCZAK HAS BEEN ON NOTICE AT LEAST SINCE THE 28TH OF
18 DECEMBER AS TO A POTENTIAL PROBLEM HERE, AND I SUGGEST THAT
19 IT IS HIS FIRST PLACE TO GO TO THE FEDERAL ELECTIONS
20 COMMISSION AND PURSUE HIS REMEDIES THERE.
21 THERE IS A REGULATORY AND STATUTORY SCHEME IN
22 PLACE. IT IS SUBJECT TO INTERPRETATION BY THAT AGENCY WHICH
23 HAS THE EXPERTISE IN THIS AREA. THE REGULATIONS, FOR INSTANCE,
24 SPEAK IN SUCH TERMS AS THE STRUCTURE OF DEBATES SHALL BE LEFT
25 TO THE DISCRETION OF THE STAGING ORGANIZATION.

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1 SO, I BELIEVE WHETHER THE STAGING ORGANIZATION HAS
2 ACTED WITHIN ITS DISCRETION, ABUSED DISCRETION, IS SOMETHING
3 THAT IS CLEARLY SUBJECT TO AT LEAST THE INITIAL INTERPRETATION
4 OF THE AGENCY THAT HAS PROMULGATED THOSE REGULATIONS.
5 SO, I THINK JUST AS TO THE POINT WHETHER THERE IS
6 ANY LIKELY SUCCESS ON THE MERITS IN MR. KOCZAK'S COMPLAINT,
7 I WOULD SUGGEST THAT THERE IS NOT.
8 IN ADDITION, I WOULD SUGGEST THAT THERE WOULD BE
9 CONSIDERABLE HARM TO THE DEFENDANTS HERE IF A TRO WAS IN FACT
10 ISSUED. THERE HAVE BEEN ELABORATE PREPARATIONS FOR THIS
11 EVENT THAT WOULD -- SO THERE WOULD BE MONETARY EXPENSE INVOLVED,
12 AND I THINK THERE WOULD BE SOME PUBLIC HARM AS WELL.
13 SO, FOR THOSE REASONS I URGE THE COURT NOT TO GRANT
14 THE TEMPORARY RESTRAINING ORDER.
15 THE COURT: THANK YOU, MR. STEENLAND.
16 MR. REINGOLD.
17 MR. REINGOLD: YES. THANK YOU, YOUR HONOR. YOUR
18 HONOR, I WILL TRY TO BE BRIEF. I JUST LEARNED OF THIS
19 PROCEEDING THIS MORNING. I HAVE NOT HAD A CHANCE TO SPEAK
20 WITH MR. TIMMENY.
21 I AGREE WITH WHAT THE PREVIOUS DEFENSE COUNSEL SAID
22 IN EVERY WAY. I ALSO AGREE WITH YOUR STATEMENT THAT THE
23 ACTIVITIES OF MR. TIMMENY AND THE HOUSE CAUCUS ARE NOT RELEVANT
24 AT THIS STAGE, IF AT ALL.
25 I WOULD GO FURTHER THAN PRECEDING COUNSEL ONLY IN

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1 THAT I ARG[illegible]HAT NOT ONLY IS THIS [illegible]N ISSUE WITHIN THE
2 JURISDICTION OF THE COURT -- IT SHOULD BE HEARD AT THE FEC --
3 ON ITS FACE, UNDER THE REGULATIONS, THERE IS NO CAUSE OF
4 ACTION. THERE IS NO CLAIM.
5 THE REGULATIONS ARE QUITE EXPLICIT AND THEY REFLECT
6 A CONTINUING DIALOGUE BETWEEN THE FEDERAL ELECTION COMMISSION
7 AND CONGRESS THAT GOES BACK TO THE 1976 DEBATES BETWEEN
8 PRESIDENT FORD AND JIMMY CARTER.
9 CONGRESS IS AWARE OF THE REGULATIONS. IT APPROVED
10 THE REGULATIONS AND THE REGULATIONS EXPLICITLY STATE AT
11 11 C.F.R. 110.13 THAT THE DEBATE STRUCTURE IS A MATTER OF THE
12 DISCRETION OF THE STAGING ORGANIZATION, PROVIDED ONLY THAT THE
13 DEBATES INCLUDE AT LEAST TWO CANDIDATES AND THEY ARE NON-
14 PARTISAN, IN THAT THEY DON'T PROMOTE ONE OR ANOTHER OVER ONE
15 OF THE OTHER PARTICIPANTS.
16 SO I DON'T THINK ON ITS FACE THERE IS ANY COMPLAINT
17 HERE. IF THERE IS, IT SHOULD CERTAINLY BE AT THE FEC.
18 THAT IS REALLY ALL I HAVE TO SAY UNLESS YOUR HONOR
19 HAS ANY QUESTIONS.
20 THE COURT: I HAVE NO QUESTIONS OF YOU,
21 MR. REINGOLD. THANK YOU FOR APPEARING.
22 MR. FRANK, WOULD YOU LIKE TO SPEAK ON BEHALF OF
23 PBS?
24 MR. FRANK: MY REMARKS WILL BE ALSO BRIEF.
25 I THINK IT'S IMPORTANT THAT PBS'S ROLE IN THIS

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1 DEBATE BE[illegible] CLEAR. WE ARE NOT A [illegible]PONSORING ORGANIZATION.
2 PBS HAS AGREED TO BROADCAST THIS DEBATE, TO PRESENT IT TO THE
3 AMERICAN PUBLIC BY TELEVISION BUT HAS HAD NO ROLE IN THE
4 STRUCTURING OF THE DEBATE, HAS HAD NO ROLE IN SELECTING THE
5 PARTICIPANTS, HAS HAD NO ROLE IN SELECTING WHERE IT WOULD BE
6 HELD, BUT, RATHER, THE ONLY THING THAT IT HAS DONE IS MADE AN
7 INDEPENDENT NEWS JUDGMENT THAT THIS PROGRAM WAS A -- THAT THIS
8 DEBATE WAS A NEWSWORTHY PROGRAM AND THAT IT SHOULD BE MADE
9 AVAILABLE AS WIDELY AS POSSIBLE.
10 SO, TO THE EXTENT THAT PLAINTIFF WOULD LIKE TO
11 ASSURE ACCESS TO THE DEBATE, WE ARE WITHOUT POWER TO DO ANY-
12 THING ABOUT IT. ALL WE CAN DO IS DECIDE WHETHER OR NOT TO
13 CARRY IT. IT SEEMS HIS CLAIMS, THEREFORE, TO GAIN ACCESS TO
14 THE DEBATE AS FAR AS PBS IS CONCERNED ARE IRRELEVANT.
15 INSOFAR AS IF HE IS SEEKING ACCESS TO PBS AS A
16 BROADCAST MEDIUM, THERE IS A COMPLETE STATUTORY SCHEME
17 ESTABLISHED IN THE COMMUNICATIONS ACT OF 1934 WHICH IS
18 ADMINISTERED BY DETAILED AND COMPLICATED REGULATIONS OF THE
19 FCC AND IT IS WELL ESTABLISHED BY DECISIONS GOING BACK INTO
20 THE EARLY THIRTIES THAT THE FCC HAS PRIMARY JURISDICTION AND
21 THAT IF HE WISHES TO GAIN ACCESS TO A BROADCAST STATION AND
22 IS UNABLE TO DO SO, HIS FIRST RECOURSE MUST BE TO THE FCC UNDER
23 THE COMMUNICATIONS ACT.
24 SO, I THINK NO MATTER WHICH WAY YOU'RE LOOKING AT
25 IT, IN TERMS OF GAINING ACCESS, IN TERMS OF A SUBSTANTIVE

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1 CLAIM FOR [redacted]EF, HE FAILS TO SHOW A[redacted]STANTIAL LIKELIHOOD
2 OF SUCCESS ON THE MERITS.
3 INSOFAR AS IRREPARABLE INJURY IS CONCERNED, FROM
4 MY OWN CLIENT'S PERSPECTIVE, WE WILL HAVE A THREE-HOUR HOLE
5 TO FILL ON SUNDAY AFTERNOON WITH VIRTUALLY NO NOTICE IN WHICH
6 TO FILL IT. THAT'S NOT A VERY EASY THING TO DO.
7 INSOFAR AS THE PARTICIPANTS OF THE DEBATE AND
8 INSOFAR AS THE PUBLIC IS CONCERNED, THE CHANCES THAT THIS
9 DEBATE COULD BE RECONSTRUCTED IF IT DOESN'T GO FORWARD AS
10 SCHEDULED SEEMS TO ME TO BE VERY LIMITED. THE CANDIDATES HAVE
11 COMPLICATED AND DETAILED SCHEDULES. THEY ARE AT THE HEIGHT OF
12 THE PRIMARY SEASON. THE CHANCES THAT THEY COULD BE GOTTEN
13 BACK TOGETHER AGAIN FOR A DEBATE OF COMPARABLE LENGTH OR IN
14 ANY WAY COMPARABLE TO THIS ONE WILL BE SEVERELY DIMINISHED
15 AND THEREFORE THE AMERICAN PUBLIC WILL BE DEPRIVED OF THE
16 OPPORTUNITY TO SEE SOME OF THE LEADING CANDIDATES DISCUSS
17 ISSUES WHICH THEY THINK ARE IMPORTANT TO THE ELECTION IN THIS
18 ELECTION YEAR.
19 SO, I THINK THERE IS INJURY TO US AND THERE IS
20 SUBSTANTIAL INJURY TO THE PUBLIC.
21 AND FINALLY I MIGHT SAY THAT I THINK AN INJUNCTION
22 TO PRECLUDE PBS FROM DISTRIBUTING THIS PROGRAM WOULD
23 CONSTITUTE A PRIOR RESTRAINT AND MR. KOCZAK HAS FAILED TO MAKE
24 EVEN THE BEGINNING OF A SHOWING NECESSARY FOR A COURT TO
25 ISSUE AN INJUNCTION WHICH WOULD AMOUNT TO A PRIOR RESTRAINT.

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1 [redacted] COURT: ALL RIGHT. [redacted] YOU VERY MUCH,
2 MR. FRANK.
3 MR. BRASS, DO YOU WISH TO BE HEARD ON BEHALF OF
4 MS. NEWMAN?
5 MR. BRASS: THANK YOU, YOUR HONOR.
6 MS. NEWMAN IS AN EMPLOYEE OF THE WGBH EDUCATIONAL
7 FOUNDATION, WHICH IS THE LICENSEE OF WGBH TV IN BOSTON AND
8 SHE ONLY HAS A TEMPORARY ASSIGNMENT TO COORDINATE ON THE
9 PUBLICITY MATTERS INVOLVED IN THE DEBATE. SHE PERSONALLY HAS
10 NO CONTROL OVER THE FORMAT, THE SETTING, THE TIME, THE PLACE,
11 THE PARTICIPANTS OR ANY OTHER MATTERS INVOLVED.
12 IN ADDITION TO, I SUBMIT, THAT THERE IS NO PERSONAL
13 JURISDICTION OVER HER, I RESPECTFULLY SUBMIT THAT THERE IS NO
14 ACTION THAT SHE COULD OR COULD NOT TAKE THAT WOULD AFFECT THE
15 OUTCOME OF THE DEBATE.
16 AND AS AN ASIDE, WGBH TV'S ROLE IS SIMILAR TO
17 PUBLIC BROADCASTING SERVICE. WE HAVE THE SAME LACK OF CONTROL
18 OVER THE DEBATE, ITS TIME, ITS SETTING, THE PARTICIPANTS, THE
19 FORMAT, EVEN THE AUDIENCE. WE HAVE NO CONTROL OVER WHO IS IN
20 THE AUDIENCE. WGBH IS ACTING AS A CO-PRODUCER WITH NEW
21 HAMPSHIRE PUBLIC TELEVISION OF THE EVENT AND THERE WOULD BE --
22 ALTHOUGH WGBH IS NOT A DIRECT PARTY TO THIS ACTION, THERE
23 WOULD BE IRREPARABLE INJURY TO -- NOT IRREPARABLE BUT THERE
24 WOULD BE DAMAGES TO WGBH AND NEW HAMPSHIRE PUBLIC TELEVISION,
25 IN THAT WE HAVE ALREADY EXPENDED THOUSANDS OF DOLLARS IN

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1 PREPARATIO[illegible]R THE TECHNICAL END O[illegible] PRODUCTION OF THE
2 DEBATE, INCLUDING LEASING OF TRANSMISSION LINES, AND THAT
3 MONEY COULD NOT BE RECOVERED.
4 THANK YOU.
5 THE COURT: THANK YOU.
6 THEN, MR. KOCZAK, YOU HAVE HEARD THE POSITION OF
7 THE DEFENDANTS IN THIS CASE, AND I CAN GIVE YOU FIVE MINUTES
8 FOR ANY FURTHER RESPONSE THAT YOU WISH TO MAKE.
9 MR. KOCZAK: I THINK THE COUNSEL FOR THE DEFENDANTS
10 QUOTES FROM THE FEDERAL ELECTION REGULATIONS SELECTIVELY AND
11 ARBITRARILY. THEY OMIT THE REFERENCE THAT IF A PRESIDENTIAL
12 CANDIDATE IS PERMITTED ON THE PREMISES, ALL CANDIDATES FOR THAT
13 OFFICE WHO REQUEST TO APPEAR MUST BE GIVEN THE SAME OPPORTUNITY
14 TO APPEAR.
15 I AM BEING DENIED APPEARANCE ON THAT PREMISE AT
16 THAT TIME, AND THAT IS IRREPARABLE. WE CANNOT GO BACK IN
17 TIME. I AM BEING DENIED DAMAGES, BECAUSE NOT HAVING APPEARED,
18 IT IS LEFT TO THE AUDIENCE THAT SEES THAT BROADCAST THAT
19 PERHAPS I AM NOT A SERIOUS CANDIDATE.
20 CONSEQUENTLY, UNLESS I AM AFFORDED THE OPPORTUNITY
21 TO APPEAR AT THAT TIME -- AND I BELIEVE THE REGULATIONS ARE
22 CLEAR -- IT IS IRREPARABLE. WE CANNOT GO BACK SOME TIME IN
23 THE FUTURE TO JANUARY 15TH. ON JANUARY 22ND WE CANNOT GO
24 BACK.
25 NOW, THEY ALSO DO TALK ABOUT THE FORMAT BEING LEFT

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1 TO THE SPONSORING ORGANIZATION. I STILL HAVEN'T HEARD WHO THE
2 SPONSORING ORGANIZATION IS. IT HAS NOT BEEN IDENTIFIED,
3 BECAUSE IT IS VARIOUSLY REPORTED AS TO WHO IS DOING IT. BUT
4 IT DOES STATE THAT IN A NONPARTISAN DEBATE -- THIS HAPPENS TO
5 BE A PARTISAN DEBATE. THERE ARE NO REPUBLICANS PRESENT. SO
6 THAT THE VERY REGULATIONS THAT ARE QUOTED ARE QUOTED OUT OF
7 CONTEXT AND ARE QUOTED IMPROPERLY, AND I DO ARGUE THAT THIS IS
8 A PARTISAN DEBATE. THIS IS A PARTISAN DEBATE IN WHICH PBS,
9 THE CONGRESSIONAL COMMITTEE, AND DARTMOUTH COLLEGE HAVE
10 ENTERED. HAVING ENTERED INTO A PARTISAN DEBATE, THE ONLY RULE
11 THAT APPLIES IS THE ONE THAT CONCERNS A PRESIDENTIAL CANDIDATE
12 BEING ADMITTED.
13 NOW, I AM A PRESIDENTIAL CANDIDATE. I HAVE STANDING
14 BEFORE THE FEDERAL ELECTION COMMISSION. I HAVE STANDING IN
15 THE STATE OF NEW HAMPSHIRE, AND I AM BEING DENIED THAT AND
16 THAT IS IRREPARABLE. THERE IS NO WAY THAT IN TIME THAT CAN
17 BE RESTORED.
18 SO THAT I DO ARGUE THAT IN FACT I AM LOSING FUNDS.
19 THE CONTRIBUTION OF PBS AND OF THE CAUCUS AND OF DARTMOUTH TO
20 THE CAMPAIGNS OF THESE PERSONS, OF THESE EIGHT PERSONS, IS
21 PHENOMENAL. THEY HAVE THEMSELVES STATED HOW MUCH MONEY THEY
22 HAVE SPENT ON IT. THEY HAVE CONCEDED THAT. I HAVE ASKED
23 DARTMOUTH COLLEGE, I HAVE ASKED PBS, I HAVE ASKED THE CAUCUS
24 TO DETERMINE HOW MUCH MONEY HAS BEEN CONTRIBUTED BY THEM TO
25 THE FEC.

8 4 0 4 0 1 6 0 9 0 3

1 REFERRED TO THE FEC [illegible] FINAL AUTHORITY. 32

2 SPOKE WITH THE CHAIRMAN OF THE FEC WHO CONCEDED THAT IT WILL

3 TAKE PERHAPS WEEKS OR MONTHS AND MAYBE EVEN A YEAR TO DETERMINE

4 WHETHER OR NOT THE CONTRIBUTIONS HAVE BEEN PROPERLY REPORTED,

5 WHETHER THEY ARE.

6 SO THAT THE WHOLE ISSUE WOULD BE MOOT. THE ELECTION,

7 NOT ONLY IN THE PRIMARIES BUT IN THE GENERAL ELECTIONS, WILL

8 BE OVER. SO THAT I THINK THESE ARGUMENTS ARE EXTRANEOUS AND

9 THEY ARE MISLEADING. THEY ARE MEANT TO MISLEAD THE COURT.

10 THEY DO NOT AT ALL REFER TO THE FACTS OR RELATE TO THEM.

11 THEY ARE NOT RELEVANT.

12 IN MY BRIEF I HAVE POINTED OUT THAT I TALKED WITH

13 THE CHAIRMAN OF THE FEDERAL ELECTION COMMISSION WHO STATED

14 THAT FIRST I MUST TAKE AN OATH, WHO SAID THEN THEY MUST FIRST

15 HAVE THE BROADCAST BEFORE THEY CAN EVEN BEGIN TO INVESTIGATE,

16 AND THAT IS PRECISELY WHY I HAVE APPEALED TO THIS COURT ON

17 THE BASIS OF SUPREME COURT DECISIONS IN THE PAST THAT NO ONE

18 CAN REPAIR THAT TO ME, THAT EVEN IF THE FEDERAL ELECTION

19 COMMISSION FINDS FOR ME, THERE'S NO WAY THAT ANYONE CAN GIVE

20 ME BACK THE TIME LOST, THE OPPORTUNITY LOST, AND MY

21 CONSTITUTIONAL RIGHTS WILL HAVE BEEN TRAMPLED ON.

22 THE FEC CANNOT PROTECT ME. THEY ARE VERY CLEAR.

23 I HAVE BEEN REFERRED BY THE FEC TO THE COURTS, AND IT'S IN

24 MY BRIEF, AND THEY HAVE READ THOSE BRIEFS, OR IF THEY HAVEN'T,

25 I'M SORRY BUT THEY SHOULD KNOW THAT THE FEC HAS NO POWER TO

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MAKE THESE [illegible]ISIONS.

THEREFORE, I PLEAD AGAIN THAT THIS INJUNCTION BE GIVEN TO ME. THEY HAVE A RELIEF. ONCE IT IS ISSUED, THEY ARE FREE AT ANY MOMENT TO VACATE THAT INJUNCTION BY COMING IN WITH ME AND SAYING THEY HAVE ADMITTED ME TO THE BROADCAST. AT THAT POINT I WILL COME IN WITH THEM AND WE WILL ASK FOR THE VACATION OF THIS INJUNCTION. SO THAT THERE IS NO IRREPARABLE DAMAGE CAUSED TO THEM IN ANY WAY WHATSOEVER, GIVEN THEIR WILLINGNESS TO ABIDE BY THE CONSTITUTION AND BY THE LAWS OF THE LAND. THERE IS NO IRREPARABLE DAMAGE CAUSED TO THEM. THEIR COUNSEL COULD AT ANY MOMENT ASK THEM TO ADMIT ME AND THEN I WILL HAVE ACHIEVED WHAT I WANT, THE BROADCAST WILL GO FORWARD, NO MONEY WILL BE LOST, AND THE ONLY GAINERS WILL BE THE DEMOCRATIC CITIZENS AND THE OTHER CITIZENS OF NEW HAMPSHIRE WHO WILL HEAR ONE MORE POINT.

SO THAT I CANNOT ACCEPT THIS NOTION THAT THERE IS IRREPARABLE DAMAGE TO BE SUFFERED BY THEM. I AM THE ONLY ONE TO SUFFER AND THE CITIZENS OF THE UNITED STATES ARE THE ONES TO SUFFER THE IRREPARABLE DAMAGE IN THIS SITUATION.

AND MAY I PLEAD AGAIN FOR THIS INJUNCTION, AND IF IT IS NOT GRANTED TO ME, I SHOULD LIKE TO APPEAL IMMEDIATELY TO THE APPELLATE COURT AND TO THE SUPREME COURT TO ASK THEM TO ISSUE AN INJUNCTION.

THANK YOU VERY MUCH.

THE COURT: FINE. THANK YOU VERY MUCH, SIR.

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1 COURT WILL RULE THAT KOCZAK,
2 A CANDIDATE FOR THE OFFICE OF PRESIDENT OF THE UNITED STATES,
3 AND I SHOULD SAY A DEMOCRATIC PARTY CANDIDATE FOR PRESIDENT
4 OF THE UNITED STATES, HAS COME BEFORE THE COURT SEEKING A
5 TEMPORARY RESTRAINING ORDER TO ENJOIN THE DARTMOUTH COLLEGE
6 DEBATE SCHEDULED TO BE PRESENTED TOMORROW, SUNDAY, JANUARY 15,
7 1984, AT DARTMOUTH COLLEGE IN HANOVER, NEW HAMPSHIRE.
8 MR. KOCZAK HAS SUED DAVID T. MC LAUGHLIN, PRESIDENT
9 OF DARTMOUTH COLLEGE; DARTMOUTH COLLEGE; JUDY NEWMAN OF THE
10 PUBLIC BROADCASTING SERVICE; MICHAEL TIMMENY, WHO IS IDENTIFIED
11 AS AN AID TO CONGRESSMAN CHARLES SHUMER; THE DEMOCRATIC HOUSE
12 CAUCUS; AND THE PUBLIC BROADCASTING SERVICE.
13 AFTER REVIEWING THE PLEADINGS PRESENTED BY
14 MR. KOCZAK AND HEARING HIS ARGUMENTS AND THE ARGUMENTS OF
15 COUNSEL FOR THE VARIOUS PARTIES, THE COURT FINDS THAT IT LACKS
16 JURISDICTION TO HEAR THIS MATTER.
17 THE PLAINTIFF HAS THE BURDEN OF ESTABLISHING
18 FEDERAL JURISDICTION, AND BASED UPON THE PLEADINGS AND THE
19 ARGUMENTS OF MR. KOCZAK, HE HAS NOT MET THAT BURDEN.
20 MOREOVER, THERE IS ANOTHER JURISDICTIONAL ISSUE
21 HERE AND THAT IS WHETHER THIS COURT HAS ANY PERSONAL JURISDIC-
22 TION OVER DARTMOUTH COLLEGE, ITS PRESIDENT, MR. MC LAUGHLIN,
23 JUDY NEWMAN OF THE PUBLIC BROADCASTING SERVICE, EVEN OF THE
24 PUBLIC BROADCASTING SERVICE. I JUST DON'T KNOW THAT I HAVE
25 PERSONAL JURISDICTION OVER THOSE PEOPLE. IT MAY BE, AND THERE

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1 WAS NO AR[redacted]T TO THE CONTRARY, TH[redacted]E COURT MIGHT
2 HAVE PERSONAL JURISDICTION OVER MICHAEL TIMMENY, BUT THAT IS
3 NOT EVEN CLEAR FROM THE COMPLAINT.
4 SINCE THE PLAINTIFF HAS FAILED TO ESTABLISH THAT
5 THERE IS FEDERAL JURISDICTION, THIS COURT CERTAINLY CANNOT ACT
6 ON HIS COMPLAINT. BUT I WOULD SAY THAT EVEN IF I DID HAVE
7 JURISDICTION TO HEAR HIS COMPLAINT AND EVEN IF I HAD JURISDIC-
8 TION OVER THE PARTIES, I WOULD HAVE TO RULE THAT HE HAS NOT
9 ESTABLISHED A RIGHT TO THE EXTRAORDINARY RELIEF OF A TEMPORARY
10 RESTRAINING ORDER.
11 FIRST AND FOREMOST, HE HAS NOT ESTABLISHED OR
12 DEMONSTRATED A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS
13 OF HIS COMPLAINT.
14 SECONDLY, HE HAS ESTABLISHED INJURY, PERHAPS, BUT
15 HE HAS NOT ESTABLISHED IRREPARABLE INJURY.
16 WITH RESPECT TO THE THIRD CRITERION OR BALANCING
17 THE EQUITIES, I CANNOT FIND THAT HE HAS DEMONSTRATED THAT MORE
18 HARM WILL BEFALL HIM THAN IT WILL THE DEFENDANTS.
19 I FURTHER FIND THAT THE PUBLIC INTEREST DOES NOT
20 FAVOR THE GRANTING OF THIS RELIEF.
21 I DO BELIEVE THAT MR. KOCZAK HAS FAILED TO EXHAUST
22 ESSENTIAL ADMINISTRATIVE REMEDIES BEFORE THIS COURT COULD TAKE
23 JURISDICTION, AND FOR THOSE REASONS THAT I HAVE STATED, THE
24 COURT WILL DENY HIS MOTION FOR A TEMPORARY RESTRAINING ORDER.
25 MR. KOCZAK, I HAVE DENIED YOUR MOTION FOR A TEMPORARY

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RESTRAINING ORDER AND THUS WILL NOT [illegible] CANNOT ENJOIN THIS DEBATE.

YOU ARE CERTAINLY WELCOME, SIR, TO TAKE WHATEVER FURTHER ACTION YOU DEEM APPROPRIATE. AND IT IS SO ORDERED.

(WHEREUPON, AT 2:40 P.M., THE HEARING WAS CONCLUDED.)

* * *

CERTIFICATE OF REPORTER

I HEREBY CERTIFY THAT THE FOREGOING IS THE OFFICIAL TRANSCRIPT OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER AND THAT IT IS COMPLETE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE AND ABILITY.

Gloria I. Williams

GLORIA I. WILLIAMS
OFFICIAL COURT REPORTER

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6CC#1770

(37)

February 28, 1984

HAND DELIVERED

Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

CORPORATION
FOR PUBLIC
BROADCASTING

In Re: MUR 1617

Dear Mr. Steele:

This is in response to your letters of January 25 and February 10, 1984, to Ron Hull and myself concerning the complaint filed by Stephen A. Koczak in the above-referenced proceeding.

1. Mr. Koczak's complaint does not clearly state which, if any, laws or regulations he alleges that CPB has violated, or the actions constituting any such violation. The complaint does, however, mischaracterize the nature of CPB, and misrepresents CPB's involvement in the production and broadcast of the debate among eight Democratic presidential candidates held at Dartmouth College on January 15, 1984 (hereinafter the "Dartmouth debate"). Mr. Koczak describes CPB as a "quasi-Federal governmental institution," Complaint of January 17, 1984 at ¶¶17 and 26, and implies that CPB, reacting to unspecified political pressure from members of the House of Representatives, somehow influenced or participated in the choice of candidates to be included in the Dartmouth debate, id. at ¶¶7, 9, 10 and 26.

2. These vague allegations are erroneous and have no basis in fact. This answer will correct the record, and will demonstrate that CPB has engaged in no conduct governed by the Federal Election Campaign Act of 1971, as amended ("the Act"), and that the Dartmouth debate was a bonafide news event, the coverage of which is exempt under the Act.

A. CPB Is A Private, Nonprofit Corporation

3. CPB is the private, nonprofit corporation authorized by Congress by the Public Broadcasting Act of 1967, as amended, 47 U.S.C. § 396 et seq. CPB is not a Federal agency, nor are the members of its Board of Directors officers or employees of the United States. 47 U.S.C. § 396(d)(2) (1983 Supp.).

1111 16th Street NW Washington DC 20036 (202) 293-6160

4. CPB was established by Congress to provide financial assistance for the growth and operation of the nation's public broadcasting system. CPB's funds from Congress are authorized in three-year increments, three years in advance, and are appropriated two years in advance, to ensure maximum insulation from political control and to permit the long-range planning essential to the creation of high-quality programming and distribution services. CPB's authorization and appropriation are effected through the regular working processes of the appropriate House and Senate committees and subcommittees.

5. CPB is prohibited by law from, among other things, "producing programs, scheduling programs for dissemination, or disseminating programs to the public." 47 U.S.C. § 396(g)(3)(B) (1983 Supp.). CPB provides funds to the Public Broadcasting Service, National Public Radio, public television and radio stations, and other public telecommunications entities to carry out these functions. Thus, as a matter of law and of fact CPB does not participate in program production in the manner described, albeit vaguely, in the complaint.

B. CPB Provides Funds to the Public Broadcasting Service to Cover Special Events

6. Most of CPB's funds are allocated to two principle purposes: grants to public broadcasting stations and grants to support the production and acquisition of programming to be distributed to public broadcasting stations. As part of its FY 1984 national television programming budget, CPB allocated $500,000 to the Public Broadcasting Service for the coverage of Special Events, such as the Dartmouth debate. CPB, prohibited by law from producing, scheduling, or disseminating programs (see paragraph 5, above), does not designate which Special Events are to be covered by PBS, but rather, leaves the choice to the discretion and journalistic judgment of PBS. The budgeted funds will be paid to PBS on a cost reimbursement basis, upon the receipt by CPB of certain reports and accounts from PBS to demonstrate actual expenditures.

7. CPB has been informed that PBS allocated $40,000 from its Special Events towaard the costs of production and distribution of the Dartmouth debate. To date, no reimbursement of any such funds has been requested from CPB by PBS for FY 1984.

8. Thus, although CPB has budgeted $500,000 for the coverage by PBS of Special Events, no funds have actually been paid by CPB for coverage of the Dartmouth debate, or for any other PBS Special Events coverage.

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9. CPB routinely provides funds to public broadcasting stations for use in promoting programs. With respect to the Dartmouth debate, CPB agreed to reimburse WGBH for its expenditures, up to $40,000, in the acquisition of print advertising for the debate. This oral agreement was made contemporaneously with the deadline for purchasing the print advertising. To date no funds have been disbursed by CPB pursuant to this agreement.

10. In sum, CPB's only connection with the Dartmouth debate is CPB's potential obligation to reimburse PBS for the $40,000 expended by PBS from its Special Events fund, and CPB's oral agreement to reimburse WGBH for funds expended on print advertising. The only communication with CPB concerning the debate was the oral agreement with WGBH. There was no communication concerning the debate between CPB and any member of Congress, any representative of the House Democratic Caucus, PBS, New Hampshire Public Television, or any other entity.

C. The Dartmouth Debate Was A News Event Exempt from The Federal Election Campaign Act

11. Although CPB has not in fact expended any funds for the coverage of the Dartmouth Debate, any such expenditure would be exempt from the requirements and limitations of the Federal Election Campaign Act of 1971, as amended. The Act specifically excludes "any news story, commentary, or editorial distributed through the facilities of any broadcasting station . . . ." 2 U.S.C. § 431(9)(B)(i) (1983 Supp.). The debate received extensive coverage as a news story, both before and after its occurrence, by the major national newspapers and magazines, by the three commercial television networks, and on both commercial and noncommercial radio networks. Thus, any reimbursement by CPB of expenses incurred in connection with the debate, pursuant to its agreements with PBS and WGBH, will not constitute "expenditures" within the meaning contemplated by the Act, and will give rise to no requirements or limitations under the Act.

12. For all of the foregoing reasons, CPB denies Mr. Koczak's allegations against CPB and urges that the complaint be dismissed for failure to state a cause of action.

Respectfully submitted,

Linda Colvard Dorian/sd

Linda Colvard Dorian
Vice President, General Counsel
and Secretary

Susan Dillon

Susan Dillon
Deputy Assistant
General Counsel

cc: Kenneth A. Gross
Deborah Curry
Ron Hull, Director, Program Fund

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PUBLIC BROADCASTING SERVICE 475 L'ENFANT PLAZA, S.W., WASHINGTON, D.C. 20024 • (202) 488-5000

February 28, 1984

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1617

Dear Mr. Steele:

This letter responds both to the original complaint that Stephen Koczak filed with the Federal Election Commission against the Public Broadcasting Service ("PBS") and others and to the subsequently filed amendment to that complaint, which PBS received on February 13, 1984.

Mr. Koczak's amended complaint focuses on the debate held at Dartmouth College on January 15, 1984, among eight candidates for the Democratic presidential nomination and alleges that the activities of those involved in arranging, hosting, and broadcasting the debate in some way violated the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431 et seq. (1982) ("the Act"). The complaint fails, however, to identify the specific provisions of the Act that Mr. Koczak believes PBS has violated. As we will show, to the extent PBS had any involvement in the debate, its activities fall within the Section 431(9)(B)(i) exemption for legitimate press activities and do not qualify as an "expenditure" or "contribution" subject to the Act's reporting requirements or dollar limitations.

PBS is a nonprofit membership corporation whose members are licensees of noncommercial educational television stations throughout the United States and its territories. PBS was established by public television stations to operate the distribution facilities that enable its members to share programming on a national basis. At present, such program distribution is accomplished via the public television satellite interconnection system. PBS also assists its member stations to acquire, schedule, publicize, and promote programming. However, PBS does not itself produce any programming and, indeed, is barred from doing so by its Articles of Incorporation.

New Hampshire Public Television ("New Hampshire") and WGBH

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Educational Foundation ("WGBH"), both of which are noncommercial educational television licensees and members of PBS, made the journalistic decision to provide television broadcast coverage of the Dartmouth debate and to make coverage of this newsworthy event available to other public television stations. PBS furnished the satellite uplinking and transmission services used to distribute the debate to public television stations for broadcast around the country. In addition, PBS contributed $40,000 to WGBH and New Hampshire to help defray the cost of producing the debate and assist them in making it available to all of PBS's member stations. This money was taken from a fund earmarked for coverage of special news events such as presidential press conferences, the State of the Union message, the NAACP convention, and candidate debates; this special events fund is provided to PBS by the Corporation for Public Broadcasting, a private, nonprofit corporation. PBS understands that WGBH and New Hampshire used the $40,000 to cover the production costs incurred in providing broadcast coverage of the debate. PBS had no control over selection of the debate participants or format; rather, PBS's role was limited to facilitating broadcast coverage of a bona fide news event by its member public television stations, which it did by providing interconnection services and financial assistance.

The Act expressly exempts traditional journalistic activities, such as those PBS engaged in, from the definition of "expenditure." Section 431(9)(B)(i) provides that

> "The term 'expenditure' does not include -- (i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate . . . ."

The regulations implementing the Act incorporate this press exemption in the definitions of both "contribution" (see 11 C.F.R. § 100.7(b)(2)) and "expenditure" (see 11 C.F.R. § 100.8(b)(2)).

It is beyond question that the Dartmouth debate was a major news story within the meaning of this exemption. Large numbers of the press attended the debate, and it not only received live television and radio coverage, but was also the subject of extensive commentary in the print media and on nightly

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newscasts. To the extent that the debate was broadcast through the facilities of PBS and its member stations, those facilities are neither owned nor controlled by any political party, political committee, or candidate. Accordingly, PBS's role in distributing and financing broadcast coverage of the debate does not rise to the level of either a "contribution" or an "expenditure" under the Act and therefore is not subject to the Act's restrictions.

We submit that no further action is warranted on Mr. Koczak's complaint against PBS. PBS's only involvement with the Dartmouth debate was consistent with the traditional role of a broadcast journalist covering a live news event. Such activity falls squarely within the press exemption to the Act's reporting requirements and limitations on expenditures and contributions. PBS's journalistic activity can in no way be construed as a contribution or expenditure of funds to advance a particular candidacy; any other result would severely burden the media's right to cover and comment on political campaigns and would raise serious First Amendment issues.

Sincerely,

Nancy H. Hendry

Nancy H. Hendry
Deputy General Counsel

NHH:ats

cc: Deborah Curry
Kenneth A. Gross

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GCC#1772 (43)

Terry

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TAX COUNSEL
ROBERT A. KRAMER

February 28, 1984

'84 FEB 28 P5:06

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1617

Dear Mr. Steele:

On behalf of the University of New Hampshire, we hereby respond to the "Compliance Complaint and Petition" (Complaint) filed January 17, 1984 and the "Amendment and Supplement to Compliance Complaint and Petition" (Amendment) filed January 23, 1984 with the Commission by Stephen A. Koczak. The University is licensee of five noncommercial educational television stations which, pursuant to authority from the Federal Communications Commission, provide a statewide public television service referred to sometimes as "New Hampshire Public Television". The University helped to produce the Public Broadcasting Service (PBS) coverage of the January 15, 1984 "Dartmouth College Debate" among eight candidates for the Democratic presidential nomination. Mr. Koczak alleges that the University thereby violated the Federal Election Campaign Act of 1971, as amended (the Act).

Mr. Koczak's January 17, 1984 submission to you notes that the University collaborated with PBS to produce the debate coverage (Complaint, ¶11) and alleges generally that "[t]he value contributed and expended on behalf of the candidates" by the University "is a significant contribution" (Complaint, ¶26). He asks that this Commission obtain from the University documents relating to its debate coverage (Complaint, Pet. ¶4). In his Amendment Mr. Koczak does not mention the University, but he provides a copy of a complaint which he filed on January 24, 1984 with the Federal Communications Commission asserting a right to "equal opportunities" with respect to the debate coverage by the University. The complainant does not state in either of his submissions with any reasonable degree of specificity the statutory or regulatory basis for his complaint. No showing whatever is made that the University expended any funds for the benefit of any

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candidate, and the Complaint and Amendment should be summarily dismissed or denied for failure to set forth any possible violation of the Federal Election Campaign Act.

As a procedural matter, the University submits that its debate coverage falls squarely within the exclusion of 2 U.S.C. Section 431(9)(B)(i) to the general rule of Section 441(b)(2) with respect to a "contribution or expenditure". The provision of Section 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station. . . unless such facilities are owned or controlled by any political party, political committee, or candidate . . .". As a state institution, the University obviously is not owned or controlled by "any political party, political committee, or candidate". The University covered the Dartmouth debate as a news story (as did approximately 300 other journalists who covered the debate). The University had no involvement with the staging of the debate or with selection of candidates to participate. It was solely a co-producer of public television coverage. Appended hereto as Attachment A is a copy of the decision of the Federal Communications Commission, released February 16, 1984, rejecting Mr. Koczak's "equal opportunities" complaint and finding that he had provided no information which would indicate that the University was unreasonable in determining that the debate was a newsworthy event. Inasmuch as the University was clearly operating as a press entity in producing and covering the debate and is a public institution not owned by any party or candidate, the Commission should not investigate the insubstantial complaint of Mr. Koczak any further. Cf., Reader's Digest v. Federal Election Commission, 509 F.Supp. 1210 (DCSNY, 1981).

Very truly yours,

SCHWARTZ, WOODS & MILLER

By: Lawrence M. Miller
Lawrence M. Miller

LMM/nmc

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

8330-D
C1-670
C2-137

In re Complaint of	)
	)
Stephen A. Koczak	)
	)
against	)
	)
University of New Hampshire	)

Staff Ruling

Adopted: February 16, 1984 ; Released: February 16, 1984

By the Chief, Fairness/Political Programming Branch:

1. The Commission has before it a complaint, received on January 24, 1984, filed by Mr. Stephen A. Koczak, a Democratic candidate for the Office of President of the United States.

2. Koczak states that on January 15, 1984, New Hampshire Public Television 1/ aired a program he referred to as the "Dartmouth College Debate," which was a debate among eight Democratic presidential candidates. 2/ Koczak states that at the time the Dartmouth College Debate was aired he was a legally qualified candidate in New Hampshire 3/, and three days after the debate was aired, he requested "equal opportunities," pursuant to 47 U.S.C. 315(a), based on the appearance of his eight opponents on that program. He states that the licensee denied his request on the basis that the subject program was a "bona fide news event."

3. Koczak alleges "that New Hampshire Public Television, licensed to telecast noncommercial broadcasts, had relinquished control over the debate because it was in fact a partisan broadcast which should have been telecast commercially." He states that the debate was actually organized by a partisan political body, the National House Democratic Caucus, which had arbitrarily excluded other Democratic candidates from the debate. Furthermore, he alleges

1/ Commission records indicate that the University of New Hampshire is the licensee of five New Hampshire noncommercial television stations, which are WEDB-TV, Berlin, WENH-TV, Durham, WHED-TV, Hanover, WEKW-TV, Keene, and WLED-TV, Littleton.

2/ The Democratic candidates who appeared on the program were Reubin Askew, Ernest Hollings, Alan Cranston, Jessie Jackson, John Glenn, George McGovern, Gary Hart, and Walter Mondale.

3/ In this connection, Mr. Koczak has enclosed a copy of his "Declaration of Candidacy" filed with the Secretary of State in New Hampshire.

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that "the broadcast was tainted by the illegal use and misappropriation of Federal government funds by the National House Democratic Caucus, the Corporation for Public Broadcasting . . . and the Public Broadcasting Service." Therefore, Koczak alleges that this debate, which was organized by a partisan political body and funded with federal monies, could not be considered a "bona fide news event." 4/

Discussion

4. The Commission has ruled that a broadcaster-sponsored debate will fall within the § 315(a)(4) exemption as on-the-spot coverage of a bona fide news event. Henry Geller, ___ FCC 2d ___ (FCC 83-529, released November 16, 1983). Therefore, with respect to the allegation that New Hampshire Public Television had relinquished control over the subject debate, we find that control is an irrelevant consideration for purposes of a broadcaster determining whether a debate is a bona fide news program. The Geller decision served to broaden Section 315(a)(4) to include broadcaster-sponsored debates, but it did not remove third-party sponsored debates from the scope of the exemption.

5. With regard to Koczak's allegation that the debate was "tainted" by the use of federal funds, such matters are beyond the scope of the Commission's statutory jurisdiction. Koczak has presented no information which would indicate New Hampshire Public Television was unreasonable in concluding that the subject debate was a newsworthy event.

6. Therefore, the complaint IS DENIED.

7. Staff action is taken under delegated authority. Application for Review by the full Commission may be requested within thirty days of the date of public notice of this document (see Commission Rule 1.4(b) [47 C.F.R. § 1.4(b)]) by writing the Secretary, Federal Communications Commission, Washington, D.C. 20554, stating the factors warranting consideration and, if

4/ By letter received February 7, 1984, Koczak amended his complaint to make the same allegations against WGBH Educational Foundation (WEF). Commission records indicate that WEF is the licensee of the following noncommercial broadcast stations, which have been included in this proceeding: WGBH-TV, WGBX-TV, and WGBH-FM, all in Boston, Massachusetts, and WGBY-TV, Springfield, Massachusetts.

Because the service areas of these stations allegedly extend into New Hampshire, where the debate was held and Koczak is legally qualified, he includes them as part of his complaint. He states that he made an "equal opportunities" request of WEF within seven days of the debate, but he has received no response to date. Due to our ruling herein, it is unnecessary for the Commission to determine which service areas of these noncommercial Massachusetts stations extend into New Hampshire, and if any do, whether such coverage is sufficient to warrant Section 315 obligations.

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mailed, should be sent by certified mail. Copies must be sent to the parties to the complaint. See Commission Rule 1.115 (47 C.F.R. § 1.115).

FEDERAL COMMUNICATIONS COMMISSION

Milton O. Gross, Chief,
Fairness/Political Programming Branch
Enforcement Division
Mass Media Bureau

cc: University of New Hampshire
WGBH Educational Foundation
Counsel

8 4 0 4 0 1 6 0 9 1 9

RECEIVED AT THE FEC
84 FEB 28 AM 10:31
GCC#1767
48

WGBH Educational Foundation
125 Western Avenue
Boston
Massachusetts 02134
617 492 2777
Telex 710 330 6887

February 28, 1984

By Federal Express

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

Re: MUR 1617

Public Broadcasting
Boston:
Channel 2
Channel 44
WGBH Radio
Springfield:
Channel 57

Lowell Institute
Cooperative
Broadcasting
Council
Boston College
Boston Symphony
Orchestra
Boston University
Brandeis University
Harvard University
Lowell Institute
Massachusetts Institute
of Technology
Museum of Fine Arts
Museum of Science
New England
Conservatory of Music
Northeastern University
Simmons College
Suffolk University
Tufts University
University of
Massachusetts
Wellesley College

Dear Ms. Curry:

The WGBH Educational Foundation (WGBH) hereby responds by this letter to MUR 1617. Without responding to each paragraph in Mr. Koczak's latest outlandish complaint, WGBH wishes to provide a background of its identity and its activities concerning the debate in Hanover, New Hampshire on January 15, 1984.

1. WGBH is incorporated under chapter 180 of the General Laws of the Commonwealth of Massachusetts as a charitable non-profit corporation having its principal place of business at 125 Western Avenue, Boston, Massachusetts 02134. WGBH is exempt from federal taxation under 26 U.S.C. section 501(c)(3).

2. WGBH is the licensee of non-commercial educational stations WGBH-TV, WGBX-TV and WGBH(FM), all in Boston, Massachusetts, and WGBY-TV in Springfield, Massachusetts. WGBH's television stations are members of the Public Broadcasting Service.

3. WGBH did not initiate the idea for the debate. When WGBH learned that the event would take place, WGBH considered the opportunity to cover and report the debate and sought funding from its usual sources, such as PBS, the Corporation for Public Broadcasting, and other corporations. This is part of the ordinary procedure in producing programs.

4. The debate plans were well under way by the time WGBH, in exercising its independent editorial discretion, decided to commit itself to covering and reporting the event. These plans included the choice of moderators, format and candidate participants. Furthermore, WGBH did not have any control over ticket distribution or accomodations for the participants. Ms. Gail Harris, who served as the television

anchor for the debate coverage, was situated in the back of the auditorium and did not interact with the participants or the audience. WGBH's activities as a co-producer were limited to being primarily responsible for the production staff, while New Hampshire Public Television was primarily responsible for providing the technical personnel and equipment.

5. WGBH's legitimate press activities in covering and reporting the debate are protected under the First Amendment and are exempt from F.E.C. regulation. [(See for example, 2 U.S.C. section 431(9)(B)(i) and Reader's Digest Association, Inc. v. F.E.C., 509 F. Supp. 1210 (S.D.N.Y. 1981).] There can be no doubt that the debate was a bona fide news event. Well over 300 journalists from the print and electronic media were present in Hanover to cover and report the proceedings. Regardless of whether or not the organization of the debate met every technical requirement of federal regulation, WGBH had the constitutional right to be present at and report the proceedings.

Wherefore, the Federal Election Commission's inquiry of WGBH's broadcast activities should be terminated.

Respectfully submitted,

WGBH EDUCATIONAL FOUNDATION

By Its Attorney

Eric Adam Brass

Eric Adam Brass
WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134
(617) 492-2777, ext. 4405

8 4 0 4 0 4 6 0 9 2 1

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

Gen Counsel 1847

Curry

50

March 8, 1984

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

RE: MUR 1617

Dear Mr. Steele:

This letter constitutes the response of the Mondale for President Committee ("Committee") to the complaint filed by Stephen A. Koczak on January 20, 1984, and amended on January 24, 1984. Complainant Koczak has alleged that Walter Mondale, as one of the eight presidential candidates who participated in the debate held on January 15, 1984 at Dartmouth College, accepted illegal contributions from Dartmouth College, the Rockefeller Center for Public Policy, the House Democratic Caucus, and the radio and television stations who covered the debate.

These allegations are without merit. First, Dartmouth College and the Rockefeller Center for Public Policy were proper staging organizations for the debate, and as such, were not contributors, since the debate was non-partisan and was not for the purpose of influencing the election. Second, the House Democratic Caucus was not a staging organization and therefore made no contribution. Finally, the broadcasters' coverage of the debate did not constitute a contribution.

In light of these facts, discussed more fully below, the Commission should find no reason to believe that a violation of the Federal Election Campaign Act ("FECA") has occurred.

<u>Dartmouth College and the Rockefeller Center for Public Policy Were Proper Staging Organizations</u>

It is the Committee's understanding that Dartmouth College and the Rockefeller Center for Public Policy provided the facilities for the debate and paid the expenses incurred in staging the event.1/ Under 11 C.F.R. Section 110.13(a), any non-

1/ During a January 14, 1984 hearing before United States District Court Judge Norma Halloway Johnson on a complaint brought by Mr. Koczak to enjoin any broadcast of the debate, Douglas N. Steenland, Esquire, attorney for Dartmouth College, stated that Dartmouth was the staging organization for the event. Koczak v. McLaughlin, Civ. Action No. 84-0146 (D.D.C. January 14, 1984).

Paid for by Mondale for President, Inc.

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profit educational and charitable organization which is exempt from taxation under 2 U.S.C. Section 501(c)(3) or Section 501(c)(4), and which does not endorse, support or oppose political candidates or political parties, may stage a nonpartisan candidate debate without making a contribution.

Both Dartmouth College and the Rockefeller Center are tax exempt organizations and neither has endorsed, supported, or opposed political candidates or parties. Thus, since the costs of the event were paid for by proper staging organizations, no contribution in violation of FECA resulted.

The Selection of Candidates to Participate in the Debate Complied with FEC Regulations

The debate was a nonpartisan event designed to educate and inform the public, and its structure complied with FEC regulations. Thus, there was no obligation on the part of the staging organization to include Complainant in the debate.

Under the regulations, funds donated or used to stage nonpartisan candidate debates are not considered contributions for the purpose of influencing an election to federal office. 11 C.F.R. 100.7(b)(21) & 100.8(b)(23). The regulations further state that the selection of candidates invited to appear in a debate "is left to the discretion of the staging organization." 11 C.F.R. 110.13(b). The regulations specify two conditions which a staging organization is required to meet: at least two candidates must appear in a debate and a debate must be nonpartisan in that it does not promote or advance one candidate over another.

The Explanation and Justification accompanying Section 110.13 further clarifies the requirement of nonpartisanship and expressly states that only the "significant candidates" in a race need be invited to participate in a debate. 44 Fed. Reg. 76734(1979). Furthermore, the Explanation and Justification indicates that the overall fairness and purpose should also determine whether it is nonpartisan:

> A debate is nonpartisan if it is for the purpose of educating and informing the voters, provides fair and impartial treatment of candidates and does not promote or advance one candidate over another.

44 Fed. Reg. 76,735(1979).

In the January 15 Dartmouth debate, the eight participating candidates were all significant candidates seeking the Democratic nomination on a nationwide basis. Each debate participant had a viable campaign organization in several states, each had a significant standing in major nationwide polls, and each qualified to

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appear on the ballot in at least 20 states.2/ Furthermore, all of the eight candidates have qualified to receive and are receiving primary matching funds. In order to qualify, these candidates were required to show substantial fundraising efforts in at least 20 states. 26 U.S.C. Section 9033.3/

By contrast, Complainant can not be considered a "significant candidate", since his affidavit indicates he has qualified to appear on the ballot in only two states, New Hampshire and Florida. He has made no submission to qualify for matching funds, nor does he have anything which even approaches a nationwide campaign organization. The only reason put forth by Complainant as to why he should have been included in the debate was his appearance on the New Hampshire ballot. However, since there were at least 24 candidates who were on the New Hampshire ballot, the staging organizations properly applied other national criteria in making their selection.

Thus, it is clear that in all respects, including the selection of candidates, the debate was nonpartisan and held in accordance with FEC regulations.

The House Democratic Caucus Was Not a Contributor

While the House Democratic Caucus was instrumental in encouraging participation in the debate, Dartmouth College and the Rockefeller Center, not the House Democratic Caucus, paid the costs of staging the debate. Thus, no contribution was made.

The Broadcasters Covering the Debate Were Exempt from the FECA

Finally, Complainant asserts that those radio and television broadcasters which aired the January 15 debate made illegal contributions. However, since the only involvement by the broadcasting stations was their coverage of the debate, no contribution was made.

2/ For a number of months prior to the debate, each of the eight candidates received a rating in the following nationwide polls: Harris, Gallup, ABC/Washington Post, CBS/New York Times, NBC Yankelovich.

3/ In MURs 1167, 1168, and 1170, all of the candidates excluded from the debate received matching funds and had met a number of other nationwide criteria. Consequently, the Commission found reason to believe that the Nashua Telegraph and the Telegraph Publishing Co. were about to violate 2 U.S.C. Section 441b by arranging a debate which included only President Reagan and Vice President Bush.

Under 2 U.S.C. Section 431(9)(B)(i), a broadcasting station is exempt from FECA limitations or prohibitions when covering and broadcasting a bona fide news event. The statutory provision states that:

> The term 'expenditure' does not include -- (i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station...unless such facilities are owned or controlled by any political party, political committee, or candidate....

The Explanation and Justification of the debate regulations expressly states the Commission's intent to preserve the right of broadcasters to cover debates:

> Nothing in this section limits the right of broadcasters...to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act...

44 Fed. Reg. 76735 (1979).

Thus, the public broadcasting stations named as respondents did not make contributions to the participants by broadcasting the debate staged by the Dartmouth College and the Rockefeller Center.

In light of the foregoing response, the Mondale for President Committee respectfully requests that the Commission find no reason to believe a violation of the Act occurred and close its file in this matter.

Sincerely,

David M. Ifshin CWO

David M. Ifshin
General Counsel

Carolyn Oliphant

Carolyn Oliphant
Deputy General Counsel

cc: Michael S. Berman

8 4 0 4 0 4 6 0 9 2 5

RECEIVED BY THE FEC
84 FEB 14 P1:20

STEEL HECTOR & DAVIS
SOUTHEAST BANK BUILDING
MIAMI, FLORIDA 33131
TELEPHONE (305) 577-2800
TELEX 51-5755

DONALD M. MIDDLEBROOKS
(305) 577-2904

PALM BEACH OFFICE
505 NORTH AVENUE
PALM BEACH, FLORIDA 33480

84 FEB 15 A9:00

February 7, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
Washington, DC 20463

Re: MUR 1617

Dear Mr. Steele:

We have received your letter dated January 25, 1984 pertaining to a complaint filed by Stephen A. Koczak against several groups and individuals including the Askew for President Committee. Review of the complaint indicates that it does not allege facts which if true would constitute a violation of the Act on the part of the Askew Committee. Reubin Askew, after an invitation was extended, and together with several other candidates, attended a debate held at Dartmouth College. His participation in the debate cannot constitute a violation of the Federal Election Campaign Act.

Please notify me of any subsequent actions taken by the Federal Election Commission. Please also let me know if any further information might be helpful to you in the performance of your duties.

Sincerely,

Donald M. Middlebrooks

DMM/w

8404160926

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BAKER & HOSTETLER
ATTORNEYS AT LAW
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TELECOPIER (202) 857-0050

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TWX 810 421 8375

IN COLUMBUS, OHIO
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COLUMBUS, OHIO 43215
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IN DENVER, COLORADO
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(303) 861-0600

IN ORLANDO, FLORIDA
250 CNA TOWER
ORLANDO, FLORIDA 32802
(305) 841-1111

WRITER'S DIRECT DIAL NO.:
(202) 861- 1543

Cumy

February 7, 1984

FILE 02:15

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

Re: Matter Under Review 1617

Dear Mr. Steele:

This office represents the John Glenn Presidential Committee Inc. ("Committee"). Enclosed please find a Statement of Designation of Counsel signed by Robert A. Farmer, the Committee's Treasurer, confirming our designation as counsel.

On January 30, 1984, Mr. Farmer received your letter of January 25, 1984, notifying him that a complaint was filed by Stephen A. Koczak. This complaint has been designated by you Matter Under Review ("MUR") 1617. The complaint alleges that eight candidates for the Democratic Party nomination for President, including Senator John Glenn, received in kind contributions and incurred expenditures in excess of limits imposed by federal election laws by virtue of having participated in a nonpartisan public debate at Dartmouth College, New Hampshire, on January 15, 1984.

Please be advised that the Committee denies any such violations on the grounds that such nonpartisan debates are expressly permitted by Federal Election Commission ("FEC") regulations. 11 C.F.R. §§ 110.13 & 114.4(e). We respectfully suggest that the complaint is frivolous and should be disposed of summarily by the FEC.

Sincerely,

Harlan Pomeroy
General Counsel
John Glenn Presidential
Committee Inc.

HP:md
Enc.
cc: Mr. Robert A. Farmer
Mr. William R. White

8 1 0 4 0 1 6 0 9 2 7

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STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: HARLAN POMEROY, ESQ.

ADDRESS: BAKER & HOSTETLER
818 Connecticut Avenue
Washington, D. C. 20006

TELEPHONE: (202) 861-1500

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

2/6/84

Date

Robert A. Farmer, Treasurer

Signature

NAME: ROBERT A. FARMER, TREASURER

ADDRESS: JOHN GLENN PRESIDENTIAL COMMITTEE INC.
444 North Capitol Street
Washington, D. C. 20001

HOME PHONE

BUSINESS PHONE:

8404016092 8

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IN DENVER, COLORADO
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(303) 861-0600

IN ORLANDO, FLORIDA
250 CNA TOWER
ORLANDO, FLORIDA 32802
(305) 841-[illegible]

WRITER'S DIRECT DIAL NO.:
(202) 861- 1543

57

MUR 1617
Carey

February 22, 1984

'84 FEB 23 A8:36
FEC COUNSEL

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

Re: Matter Under Review 1617

Dear Mr. Steele:

This will refer to the complaint filed by Stephen A. Koczak on January 20, 1984 and to our response thereto dated February 7, 1984 filed with the Commission on February 14, 1984.

In your letter of February 10, 1984 you advise that an amendment to the complaint was received by the Commission on January 24, 1984 and you are therefore extending the time for response to the original complaint an additional 15 days.

Since the response which we filed with the Commission on February 14, 1984 would be the same with or without the amendment to the complaint of January 24, 1984, please consider our initial response to be applicable to the complaint as amended.

Very truly yours,

Harlan Pomeroy
General Counsel
John Glenn Presidential
Committee Inc.

HP:md

cc: Mr. Robert A. Farmer
Mr. William R. White

8404460929

Carry

BCC # 1614

58

LAW OFFICES
SONOSKY, CHAMBERS, SACHSE & GUIDO
1050 31ST STREET, N.W.
WASHINGTON, D.C. 20007

MARVIN J. SONOSKY
HARRY R. SACHSE
REID PEYTON CHAMBERS
KENNETH J. GUIDO, JR.

WILLIAM R. PERRY
LLOYD BENTON MILLER
KEVIN A. GRIFFIN
MARY V. BARNEY
LOFTUS E. BECKER, JR.
DONALD J. SIMON
DOUGLAS B. L. ENDRESON*

*ADMITTED ONLY IN WISCONSIN

TELEPHONE
(202) 342-0131

February 9, 1984

'84 FEB 9 P1:56

BY HAND

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1617

Dear Mr. Gross:

We are writing on behalf of the Americans with Hart Committee, the principal authorized presidential campaign committee of Senator Gary Hart, in reference to the filing of a complaint with the Commission by the Koczak for President Committee. The complaint is -- on its face -- an utter frivolity, and should be dismissed by the Commission without further proceedings.

The Koczak Committee implies that the Hart Committee violated the federal campaign finance laws by accepting an illegal in-kind contribution arising from Seantor Hart's participation in the New Hampshire debate among the eight Democratic presidential candidates on January 15, 1984. See Complaint at ¶ 22. This allegation can be disposed of in three points:

First, the New Hampshire debate was clearly legal. The Commission's regulation provide, at 11 C.F.R. §§110.13 and 114.4(e), that a nonprofit organization may stage "nonpartisan candidate debates" so long as (1) such debates include at least two candidates, and (2) such debates are nonpartisan "in that they do not promote or advance one candidate over another." 11 C.F.R. §110.3(b).

Both conditions are met here. The New Hampshire debate included the eight nationally recognized Democratic candidates, and was structured so as not to favor any one of those eight candidates over any other. The Koczak Committee makes no allegation to the contrary. 1/

1/ In MUR 1287 (Sept. 17, 1980), the Commission approved a sponsor's decision to exclude candidates who had not achieved "significant voter support and interest" as measured by attaining at least a 15 percent standing in the polls.

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Second, because the debate was conducted in accordance with 11 C.F.R. §110.13 and 114.4(e), the funds spent by its sponsors are not considered to be contributions to any candidate. The Commission's regulations expressly exempt from the definition of "contribution" any "funds provided to defray the costs incurred in staging nonpartisan candidate debates in accordance with the provisions of 11 C.F.R. §§110.13 and 114.4(e)." 11 C.F.R. §100.7(b)(21). 2/

Third, and finally, because the funds spent by the sponsors of the debate were, by definition, not "contributions" to any candidate, the Americans with Hart Committee did not accept any contribution whatsoever from any sponsor or news organization in connection with the New Hampshire debate, much less a contribution in excess of any applicable limit.

Mr. Koczak, at bottom, is complaining not about any violation of the law, but rather just that he was left out of the New Hampshire debate. A federal district judge and two federal appellate judges have reviewed his exclusion, and found it not to be impermissible. See Washington Times, January 16, 1984 at p. 4A, attached as Exhibit to Koczak Complaint. Whatever the merits of his exclusion as a matter of policy, it raises no compliance issue within the jurisdiction of the Federal Election Commission. His complaint certainly demonstrates no reason to believe that any violation of the campaign finance laws has been committed by the Americans with Hart Committee.

Accordingly, at least as it pertains to the Americans with Hart Committee, the Koczak complaint should be summarily dismissed.

Sincerely,

Kenneth J. Guido, Jr.
Donald J. Simon
Counsel for the Americans
with Hart Committee

KJG/DJS/md

cc: Oliver Henkel, Jr., Esq.
Jack Quinn, Esq.
Michael R. Moore

2/ Commission regulations further exempt from the definition of "contribution" any cost "incurred in covering or carrying a news story. . .by any broadcasting station, newspaper, magazine or other periodical. . ." 11 C.F.R. §100.7(b)(2).

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RECEIVED AT THE FEC
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84 MAR 13 P12:01
MUR-1617
Curry
(60)
84 MAR 13 P1:31

BEFORE THE FEDERAL
ELECTION COMMISSION
WASHINGTON, D.C.

TO: The General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

MUR 1617

RESPONSE

COMES NOW the Respondent, Jesse Jackson For President Committee, 2100 M Street, N.W., Suite 316, Washington, D.C. 20036, to file a Response in accordance with the Regulations of the Federal Election Commission, under Section 111.6 of those Regulations.

As it relates to the said Jesse Jackson For President Committee, the complaint alleges that Respondent accepted contributions in violation of 2 U.S.C. § § 432(c) and 434, and made expenditures of these alleged contributions in violation of 2 U.S.C. § 441a(b)(1)(A). The alleged violations occurred in connection with a nationally televised political debate, which was held on January 15, 1984.

Complainant seeks an Order from the Commission that Respondent submit documentary evidence relating to any "understandings, arrangements, [or] agreements" that Respondent may have made as to the value of the services rendered by individuals who were involved in the planning and broadcasting of the debate.

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Under Section 111.6(a) of the cited Regulations the Respondent Jesse Jackson For President Committee hereby provides the following information in support of its position that the Commission take no action on this complaint as it relates to Respondent:

1. On January 15, 1984, Reverend Jesse Jackson, along with seven other candidates for the Democratic presidential nomination, voluntarily participated in a three-hour debate, which was televised live from Hanover, New Hampshire.

2. The purpose of this debate was not to advance the candidacy of any particular individual, nor was it to "influence any election" within the meaning of 2 U.S.C. § 431 (8)(A)(i).

3. Rather, the purpose of this debate was informative. The program was designed to afford the public an opportunity to examine major issues of the day, and to promote political education of viewers and listeners.

4. As such, the debate falls squarely within the meaning of a "news story," 11 C.F.R. § 100.7(b)(2), or a "bona fide news event." 47 U.S.C. § (a) (4). The Federal Communications Commission ("FCC") recently reaffirmed this when it expanded the exemption of political debates from the equal opportunity requirement of the Communication Act

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of 1934, as amended, to include broadcaster-initiated, as well as the previously-exempt nonbroadcaster-initiated, debates. In so ruling, the FCC noted that the "overriding objective of the exemptions [was] to encourage broadcast coverage of political issues." In re Geller, BC Docket No. 82-564, p. 7.

5. Because the debate was a "news story", any services rendered by persons involved in arranging and producing the January 15, 1984 program fall within the explicit exemption from the definition of a contribution to a political committee. 11 C.F.R. § 100.7(b)(2).

6. Since these alleged "contributions", if any, are exempted, Respondent did not make expenditures in violation of 2 U.S.C. § 441a(b)(1)(A). Any and all expenditures made by Respondent incident to the debate were made in accordance with the Federal Election Campaign Act of 1971, as amended, and the Regulations of the Federal Election Commission.

WHEREFORE, it is prayed that no action should be taken by the FEC on the filed Complaint herein as it relates to Respondent Jesse Jackson For President Committee.

Respectfully submitted,

Ralph C. Thomas III

RALPH C. THOMAS, III
Attorney for Respondent Jesse Jackson
for President Committee
1101 - 14th Street, N.W. #1000
Washington, D.C. 20005
202/347-7444

8 4 0 4 0 4 6 0 9 3 4

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Subscribed and sworn to before me, a Notary Public, this 12 day of March, 1984 in Washington, D.C.

Janet Bay Brock
Notary Public

My Commission expires: Oct. 14, 1985

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(64)

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: RALPH C. THOMAS, III

ADDRESS: 1101 -14th Street, N.W.
Suite 1000
Washington, D.C. 20005

TELEPHONE: 202/347-7444

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

2-6-84
Date

Signature

NAME: Samuel L. Foggie, Sr.

ADDRESS: 1850 K Street, N.W., Suite 290
Washington, D.C. 20036

HOME PHONE 301/292-9488

BUSINESS PHONE: 202/388-4392

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RECEIVED BY THE FEC
GCC #1768
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65

CURTIS, MALLET-PREVOST, COLT & MOSLE
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CABLE MIGNIARD NEWYORK

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CABLE: MIGNIARD WASHINGTON, D.C.
TELEX ITT 440379 CMPJI
TWX 7108229317

MEXICO CITY, MEXICO
LONDON, ENGLAND
PARIS, FRANCE

February 27, 1984

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

RE: MUR 1617

Dear Ms. Curry:

I send this letter in response to the above-captioned matter on behalf of Hollings for President, Inc. (the "Committee"). As I confirmed with you last week on the phone, a letter response that bears today's date is a sufficient response.

The Committee expressly denies the charges against it. Moreover, the Commission suggests that Mr. Koczak review the recent position announced by the Federal Communications Commission regarding "public access" which specifically allows a limitation on appearances by candidates.

Please direct all further correspondence to me as counsel for the Committee.

Thank you for your consideration.

Sincerely,

James H. Rowe, III

cc: Ms. Karin Kollmansperger

8404016093 7

McGOVERN for PRESIDENT

(66)

MUR 1617
Curry

P.O. Box 1984
Washington, D.C. 20009
202-332-2662

February 13, 1984

Dear Mr. Steele: RE: MUR 1617

This will acknowledge receipt of your letter, as signed by Associate FEC General Counsel, Kenneth A. Gross, in relation to the above entitled matter to which this campaign has responded previously.

We have read the additional submission by the complaint. We reiterate our request that the complaint as it pertains to George McGovern the candidate and the McGovern for President Committee be dismissed.

As indicated in our previous response, neither candidate McGovern or the McGovern for President Committee had any part in the arrangement relative to the debate format, participants, coverage or publication to which complaint now objects. As solely a participant, Mr. McGovern and his campaign committee should be held harmless from the complaint's charges and all charges against Mr. McGovern the candidate and his campaign committee should be dismissed.

To do otherwise would require individual candidates and their committees to take extraordinary and unwarranted action to check into the background, sponsorship and planning for each invitation received. This imposes a burden that is not envisioned by the Federal Election Act.

We again ask that the complaint as it pertains to this campaign and the candidate be dismissed.

Sincerely,

George Cunningham

George V. Cunningham
General Chairman

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

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Paid for by the McGovern for President Committee

McGOVERN for PRESIDENT

Curry (67)

P.O. Box 1984
Washington, D.C. 20009
202-332-2662

January 27, 1984

RE: MUR 1617

Dear Mr. Steele:

This responds to your letter of January 25, 1984 directed to Helene Mae Bordenick, Treasurer, McGovern for President Committee, in relation to the above entitled matter.

After reviewing the complaint it is our belief that insofar as it pertains to candidate George McGovern it is superfluous and frivilous on its face and should be dismissed by the Federal Election Commission.

We ask that the portion of the complaint as it relates to candidate George McGovern be dismissed and that Mr. McGovern be stricken as a party to any further action taken or contemplated by the FEC in relation to the allegations brought by the complainant Stephen A. Koczak and/or the Koczak for President Committee.

While we cannot speak for the other 1984 Democratic Presidential candidates involved in this matter, it is our belief that the arrangements were similar for all.

Mr. McGovern was invited to participate in a debate to be held at Dartmouth College's Rockefeller Center for the Social Sciences. He accepted the invitation as one of scores of invitations that are processed and considered by his office each week.

Mr. McGovern received no fee for his appearance. His campaign paid for the travel expenses of the candidate to reach the debate site and paid for all lodging and other costs associated with Mr. McGovern's appearance at the debate.

Neither Mr. McGovern nor any member of his campaign staff were consulted on the format of the debate, the print or electronic media coverage of the debate or any other details relating to the physical arrangements for the debate, the conduct of the debate, the way in which the public would be advised about the debate or the results thereof.

Nor was Mr. McGovern or his campaign consulted or advised as to who the other participants would be except in the most general terms which are normal for events of this kind.

In short, Mr. McGovern was an uncompensated, invited participant who had no authority, responsibility or control over the circumstances or details which are alleged in MUR 1617 as possible violations of Federal Election Law.

Unless facts other than those reflected in MUR 1617 in its present form are brought to our attention, we do not believe it is necessary to be represented by counsel on this matter.

Paid for by the McGovern for President Committee

If, for some reason, the FEC rules against our request, stated above, for dismissal of this action as it relates to candidate George McGovern, please advise us of such decision at which point counsel will be designated.

Sincerely,

George Cunningham

George V. Cunningham
GENERAL CHAIRMAN
McGOVERN FOR PRESIDENT COMMITTEE

Charles N. Steele, General Counsel
Federal Election Commission
825 K Street, NW
Washington, D.C. 20463

GVC/ss

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(69)

DOW, LOHNES & ALBERTSON

1225 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

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WRITER'S DIRECT DIAL NO.

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WILLIAM P. DAVIS
RICHARD L. BRAUNSTEIN
JOHN A. RAPTOR
JOHN D. MATTHEWS
VINCENT T. WASILEWSKI
G. DWIGHT PERRY
DANIEL W. TOOHEY
BERNARD J. LONG, JR.
RALPH W. HARDY, JR.
MARION H. ALLEN, III *
CHARLES J. HOFBERG
CHARLES H. HELBIG
ALAN C. CAMPBELL
JAMES A. TRIANDO, III
WERNER H. HARTENDORPER
BRENT H. RUSHFORTH
J. MICHAEL HINES
LEONARD J. BAIT
JONATHAN S. HILL
PATRICK H. ALLEN

A. DOMINIC MONAHAN
MARSHALL P. BERMAN
RICHARD D. MARKS
JOHN L. DAVIS
ARNOLD R. LUTZKER
MICHAEL S. GOLDSTEIN
JOHN H. PEDRE, JR.
LESLIE H. WEISHUPFELDER
MICHAEL J. MCCARTHY
KEVIN R. REED
RAYMOND D. BENDER, JR.
WILLIAM A. SILVERMAN
DAVID R. SMITHSON
GEMMA GOLDMAN GREGG
DAVID P. FLEMING
STUART A. SHEARON
MICHAEL A. PAGE
FREDERICK S. GEORGE, JR.
ALBERT H. TURNER

OF COUNSEL

FRED W. ALBERTSON
THOMAS W. WILSON
THOMAS H. HILL
L. ADRIAN ROBERTS

SUZANNE MEYER PERRY
JOYCE TRIBBLE GIMBEL
HELEN E. DESSHAUS
KENNETH D. BALDWIN
EDWARD M. LEBON
SETH E. HOLDEN
CHRISTOPHER C. SMALLWOOD
ANDREW A. MENDEZ
JOHN C. JOST
JOHN S. [illegible]
CURTIS A. RITTER
TODD D. BRAY
JOHN H. PENGROV
NOEL C. R. GUNTHER
JOHN R. SCHNITKER
R. BRUCE BECKNER
JULIA A. WINSBORO
BLAIR S. GUTHIE
JOHN T. DYKNES, JR.
LINDA A. PRITTS
JILL S. JOSEPHSON
DAVID J. WITTENSTEIN

NANCY L. WOLF
JAMES M. MIELPTON, JR.
MARGARET S. BARDESS
LAWRENCE D. SNEAD, III
ROBERT M. FRIEDEN
ROBERT M. WILCOX
TIMOTHY J. O'ROURKE
LISA PALMER WILCOX
THOMAS A. HUTTON
DAVID S. WILD
CAROLYN A. KINSLY
CORINNE M. ANTLEY
MARK R. HOHLBLOME
J. CHRISTOPHER REDDING
WILLIAM S. FRANKLIN
LAURIE JO SPIGMAN
MICHAEL P. HOUSE
CARRIE A. SMITH
EDWARD J. O'DONNELL
MICHAEL S. BABLE
WILLIAM H. COWPER
PAUL R. LANG

*MEMBER OF GEORGIA BAR ONLY

MUR 1617

March 2, 1984

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HAND DELIVER

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

Re: MUR 1617 (Complaint of Stephen Koczak)

Dear Mr. Steele:

On behalf of Phillip J. Donahue, and in accordance with Federal Election Commission procedures, we submit this letter commenting upon Stephen Koczak's "Compliance Complaint and Petition" ("Complaint"). A "Statement of Designation of Counsel" executed by Mr. Donahue in favor of the undersigned is enclosed.

The Complaint makes a variety of allegations of wrong-doings by a number of named parties. However, with respect to Mr. Donahue, the Complaint makes no allegation of any election law violation. In fact, Mr. Donahue is only referred to twice in the Complaint, once in the introductory paragraph where the respondents are enumerated, and the second time on page 9, ¶8 where it seeks certain documents from Mr. Donahue. Significantly, the January 23, 1984 "Amendment and Supplement to Compliance Complaint and Petition," makes no reference whatsoever to Mr. Donahue.

245 PERIMETER CENTER PARKWAY SUITE 300 ATLANTA, GEORGIA 30346 TELEPHONE (404) 399-2700
TELECOPIER (404) 394-8074 CABLE "DOWATL" TELEX 4995255
80 WEST STREET SUITE 110 ANNAPOLIS, MARYLAND 21401 TELEPHONE (301) 263-0043

Since the Complaint is completely devoid of any allegations against Mr. Donahue, it is not possible to provide a substantive response. What appears from the Complaint is that, in his zeal to challenge the organization of the televised New Hampshire debate and to obtain material he considers relevant, Mr. Koczak has sought to involve everyone associated with the program, even in the absence of alleged legal infraction.

Since the Complaint fails to allege that Mr. Donahue has committed any violation of federal election law or other statutes over which the Commission has jurisdiction, it is fatally defective and must be dismissed as regards Mr. Donahue. See 2 U.S.C. §437g(a)(1), 11 C.F.R. §111.4(d)(1) and (3). This dismissal is appropriate whether or not the Commission proceeds to conduct an investigation against any other named respondent. Furthermore, as no allegation is made against Mr. Donahue, we hereby move, in accordance with 2 U.S.C. §437g(a)(1), that the Commission take no action against Mr. Donahue on the basis of this Complaint.

Kindly direct all further correspondence and questions in this matter to the undersigned.

Sincerely,

Arnold P. Lutzker

APL/sh

Enclosure

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STATEMENT OF DESIGNATION OF COUNSEL

71

NAME OF COUNSEL: Arnold P. Lutzker, Esquire
Dow, Lohnes & Albertson

ADDRESS: 1225 Connecticut Avenue, N. W.
Suite 500
Washington, D. C. 20036

TELEPHONE: (202) 862-5702

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

February 1, 1984
Date

Signature Phillip J. Donahue

NAME: The Donahue Show

ADDRESS: Television Station WBBM-TV
630 N. McClurg Court
Chicago, Illinois 60611

HOME PHONE:

BUSINESS PHONE: (312) 281-5210

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Cath 1178

Berry

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LAW OFFICES
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R. MICHAEL SENKOWSKI
RANDOLPH J. MAY
LAWRENCE J. MOVSHIN
JAMES S. BLASZAK
WILLIAM R. KEANE
DENNIS P. CORBETT
JILL ABSHOUSE STERN
CHARLES C. HUNTER
JEAN L. RIDDOC
PATRICK J. WHITTLE
TIMOTHY J. COONEY
GEORGE L. LYON, JR.*
ALBERT J. CATALANO**
LAURA C. HOW
ROBERT B. KELLY*
JOSEPH P. GILL**

*ADMITTED IN VIRGINIA ONLY
**ADMITTED IN NEW YORK ONLY
***ADMITTED IN N.Y. & PA. ONLY

VERNON L. WILKINSON
COUNSEL

DIRECT DIAL NO.
2622

February 29, 1984

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

Attention: Charles N. Steele,
General Counsel

Re: Response of Ted Koppel to
Complaint of Koczak for
President Committee (MUR-1617)

Dear Mr. Steele:

This letter is written on behalf of Ted Koppel in response to the complaint of the Koczak for President Committee (MUR 1617).1/ For the reasons stated below, Mr. Koppel urges the Commission to dismiss the complaint as to him without further Commission action.

I.

Preliminary Statement

The subject complaint stems from the televised debate among eight Democratic Presidential candidates from the campus of Dartmouth College in Hanover, New Hampshire on January 15, 1984 (hereinafter "Dartmouth Debate"). The first

1/ A copy of the complaint was transmitted to Mr. Koppel under the Commission's letter dated January 25, 1984. An amendment to the complaint was thereafter transmitted under a second Commission letter dated February 10, 1984.

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half of the Dartmouth Debate was moderated by Mr. Koppel, a national news reporter and anchor for the American Broadcasting Companies, Inc. ("ABC").

The complaint by Stephen A. Koczak of Washington, D.C., is principally directed against those parties who it is alleged were responsible for arranging and conducting the subject debate. These are, according to the complaint, the House or Congressional Democratic Caucus (hereinafter "Caucus"),2/ the Corporation for Public Broadcasting ("CPB"), the Public Broadcasting Service ("PBS"), Dartmouth College, the Rockefeller Center for the Social Sciences and Public Policy at Dartmouth College, the New Hampshire Public Television System, public television station WGBH-TV, Boston, Massachusetts, and the "MacNeil/Lehrer News Program" (as well as other programs funded in whole or part by CPB). Secondarily, it appears, the complaint is also directed against the eight Presidential candidates who participated in the Dartmouth Debate and against Messrs. Koppel and syndicated talk-show host Phil Donohue (who moderated the second half of the debate).

In general, the complaint appears to allege that when the Caucus assisted in arranging the Dartmouth Debate it was effectively acting as a "political committee" and should have been registered as such with the Commission under 2 U.S.C. § 431(c). In addition, the complaint asserts that the Caucus, CPB, PBS, Dartmouth College and WGBH-TV offered services or expended funds in a manner that may have constituted an unauthorized or unreported "contribution" to the campaigns of the eight Democratic candidates who participated in the debate. Accordingly, the complaint ends with the observation that when "the approximate value of all services, facilities and activities undertaken or completed" by the parties to the complaint are determined or estimated (which the Commission is asked to undertake), and such "monetary value or benefit" allocated pro rata to each of the eight candidates taking part in the Dartmouth Debate, it may be possible to determine whether any of those candidates exceeded appropriate expenditure limits. (Complaint, paras. 8-9.)

2/ In his amended complaint Mr. Koczak requests that the name of this respondent be changed to read "House Democratic Caucus and/or National-House Democratic Caucus." Amended Complaint, p. 1.

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II.

The Complaint Fails To Allege
Any Violation With Respect To
Mr. Koppel And Should Be Dismissed

As noted, the complaint essentially argues that when the Caucus arranged (or assisted in arranging) the Dartmouth Debate it acted as a "political committee" and should have been registered as such with the Commission. In addition, it is alleged that the Caucus and other parties directly involved in the debate arrangements effectively "contributed" to the campaigns of the eight candidates who participated. Overall, however, the complaint is cast in highly general terms and concludes by merely asking the Commission to undertake an investigation seemingly designed to add substance to the foregoing allegations.

Nowhere is the complaint more general and nonspecific than in dealing with Mr. Koppel. Indeed, nowhere in the complaint is there any specific allegation that Mr. Koppel violated any provision of either the Federal Election Campaign Act ("FECA") or the Commission's Rules and Regulations. Rather, other than merely naming Mr. Koppel (in the introduction), the only reference to Mr. Koppel in the entire complaint comes at the very end when the Commission is urged:

> "To obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, contacts, undertakings and agreements reached with any of the parties named in the complaint." (Complaint, para. 8).

Accordingly, at least as to Mr. Koppel, the complaint should be dismissed forthwith inasmuch as it completely fails to satisfy the threshold procedural standards of the Commission's Rules. Thus, whereas the Rules require a complaint to "contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction,"3/ as noted, the complaint here does not even allege a violation as to Mr. Koppel,

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3/ See Section 114.4(d)(2) of the Commission's Rules, 11 C.F.R. § 114.4(d)(2).

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much less describe the facts purporting to demonstrate such violation.

In fact, at best, with respect to Mr. Koppel, the complaint merely seeks to obtain background information presumably designed to assist the complainant in demonstrating the nature or extent of a possible violation by other named parties. However, unless and until it is determined that a violation by others may have occurred, it would be premature and totally unnecessary to examine, in any fashion, the independent journalistic function performed by Mr. Koppel in connection with the Dartmouth Debate.4/ In addition, it should be emphasized that no showing has been made that the information sought from Mr. Koppel -- to the extent such information exists -- is not available directly from other parties named in the complaint.

There can be no question that when Mr. Koppel served as the moderator of the first half of the Dartmouth Debate he did so in his capacity as an independent journalist. Indeed, Mr. Koppel's questioning of political candidates participating in that debate merely mirrored the interviewer-moderator type role he performs on a daily (Monday-Friday) basis as the anchor of ABC's "Nightline" news program. To even suggest that Mr. Koppel's role as an objective, non-partisan moderator of the Dartmouth Debate should have any adverse consequences under federal election laws represents an affront to fundamental First Amendment values and policies.

Accordingly, as to Mr. Koppel at least, the subject complaint is patently deficient for failing to even allege any specific violation and, in any event, demonstrably premature and superfluous as a practical matter. For instance, even if it is assumed that valid allegations have been (or can be)

4/ In this regard, it can be observed that the generally analogous and critically important "news story" exemption to the FECA (2 U.S.C. § 441b(a) (1976)) was specifically intended to narrow the FEC's permissible investigation of press entities. See, e.g., Reader's Digest Association, Inc. v. Federal Election Commission, 509 F.Supp. 1210, 1214 (S.D.N.Y. 1981). Similarly, the Supereme Court, in reviewing the FECA, has noted that the Act "exempts most elements of the institutional press, limiting only expenditures by institutional press facilities that are owned or controlled by candidates and political parties." Buckley v. Valeo, 424 U.S. 1, 50 n.56 (1976).

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framed as to parties other than Mr. Koppel,5/ there can be no basis for ordering Mr. Koppel to, as the complaint requests, come forward with an unspecified showing regarding "costs, contracts, contacts, undertakings and agreements reached" with such parties. In short, to the extent any such matters exist, and the production thereof should ultimately be considered relevant, warranted, and necessary, they can be obtained from other parties more central to the complaint. There is clearly no need to burden either Mr. Koppel or this proceeding with such an unnecessary exercise.

III.

Conclusion

The subject complaint centers exclusively on the question of whether the Caucus should be registered as a political committee and whether the Caucus and other named parties (not Mr. Koppel) made unspecified campaign "contributions" when they provided services or facilities to facilitate the Dartmouth Debate. The complaint makes no allegations whatsoever concerning the activities of Mr. Koppel -- but nevertheless requests the Commission to order Mr. Koppel to come forward with an unspecified and detailed showing concerning costs, contracts, agreements and understandings reached with other parties named in the complaint.

5/ While plainly beyond the vague and unspecified procedural parameters of the current complaint, it should perhaps nevertheless be observed that even were the Caucus or other parties to the subject complaint ultimately considered to have acted as a political committee, as alleged, both the FECA and the Commission's regulations specifically exempt from coverage of the federal election laws the rendering of professional services similar to those involved here. See, e.g., 2 U.S.C. § 431(8)(B)(i). See also Advisory Opinions 1975-97, 1980-42 and 1980-88. In fact, while clearly not relevant here, under such provisions and interpretations it is even possible for personal services to be donated in a partisan capacity and still remain exempt from the "contribution" restrictions of the FECA and the Commission's regulations.

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The complaint as to Mr. Koppel should be dismissed without further action by the Commission. The complaint is patently defective in that it contains absolutely no recital of facts or circumstances alleging that Mr. Koppel violated any statute or regulation within the Commission's jurisdiction. Moreover, until and unless it is determined that a violation may have occurred with respect to the activities of other parties named in the complaint, it would be unfair and premature to require Mr. Koppel or any similarly situated party to attempt to provide any background information concerning such matters.

Accordingly, for all the foregoing reasons, it is hereby respectfully requested that -- at least with respect to Mr. Koppel -- the subject complaint be dismissed without further Commission action.

Respectfully submitted,

TED KOPPEL

By Carl R. Ramey

Carl R. Ramey

His Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Steven R. Ross
General Counsel to the Clerk
Office of the Clerk
U.S. House of Representatives
Washington, D.C. 20515

RE: MUR 1617
House Democratic
Caucus

Dear Mr. Ross:

On January 25 and February 18, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ronald C. Peterson, Treasurer
Cranston for President Committee, Inc.
1120 G Street, N.W., Rm. 801
Washington, D.C. 20005

RE: MUR 1617
Cranston for President
Committee, Inc.

Dear Mr. Peterson:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

George Cunningham
General Chairman
P.O. Box 1984
Washington, D.C. 20009

RE: MUR 1617
McGovern for
President, Inc.

Dear Mr. Cunningham:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ralph C. Thomas, III
Jesse Jackson for President Committee
1101 14th Street, N.W. #1000
Washington, D.C. 20005

RE: MUR 1617
Jesse Jackson for
President Committee

Dear Mr. Thomas:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Kenneth J. Guido, Jr.
Donald J. Simon
Sonosky, Chambers, Sachse & Guido
1050 31st Street, N.W.
Washington, D.C. 20007

RE: MUR 1617
Americans With Hart
Committee

Dear Mr. Guido and Mr. Simon:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Harlan Pomeroy
Baker & Hostetler
818 Connecticut Avenue, N.W.
Washington, D.C. 20006

RE: MUR 1617
John Glenn Presidential
Committee

Dear Mr. Pomeroy:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

84040460955

(84)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Donald M. Middlebrooks
Steele Hector & Davis
Southeast Bank Building
Miami, Florida 33131

RE: MUR 1617
Askew for President
Committee

Dear Mr. Middlebrooks:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Douglas M. Steenland
Verner, Liipfert, Bernard and McPherson
1660 L Street, Suite 1000
Washington, D.C. 20036

RE: MUR 1617
Dartmouth College and
Nelson A. Rockefeller
Center for Social
Sciences

Dear Mr. Steenland:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

84040460957

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David M. Ifshin, General Cousel
Carolyn Oliphant, Deputy General Counsel
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

RE: MUR 1617
Mondale for President, Inc.

Dear Mr. Ifshin and Ms. Oliphant:

On January 25 and February 10, 1984, the Commission notified your committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your committee, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

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 H. Rowe, III
Curtis, Mallet-Pre Vost, Colt & Mosle
1735 I Street, N.W.
Washington, D.C. 20006

RE: MUR 1617
Hollings for President, Inc.

Dear Mr. Rowe:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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88

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Eric Adam Bass
WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134

RE: MUR 1617
WGBH Educational
Foundation

Dear Mr. Bass:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8404046096 0

(89)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Lawrence Miller
Swartz, Woods & Miller
Suite 206, The Palladium
1325 Eighteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1617
University of New Hampshire Public Television

Dear Mr. Miller:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Nancy Hendry
Deputy General Counsel
Public Broadcasting Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20024

RE: MUR 1617
Public Broadcasting
Service

Dear Ms. Hendry:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Arnold P. Lutzker
Dow, Lohnes & Albertson
1225 Connecticut Avenue
Washington, D.C. 20036

RE: MUR 1617
Phil Donohue

Dear Mr. Lutzker:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Carl R. Ramey
McKenna Wilkinson & Kittner
1150 Seventeenth Street N.W.
Washington, D.C. 20036

RE: MUR 1617
Ted Koppel

Dear Mr. Ramey:

On January 25 and February 10, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Linda Colvard Dorian, Vice President,
General Counsel and Secretary
Susan Dillon, Deputy Assistant General Counsel
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

RE: MUR 1617
Corporation for Public
Broadcasting and
Program Fund

Dear Ms. Dorian and Ms. Dillon:

On January 25 and February 10, 1984, the Commission notified your organization of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May , 1984, determined that on the basis of the information in the complaint, and information provided by your organization, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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ATTACHMENT III

(94)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Stephen A. Koczak
2923 Macomb Street, N.W.
Washington, D.C. 20008

Re: MUR 1617

Dear Mr. Koczak:

The Federal Election Commission has reviewed the allegations of your complaint dated January 17, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. 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).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

8404046096 6

P3 Form 3811, July 1982

RETURN RECEIPT

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☐ Show to whom and date delivered ..... $
- ☐ Show to whom, date, and address of delivery .. $
- 2. ☐ RESTRICTED DELIVERY ..... $
  (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO:
Jesse L. Jackson
6848 S. Constance Ave.
Chicago, Ill. 60649

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☐ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE: ☐ Addressee ☐ Authorized agent

H. Jordan

5. DATE OF DELIVERY: 2/7/84

POSTMARK (may be affixed here)

CHICAGO, ILL. STA. FEB 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

GPO: 1982-379-003

MUR 167 Curry 2-10-84

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAR 6 A10: 00

SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: 3/6/84 10:00

MUR 1617
DATE COMPLAINT REC'D BY OGC 1-18-84
DATE OF NOTIFICATION TO RESPONDENT 1-25-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Stephen A. Koczak

RESPONDENTS' NAMES: House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockfeller Center for the Social Sciences, Askew for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

RELEVANT STATUTE: 2 U.S.C. §§ 431(4)(8) & (9), 433, 434; 11 C.F.R. §§ 110.13, 114.4(e) and 26 U.S.C. § 9033

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On January 18, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (Attachment 1) from Stephen A. Koczak alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting

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Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockfeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc.

Complainant alleges that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which states that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other. 11 C.F.R. § 110.13(b). Therefore, complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, complainant contends that: a) the sponsors and producers of the debate have made illegal in-kind or corporate contributions to the eight candiates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

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Complainant filed a amendment and supplement to the complaint on January 24, 1984. (Attachment 2) Responses to the complaint and amendment were due on March 1, 1984. However, Dartmouth College, the Nelson A. Rockfeller Center for the Social Sciences, the Mondale for President Committee and the House Democratic Caucus have asked for and have been granted an extension of time to answer the notification of complaint. The due date of their responses is March 9, 1984.

FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the New Hampshire Dartmouth College Debate.

The question before the Commission is whether the Respondents have violated the Act by funding, sponsoring or participating in the New Hampshire debates. As soon as the Respondents have submitted their responses, a report will be circulated to the Commission for its consideration.

Charles N. Steele
General Counsel

March 5, 1984
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments
1. Complaint
2. Amendment and Supplement to the complaint

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GCC#1639

Submitted in Triplicate

(1)

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20006

TELEPHONE 202 363 4750
Also (202) 686-0953

January 17, 1984

Attachment 1

'84 JAN 18 A10:22

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

Dear General Counsel:

COMPLIANCE COMPLAINT AND PETITION

Under Title 11, Code of Federal Regulations, Paragraph 111.4, Complaints (2 U.S.C. 437 g (a) (1) and other pertinent statutes, regulations and rules, I am filing this complaint against the Congressional Democratic Caucus*, the Corporation for Public Broadcasting, the Public Broadcasting Service, Dartmouth College, Darthmouth College's Rockefeller Center for the Social Sciences and its Public Policy program, New Hampshire Public Television, located on the premises of the University of New Hampshire, and Public Television Station, WGBH, located in Boston, Massachusetts, the McNeil/Lehrer News Hour and other programs funded directly or indirectly, in whole or in part, by the Corporation for Public Broadcasting. I am also filing a complaint against the eight candidates who appeared on the so-called "Dartmouth College Debate" and against Messrs Ted Koppel and Phil Donohue.

In compliance with Paragraph 111.4, I state under oath the following:

1. I am a candidate for the office of President of the United States, filing with the Federal Election Commission on December 13, 1983. On December 29, 1983, I filed with the Secretary of State in New Hampshire for the Presidential Primary to be held in that state on February 28, 1984 and

*Also denominated herein as "House Democratic Caucus"

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have received official notification from that Secretary of State that my name will appear on the Presidential Primary Ballot as "Stephen A. Kocsak". (Documentation of these facts appear as Attachments 1 and 2.)

2. The House Democratic Caucus, chaired by Representative Willis Long of Louisiana, by not complying with, and observing, the provision in the definition of "political committee" contained in Title II, CFR, Paragraph 108.5 (a) and 2 U.S.C.431 (c) illegally and knowingly established itself as a "political committee" while failing to register as such with the Federal Election Commission. Inter alia, the House Democratic Caucus established a Committee on which prominent members of the House of Representatives served, this Committee chaired by Representative Charles Shumer of New York.

3. This Committee chaired by Representative Shumer carried out functions not related to the legislative processes authorized by Article I of the Constitution of the United States but participated in organizing partisan political activities relating to Presidential primaries, activities which under the Separation of Powers prescribed by the Constitution are wholly outside the Constitutional functions of the House of Representatives.

4. This Committee further ordered and supervised personnel paid out of Federal funds to organize, influence, manipulate partisan political activities relating to Presidential Primaries in violation of the Federal Election Campaign Laws, including the "Federal Election Campaign Act Amendments of 1979", PL No. 96-187.

5. All Caucus members are members of Congress and most voted for the said "Campaign Act Amendments of 1979". Therefore they must be considered

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as fully conversant with its provisions, including the definition of "political committee" and the requirement that an "political committee" expending more than $1,000 a year must register with the Federal Election Commission.

6. The Caucus authorized and expended more than $1,000 in Federal funds, including the salaries of Alvin From, Michael Timmeny and Leo Coco, among others, on Presidential primaries, including the primary election in New Hampshire, in which I am recognized as a candidate.

7. Specifically, under the direction of the Representatives Willis Long, Charles Shumer, with the knowledge of Tip O'Neil and other senior members, the Caucus used the services of Alvin From, Michael Timmeny and Leo Coco, and other employees paid from Legislative Branch Federal funds, together with Federally owned buildings, rooms, telephones, office machinery, stationery to communicate with the Corporation for Public Broadcasting, the Public Broadcasting Service, Dartmouth College and the Rockefeller Center at Dartmouth which provided services and facilities for a program not related in an way to legislation or the legislative branch of government but related to publicizing the views of certain pre-selected Presidential primary candidates participating in the Presidential primary to take place in New Hampshire. (See attachments 3 and 4) 8. The Corporation for Public Broadcasting receives major funding from Congressionally authorized and appropriated funds. In the House of Representatives, the members of the Democratic Caucus are chairmen of the authorization and appropriation committees and subcommittees providing these funds, reputedly nearly $130,000,000 this fiscal year.

9. The Corporation for Public Broadcasting, fully aware of the Public

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Laws regarding Presidential elections nevertheless permitted itself to be influenced by the House Democratic Caucus to "fund" the Dartmouth College Debate limited to eight pre-selected Presidential candidates.

10. Thus, in a "conflict of interest" situation, the Corporation for Public Broadcasting contracted to expend Federal funds, originating from Congressional authorizations and appropriations, to televise and broadcast a debate on behalf of certain pre-selected candidates. Thereby it contributed materially, significantly and illegally to the funding of the primary election campaigns of the eight presidential candidates appearing on the televised and broadcast Dartmouth College Debate to the harm of other candidates, whose Constitutional and statutory rights were violated.

11. The Public Broadcasting Service, incorporated at the behest and on the advise of the Public Broadcasting Corporation, collaborated with the Congressional Democratic Caucus, the Corporation for Public Broadcasting, Dartmouth College and Rockefeller Center programs and with the New Hampshire Public Television Station and Station WGBH, Boston, to produce and distribute the Dartmouth College Debate nationwide.

12. Dartmouth College, its Trustees, its President, its Rockefeller Center provided facilities to the Dartmouth College Debate, and agreed to co-sponsor with the Congressional Democratic Caucus a debate limited to eight pre-selected candidates, despite the fact that the Trustees, President and the Rockefeller had been apprized through the press that there were additional candidates certified by the New Hampshire Secretary of State. Moreover, the President of Dartmouth College had received a communication from Presidential Candidate Stephen A. Koczak complaining of this arrangement as a violation of his rights under the Federal Election

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Laws. (Candidate Kocsak's letter to President McLaughlin appears as Annex 5 hereto.)

13. Having failed by all other means to protect his rights under the Constitution of the United States, Article II, Amendment I and XIV, Presidential Candidate Stephen A. Kocsak sought to obtain a restraining order to prohibit the broadcast on January 15, 1984 if he were excluded. (The complaint filed "pro se" appears as Annex 6 hereto)

14. Judge Norma Holloway Johnson denied his petition on January 14, 1984 on the grounds that the Federal District Court of the District of Columbia did not have jurisdiction.

15. Candidate Kocsak appealed the decision but was denied redress by the Appellate Court. (A Washington Times news report of the hearing and appeal appear as Annex 7 hereto. NOTE: The last paragraph of that report stating Kocsak was denied ballot access by certain named states is inaccurate)

16. At the hearing ordered by Judge Johnson, the Congressional Democratic Caucus was represented by Barry J. Reingold of the firm of Perkins, Cole, Stone, Olsen & Williams; the Public Broadcasting Service, incorporated under the laws of the District of Columbia, was represented by Theodore D. Frank, one of its employee attorneys; and the Trustees and President of Dartmouth College were represented by Douglas M. Steenland; moreover, Judy Newman, associated with Station WGBH, was represented by Nicholas W. Fels and Eric Brass, a member of the Massachusetts bar who sought admission pro hac vice.

17. Thus, prior to the debate and its telecast, the House Democratic Caucus, Public Broadcasting Service, Dartmouth College, its Trustees and

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President, and co-producer WGBH were all apprised through the proceedings at the hearing of January 14, 1984 of their alleged violations of the Constitution and of the Federal Election Statutes by their participating in a partisan Presidential campaign activity allegedly illegally co-sponsored by the House Democratic Caucus and Dartmouth College, funded by the Corporation for Public Broadcasting, considered a "quasi-Federal governmental institution", co-produced by Station WGBH and distributed nationwide by the network of the Public Broadcasting Service.

18. Therefore, these parties involved were fully aware through counsel that Candidate Kocsak alleged that their actions were illegal, that their services were contributions to the funding of the campaigns of the participants and that Kocsak's rights as a candidate legally on the ballot in New Hampshire were about to violated irreparably.

19. Though aware from the proceedings through legal counsel attending the hearing, the Caucus, PBS, Dartmouth College, Station WGBH, and the Public Broadcasting Service nevertheless proceeded to hold and telecast the debate.

20. As to Judge Norma Holloway Johnson's ruling of lack of jurisdiction, that is a matter to be resolved in other competencies than the Federal Election Commission. Candidate Stephen A. Kocsak contends that the House Democratic Caucus, located in a House Annex, its agents, including Michael Timmeny, an aide to Representative Charles Shumer, housed in the Cannon House Office Building, and the Public Broadcasting Service, incorporated in the District of Columbia are all under the jurisdiction of the Federal District Court for the District of Columbia.

21. Relevant to the jurisdiction of the Federal Election Commission is

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this complaint relating to the illegal provision and expenditure of contributions, not reported to the Federal Election Commission, to the funding of the campaigns of the pre-selected eight candidates permitted to participate in the debate.

22. Moreover, by participating in a partisan, repeat partisan, political debate excluding from the premises other presidential candidates, the eight pre-selected candidates accepted and expended funds, albeit their origin is illegal according to Candidate Koczak.

23. Further, Candidate Koczak calls particular attention to the fact that, in the instant circumstances, the contribution and the expenditure of most of the funds were contemporaneous, in that most of the services received by the pre-selected eight candidates and the services expended through telecommunication were identical and instantaneous.

23. By repute and report in the press and communication media, all eight of the pre-selected candidates are entitled, or seeking entitlement, to Federal matching funds.

24. Under the statutes, those receiving Federal matching funds are limited by a ceiling in the amount they may legally expend in any primary election campaign.

25. According to a recent estimate by the Federal Election Commission, the total amount permissable in New Hampshire for candidates receiving Federal Matching Funds is approximately $392,000.

26. The value contributed and expended on behalf of the candidates by the House Democratic Caucus, the "quasi-governmental" Corporation for Public Broadcasting, Public Broadcasting Service, New Hampshire Television Station and Station WGBH and Dartmouth College Trustees, is a significant

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contribution, perhaps already exceeding the spending limit permitted those candidates receiving Federal Matching Funds.

--PETITION--

On the basis of the foregoing complaint, in order to protect the public interest, uphold the Constitution and the statutes, and, in my situation as a qualified Presidential candidate to extend to me the protection of the laws against further irreparable damages, I petition the Federal Election Commission as follows:

1. To obtain from the House Democratic Caucus as expeditiously as possible a complete report on the monies or other contributions of value resulting from its authorities, orders, activities, assignments of Members, of its own paid staff, of the paid staff of any Democratic Representative to the preparation, organization and participation in the Dartmouth College Debate, as well as a determination as to who insisted and why to limit the Debate to eight pre-selected candidates in the New Hampshire presidential primary even after New Hampshire Secretary of State on January 3, 1984 had certified more candidates.

2. To obtain from the Corporation for Public Broadcasting copies of all its contracts, expenditures, and administrative transactions with the House Congressional Caucus, with the Public Broadcasting Service, New Hampshire Television Station and Station WGBH in Boston, Massachusetts, with Dartmouth College and any other person or organization involved in the Dartmouth College Debate.

3. Similarly to obtain from the Public Broadcasting Service any and all documents relating to costs, including contracts, travel of its own personnel, leased lines, and any other administrative or other costs

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involved in the Debate.

4. To obtain the same kind of information from New Hampshire Television Station, including use of its mobile transmitters, and from TV Station WCBH.

5. To obtain from the Trustees and President of Dartmouth College an accounting of the value of the contributions made directly or indirectly by the College or its programs to the Debate.

6. To obtain a copy of the transcript of the Hearing before Judge Merma Molloway Johnson, of her decision and of the decision of the Appellate Court.

7. To obtain statements from the eight pre-selected candidates as to any understandings, arrangements, agreements they may have made, either directly or through their staffs, with the members of the Caucus, or any employee working for a House Member of the Caucus, the Corporation for Public Broadcasting, Public Broadcasting Service and/or any other facility contributing to the Debate as to the value of these contributions.

8. To obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, contacts, undertakings and agreements reached with any of the parties mentioned in this complaint.

8.To determine or estimate the approximate value of all the services, facilities and actfvities undertaken or completed by all the parties named in the complaint.

9. To establish what the pro rata monetary value or benefit of this debate is, or will be, to each of the eight pre-selected candidates.

10. To determine whether these contributions or benefits already exceed the limit of expenditures by each of the candidates entitled to Federal Matching Funds and, in the event they do, so to notify the

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candidates.

11. To take necessary legal action, including notification of the Attorney General of the United States of this complaint not only of possible violation of Federal Election Law but also the violation of other laws concerning the prohibition of the use of government funds to foster partisan political goals; to require the House Democratic Caucus to register immediately with the Federal Election Commission as a "political committee"; and to impose such penalties as may be appropriate for unauthorized involvement of the Caucus with the Corporation for Public Broadcasting and the other parties in a partisan manner in Presidential Primary Campaigns.

—OATH—

I swear that to my knowledge and belief, based on reliable sources, the foregoing is correct.

Sincerely,

Stephen A. Kocak

Stephen A. Kocak
2932 Macomb Street, N.W.
Washington, D. C. 20008

Subscribed and sworn to before me this 17th day of January, 1984

Lucy J. Holt
Notary Public, D.C.

My commission expires April 14, 1988

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STATEMENT OF CANDIDACY

(see reverse side for instructions)

83 DEC 13 P 3: 53

(11)

RECEIVED AND FILED

1. (a) Name of Candidate (in Full)

STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Identification No.

3. Party Affiliation

Democrat

DEC 19 1983

4. Office Sought

President

5. District & State of Candidate

D. C. - SAGTO.

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 (Year of Election) election(s).

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)

KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak (Signature of Candidate)

December 13, 1983 (Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR —

President mail to:	U.S. Senate mail to:	U.S. House of Representatives mail to:		
Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463	Secretary of the Senate 119 D Street, N.E. Washington, D.C. 20510	Clerk of the House 1036 Longworth Office Bldg. Washington, D.C. 20515	For further information contact:	Federal Election Commission Toll Free 800-424-9530 Local 202-523-4068

FEC FORM 2 (3/80)

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(2)

The State of New Hampshire

(12)

WILLIAM M. GARDNER
SECRETARY OF STATE

ROBERT P. AMBROSE
DEPUTY SECRETARY

Department of State

State House - Room 204
Concord Tel. 271-3242

December 30, 1983

Mr. Stephen A. Koczak
P.O. Box 11656
Washington, D.C. 20008

This is to acknowledge your filing as a DEMOCRATIC candidate for PRESIDENT OF THE UNITED STATES.

Your name will be printed on the Presidential Primary Ballot as:

STEPHEN A. KOCZAK

Sincerely,

Wm. Gardner

William M. Gardner
Secretary of State

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(3) (13)

Koppel, Donahue to Moderate Debate

8 Hopeful Democrats on TV Sunday

By Martin Schram
Washington Post Staff Writer

For a grateful nation bereft by the prospect of a day without professional football, the House of Representatives' Democratic Caucus is presenting a televised debate Sunday starring the eight Democratic presidential candidates, with Ted Koppel of ABC News and talk show host Phil Donahue as moderators.

"We wanted to make it interesting," said Rep. Charles E. Schumer (D-N.Y.), who chaired the caucus project. " . . . And it was my idea to do it this Sunday, because now people who are accustomed to watching Sunday football on TV may watch this instead. Their choice will be bicycle racing in Italy, mud-wrestling in Japan or the presidential candidates in New Hampshire."

The event will be telecast live from Dartmouth College in Hanover, N.H., on the Public Broadcasting System from 3 to 6 p.m. (EST).

Advisers to former vice president Walter F. Mondale, the Democratic front-runner, who originally resisted the program's format, predicted that viewers may find it hard to distinguish between mud-wrestling and presidential debating. The Mondale camp is not pleased with the debate's free-wheeling, celebrity-controlled format, but most of the other candidates' advisers say it suits them just fine.

"We know the other candidates will all be jumping on Mondale," said Maxine Isaacs, Mondale's deputy campaign manager and press secretary. "We expect that."

Paul Tully, Mondale's deputy campaign manager for field operations, added, "The other candidates will adopt the strategy of pushing reasons why people should not vote for the guy who's ahead. That's fair politics. But in football, it's called piling on."

For the first 90 minutes, the candidates will be free to question or criticize each other, with no ground rules other than the mediation and interrogation—and interruption—by Koppel, moderator of ABC's Nightline.

The second 90 minutes will feature questions from a carefully screened audience expected to number about 400 that will be guided and shaped by Donahue, whose daytime talk show has won a large following with discussions that cover, among other things, the travails of transvestites, disputes over capital punishment and the lives of male strippers.

Mondale campaign officials made their objections known to the House officials weeks ago, and only reluctantly agreed to participate. They said they would have preferred a more traditional political debate format, with questions by a panel of journalists or academicians.

"We have no problem with the format," said Sen. John Glenn's (D-Ohio) communications director, Greg Schneiders. "The caucus has been criticized for making it into a Phil Donahue Show. But then, every other presidential debate has been criticized for being boring and dull."

Top officials for the other candidates welcomed the event, saying they thought the unconventional format would work to their benefit.

"It's an opportunity for those of us who are behind in the polls—the dark-horse candidates—to strut their 'stuff,' said former senator George McGovern's (D-S.D.) press secretary, Mark Kaminsky. "It's the Donahue part that makes it unconventional. I know the typical Donahue show—but I assume he's going to approach this seriously . . . . It's not quite as though they were going to have Merv Griffin."

Sen. Alan Cranston's (D-Calif.) press secretary, John Russenello, said: "It's out of the control of the candidates—and that makes it riskier. But I think it can be terrific having Donahue. He goes into an audience and gets involved with whatever's asked."

Sen. Gary Hart's (D-Colo.) deputy campaign manager, David Landau, praised the format as "an opportunity for a dark horse to get his message across . . . in a real probing of a candidate's views, depth and character." Hart press secretary Kathy Bushkin expressed hope that Donahue's presence would attract more women viewers; Hart is making a strong appeal for the votes of women.

House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.) initially raised objections to Donahue as a moderator. "On the Donahue part, Tip needed some convincing," said Schumer. "But now he's taking a leap of faith with us."

Schumer said that the idea of using Donahue came from television producer Norman Lear, who served on an advisory panel, but in an interview Lear denied it, saying that he had wanted Koppel to do the entire event.

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The Washington Post STYLE

The Arts/Television/Classified C1

Saturday, January 14, 1984

DYNAMIC DUO OF DEBATE

On the Air

Donahue & Koppel: Referees For the Democratic Face-Off

By Tom Shales

IF WORSE COMES to worst, and in television it so often does, Phil Donahue and Ted Koppel can always interview each other. Koppel will moderate the first half, and Donahue the second half of a three-hour forum featuring all eight Democratic presidential hopefuls on Sunday afternoon. Live, from New Hampshire, it's the Super Bowl of blab.

Koppel says Donahue is "a very bright man" and that "I don't know anyone better as an interlocutor between a studio audience and a guest." Donahue says Koppel is a brilliant interviewer and that "Nightline," the ABC roost that Koppel rules, is "a helluva show, the best thing to happen to our business since '60 Minutes.' " Not everyone may be as fond of this pair as they profess to be of each other, however. There have been mutterings to the effect that the choice of moderators, especially in Donahue's case, is too showbizzy.

Perhaps some people fear that with Donahue and Koppel at the helm, the broadcast won't be boring enough, the way political debates traditionally tend to be. The debate will air on public TV Sunday afternoon at 3, a secret the three commercial networks appear determined to keep. They failed to mention the telecast on their morning news shows yesterday; one referred to the big free-for-all as a "statewide" debate. Networks are such worms.

But Donahue is raring to go. Donahue is always raring to go. He's a perpetual rarer, a gray tornado. And yes, he says the Phil Donahue facing off against eight Democratic presidential hopefuls will be the same Phil Donahue who has parried with Nazis, transvestites, male strippers and Jerry Falwell on his syndicated daily talk show. The program is in its 16th year and now seen on 206 stations in the United States and Canada. As the tough but decorous Koppel is without peer at interviewing news figures, the shaggy and rambunctious Donahue is without peer at productive group tumult.

Donahue says that in his best daytime-TV manner he will forage about and attempt to rev up an assembled studio audience (a cross section of voters who are not active in any campaigns right now, or so it is being claimed), although he regrets there won't be as much revving-up time as he would like. "I want the opportunity off the air to say to them, 'We're glad you're here, be brief, we want your participation,' and so on," Donahue says. "I want to [illegible] an atmosphere in which people are willing to contribute."

Koppel says he doesn't look down on the Donahue segment or the attempt to pull the audience into the fray. "We've found that folks in an audience have a way of asking plain, blunt, simple questions that cut through the ha[illegible] in ways that the complex nonsense we journalists devise does not," Koppel says. The original idea for the event, co-sponsored by Dartmouth College and the House Democratic Caucus, was to divide it into two debates of 90 minutes each, with Koppel (who was signed first) and Donahue running completely different shows.

But then, Koppel says, someone realized that the second debate would air opposite the Super Bowl "and it

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THE WASHINGTON POST Saturday, January 14, 1984

Debate & Donahue

AIR, From C1

seemed pointless to do it for the seven or eight people who might not be watching the football game." Asked if three hours of political debating may be more than even the most devout political junkie would want, Koppel says, "In a word, yes, but that's their choice."

Donahue thinks the tune-in will be high. "We're between the playoffs and the Super Bowl so you don't have any blockbuster television on the other channels," he says. "I think this has a chance of doing very, very well. I don't think this'll do badly. I truly don't."

Shocking as it sounds, some American politicians over the years have been known to show just the teensiest weensiest proclivity toward prolixity. Will Donahue step in and, if necessary, shut them up? "I'll try," he says. "One of my jobs is to make sure one candidate doesn't become William Jennings Bryan. But we're going to rely on the common sense of the candidates, too. I think most of them are aware that if a candidate

hue says, "The League has done us a lot of good but here is the first attempt to say, 'Let's all relax,' not put a clock on anybody, trust in the candidates' common sense, and not insist that everybody gets exactly the same amount of time on the air."

In November, the Federal Communications Commission (FCC) voted a special election-year provision in the section of the Communications Act (Section 315) that requires a TV station to give "equal time" to every single candidate for a public office if it gives time to any one of them on the air. The commission ruled that debates, whether organized by networks or by outside parties, are exempt from the rule, thus paving the way for the kind of "great debates" held between Kennedy and Nixon in 1960 (though not guaranteeing the debates will occur, because Reagan could refuse to participate on any grounds dreamed up by his troops).

Incredibly enough, the League has challenged this FCC ruling with the U.S. Court of Appeals. With any luck, the court won't rule until the election is over. The League will subject us all to its 18th-century debates or die trying. The Koppel-Donahue format was tailored for television, and that's as it should be. Lincoln and Douglas would have adapted to television, too, if it had been around.

program, not a network program. There's a pro-network bias to the rules. If I were on PBS, I'd get relief, but in the Washington view, news is 'network' and syndication is Richard Simmons. And we think that's unfair. I agree with Ronald Reagan: we have too much government. And nowhere is that more manifest than in this 315 regulation."

Donahue concedes there may be some prejudice against his show in particular because it has featured such a wide variety of flora and fauna—bi-, tri-, quadri- and omnisexuals, Ku Klux Klansmen and, just last week, male models parading around in lingerie for men. "We do fashion shows, we've had male strippers," Donahue says. "But Lionel Hampton has appeared on 'Today,' and 'Good Morning, America' has fashion shows, too. An awful lot of People magazine types pop up on these network morning shows."

The Donahue people are trying to get President Reagan to appear on their show, "under any circumstance at all," Donahue says, but preferably in Chicago, mixing it up with the studio audience as other Donahue guests have done. Asked about this request, Mark Weinberg of the White House press office said, "There's nothing currently on the president's schedule" as far as a Donahue appearance goes. Asked if

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KOCZ[illegible] FOR PRESIDENT C[illegible]MITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 [illegible]

January 9, 1984

(16)

David T. McLaughlin.
President, Dartmouth College,
Hanover, New Hampshire, 03755

Dear President McLaughlin:

I am writing both as a matter of principle and as a principal with interest in the New Hampshire presidential primaries for which the filing closed on January 3, 1984.

On December 28, 1983, I telephoned your office to obtain a place on the presidential candidate debate program scheduled for January 15 and was informed that this was being coordinated by the Nelson A. Rockefeller Center for the Social Sciences.

On telephoning that Center, I was informed that the entire arrangements were being handled by a Mr. Michael Timmeny in Representative Charles Shumer's office.

When reached, Mr. Timmeny rejected my request for participation in this debate on the grounds that access was limited to aspirants who met certain so-called "national" standards, such as qualification for Federal Matching Funds, the possession of a nationwide campaign organization, or benefit of a significant national media attention or significant national poll rating.

I filed with the Federal Election Commission on December 13, 1983 and, obviously, have not been able, as yet, to report to the Commission the results of my trip to the states of Illinois, Oregon, Washington, California, Iowa, Nebraska, Massachusetts, New Hampshire or Florida, all completed within three weeks. In fact, because of the Christmas and New Year Holidays, few of the clippings of the many news reports and columns about my trip are available to me even now.

Nevertheless, I have been admitted to the New Hampshire primary and I am filing a suit to be admitted to the Florida primary.

My suit against the Florida authorities is generated by their flagrant violation of my rights under the First and Fourteenth Amendments. It is based on the precedent of the successful suit filed by Senator Eugene McCarthy in his complaints against the State of Texas (McCarthy versus Briscoe) as well as his later successful suit against the State of Florida regarding the general elections. You will find a full account of the Constitutional issues and the decision of Supreme Court Justice Powell in the American Bar Association Journal, August, 1977, pages 1108 and following.

The access issue in the case of Senator Eugene McCarthy is identical with that in my case both in Florida and in the debate sponsored by Dartmouth College--denial of a right to me to present, in a forum afforded to others, and a concurrent denial of a right to voters to receive from me, in that forum, alternative proposals for an electoral platform which they might prefer over those proffered by my rivals.

Unfortunately, as in the historic case of Dartmouth College itself, when in 1816 it had to resort to the courts to protect its Constitutional rights, I must now expend in lawsuits and protests my time and financial resources, time and resources which I should have available exclusively to address the voters. This impediment is itself a violation of my civil and

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political rights an impediment difficult ever to redress given the pressures of Democrat National Chairman Charles Manatt.

Even more unfortunately and reprehensibly, the House Democratic Caucus, while claiming to wish as open a debate as possible, is in alliance with the Chairman Charles Manatt to stifle debate and to foreclose any presentation of new ideas.

Allegedly, the main motive of Chairman Manatt and the House Caucus is to compress the primary campaign out of a fear President Reagan will benefit from a full debate among Democrats. This itself is an undemocratic attitude, devised from the propaganda perspectives of paid political commercials, instead of a rational debate.

You are undoubtedly aware of the justified resistance in the matter of primary dates of the aroused citizens of Iowa and New Hampshire to Mr. Manatt's arbitrary and obstinate decisions, reminiscent of the behavior of King George III toward the "colonists". Nevertheless, with your appparent, even if only tacit consent to this debate format, you are permitting, however unwittingly, the electorate in New Hampshire and in the nation, to be misled to believe that there are only certain very limited valid platforms and only eight viable candidates from whom to choose, all incidentally friends and associates of Mr. Manatt or of prominent members of the House Democratic Caucus.

I believe that, as the president of a college founded to spread knowledge originally even in the wilderness and to the unlettered, of a college which fought for its own Constitutional rights, you should sympathize with my insistence that the democratic principles of access to the people is paramount in the present circumstances.

You will understand, as I am sure the faculty and students at Dartmouth will understand, that I cannot accept this attempt to foreclose debate and to manipulate by this insidious propagandistic media device the presentation of options to the people of New Hampshire.

Even more insidious is the circumstance that the debate will be transmitted live through all the public broadcast facilities, whose funding comes at least partially from monies provided by Congress, including members of the House Democratic Caucus which controls authorizations and appropriations in that body. This is a serious abuse of the rules of impartiality which should govern such events and raises a question as to the possible ulterior funding motives of the PBS authorities who are permitting this telecast in this forma.

In fact, in this program it is as much the rights of all citizens and taxpayers as of my own which are being infringed, and Dartmouth College should in no measure be a party to this dismal role of the oligarchs on Capitol Hill and of party boss Manatt to manipulate access to the electorate.

I pray you will not permit this planned infringement of open debate on your campus, a campus still dedicated to the free circulation of knowledge and the profession of the liberal arts and sciences.

Let us face honestly the moral and civil issue involved here. This is a primary election campaign and it is manifest and incontrovertible that the purpose of a presidential primary election is not the same as that of a general election. Its principal purpose is not even to select the party's nominee. It is to afford an opportunity for alternative party platforms to be discussed, so that the delegates to the nominating and platform

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convention can bring the wisdom and the will of the citizens to formulating rational and relevant proposals, following a full display by rival aspirants of different options.

I therefore call upon you either to withdraw from the sponsorship of this debate if access to it continues to be arbitrary or to arrange for another debate with equivalent time and facilities afforded to me, and to others similarly situated, so that we too are given the same democratic rights as are enjoyed by those aspirants favored by the national Democratic Party leadership.

Because I have been detained to file my suit against the authorities in Florida, I am now mailing this request to you from Washington, D. C., with copies to the other parties concerned. Within the next few days, however, I shall be arriving in Hanover where I hope to have the honor of receiving a favorable reply from you personally.

I am enclosing as examples of the partiality and prejudice of the press two December 29, 1983 reports, one from The Washington Post the other from the Manchester Union Leader. The contrast is overwhelming. The prejudice of the Washington Post is even more evident in the letter written to me by Benjamin C. Bradlee, Executive Editor of The Washington Post, dated December 15, 1983. As you will note, the Washington Post delayed any report on my candidacy for two full weeks.

I also enclose photocopies of ostensibly the same Associated Press report carried by the Miami Herald and the Fort Myers News-Press on January 4, 1984. You will note that the Miami Herald omitted completely the Associated Press paragraphs regarding me.

Yet, under the widely proclaimed, so-called "fair" rules used by the various Secretaries of State to determine whether any candidate has a national following or is pursuing a national campaign, The Washington Post and the Miami Herald are the only papers "clipped" for the District of Columbia and for Florida.

Thus does our politically prejudiced press manipulate the election processs.

I hope that, as the President of Dartmouth College, you will not assist this vicious and prejudiced suppression of the truth and that you will join me in seeking genuine liberty of expression.

In that hope and expectation, I close with the request that you receive me at Dartmouth when I arrive.

Sincerely,

Stephen A. Koczak

Enclosures: As reported in text

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SUMMONS IN A CIVIL ACTION

(6) (19)

United States District Court

FOR THE

District of Columbia

84- 0146

CIVIL ACTION FILE NO._____

Lizzie C. Kornak, Candidate

Plaintiff

v.

Harold W. McLaughlin, President Dartmouth College et al

Hanover, New Hampshire
New York, New York
Washington DC

Defendant

SUMMONS

To the above named Defendant : Judy Newman, Public Broadcasting Service
New York, New York & Washington DC

You are hereby summoned and required to serve upon

Lizzie C. Kornak, pro se
plaintiff's attorney, whose address 2932 Pleasant Street NW, Washington DC 20009

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JAMES F. DAVEY

Clerk of Court

Date:

(Seal of Court)

NOTE—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

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United States District Court
For the District of Columbia
Office of the Clerk
3rd and Constitution Avenue, N.E.
Washington, D. C. 20001

James F. Davey
Clerk

(20)

NOTICE OF RIGHT TO CONSENT TO TRIAL BEFORE A UNITED STATES MAGISTRATE

In accordance with the provisions of Title 28, U.S.C. §636(c), you are hereby notified that the United States Magistrates of this District Court, in addition to their other duties, upon the consent of all parties in a civil case, may conduct any or all proceedings in a civil case, including a jury or nonjury trial, and order the entry of a final judgment.

You should be aware that your decision to consent, or not to consent, to the referral of your case to a United States Magistrate must be entirely voluntary. Only if all the parties to the case consent to the reference to a Magistrate will either the Judge or the Magistrate to whom the case has been assigned be informed of your decision.

An appeal from a judgment entered by a Magistrate may be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a District Court. Alternatively, upon consent of all parties, an appeal from a judgment entered by a Magistrate may be taken directly to a District Judge. Cases in which an appeal is taken to a District Judge may be reviewed by the United States Court of Appeals for this judicial circuit only by way of petition for leave to appeal.

James F. Davey

JAMES F. DAVEY
Clerk of the Court

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(21)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Stephen A. Koczak, Candidate for President of the United States for the Democratic Party Nomination
2922 Macomb Street N.W., Washington, DC 20008
Plaintiff

v

David T. McLaughlin, President of Dartmouth College
Judy Newman, of Public Broadcasting Service
Michael Timmeny, Aide to Congressman Charles Shumer
The Democratic House Caucus
Public Broadcasting Service
Dartmouth College

FILED
JAN 14 1984
JAMES F. DAVEY, Clerk

84- 0146

Civil Action No._____

FILED
JAN 13 1984
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Motion for temporary restraining order heard, and DENIED. Thomas Hogan Judge January 14, 1984

COMPLAINT-PETITION TO OBTAIN RESTRAINING ORDER

Plaintiff, Stephen A. Koczak, a candidate for the office of President of complaining of defendants herein, applies to, petitions and moves this Court for an order restraining the telecast and the holding of the so-called Dartmouth College Debate, scheduled to be presented this Sunday, January 15, 1984 at Dartmouth College, In havoer New Hampshire and respectully alleges:

1. This Court has jurisdiction to issue this restraining order because the action involves participation in a Federal Election governed by Article II of the Constitution concerning the election of the President of the United States

2. Plaintiff is a fuly qualified candidate for that office, having certified with the Federal Election Commission on December 13, 1983 of his intention to seek that office and having filed successfully with the Secretary of State for New Hampshire on December 28, 1983 and been admitted to the New Hampshire primary to be held on February 28, 1984.

3. Defendants, individually and on behalf of their organizations have sought to deny Plaintiff participation in a debate to be held on Sunday, January 15, 1984 at Dartmouth College and, in so doing, have seriously impaired his opportunity to seek the offie of President, thus violating the provisions of the First and Fourteenth Amendments to the Constitution of the United States.

4.

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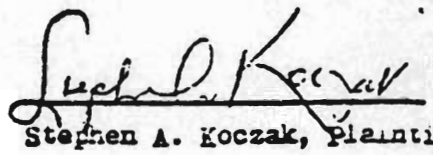
4. Defendants are all officers of Public Institutions or educational organizations benefitting from tax revenues or deductions from taxes for contributions thereto, under acts of Congress and the code published by the Internal Revenue Service. Moreover, Michael Timmeny is an employee of Representative Charles Schumer and receives income from authorizations and appropriations of the Congress of the United States.

5. Defendants, by evasions and circumventions, have obstructed access of the Plaintiff to the Dartmouth College Debate. The Public Broadcasting Service, which receives funding in part from the Congress, is in a "conflict of interest" situation by dealing ex parte and exclusively with a paid employee of the Congress who has sought to deny access of a Presidential candidate to the Dartmouth College Debate.

6. As Plaintiff's affidavit clearly states, the Federal Election Commission, though notified of the other likely violations of law, including the contribution of services and assets to the benefit solely of candidates favored by the Democratic Caucus, nevertheless finds itself unable to act to provide relief to the Plaintiff.

7. Thus, because of the imprimatur given to the "eight" candidates admitted to the Caucus by such prestigious bodies as Dartmouth College, the House Democratic Caucus and Public Broadcasting Service, Plaintiff is irreparably harmed by his exclusion from the broadcast. This harm applies not only in New Hampshire but also in the other states, whose Secretaries of State rely on reputation and media notoriety in determing which candidates should be admitted automatically to the primary ballots and which candidates must expend funds in order to obtain petitions at great cost and effort.

8. Plaintiff, not having access to an attorney to represent his case, and having been disadvantaged by deliberate delays and evasions by defendants McLaughlin and Timmeny, is forced to plead this case per se and petitions the court to accept his affidavit as part of this petition for an injunction requiring a stay of the debate unless he is admitted as a participant.



Stephen A. Koczak, Plaintiff

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United States District Court
for the District of Columbia

(23)

Stephen A. Koczak, Candidate for President of the United States for the Democratic Party Nomination
2332 Macomb Street NW, Washington DC 20008
Plaintiff

v

David T. McLaughlin, President of Dartmouth College
Udy Newman of Public Broadcasting Service
Michael Timmeny, Aide to Congressman Charles Schumer
The Democratic House Caucus
Public Broadcasting Service
Dartmouth College

Defendants

84- 0146

Civil Action No._____

FILED
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CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

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Points and Authorities
in support of
Plaintiff's Motion for Preliminary Injunction and
Other Emergency Relief

Plaintiff, Stephen A. Koczak, petitions the court to accept his affidavit as part of his points and authorities, particularly the reference to the suits brought by Presidential Candidate Eugene McCarthy against the states of Florida and Texas. The text and the outcome of these suits can be found in the American Bar Association Journal, August, 1977, pages 1108 and following. Supreme Court Justice Powell wrote the opinion in the case of Eugene McCarthy on behalf of the Court.

Plaintiff also cites Title 11 of the Federal Code regarding the holding of Federal elections, calling special attention to Paragraph 114.4 (2) (b) (11) which reads as follows:

"If a Presidential candidate is permitted on the premises, all candidates for that office who request to appear must be given the same opportunity to appear".

Because of the absence of time and attorney, Plaintiff cannot cite specifically violations of Federal statutes prohibiting the use of Federal government funds, such as is the case with Mr. Michael Timmeny, to influence

a Federal election. However, there are general provisions regarding the separation of these funds and prohibiting their use for partisan purposes, in this case, an ex parte arrangement with the Public Broadcasting Service to hold a debate and to televise it without permitting equal access to other Presidential aspirants.

As to the format of the debate, Plaintiff cites Title 11 of the Federal Code, Paragraph 110.13 regarding Debate Structure, which states that such debates "do not promote or advance one candidate over another". This debate structure places candiate Koczak, the Plaintiff, at a disadvantage and promotes or advances other candidates at his expense.

Stephen A. Koczak

Stephen A. Koczak
Plaintiff
pro se

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CLERK, U.S. DISTRICT COURT

(25)

CERTIFICATE OF SERVICE

This is to certify that copies of this complaint-petition for Temporary Restraining Order, of the Points and Authorities and of the proposed Order have been duly served by first class mail or delivered by hand to defendants David T. McLaughlin, Judy Newman, Michael Timmeny, The Democratic House Caucus, Public Broadcasting Service, and Dartmouth College this 13th day of January, 1984. Further, in light of the urgency of the pleading and request for the Order, the defendants have been notified also telephonically.

Stephen L. Kocek
Plaintiff
pro se

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FILED

JAN 1984

DISTRICT OF COLUMBIA

A F F I D A V I T

I, Stephen A. Kocsak, a native citizen of the United States, born November 13, 1917, in Trenton, New Jersey and now resident at 2[illegible] Macomb Street, N.W., Washington, D. C. do state and swear that the following are correct in substance and in detail to the best of my knowledge.

1. I am a candidate for the office of President of the United States as a member of the Democrat Party and the Secretary of State of New Hampshire accepted my application on December 28, 1983 and has published that my name is enrolled in the Presidential Primary to be held in New Hampshire on February 28, 1984. (Attachment 1)

2. I have dutifully, consistently and actively traveled widely throughout the United States to have my name similarly enrolled in the Presidential Primaries of other states.

3. On December 27, 1983 I wrote to the Secretary of State of Florida asking that my name be placed on the ballot for the Presidentil Primary in that State (Attachment 2) and on January 3, 1984 I met with the Deputy Secretary of State, Dr. Dorothy Glisson, reaffirming my candidacy and requesting my admission as a candidate to the Florida primary election. (Attachments 3 and 4)

4. My request was denied by the Florida Secretary of State and only the "list of eight" officially fostered by the Democratic National Committee and by the House of Representatives Democratic Caucus was transmitted by the Florida Secretary of State to, and approved by, the Florida Election Commission. (Attachment 5)

5. From my conversations with Dr. Glisson, it was apparent that the

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Secretary of State and the Election Commission, comprised of the leading Democratic Party officials in Florida (and their Republican counterparts) were unduly influenced by the actions of the Democratic National Committee and by the House of Representatives Democratic Caucus in excluding my name from the ballot.

6. The House Democratic Caucus, together with the authorities of Dartmouth College, the Nelson A. Rockefeller Center for the Social Sciences, an official program of Dartmouth College, and the Public Broadcasting Service, which receives funds authorized and appropriated by Congress, are now proceeding to act further in a way to influence not only the electorate in New Hampshire, where I am a candidate for the office of President, but the electorate in other states and the Secretaries of State of other states in a manner adversely affecting and seriously and irremediably harming my own rights under the First and Fourteenth Amendments to the U. S. Constitution as a candidate.

7. On December 28, 1983, I telephoned the office of President David T. McLaughlin asking that I be included in the "Dartmouth College Debate" and was informed that I should turn to the Nelson A. Rockefeller Center for the Social Sciences which was coordinating the debate. The Center denied it was coordinating the debate and stated the entire program was besing handled by Mr. Michael Timmeny, an aide to Representative Charles Shumer. (Subsequently, I was given to understand that Representative Shumer was acting as chairman of a subcommittee of the House Democratic Caucus and that he had assigned Mr. Timmeny, his aide paid out of U.S. government funds and using U.S. government facilities, to coordinate the "Dartmouth Debate".

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8. Mr. Timmeny rejected out of hand my request for admission to the debate and stated categorically he would not receive me or discuss further my possible participation in the debate.

9. After the rejection of my request to be placed on the Florida ballot and learning of the manner in which the House Democratic Caucus was improperly intervening in the primary campaigns and seeking to deny admission to the primary ballot of candidates other than those approved by it, I wrote to President David T. McLaughlin on January 9, 1984, asking that Dartmouth College withdraw its co-sponsorship of this telecast and the provision of its facilities because, given my exclusion, these actions were improperly prejudicial to my own candidacy. Alternatively, I asked that Dartmouth College "arrange for another debate with equivalent time and facilities afforded to me, and to others similarly situated." (Attachment 6)

10. Failing to hear from President McLaughlin I telephoned him, on January 11, 1984, "person to person" but was told he was in conference. Subsequently, an aide and, I was later told, his legal counsel, Mr. Cary Clark telephoned me saying that President McLaughlin was answering my letter by telegram with confirmation letter copy to follow.

11. During the course of our conversation, I asked Mr. Cary Clark to include in the telegram an estimate of the monetary value of the services being provided by Dartmouth College to the House Congressional Caucus and to the Public Broadcasting Service. I hoped, and expected, that similar services, equivalent in monetary value, would be provided to me and the other candidates in connection with an equivalent future debate. (Attachments 7 and 8, being photocopies of correspondence with Mary Jane Gallagher of the MacNeil/Lehrer News Hour carried on the Public

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Broadcasting Service network, refer in part to this conversation with Mr. Clark.)

12. Not having received from President McLaughlin either the promised telegram or letter copy, I telephoned both President McLaughlin and Mr. Cary Clark "person to person" several times on January 12, 1984. I was repeatedly told both were either in conference, at lunch or out of town.

13. Finally, a lady identifying herself as "Ms Clark" claimed to know that a letter had been sent to me, "regular mail", on January 11, 1984 and said she would read its text to me. (The text was evasive and avoided answering any of my questions and concerns.) I remonstrated that Mr. Clark had promised to send me a telegram and that, as Mr. Clark knew, I wanted a written text in hand to pursue this matter with the Public Broadcasting Service, with the House Democratic Caucus and with the Federal Election Commission. Therefore I considered the omission of a telegram a witting circumvention of a commitment by President McLaughlin and Mr. Clark, intended to frustrate my timely action to resolve the issue of the "Dartmouth College Debate" before it became moot. I asked that she urgently communicate this message to President McLaughlin and Mr. Clark.

14. I immediately telephoned Chairman Lee Ann Elliott of the Federal Election Commission, recounting my understanding of the arrangements made for the Dartmouth College Debate and my belief that, because of the denial of access to me and other candidates to the Debate, these services constituted contributions to the election campaigns of the "eight". I also raised the queston whether Representative Charles Shumer and Mr. Michael Timmeny were not in violation of the law in using government funds and facilities to arrange and influence a debate excluding some candidates.

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12. Not having received from President McLaughlin either the promised telegram or letter copy, I telephoned both President McLaughlin and Mr. Cary Clark "person to person" several times on January 12, 1984. I was repeatedly told both were either in conference, at lunch or out of town.

13. Finally, a lady identifying herself as "Ms Clark" claimed to know that a letter had been sent to me, "regular mail", on January 11, 1984 and said she would read its text to me. (The text was evasive and avoided answering any of my questions and concerns.) I remonstrated that Mr. Clark had promised to send me a telegram and that, as Mr. Clark knew, I wanted a written text in hand to pursue this matter with the Public Broadcasting Service, with the House Democratic Caucus and with the Federal Election Commission. Therefore I considered the omission of a telegram a witting circumvention of a commitment by President McLaughlin and Mr. Clark, intended to frustrate my timely action to resolve the issue of the "Dartmouth College Debate" before it became moot. I asked that she urgently communicate this message to President McLaughlin and Mr. Clark.

14. I immediately telephoned Chairman Lee Ann Elliott of the Federal Election Commission, recounting my understanding of the arrangements made for the Dartmouth College Debate and my belief that, because of the denial of access to me and other candidates to the Debate, these services constituted contributions to the election campaigns of the "eight". I also raised the queston whether Representative Charles Shumer and Mr. Michael Timmeny were not in violation of the law in using government funds and facilities to arrange and influence a debate excluding some candidates.

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15. I added that, by subsidising the selective participation of only some candidates , Dartmouth College, PBS and the House Democratic Caucus were circumventing and subverting the limitation on expenditures in the New Hampshire primary by the "eight", all of whom were receiving Federal Matching Funds. Thus, both as contribution and as expenditure, the Dartmouth Debate was a violation of law.

16. Chairman Elliott replied that my argument that, under the circumtances of my exclusion, the monetary value of the services provided by Dartmouth College, Public Broadcasting Services, Mr. Timmeny and Mr. Koppel as moderator, did appear to be contributions to the campaigns of the invited "eight". However, since the Federal Election Commission could not act without a sworn complaint from me, I should submit such a sworn statement and inlude in it, if at all possible, a report of the approximate value of the services given by Dartmouth, the Rockefeller Center, Public Broadcasting Service, Mr. Timmeny and Mr. Koppel and others involved.

17. As to the violation of my rights and the issue of the legality of Mr. Timmeny's role, the Federal Election Commission had no jurisdiction over those matters. Nor did the Commission have any power to assure that my rights under the First and Fourteenth Amendments were protected. I would need to turn to the Federal Courts to uphold those rights.

18. As to relief prior to the Dartmouth Debate, or even subsequently, Chairman Elliott said that the Federal Election Commission had no means to intervene prior to the Dartmouth Debate and would need to await a filing, or failure to file, of a report of contributions by Dartmouth and the other parties, including the "eight".

R40461001

19. Seeking to obtain the information Chairman Elliot requested regarding monetary value, I telephoned "Nightline". A Ms "Fleischer" who answered confirmed that Mr. Koppel was the moderator of the Dartmouth Debate. When I asked whether he was contributing his services or paid, she told me to inquire with Mr. Michael Timmeny in Representative Charles Shumer's office for the information. She said "Nightline" had no part in the Dartmouth Debate--Mr.Timmeny was in charge of all arrangments with all the participants. Mr. Timmeny would know whether Mr. Koppel was being paid or whether he had been asked to contribute his services. I asked whether "Nightline" had Mr. Timmeny's telephone number. She gave me the number I had been given earlier by the Rockefeller Center of Dartmouth College, a telephone in Mr. Shumer's Congressional office--225-6616.

20. I telephoned Mr.Timmeny's office but was told he was unavailable. A secretary working for Representative Shumer took my message that I was requesting from him official information to supply to the Federal Election Commission and asked that she note the time and content of my telephone call in the event a subpoena was issued for confirmation of my call.

21. On January 12, I also telephoned Public Broadcasting Service in New York and was informed that Ms. Judy Newman was coordinating the Dartmouth Debate for PBS. She was in Boston, 617-492-2777.

22. On January 13, Ms. Newman returned my call from Boston.I informed her of the contents of this affidavit and that I felt that PBS was also in a conflict of interest" situation by dealing exclusively and ex parte with the House Democratic Caucus, which holds part of the power of purse over PBS. I understood that PBS had arranged with Mr. Timmeny, a person paid out of government funds and claiming to act for, and on behalf of the majority

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of Congressional Representatives organized as the House Democratic Caucus, to sponsor a discriminatory and prejudicial telecast of three and a half hours, with tape made available to other broadcasters for repetition and publication.

23 I emphasized that I was requesting participation in the Dartmouth Debate or timely equivalent facilities from PBS. Under present arrangements my candidacy would be irremediably harmed not only in New Hampshire but with the Secretaries of State of the various states holding primaries who would be improperly persuaded, as the Florida Secretary of State appears to have been persuaded, that there are only "eight" legitimate Democratic Party candidates. Unless I had assurances of participation in the Dartmouth Debate or, alternatively of timely, equivalent facilities from PBS, I planned to be in Federal Court to seek an injunction staying the Debate. Since she was named as coordinator for PBS, I would be asking that she and other employees be enjoined from participation in, or transmitting, the debate by television or radio or other media. She said she would transmit my requests for participation in the Dartmouth Debate, or alternatively timely equivalent facilities, to the PBS attorneys.

24. Having exhausted all other remedies, to avoid irreparable damage, my only recourse is an injunction to stay the Debate.

Stephen A. Koczak
January 13, 1984
pro se

R40461003

KOCZAK FOR PRESIDENT COMMITTEE

(34)(1)

P.O. BOX 11656
WASHINGTON, D.C. 20009

TELEPHONE 202 363-4750

FILED

December 28, 1983 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Declaration of Candidacy Deposited with the Secretary of State, New Hampshire.

I, Stephen A. Koczak, declare that I am domiciled in 2932 Macomb Street, N.W., in the city of Washington, D. C., in the District of Columbia and meet the qualifications for the office for which I am a candidate; that I am a registered member of the Democratic Party; that I am a candidate for nomination for the office of President of the United States to be made at the primary election to be held on the 28th day of February, 1984; and I hereby request that my name be printed on the official primary ballot of said Democratic party as a candidate for such nomination.

Stephen A. Koczak

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THE RIGGS NATIONAL BANK OF WASHINGTON, D.C.

CASHIER'S CHECK

No. 657218

23 December 1983

Pay to the order of ****Secretary of State, New Hampshire**********$1,000.00****

Dollars

(For Stephen A. Koczak)

⑈657218⑈ ⑆054000030⑆ 06⑈09220704⑈

STATEMENT OF CANDIDACY

(see reverse side for instructions)

83 DEC 13 P 3: 53

35

RECEIVED AND FILED

1. (a) Name of Candidate (in Full)

STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Identification No.

3. Party Affiliation

Democrat

4. Office Sought

President

5. District & State of Candidate

DEC 1 9 1983

MARCH FONG EU, Secretary of State

H. D. — SACTO.

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 (Year of Election) election(s).

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)

KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak (Signature of Candidate)

December 13, 1983 (Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR —

President mail to:
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

U.S. Senate mail to:
Secretary of the Senate
119 D Street, N.E.
Washington, D.C. 20510

U.S. House of Representatives mail to:
Clerk of the House
1036 Longworth Office Bldg.
Washington, D.C. 20515

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

FEC FORM 2 (1.83)

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KOCZAK FOR PRESIDENT COMMITTEE

(36)

PO BOX 1956
WASHINGTON, DC 20013

TELEPHONE [illegible]

December 27, 1983

The Honorable George Firestone,
Secretary of State, Florida,
The Capitol,
Tallahassee, Florida, 32304

Dear Secretary Firestone:

Please accept this communication as the official notification of my candidacy for the office of President of the United States as a member of the Democratic Party.

I filed with the Federal Election Commission on December 13, 1983.

Beginning on December 14, 1983, in order to organize my campaign nationwide, I traveled to Chicago, Illinois; to Portland, Salem, and Eugene, Oregon; to Seattle, Washington; to San Jose and Sacramento, California; to Des Moines, Iowa; to Omaha, Nebraska; and to Boston, Massachusetts.

In those states I notified the respective Secretaries of State, or other competent authorities, of my candidacy.

I shall be filing with the Secretary of State, New Hampshire, tomorrow, December 28, 1983, and proceeding to Florida on December 29, 1983. I shall visit West Palm Beach, Fort Lauderdale, Tampa/St. Petersburg and Miami before traveling to Tallahassee, where I should like to meet with you on January 3, 1984. Thereafter, I shall go to Boston, Massachusetts to file with the Secretary of the Commonwealth there.

I appreciate the likely dilemma which this late communication poses for you respecting my candidacy since, obviously, neither the clipping services nor national periodicals will have reached you regarding the merits of my person or platform.

Permit me to inform you that to date, in the brief two weeks since I filed, the following newspapers carried articles about my candidacy:

December 14: The Washington (D.C.) Times;
December 17: Eugene (Oregon) Register-Guard
December 19: San Jose (California) Mercury-News
December 20: Sacramento (California) Bee
December 26: The Trenton (New Jersey) Times

The circulation of these newspapers includes the capitals of their respective states and the most important universities whose faculties, graduates and current student bodies I am already organizing for my primary campaigns. These include Princeton; Stanford; Santa Clara, Oregon; Oregon State; and San Jose University and the other institutions of the three major California college and university systems throughout that state.

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A graduate of [illegible] Law School, class of 1962, [illegible] a career in the military and diplomatic service including, [illegible] of the United States during [illegible] years, I shall be relying on my college and foreign service associates for assistance. These persons are located throughout the United States.

As an example of the kinds of articles which have appeared within the brief two weeks since I announced my candidacy, I enclose a photocopy of The Trenton Times of December 20, 1963. I also enclose a somewhat longer press release with more details than the press has carried, as well as a photocopy of my filing with the Federal Election Commission and a brief biography. These are to complete whatever files you may be maintaining on candidates.

In my primary campaigns, I shall support completely the efforts of Claude Pepper to elect as many elderly delegates as possible to the Convention. My purposes go beyond even his—our elderly population has the longest and most profound memories of the domestic problems and foreign wars which our nation has experienced. Because of their wisdom and judgment, I look to them as one of the main constituencies of my primary campaigns.

I recognize the uncertainty and difficulty confronting you in deciding to include my name in the list of Democratic candidates. Perhaps I should have announced earlier. Nevertheless, as my travels and actions since December 15, 1963 indicate, I intend to run in every primary and hope to persuade you of the relevance and importance of my campaign and platform.

With your kind permission, I hope to meet with you and your staff personally on January 3, 1964. In the interval, please accept my very best wishes for a continuing happy holiday season now and for the fastest recovery of the citrus groves during 1964.

Sincerely,

Stephen A. Kocsak

Enclosures: Four as indicated.

Carbon Copies: Deputy Secretary of Elections, Dorothy Gleason
Chairman, Election Commission, Robert Hart Jr.

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38

Reagan, 8 Democrats on Florida's ballot

TALLAHASSEE (AP) — Florida's 1984 political season opened Tuesday as President Ronald Reagan, former Gov. Reubin Askew and seven other Democrats earned a spot on the March 13 presidential primary ballot.

Secretary of State George Firestone Tuesday presented a list of eight Democrats and the Republican president to party leaders for final approval.

The three Democrats and three Republicans that comprise the voting members of the Presidential Selection Committee are expected to rubber-stamp the names presented by Firestone, Democratic and GOP state party aides said Tuesday.

Firestone's staff reads newspaper clippings on presidential hopefuls and then determines which candidates have received significant news coverage nationally or within Florida.

Although Tuesday's proceedings are a formality, Florida's 1984 presidential primary is a key race to some presidential campaigns.

The Florida primary, with 143 delegates to the national Democratic convention, is considered crucial for Askew's longshot bid.

Askew has promised to campaign vigorously in Florida, where he was governor from 1971-79. But his favorite-son campaign has been hurt by the fact his name hasn't appeared on the Florida ballot since 1974.

A newspaper-sponsored poll of Florida Democrats showed Askew trailed Mondale among partisan voters in Florida. The former vice president under Jimmy Carter had 34 percent of the Florida vote in the poll while Askew had 25 percent. Ohio Sen. John Glenn was third with 19 percent.

Mondale will stop in Florida with visits scheduled Friday in Jacksonville and Jan. 13 in Tallahassee.

A modified winner-take-all primary system has been adopted in Florida, allowing the winner of each of the 19 congressional districts to take all the delegates from that district. The move was seen as helpful to Askew's campaign.

But the Democratic contenders in Florida likely will have a hard battle with President Reagan, who is officially a candidate for re-election but has not said whether he will seek a second term in the Nov. 6 general election. Reagan carried Florida in 1980.

The other Democratic candidates on the Florida primary ballot, pending final approval, are: California Sen. Alan Cranston, Colorado Sen. Gary Hart, South Carolina Sen. Ernest Hollings, Rev. Jesse Jackson of Chicago and former South Dakota Sen. George McGovern.

Meanwhile, a man billing himself as a "Jeffersonian populist" sought Tuesday to have his name added to the official presidential primary list.

Stephen A. Kocsak, 66, who was in Fort Myers Monday, wrote a letter last week to state elections chief Dot Glisson asking for a spot on the Florida ballot and also asked to meet Tuesday with Firestone and Glisson.

No decision on his request had been made by Tuesday morning, but Glisson said she told Kocsak she would talk it over with him if he came to Tallahassee.

Note: Original AP wire report included the political "omitted" by The Miami Herald

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(39)

Fort Myers News-Press, Tuesday, January 3, 1984

Populist enters race for U.S. presidency

By TEWANA GREENE
News-Press Staff Writer

Motivated by the "banality" of Democratic presidential hopefuls, Stephen A. Koczak says he's running for the nation's highest public office as a Jeffersonian Populist.

"I want to emphasize the difference, as distinguished from the role of special interest," in government, Koczak says.

After 15 years in Washington, D.C., as a federal employee, Koczak is one of a group of candidates whose names appear on the Democratic ballot in the first presidential preference primary in New Hampshire.

KOCZAK

Koczak was in the Fort Myers area Monday visiting a cousin. He said he would meet today in Tallahassee with Secretary of State George Firestone in an effort to get his name placed on the Florida ballot.

"Let's face it, I probably won't get the nomination, but I'm going to try to run in all the primaries."

Koczak insists he's a legitimate contender, not to be considered another Pat Paulsen (comedian who claimed to be running for president).

"By the time this is over, you'll see I'm a serious contender," Koczak said.

He is in the initial stages of his fund raising.

A retired Department of State foreign service officer, Koczak says of Gary Hart, Walter Mondale is "a Democratic Tom Dewey," that John Glenn "just has no expertise in foreign policy," and that Alan Cranston "just doesn't perceive how bad a conventional war could be."

He also said his policies greatly differ from Ronald Reagan's.

A native of Trenton, N.J., Koczak says this is his first bid for elective office. Since retiring from the foreign service in 1976, Koczak has worked as a research director for the American Federation of Government Employees and as a community organizer in the Cleveland Park section of Washington, D.C.

He says he decided to run for president in early December after he failed to get specific solutions to the nation's problems from announced Democratic candidates.

Electing the other candidates would "come them, elves into office by recycling to generalities," Koczak forced his hat into the presidential ring. He says, "I decided I would have specific proposals."

Koczak says, "My platform will be the Declaration of Independence as drafted by the Continental Congress.

"The quickest way to restore the people's liberties is to cut taxes even more, to cut the deficit sharply and to disengage from the foreign entanglements which have led our nation into increasingly dangerous ways," Koczak declares.

Koczak promises to cut the federal deficit by $100 billion in his first year in office by trimming military spending and changing federal contract procedures.

He would "ask that all housewives be added to the Social Security rolls at once and that their pensions be computed as if they had earned $10,000 annually."

Koczak would also raise the personal income tax allowances to $4,000 and triple the number of federal judges "to speed up criminal and federal litigation," he said.

In foreign policy, the former U.S. intelligence agent would demand the Soviet Union withdraw its troops from its satellite nations and "insist that the South African government in Pretoria grant full voting rights to all its residents, irrespective of race."

He also feels the United States government should reorganize the Palestinian Liberation Organization.

Listed below are the names of candidates for Florida's Presidential Preference Primary election March 13, 1984, prepared by Secretary of State, George Firestone (Section 103.101(2), Florida Statutes):

Democrat	Republican
Reubin Askew	Ronald Reagan
Alan Cranston	
John Glenn	
Gary Hart	
Ernest Hollings	
Jesse Jackson	
George McGovern	
Walter Mondale	

This list will be presented to the Presidential Candidate Selection Committee on Tuesday, January 3, 1984, at 2 p.m.

Questions may be directed to

Dorothy W. Glisson
Deputy Secretary for Elections
1801 Capitol, Tallahassee
(904) 488-7690

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KOCZAK FOR PRESIDENT COMMITTEE

41

P.O. BOX 1166
WASHINGTON, D.C. 20013

2932 Macomb Street, N.W.
Washington, D.C. 20008

TELEPHONE (202) [illegible]
also (202) 686-09[illegible]

January 11, 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Ms Mary Jane Gallagher
c/o MacNeil/Lehrer News hour
Box 2626,
Washington, D. C. 20013

Dear Ms. Gallagher:

I thank you for sending the messenger to obtain the packet of material which we discussed.

I tried to reach President McLaughlin several times today unsuccessfully to arrange a meeting with him in Hanover. I shall try the rest of the day and tomorrow morning before flying to Boston and driving to Hanover.

In the meantime, The Uptown Citizen, January 12, 1984 and The Washington Inquirer, January 13, 1984 carried items about my candidacy.

The Uptown Citizen reported, inter alia, that I have drafted model legislation to resolve the increasingly tortuous problem of "confessional schools".

The Inquirer has raised the subject of my being "blacked out" by the media because of my views. You will recall that the Miami Herald omitted the AP wire report referring to me.

Even more interesting in the Florida situation is the "error" which exists on the Federal Election Commission's own listing of filing dates. I enclose a copy of the "latest" list which shows the "filing date" for Florida, meaning the last date, to be "1/16". In fact, it was January 3, 1984. I just finished speaking with Mr. Richard Thomas of the Federal Election Commission (202) 523-4055 and he was "appalled" by this circumstance, since all the candidates rely on the list compiled by the Federal Election Commission. He said that the FEC date, as it appears on the list I have photocopied and enclosed, clearly was constructed from material supplied by Dr. Glission, whose signature appears on the response to the circular request sent to her by the Federal Election Commission.

Naturally, at some point, I hope to appear on the MacNeil/Lehrer News Hour to have these problems, arising from Mr. Manatt's pressuring the Secretaries of State, reviewed. In the meantime, I am running up to Hanover on January 12 to see what I can achieve with President McLaughlin.

Sincerely,

Stephen A. Koczak

Enclosures: News items, Uptown Citizen, Washington Inquirer, photocopy of election date list distributed by FEC, effective 12/1/83 (revision of earlier list 10/26/83.

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THE UPTOWN CITIZEN Thursday, January 12, 1984

Kozak In N Hampshire Primary-Sues Florida

Stephen A. Koczak, the only D.C. resident seeking Presidential nomination, gained access to the New Hampshire presidential primary on December 28, 1983, by filing as a Democrat with the Secretary of State in Concord.

The Manchester Union-Leader, the dominant paper in New Hampshire, reported his candidacy the next day on its front page and carried an extensive account of his platform.

On January 3, 1984, in Tallahassee, Florida, Koczak met with Dr. Dorothy Glisson, the Deputy Secretary of State for Elections in order to have his name placed on the Florida primary ballot. The meeting was reported on the front pages of most of the Florida newspapers and, following denial of his access to the Florida primary, Koczak announced that he was suing the Florida authorities on the grounds that his Constitutional rights under the First and Fourteenth Amendments had been violated.

The widespread press publicity generated in Florida by his meetings and his decision to sue has led, according to Koczak, to his being considered in Florida as the "ninth Democrat", the only other aspirant likely to sustain a challenge to the established well-publicized "recognized official eight".

On returning to Washington, Koczak immediately followed the Flor-

(Continued on page 25)

Kozak In N. Hampshire Primary - Sues Florida

(Continued from page 1)

ida development by requesting the House Democratic Congressional Caucus, which is managing the Dartmouth College democratic party debate on January 15, 1984 to admit him to the program now limited to the "recognized official eight". The Caucus refused, whereupon Koczak wrote to Dartmouth College asking that the College either withdraw its sponsorship of the debate or provide a similar televised debate to him as the "ninth" Democrat. Koczak has not as yet had a response from Dartmouth College to his request.

At the Cleveland Park Citizens Association meeting on January 7, 1984 Koczak announced that he was preparing legislation to be offered to Nebraska and other states to resolve the dispute over "confessional schools". He said that, on the basis of the Supreme Court decisions in the Texas and Minnesota cases regarding the provision and funding of "public" education, it was clear that misconceptions in existing state laws regarding "so-called public" and "so-called private and confessional" schools were caused by erroneous legal semantics. Koczak explained that these errors could be remedied easily by due regard for the explicit passages in the First and Fourteenth Amendments to the benefit of the funding and the functioning of both systems. All that was needed were prudent laws enacted by the state legislatures. He would provide the lawmakers with model texts, he said.

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Washington Inquirer

Page 2— January 13, 1984—

43

Conservative Democrat Blacked Out by Media

As the fateful year 1984 drew near, Stephen A. Koczak, age 66, native of New Jersey, honor graduate of Harvard and long-time resident in the nation's capital, filed as a candidate in the 1984 New Hampshire Presidential Preference Primary.

Koczak had made his formal announcement in Washington, D.C. before a representative citizen's group mixed as to partisanship, ethnicity and financial background. In his prepared announcement statement Presidential Candidate Koczak said he would enter all the open primaries.

Candidate Koczak (pronounced: coke-sock) states frankly that he became involved in presidential politics ". . . because of the banality of the major candidates." He says that he hopes to emphasize "the citizens' role as distinguished from the role of special interests."

Yet he admits candidly that he has had difficulty in getting the power brokers to take his campaign seriously. After asserting to skeptics that he expects to be the candidate nominated in San Francisco, he recalls elfishly that former Democratic National Committee Chairman Robert Strauss predicted that the one who's going to win the New Hampshire race is the one who spends the least money. "That's me!" exclaims the candidate with a twinkle in his eye.

The twinkle disappears when he recalls his contact with Ben Bradlee, Executive Editor of the left-wing *Washington Post*, to whom he had turned in an effort to break the total boycott of any news concerning his candidacy. "I can't believe that you consider yourself a serious candidate," Benjamin Bradlee wrote in a seven sentence letter to Koczak. Bradlee promised to "take another look" and Stephen Koczak hopefully provided the power broker of the Washington Establishment with all necessary information.

Finally, Editor Bradlee's paper, official organ of the radical chic establishment liberals in Washington disgorged a malicious announcement so terse—it was fully two sentences shorter than the abbreviated Bradlee letter promising to look into the matter—that it shocked even Stephen Koczak who had become hardened to this *Post* syndrome, over the years. To add insult to injury, the five-sentence announcement claimed that the "candidate was not available for comment," when the exact opposite was true. Campaigner Koczak who has received considerable publicity from newspapers who have received his materials has written off such elements of the establishment press as the *New York Times* and the *Washington Post*, but he is considering a lawsuit against the *Post* and editor Bradlee to drive home the point that even a large newspaper has the responsibility to show minimal integrity when reporting on presidential candidates.

Observers believe that the conservative thrust of Koczak's views is the primary reason that the Democratic establishment seeks to freeze him out and exclude him from the primaries. Mr. Koczak already has announced his plans to enter the Florida primary, but this has been resisted by the Florida Secretary of State, George Firestone. The Koczak campaign plans to meet such "stonewalling" with a lawsuit to force the Koczak candidacy onto the Florida primary ballot. Characteristically candid and determined, candidate Koczak views such legal actions as part of the entire proceedings necessary to open up the primary process.

Stephen Koczak, is determined not be labeled as some kind of a "nut" or Don Quixote "I'm going to confront those guys . . . Mondale is going to find he will have to confront me," he asserts. Mondale, according to Koczak is "a Democratic Tom Dewey." John Glen "just has no expertise in foreign policy," and Alan Cranston "just doesn't perceive how bad a conventional war could be."

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Presidential(d Congressional Primary(tes ~~10/25/83~~ 12/1/83 (44)

Candidate Filing Deadl es

STATE	PRESIDENTIAL	FD	CONGRESSIONAL		FD	RO	IND. FD
AL	3/13	1/14	9/4	S	7/6	9/25	7/5
AK	3/13	12/23/83	8/25	S	6/1		
AZ			9/11		6/28		9/21
AR			5/29	S	4/3	6/12	4/3
CA	6/5	3/23	6/5		3/9		3/10
CO			9/11	S	7/28		9/4
CT	3/27	2/20	9/11				9/12
DE			9/8	S	7/27		9/3
FL	3/13	1/16	9/4		7/20	10/2	7/20
GA	3/13	2/20	8/14	S	6/13	9/4	7/11
HI			9/22		7/24		7/24
ID	5/22	4/23	5/22	S	4/6		6/24
IL	3/20	12/30/83	3/20	S	12/19/83		3/5
IN	5/8	3/9	5/8		3/9		3/9
IA			6/5	S	3/30		3/31
KS			8/7	S	6/11		6/11
KY			8/28	S	5/30		
LA	4/7	3/2	9/29	S	7/20	11/6	7/20
ME			6/12	S	4/1		4/1
MD	5/3	2/27	5/8		2/27		6/6
MA	3/13	1/6	9/18	S	6/5		6/5
MI			8/7	S	6/5		5/7
MN			9/11	S	7/17		7/17
MS			6/5	S	4/6	6/26	9/7
MO			8/7		3/27		8/6
MT	6/5	3/17	6/5	S	4/16		3/9
NE	5/15	3/16	5/15	S	3/16		8/28
NV			9/4		7/3		6/8
NH	2/28	1/3	9/11	S	6/20		6/20
NJ	6/5	4/26	6/5	S	4/26		4/26
NM	6/5	3/16	6/5	S	2/28		7/10
NY	4/3	2/16	9/11		7/26		9/18
NC	5/8	2/7	5/8	S	2/6	6/5	6/29
ND	6/12	4/18	6/12		4/18		4/18
OH	5/8	2/23	5/8		2/23		2/23
OK			8/23	S	7/11	9/18	7/15
OR	5/15	3/6	5/15	S	3/6		8/28
PA	4/10	1/31	4/10		1/31		4/20
RI	3/13	1/6	9/11	S	6/10		6/10
SC			6/12	S	4/30	6/26	9/18
SD	6/5	4/3	6/5	S	4/3		8/7
TN	5/1	3/6	8/2	S	6/7		6/7
TX	(R) 5/5	2/6	5/5	S	2/6	6/2	2/6
UT			8/21		4/15		5/10

KEY:

FD - Candidate Filing Deadline
RO - Run Off Election
IND-FD - Independent Candidate Filing Deadline
S -- Senate

8404610014

Second Letter of January 11, 1984

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

2932 Macomb Street, N.W.
Washington, D. C. 20008

TELEPHONE (202) 686-0955

January 11, 1984

Ms Mary Jane Gallagher
c/o MacNeil/Lehrer News Hour
Box 2626,
Washington, D. C. 20013

Dear Ms. Gallagher:

About a quarter hour after I mailed my earlier letter to you, I received a telephone call from a Mr. Cary Clark, assistant to President McLaughlin.

He said the President was sending me a response by telegram, copy by mail, and wanted my address. He replied, when I asked whether I could see President McLaughlin, that this was impossible because the President was "fully scheduled" for the rest of the week through Sunday.

He said that Dartmouth had nothing to do with the arrangements and that he was informing me of that for the President. All the arrangements had been made by the Rockefeller Center. In any case, various student bodies had already invited individual candidates who had already appeared.

I replied that my point was that the Rockefeller Center was an official program of the College and that I hoped, really expected, an invitation from that Center with the same facilities and arrangements as it had made with the Congressional Caucus. Cary Clark said he believed that President McLaughlin would be making that point to the Center. In any case, he undertook to report my views to President McLaughlin.

I asked whether President McLaughlin would see me after the telecast some time next week so that we could discuss this issue together with the officers of the Center. He said he did not know but would ask President McLaughlin to consider this request.

I find no point of going to Hanover under these circumstances and shall plan to call on President McLaughlin after the telecast. I expect PBS and the Rockefeller Center to be as fair with the other candidates as it was with the powerfully connected "eight".

In any case, after I receive the telegram, I shall send you a photocopy. In the meantime, I shall be pursuing my suit against the Florida authorities. If the Washington Post continues its tendentious reports about me, especially its falsehood that I was not available, I shall file a suit against the Post on the grounds its reporting is intentionally malicious.

Sincerely,

Stephen A. Koczak

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The Washington Times

PAGE 4A / MONDAY, JANUARY 16, 1984

Washington resident is balked in bid to join Democratic debate

BY A WASHINGTON TIMES STAFF WRITER

Barred from yesterday's nationally televised Dartmouth College debate for Democratic presidential candidates was District resident Stephen A. Koczak, a conservative Democrat who has filed as a candidate with the Federal Election Commission and qualified for the New Hampshire presidential primary ballot on Feb. 28.

Mr. Koczak, a former career foreign service officer for 20 years, lost a last-ditch federal court effort Saturday to force the House Democratic Caucus, sponsor of the debate, to include him on the three-hour program, which was broadcast by the federally funded Public Broadcasting System.

U.S. District Judge Norma Holloway Johnson ruled that she lacked jurisdiction in the case and denied Mr. Koczak's petition for a temporary restraining order to halt the program unless he was included as a participant.

Mr. Koczak's appeal of Judge Johnson's ruling was promptly rejected by Judges Abner J. Mikva and Malcolm R. Wilkey of the U.S. Court of Appeals for the District of Columbia.

Mr. Koczak, 56, of Macomb Street NW, is not an attorney and represented himself in the hour-long court proceeding.

He argued before the court that the decision to block him from appearing in the partisan debate violated his constitutional rights and federal campaign rules and "seriously impaired his opportunity to seek the office of president."

He said election officials in Florida, California, Illinois, Oregon and Washington had so far denied him a place on Democratic presidential primary ballots.

— George Archibald

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 23, 1984

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Curry
Attachment 2

TELEPHONE 202 363-4750

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

Dear General Counsel:

AMENDMENT AND SUPPLEMENT TO COMPLIANCE COMPLAINT AND PETITION

I refer to my communication, dated January 17, 1984, delivered by hand to your offices on January 18, 1984, a compliance complaint and petition regarding the House Democratic Caucus and others under Title 11, Code of Federal Regulations, Paragraph 111.4, Complaints, 2 U.S.C. 437 g (a) (1) and other pertitnent statutes, regulations and rules.

Today, under 43 FR 32795, July 28, 1978, as amended at 43 FR 45856, Oct 4, 19778; 43 FR 55769, Nov 29, 1978; BC Docket No. 82:-564, Report and Order, adopted Nov 8, released Nov 16, 1983; and Title 11, Supplement A, Par 73.1940 (h), I filed a complaint with the Federal Communication Commission.

In that FCC complaint, I identified an additional party, the National-House Democratic Caucus whom I herewith request the Federal Election Commission to make a respondent to my earlier complaint.

I request, inter alia, that pursuant to Title 11, CFR, Paragraph 100.5 (a) and 2 U.S.C. 431 (c), the National-House Democratic Caucus be required to file as a "political committee" and that whereever the term "House Democratic Caucus" or variantly "Congressional Democratic Caucus" apppears in my original complaint, there be substituted the phrase, "House Democratic Caucus and/or National-House Democratic Caucus, as appropriate".

I enclose a photocopy of the Letterhead and membership list of the National-House Democratic Caucus which shows Rrepresentative Gillis W. Long and Robert S. Strauss (not a Member of Congress) as Co-Chairman and which identifies Charles T. Manatt (Chairman of the Democratic National Committee) as an Honorary Co-Chairman. In addition to several Members of Congress, there are named approximately eighty "Private Members" of its Board of Advisors and its Staff lists, intermingled, paid employees of the House Democratic Caucus and persons not paid from legislative funds.

As a second Annex, I enclose a photocopy of my complaint filed with the Federal Communication Commission and draw attention that within it there is a photocopy of the Letterhead and the list of members of the National-House Democratic Caucus containing the names of many persons who are not Members nor employees of Congress, but who regularly use government facilities and intermingle functions and operations with Members and employees of the House of Representatives paid from Federal government funds.

It should be noted that in addition to Democratic National Party Chairman Charles Manatt and former Chairman Robert Strauss, Representative Charles Schumer is a member of this overlapping body. Representative Schumer's aide, Michael Timmeny, has been identified by many parties as

(48)

having a central role in organizing the so-called Dartmouth College Debate.

I request the Commission to determine the extent of the participation of the members of the the National-House Democratic Caucus in organizing, publicizing or influencing any person or organization in connection with the so-called Dartmouth College Debate. To this end, I request that the appropriate Congressional and Private Members of its Board of Advisors and of its senior staff also be interviewed as respondents by the Federal Election Commission pursuant to my complaint as herewith amended.

(NOTE: Since the FEC already has copies of my complaint filed with it, its renewed submission would be redundant. Consequently, I have not enclosed it hereunder as part of the annex to the FCC Complaint. I have enclosed photocopies only of the Letterhead and membership list of the National-House Democratic Caucus, my complaint to the Federal Communication Commission and, as an enclosure thereto, my letter to Mr. Al Metaling.)

—O A T H—

I swear that to my knowledge and belief, based on reliable sources, the foregoing is correct.

Sincerely,

Stephen A. Koczak

Stephen A. Koczak
2932 Macomb Street, N.W.
Washington, D. C. 20008

Subscribed and sworn to before me this 24th day of January, 1984.

Lucy J. Holt
Notary Public DC

My commission expires April 14, 1988

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NATIONAL HOUSE DEMOCRATIC CAUCUS

(49)

Co-Chairmen
Gillis W. Long Robert S. Strauss

Honorary Co-Chairmen
Thomas P. O'Neill, Jr.
Charles T. Manatt
Tony Coelho

Senior Advisor: S. Lee Kling

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Mel Levine (California)
Elliott Levitas (Georgia)
Stan Lundine (New York)
Dave McCurdy (Oklahoma)
Matthew McHugh (New York)
Buddy MacKay (Florida)
Norman Mineta (California)
Parren Mitchell (Maryland)
Jim Moody (Wisconsin)
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RIN 0404610019

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-4750

January 23, 1984

Compaints and Compliance Branch
Broadcast Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Complaints and Compliance Division:

Herewith I am filing a complaint and petition for redress against New Hampshire Public Television for violating my constitutional and statutory rights, the statutes governing Federal elections, the statutes governing the production, broadcasting and television transmitting of "non-partisan debates" by FCC licensees, and the rules and regulations issued under statutes by the Federal Communication Commission.

New Hampshire Public Television is a licensee under the authority of the Federal Communication Commission and I am a bona fide candidate for the office of President of the United States. As the enclosures document, I am registered as such a candidate with the Federal Election Commission and the Secretary of State of New Hampshire.

On January 18, 1984, I requested from New Hampshire Public Television by telephone, well within the time prescribed by the "Seven Day Rule", "equal opportunities" comparable to those afforded to my "eight" well-publicized political rivals and opponents on January 15, 1984 in the so-called Dartmouth College Debate.

On January 19, 1984, Mr. Al Hotaling, acting for New Hampshire Public Television, telephonically rejected my request alleging that, "on the advice of the attorneys of the Public Broadcasting Service", he claimed that the debate was a "bona fide news event" exempted from the rule of "equal opportunities".

On January 20, 1984, I wrote to Mr. Al Hotaling a letter, copy of which is enclosed, confirming the fact of our telephone conversations. In substance I alleged, inter alia, and repeat herewith, that New Hampshire Public Television, licenced to telecast non-commercial broadcasts, had relinquished control over this debate because it was in fact a partisan broadcast which should have been telecast commercially.

I allege that this debate was contrived with great guile and audacity to appear to be accredited as a "bona fide news event" when in reality it was organized by a partisan political body, the National-House Democratic Caucus, which arbitrarily, without accepting any credentials which were available, excluded candidates whose views were unacceptable to the Caucus. Moreover, the broadcast was tainted by the illegal use and misappropriation of Federal government funds by the National-House Democratic Caucus, the Corporation for Public Broadcasting, a quasi-governmental corporation itself receiving Federal government funds, and the Public Broadcasting Service.

Specifically, I documented in my January 20, 1984 letter to Mr. Hotaling my credentials as a Democratic presidential candidate, identified my political rivals and opponents as those Democratic presidential candidates appearing in the Debate. I conformed in every iota with the requirements listed on pages 2 and 3 of "A Political Primer, The Law of

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Political Broadcasting and Cablecasting".

In as much as I am enclosing a copy of my January 20 letter to Mr. Al Hotaling, I request that its text be considered an integral part of this letter of complaint as if it appeared in the body of this letter.

In this communication, I wish to recall to the Federal Communication Commission the observations of the Federal Election Commission, in its comments of October 14, 1982. Because of its importance, I quote a passage from it extensively hereunder.

Commenting on the presumed expectation that the proposed FCC rule change related clearly to "nonpartisan federal candidate debates", obviously excluding "partisan debates", the Federal Election Commission nevertheless stated the following:

"As you know, in creating a narrow exemption from the provisions of the Federal Election Campaign Act to permit certain nonprofit organizations and news media organizations to stage nonpartisan federal candidate debates, we relied heavily on our belief that sufficient safeguards as to the nonpartisanship of debates staged by broadcasters are set forth in the Communications Act and the present regulations and interpretations of the FCC. Among those safeguards, of course, is the equal time obligation now imposed on broadcast licensees, who stage and sponsor candidate debates. If the FCC were now to rule that the broadcast of such debates will henceforth be considered 'on-the-spot coverage of bona fide news events' and, thus, not subject to the equal opportunities requirement, one basis of the FEC's regulations concerning candidate debates will have been changed. Attached is a copy of the Explanation & Justification which the Commission submitted to Congress with its regulations. This sets forth the Commission's understanding of the implications of Paragraph 315 (a) (4) as they relate to the problems under our Act of insuring that no prohibited corporate contribution results from broadcaster sponsorship of a candidate debate."

I invite the Federal Communication Commission's attention also to the fact that the Public Broadcasting Service, in a communication submitted on October 15, 1982 by Nancy H. Hendry, Deputy General Counsel, aggressively urged the adoption of the amendment relating to nonpartisan repeat nonpartisan debates to which the Federal Election Commission had reservations because of "the problems under our Act of insuring that no prohibited corporate (emphasis on corporate) contribution results from broadcaster sponsorship of a candidate debate."

Like the Corporation for Public Broadcasting, the Public Broadcasting Service is a corporation, as is the New Hampshire Public Television, which is also a licencee of the FCC.

The Federal Election Commission, of course, has had occasion to review a wide range of surreptitious maneuvres and manipulations designed to subvert the Federal Election Laws. Nevertheless, not even the Federal Election Commission could have anticipated the extraordinary guile and audacity of the Corporation for Public Broadcasting and the Public Broadcasting Service to contrive an out-and-out partisan commercial political broadcast with the National-House Democratic Caucus, to expend Federal government funds thereon and yet to pretend boldly that the entire enterprise was only an "on-the-spot coverage" of a "bona fide news event".

This deception and lust to provide advantage for some pre-selected and

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pre-accredited candidates preferred by the National-House Democratic Caucus and the Corporation for Public Broadcasting and the consequent irreparable damage to other legitimate candidates is usually expected to be found normally only in disinformation campaigns associated with diplomatic intrigues.

Certainly, this kind of deception and misappropriation of funds and abuse of public confidence does not belong in a democratic, honest election campaign.

I fear that this is a scandal which the Federal Communication Commission and the Federal Election Commission cannot tolerate without losing their own credibility.

Moreover, as a Democrat who needs to maintain good relations with the rest of my party, I find it most unfortunate that I must make these charges against some of the more senior members of the National-House Democratic Caucus. But in conscience as a citizen, bound further by the august demands on me as a candidate for the office of President who, as President, must uphold the law impartially, I know I have no other choice but to insist that the National Democratic Party refund to the American taxpayer the true value of this Debate which was an unauthorized commercial partisan political program telecast over non-commercial public TV Stations licenced by the Federal Communication Commission.

I call upon the Federal Communication to take immediate action to redress these harms to the public weal.

To facilitate its investigation, I include, in addition to the photocopy of my letter of January 20, 1984 to Mr. Al Hotaling, a photocopy of my sworn statement, submitted on January 17, 1984 to the Federal Election Commission. I request the Federal Communication Commission to accept them as an integral part of my complaint and petition for relief.

Because the passage of every day makes even more costly and more irreparable the damage inflicted on me by the National-House Democratic Caucus and the other institutions mentioned herein, I plead for an expedited investigation and judgment in this matter.

I am sending copies of this complaint to New Hampshire Public Television, Attention, Mr. Al Hotaling, to Public Broadcasting Service, Attention, Ms Nancy Hendry, and to the National-House Democratic Caucus, Attention, The Honorable Gillis W. Long and the Honorable Robert S. Strauss.

I am also sending a copy to the Federal Election Commission to supplement my original compliance complaint and petition of January 17, 1984.

Sincerely

Stephen A. Kozak

Enclosures: Letter to Mr. Al Hotaling;
Compliance Complaint and Petition filed with the Federal Election Commission
Letter to Craig C. Donsanto, Director, Election Crimes Branch Department of Justice

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KOCZAK FOR PRESIDENT COMMITTEE

(55)

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 20, 1984

TELEPHONE 202 363-4730

Mr. Al Hotaling,
Program Director,
New Hampshire Public Television,
Union Building, Campus,
University of New Hampshire,
Box 1100, Durham, N.H.

Dear Mr. Hotaling:

Herewith I confirm the telephone conversations we have had on Wednesday, January 18 and Thursday, January 19, 1984 regarding my request for "Equal Opportunities" comparable to those given to my "eight" Democratic rivals and opponents in the so-called Dartmouth College Debate, co-produced by your station and TV Station WGBH.

I was illegally excluded from that debate and denied both my Constitutional and statutory rights. Further, the rules and regulations both of the Federal Election Commission and the Federal Communication Commission were subverted by all the parties to that debate

As I told you on January 18, 1984, I am a legally qualified candidate for nomination by the Democratic Party for the office of President of the United States. I filed with the Federal Election Commission on December 13, 1983 and with the New Hampshire Secretary of State on December 28, 1983. I enclose copies of my filing with the FEC and of the confirmation letter of the New Hampshire Secretary of State that I am on the ballot for the primary election on February 28, 1984.

My request, having been made on the third day following the telecast, was well within the period specified by the "Seven Day Rule" of the Federal Communication Commission.

In my telephone conversation, I stated that I considered the telecast identical with paid commercial political advertising and not a "news event" or a debate "exempt" from the "equal opportunities" rule. I compared it, in fact, to a forthcoming telecast by Presidential Candidate Lyndon LaRouche, purported to be telecast commercially by CBS-TV on Saturday, January 21, 1984.

In making that comparison, I emphasized that the Dartmouth College Debate was in fact organized by the House Democratic Caucus, a partisan political body which had used undue and illegal pressure on the Corporation for Public Broadcasting, the Public Broadcasting Service and your stations as producers in obtaining, through a subterfuge which you permitted, time at public expense for which it should have been paying the commercial networks..

On January 19, 1984, you telephoned me refusing my request under "equal opportunities", allegedly on the advice of the attorneys of the Public Broadcasting Service, on the grounds that the debates was a "bona fide news event."

I informed you I would be filing a complaint with the Federal Communication Commission, since you are licenced by that body and subject to its rules and regulations.

I should like to inform you further that I telephoned Ms Nancy Hendry, an attorney in the office of PBS General Counsel, who was present on January

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it at the hearing of my lawsuit against the House Democratic Caucus and PBS. She indicated that her office had sent out an "opinion" prior to the telecast to the effect that the "Debate" was a "bona fide news event" but she added that the responsibility for determining whether that "opinion" was valid was with the producing TV stations and not with PBS.

To ascertain whether the the LaRouche Campaign was expending campaign funds, I obtained a flyer, a photocopy of which I enclose, and subsequently inquired whether it was being paid for by Federal Matching Funds as well.

I was informed that the LaRouche Campaign claimed it qualified for Matching Funds and intended to apply a portion of them, when received, to pay for this telecast.

As to the House Democratic Caucus, whose staff is paid from Federal government authorized and appropriated funds, I was given to understand by a source who insisted on anonymity, that the arrangements were in fact made by the joint National-House Democratic Caucus, whose co-chairmen are Gillis W. Long and Robert S. Strauss. Its Honorary Co-Chairmen includes Charles T. Manatt, Chairman of the Democratic National Committee and its "Private Members" include a host of influential members of the Democratic Party who are not Members of Congress but media publicists.

Under the circumstances, it is evident that the Debate was carried out as a partisan campaign, misappropriating Federal public funds, and that the entire cost must be reimbursed by the Democratic National Committee to the Corporation for Public Broadcasting, the PBS and to your station and TV Station WGBH.

I enclose photocopies of the LaRouche flyer, of the membership of the National-House Democratic Caucus and of a page 44 from the Congressional Staff Directory. The latter two photocopies clearly identify the interlocking of the House Democratic Caucus and of the National-House Democratic Caucus.

I invite your special attention to the presence of Representative Charles Schumer on the Board of Advisors of the National-House Democratic Caucus. You are, of course, already aware of his own role, and that of his aide, Michael Timmeny, in completely organizing and arranging this telecast.

Under the circumstances, I must contend that you relinquished control over this debate and, despite the "opinion" of the PBS attorneys, you are fully responsible for illegally contributing services of great monetary value to the partisan political campaigns of some pre-selected Democratic candidates, who are my opponents, to the irreparable harm of my own campaign.

Finally, I invite your attention to the testimony given by the Federal Election Commission to the Federal Communication Commission opposing, repeat opposing, the Rule Change adopted on November 8 and released on November16, 1983 (See BC Docket No. 82-564, paragraph 7, page 4 for a summary).

I shall allege against you the forgoing and other charges in my complaints to the Federal Communication Commission and to the Federal Election Commission, with the latter of which I have already filed a complaint against you and Station WGBH and others.

Sincerely,

Stephen A. Koczak

Stephen A. Koczak
Candidate for the Office
of President of the
United States

Enclscures: As Stated.

R40046102 6

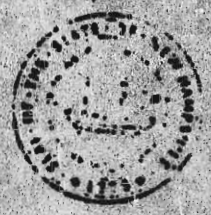
(2)

57

The State of New Hampshire

WILLIAM M. GARDNER
SECRETARY OF STATE

ROBERT P. AMBROSE
ASSISTANT SECRETARY OF STATE



Department of State

State House - Room 204
Concord Tel. 271-3242

December 30, 1983

Mr. Stephen A. Koczak
P.O. Box 11656
Washington, D.C. 20008

This is to acknowledge your filing as a DEMOCRATIC candidate for PRESIDENT OF THE UNITED STATES.

Your name will be printed on the Presidential Primary Ballot as:

STEPHEN A. KOCZAK

Sincerely,

Wm. Gardner

William M. Gardner
Secretary of State

R 4 0 4 0 4 6 1 0 2 7

STATEMENT OF CANDIDACY

83 DEC 13 P 3: 3[illegible]

58

(See reverse side for instructions)

1. (a) Name of Candidate (in Full)

STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Name [illegible] AND FILED

3. Party Affiliation

Democrat

4. Office Sought

President

5. District & State of Candidate

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 (Year of Election) election.

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)

KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak

(Signature of Candidate)

December 13, 1983

(Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR —

President mail to:

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

U.S. Senate mail to:

Secretary of the Senate
119 D Street, N.E.
Washington, D.C. 20510

U.S. House of Representatives mail to:

Clerk of the House
1036 Longworth Office Bldg.
Washington, D.C. 20515

For further information contact:

Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

FEDERAL [illegible]

8 4 0 4 0 4 6 1 0 2 8

59

NATIONAL HOUSE DEMOCRATIC CAUCUS

Co-Chairmen
Gillis W. Long Robert S. Strauss

Honorary Co-Chairmen
Thomas P. O'Neill, Jr.
Charles T. Manatt
Tony Coelho

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Kent Hance (Texas)
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Marcy Kaptur (Ohio)
Barbara Kennelly (Connecticut)
John LaFalce (New York)
Mickey Leland (Texas)
Sander Levin (Michigan)
Mel Levine (California)
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Dave McCurdy (Oklahoma)
Matthew McHugh (New York)
Buddy MacKay (Florida)
Norman Mineta (California)
Parren Mitchell (Maryland)
Jim Moody (Wisconsin)
Bruce Morrison (Connecticut)
Mary Rose Oakar (Ohio)
Dave Obey (Wisconsin)
Richard Ottinger (New York)
Timothy Penny (Minnesota)
Claude Pepper (Florida)
Bill Richardson (New Mexico)
Marty Russo (Illinois)
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FILE 8404046102 9

(60)

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8 4 0 4 0 1 6 1 0 3 0

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"... Consists of the entire Democratic membership of the House."

Rep. Gillis W. Long (D LA—8), Chairman

Rep. Geraldine A. Ferraro (D NY—9), Secretary

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Lynn, John E. — Executive D
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National Campaign Director
Edward Spannaus
Treasurer

P.O. Box 2150, G.P.O. New York, N.Y. 10116, (212) 247-8820

62

Noted
Chas

FOR IMMEDIATE RELEASE
For more information call:
Christina Huth, Stephanie Ezrol
(212) 247-8820 ext. 807

LaRouche to Address the Nation On Jan. 21

WASHINGTON, D.C., Jan. 11—Democratic presidential candidate Lyndon H. LaRouche, Jr. has announced that his campaign organization will purchase a half-hour of prime national network television time on Jan. 21, which the candidate will use to inform the American population of the growing danger of a pre-emptive nuclear strike from the Soviet Union. LaRouche's announcement of the Jan. 21 television address, which will be mass distributed in all 50 states over the next 10 days, reads as follows:

LaRouche Declares U.S. National Emergency

"Democratic presidential candidate Lyndon H. LaRouche, Jr. will use a half-hour of nationwide television time to inform you of what any President of the United States should be telling you right now.

"Since Soviet President Yuri Andropov dropped from sight, nearly five months ago, a military junta has taken full charge in Moscow. They are using their growing military superiority over the United States to take control of large chunks of Western Europe and the Middle East. They are moving rapidly toward a nuclear showdown with President Reagan—bigger and far worse than 1962. Moscow is confident that President Reagan, under pressure from 'Neville Chamberlains' like Averell Harriman, Walter Mondale, and the 'New York Times,' will be forced to back down to Soviet demands.

"You and your grandchildren do not necessarily have to be slaves of a Russian Empire. We can defend ourselves, prevent our allies from being gobbled up, and probably force Moscow to negotiate on the basis of President Reagan's March 1983 anti-missile defense doctrine, if Democrats would rise up now and shout loud and clear, 'Democrats are patriots, too!' The sons of the Democratic constituencies—young workers and young farmers and the children of labor and farm families—have always been in the front lines in the defense of the nation.

"If we mobilize our sick economy as President Roosevelt began to do in 1939, and unleash an 'Apollo'-style buildup of weapons to destroy missiles fired against the United States, we have a very good chance of surviving. Hear Democratic statesman LaRouche. If you agree with what he says, then call the White House and your Congressman and tell them so."

Democratic presidential candidate Lyndon H. LaRouche, Jr. will address the nation Saturday evening, Jan. 21 on CBS-TV:

```
In Washington, DC, January 21, 1984, Channel 9, 11:30 PM
                                 or   Channel 11, 8:30 PM
```

8404041032

Authorized and paid for by The LaRouche Campaign, Edward Spannaus, Treasurer

63

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 23, 1984/ January 24, 1984

TELEPHONE 202 363-4750

Craig C. Donsanto, Esquire
Director, Election Crimes Branch
Public Integrity Section
Criminal Division, Department of Justice
315 Ninth Street, N.W.
Washington, D. C. 20530

Dear Mr. Donsanto:

On January 18, 1984, I mailed you a copy of my Compliance Complaint and Petition filed with the Federal Election Commission on January 18, 1984.

I have prepared a Complaint today, which I shall be carrying to the Federal Communication Commission tomorrow, January 24, 1984 under its own rules and regulations. I enclose a copy thereof.

I have also prepared an amendment to my complaint with the Federal Election Commission, based on information I uncovered in preparing my complaint with the Federal Communication Commission.

I am enclosing both of those documents.

You will find particularly interesting the information which I uncovered about the existence, alongside the House Democratic Caucus, of another organization, called the "National-House Democratic Caucus" The facts about its existence and membership are included in the complaints which I shall be filing tomorrow.

Sincerely,

Stephen A. Koczak

Enclosures: As stated.

Note: This letter was prepared on January 23, 1984 but the filing of the complaints took place on January 24, 1984.

84040461033

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 5, 1984

Douglas M. Steenland
Verner, Liipfert, Bernhard and McPherson
1660 L Street, N.W., Suite 1000
Washington, D.C. 20036

MUR 1617

Dear Mr. Steenland:

On February 28, 1984, the Office of General Counsel received a letter from you requesting an extension of time in which to answer the notification of complaint against your clients Dartmouth College and the Nelson A. Rockfeller Center for the Social Sciences.

The Office of General Counsel grants your request for an extension of time. Therefore, the response will be due March 9, 1984, as indicated in your letter.

If you have any questions, please contact Deborah Curry, the attorney assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8404046103 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 5, 1984

David M. Ifshin
Carolyn U. Oliphant
Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

MUR 1617

Dear Mr. Ifshin and Ms. Oliphant:

On February 23, 1984, the Office of General Counsel received a letter from you requesting an extension of time in which to answer the notification of complaint against your client Mondale for President.

The Office of General Counsel grants your request for an extension of time. Therefore, the response will be due March 9, 1984, as indicated in your letter.

If you have any questions, please contact Deborah Curry, the attorney assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8404061035

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 6, 1984

Steven R. Ross
General Counsel to the Clerk
Office of the Clerk
U.S. House of Representatives
Washington, D.C. 20515

Re: MUR 1617

Dear Mr. Ross:

On March 2, 1984, the Office of General Counsel received a letter from you requesting an extension of time in which to answer the notification of complaint against your client the House Democratic Caucus.

The Office of General Counsel grants your request for an extension of time. Therefore, the response will be due March 9, 1984, as indicated in your letter.

If you have any questions, please contact Deborah Curry, the attorney assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

8404046103 6

Benjamin J. Guthrie
Clerk

M. Raymond Colley
Deputy Clerk

Office of the Clerk
House of Representatives
Washington, D.C. 20515

March 2, 1984

Dear Ms. Curry:

Please find attached a copy of a letter that is being hand delivered to Mr. Charles Steele today.

Sincerely,

S R Ross

Steven R. Ross
General Counsel to the Clerk

Attachment

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Benjamin J. Guthrie
Clerk

M. Raymond Colley
Deputy Clerk

GCC #1790

Office of the Clerk
U.S. House of Representatives
Washington, D.C. 20515

March 2, 1984

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

ATTENTION: Ms. Deborah Curry
In Re: MUR 1617

Dear Mr. Steele:

By letters dated January 25, 1984 and February 10, 1984, you notified Congressman Gillis W. Long, as Chairman of the House Democratic Caucus, of the Commission's receipt of a complaint lodged by Stephen Koczak.

I am presently preparing a response, on behalf of Congressman Long, and hereby request that the time for such response be extended to March 9, 1984. This extension will permit this office to properly review the record of a recent proceeding before the United States District Court for the District of Columbia which is discussed in Mr. Koczak's submission.

It is my understanding that legal counsel for Dartmouth College has previously been granted an extension of time coterminous with this request. Therefore, the Commission's consideration of Mr. Koczak's submission will not be delayed by the granting of this request.

Sincerely,

Steven R. Ross
General Counsel to the Clerk
U.S. House of Representatives

COUNSEL FOR CONGRESSMAN GILLIS W. LONG

SRR/sep

8404046103 8

Office of the Clerk
U.S. House of Representatives
Washington, D.C. 20515

OFFICIAL BUSINESS

R 40404610

HAND DELIVER

Benjamin J. Guthrie
CLERK, U.S. HOUSE OF REPRESENTATIVES

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

t the Clerk
of Representatives
, D.C. 20515
Business

8 4 0 4 0 4 6 1 0 4

Benjamin J. Guthrie
CLERK, U.S. HOUSE OF REPRESENTATIVES

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

ND DELIVER

RECEIVED AT THE FEC
GCC#1766
84 FEB 24 P4:

LAW OFFICES
VERNER, LIIPFERT, BERNHARD AND McPHERSON
CHARTERED
SUITE 1000
1660 L STREET, N.W.
WASHINGTON, D.C. 20036
(202) 452-7400

JAMES H. VERNER
EUGENE Y. LIIPFERT
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OF COUNSEL
LISLE C. CARTER, JR.
MERRITT RUHLEN
WHITNEY GILLILLAND
JOHN D. GREENWALD*
DAVID E. MENOTTI
*NOT ADMITTED IN THE DISTRICT OF COLUMBIA
PRACTICE LIMITED TO FEDERAL MATTERS

CABLE ADDRESS: VERLIP
TELEX 90-4154 VERLIP-WSH

WRITER'S DIRECT DIAL NUMBER
452-7476

84 FEB 28 A9:58

February 24, 1984

8404061041

BY HAND

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

Re: MUR 1617

ATTN: Deborah Curry, Esq.

Dear Mr. Gross:

On behalf of the Trustees of Dartmouth College ("Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences ("Center"), I respectfully request an extension of time from February 28, 1984 until March 9, 1984 to respond to the amended complaint filed by Mr. Stephen Koczak in the above-captioned enforcement proceeding. Dartmouth and the Center both received copies of Mr. Koczak's amended complaint on February 13, 1984 so that, pursuant to 11 C.F.R. § 111.6(a), each party's response to the complaint is due on February 28, 1984.

Good cause exists for grant of the requested extension of time. The undersigned, as counsel for Dartmouth and the Center, did not receive a copy of the Koczak complaint until February 22, 1984. In addition, because of prior commitments, the undersigned has been and will be out of town for much of the period between February 22 and February 28, 1984. Accordingly, in order to provide Dartmouth and the Center with a meaningful opportunity to demonstrate that the Federal Election Commission should take no

action on the Koczak complaint, the Federal Election Commission should permit Dartmouth and the Center until March 9, 1984 to submit their responses to the Koczak complaint. Grant of this modest extension of time should not prejudice the complainant in any fashion, since the alleged wrongdoing arises from a single past event related to the New Hampshire Presidential Primary to be held on February 28, 1984.

Enclosed please find a Statement of Designation of Counsel by the Trustees of Dartmouth College.

Please contact the undersigned if you have any questions regarding this matter.

Sincerely yours,

Douglas M. Steenland

Enclosure

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RECEIVED AT THE FEC
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84 FEB 24 P 4: 25

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR _____

NAME OF COUNSEL: Douglas M. Steenland

ADDRESS: Verner, Liipfert, Bernhard and McPherson
Suite 1100
1660 L Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202-452-7476

84 FEB 28 A 9: 58

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

February 21, 1984

Date

TRUSTEES OF DARTMOUTH COLLEGE,
By
College Counsel CARY P. CLARK
Signature

NAME: Trustees of Dartmouth College

ADDRESS: P. O. Box 31
Hanover, NH 03755

HOME PHONE

BUSINESS PHONE: 603-646-2444

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LAW OFFICES
R, LUPFERT, BERNHARD AND McPHERSON
CHARTERED
SUITE 1000
1660 L STREET, N. W.
WASHINGTON, D. C. 20036

HAND DELIVERED

84 FEB 24 P4:38

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

BY HAND

ATTN: Deborah Curry, Esq.

84040161004

Gen'l 1730

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

MUR 1617
Curry

RECEIVED
FEB 23 P4:29
OFFICE OF THE GENERAL COUNSEL

February 23, 1984

8404046104 5

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Gross:

On February 11, 1984, the Committee received an amended complaint in MUR 1617. Our response to the allegations contained in the original and amended complaint is due on February 27, 1984.

Because of the demands placed on Committee staff during the days immediately preceding the February 28 New Hampshire primary, we are unable to file a response on time.

Therefore, the Committee respectfully requests an extension of time of 15 days in which to file a response.

Sincerely,

David M. Ifshin
General Counsel
Mondale for President

Paid for by Mondale for President, Inc.

for President
sconsin Avenue, N.W.
ton, D.C. 20007

R 4 0 4 0 1 0 4

MONDALE

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Johnson

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/JODY C. RANSOM JCR

DATE: JANUARY 23, 1984

SUBJECT: ORIGINAL COMPLAINT - MUR 1617

The attached has been circulated for your information.

Attachment

8404046104 7

Submitted in Triplicate
Mail 1617

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-4750
Also (202) 686-0953

January 17, 1984

RECEIVED
FEDERAL ELECTION COMMISSION
1984 JAN 20 P 2: 32

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

Dear General Counsel:

COMPLIANCE COMPLAINT AND PETITION

Under Title II, Code of Federal Regulations, Paragraph 111.4, Complaints (2 U.S.C. 437 g (a) (1) and other pertinent statutes, regulations and rules, I am filing this complaint against the Congressional Democratic Caucus, the Corporation for Public Broadcasting, the Public Broadcasting Service, Dartmouth College, Darthmouth College's Rockefeller Center for the Social Sciences and its Public Policy program, New Hampshire Public Television, located on the premises of the University of New Hampshire, and Public Television Station, WGBH, located in Boston, Massachusetts, the McNeil/Lehrer News Hour and other programs funded directly or indirectly, in whole or in part, by the Corporation for Public Broadcasting. I am also filing a complaint against the eight candidates who appeared on the so-called "Dartmouth College Debate" and against Messrs Ted Koppel and Phil Donohue.

In compliance with Paragraph 111.4, I state under oath the following:

1. I am a candidate for the office of President of the United States, filing with the Federal Election Commission on December 13, 1983. On December 28, 1983, I filed with the Secretary of State in New Hampshire for the Presidential Primary to be held in that state on February 28, 1984 and

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so denominated herein as "House Democratic Caucus"

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have received official notification from that Secretary of State that my name will appear on the Presidential Primary Ballot as "Stephen A. Kocsak". (Documentation of these facts appear as Attachments 1 and 2.)

2. The House Democratic Caucus, chaired by Representative Willis Long of Louisiana, by not complying with, and observing, the provision in the definition of "political committee" contained in Title 11, CFR, Paragraph 100.5 (a) and 2 U.S.C.431 (c) illegally and knowingly established itself as a "political committee" while failing to register as such with the Federal Election Commission. Inter alia, the House Democratic Caucus established a Committee on which prominent members of the House of Representatives served, this Committee chaired by Representative Charles Shumer of New York.

3. This Committee chaired by Representative Shumer carried out functions not related to the legislative processes authorized by Article I of the Constitution of the United States but participated in organizing partisan political activities relating to Presidential primaries, activities which under the Separation of Powers prescribed by the Constitution are wholly outside the Constitutional functions of the House of Representatives.

4. This Committee further ordered and supervised personnel paid out of Federal funds to organize, influence, manipulate partisan political activities relating to Presidential Primaries in violation of the Federal Election Campaign Laws, including the "Federal Election Campaign Act Amendments of 1979", PL No. 96-187.

5. All Caucus members are members of Congress and most voted for the said "Campaign Act Amendments of 1979". Therefore they must be considered

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as fully conversant with its provisions, including the definition of "political committee" and the requirement that an "political committee" expending more than $1,000 a year must register with the Federal Election Commission.

6. The Caucus authorized and expended more than $1,000 in Federal funds, including the salaries of Alvin From, Michael Timmeny and Leo Coco, among others, on Presidential primaries, including the primary election in New Hampshire, in which I am recognized as a candidate.

7. Specifically, under the direction of the Representatives Willis Long, Charles Shumer, with the knowledge of Tip O'Neil and other senior members, the Caucus used the services of Alvin From, Michael Timmeny and Leo Coco, and other employees paid from Legislative Branch Federal funds, together with Federally owned buildings, rooms, telephones, office machinery, stationery to communicate with the Corporation for Public Broadcasting, the Public Broadcasting Service, Dartmouth College and the Rockefeller Center at Dartmouth which provided services and facilities for a program not related in an way to legislation or the legislative branch of government but related to publicizing the views of certain pre-selected Presidential primary candidates participating in the Presidential primary to take place in New Hampshire. (See attachments 3 and 4) 8. The Corporation for Public Broadcasting receives major funding from Congressionally authorized and appropriated funds. In the House of Representatives, the members of the Democratic Caucus are chairmen of the authorization and appropriation committees and subcommittees providing these funds, reputedly nearly $130,000,000 this fiscal year.

9. The Corporation for Public Broadcasting, fully aware of the Public

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Laws regarding Presidential elections nevertheless permitted itself to be influenced by the House Democratic Caucus to "fund" the Dartmouth College Debate limited to eight pre-selected Presidential candidates.

10. Thus, in a "conflict of interest" situation, the Corporation for Public Broadcasting contracted to expend Federal funds, originating from Congressional authorizations and appropriations, to televise and broadcast a debate on behalf of certain pre-selected candidates. Thereby it contributed materially, significantly and illegally to the funding of the primary election campaigns of the eight presidential candidates appearing on the televised and broadcast Dartmouth College Debate to the harm of other candidates, whose Constitutional and statutory rights were violated.

11. The Public Broadcasting Service, incorporated at the behest and on the advise of the Public Broadcasting Corporation, collaborated with the Congressional Democratic Caucus, the Corporation for Public Broadcasting, Dartmouth College and Rockefeller Center programs and with the New Hampshire Public Television Station and Station WGBH, Boston, to produce and distribute the Dartmouth College Debate nationwide.

12. Dartmouth College, its Trustees, its President, its Rockefeller Center provided facilities to the Dartmouth College Debate, and agreed to co-sponsor with the Congressional Democratic Caucus a debate limited to eight pre-selected candidates, despite the fact that the Trustees, President and the Rockefeller had been apprised through the press that there were additional candidates certified by the New Hampshire Secretary of State. Moreover, the President of Dartmouth College had received a communication from Presidential Candidate Stephen A. Koczak complaining of this arrangement as a violation of his rights under the Federal Election

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Laws. (Candidate Kocsak's letter to President McLaughlin appears as Annex 5 hereto.)

13. Having failed by all other means to protect his rights under the Constitution of the United States, Article II, Amendment I and XIV, Presidential Candidate Stephen A. Kocsak sought to obtain a restraining order to prohibit the broadcast on January 15, 1984 if he were excluded. (The complaint filed "pro se" appears as Annex 6 hereto)

14. Judge Norma Holloway Johnson denied his petition on January 14, 1984 on the grounds that the Federal District Court of the District of Columbia did not have jurisdiction.

15. Candidate Kocsak appealed the decision but was denied redress by the Appellate Court. (A Washington Times news report of the hearing and appeal appear as Annex 7 hereto. NOTE: The last paragraph of that report stating Kocsak was denied ballot access by certain named states is inaccurate)

16. At the hearing ordered by Judge Johnson, the Congressional Democratic Caucus was represented by Barry J. Reingold of the firm of Perkins, Cole, Stone, Olsen & Williams; the Public Broadcasting Service, incorporated under the laws of the District of Columbia, was represented by Theodore D. Frank, one of its employee attorneys; and the Trustees and President of Dartmouth College were represented by Douglas M. Steenland; moreover, Judy Newman, associated with Station WGBH, was represented by Nicholas W. Fels and Eric Brass, a member of the Massachusetts bar who sought admission pro hac vice.

17. Thus, prior to the debate and its telecast, the House Democratic Caucus, Public Broadcasting Service, Dartmouth College, its Trustees and

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President, and co-producer WGBH were all apprized through the proceedings at the hearing of January 14, 1984 of their alleged violations of the Constitution and of the Federal Election Statutes by their participating in a partisan Presidential campaign activity allegedly illegally co-sponsored by the House Democratic Caucus and Dartmouth College, funded by the Corporation for Public Broadcasting, considered a "quasi-Federal governmental institution", co-produced by Station WGBH and distributed nationwide by the network of the Public Broadcasting Service.

18. Therefore, these parties involved were fully aware through counsel that Candidate Kocsak alleged that their actions were illegal, that their services were contributions to the funding of the campaigns of the participants and that Kocsak's rights as a candidate legally on the ballot in New Hampshire were about to violated irreparably.

19. Though aware from the proceedings through legal counsel attending the hearing, the Caucus, PBS, Dartmouth College, Station WGBH, and the Public Broadcasting Service nevertheless proceeded to hold and telecast the debate.

20. As to Judge Norma Holloway Johnson's ruling of lack of jurisdiction, that is a matter to be resolved in other competencies than the Federal Election Commission. Candidate Stephen A. Kocsak contends that the House Democratic Caucus, located in a House Annex, its agents, including Michael Timmeny, an aide to Representative Charles Shumer, housed in the Cannon House Office Building, and the Public Broadcasting Service, incorporated in the District of Columbia are all under the jurisdiction of the Federal District Court for the District of Columbia.

21. Relevant to the jurisdiction of the Federal Election Commission is

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this complaint relating to the illegal provision and expenditure of contributions, not reported to the Federal Election Commission, to the funding of the campaigns of the pre-selected eight candidates permitted to participate in the debate.

22. Moreover, by participating in a partisan, repeat partisan, political debate excluding from the premises other presidential candidates, the eight pre-selected candidates accepted and expended funds, albeit their origin is illegal according to Candidate Kocsak.

23. Further, Candidate Kocsak calls particular attention to the fact that, in the instant circumstances, the contribution and the expenditure of most of the funds were contemporaneous, in that most of the services received by the pre-selected eight candidates and the services expended through telecommunication were identical and instantaneous.

23. By repute and report in the press and communication media, all eight of the pre-selected candidates are entitled, or seeking entitlement, to Federal matching funds.

24. Under the statutes, those receiving Federal matching funds are limited by a ceiling in the amount they may legally expend in any primary election campaign.

25. According to a recent estimate by the Federal Election Commission, the total amount permissable in New Hampshire for candidates receiving Federal Matching Funds is approximately $392,000.

26. The value contributed and expended on behalf of the candidates by the House Democratic Caucus, the "quasi-governmental" Corporation for Public Broadcasting, Public Broadcasting Service, New Hampshire Television Station and Station WGBH and Dartmouth College Trustees, is a significant

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contribution, perhaps already exceeding the spending limit permitted those candidates receiving Federal Matching Funds.

--PETITION--

On the basis of the foregoing complaint, in order to protect the public interest, uphold the Constitution and the statutes, and, in my situation as a qualified Presidential candidate to extend to me the protection of the laws against further irreparable damages, I petition the Federal Election Commission as follows:

1. To obtain from the House Democratic Caucus as expeditiously as possible a complete report on the monies or other contributions of value resulting from its authorities, orders, activities, assignments of Members, of its own paid staff, of the paid staff of any Democratic Representative to the preparation, organization and participation in the Dartmouth College Debate, as well as a determination as to who insisted and why to limit the Debate to eight pre-selected candidates in the New Hampshire presidential primary even after New Hampshire Secretary of State on January 3, 1984 had certified more candidates.

2. To obtain from the Corporation for Public Broadcasting copies of all its contracts, expenditures, and administrative transactions with the House Congressional Caucus, with the Public Broadcasting Service, New Hampshire Television Station and Station WGBH in Boston, Massachusetts, with Dartmouth College and any other person or organization involved in the Dartmouth College Debate.

3. Similarly to obtain from the Public Broadcasting Service any and all documents relating to costs, including contracts, travel of its own personnel, leased lines, and any other administrative or other costs

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involved in the Debate.

4. To obtain the same kind of information from New Hampshire Television Station, including use of its mobile transmitters, and from TV Station WGBH.

5. To obtain from the Trustees and President of Dartmouth College an accounting of the value of the contributions made directly or indirectly by the College or its programs to the Debate.

6. To obtain a copy of the transcript of the Hearing before Judge Norma Holloway Johnson, of her decision and of the decision of the Appellate Court.

7. To obtain statements from the eight pre-selected candidates as to any understandings, arrangements, agreements they may have made, either directly or through their staffs, with the members of the Caucus, or any employee working for a House Member of the Caucus, the Corporation for Public Broadcasting, Public Broadcasting Service and/or any other facility contributing to the Debate as to the value of these contributions.

8. To obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, contacts, undertakings and agreements reached with any of the parties mentioned in this complaint.

8.To determine or estimate the approximate value of all the services, facilities and activities undertaken or completed by all the parties named in the complaint.

9. To establish what the pro rata monetary value or benefit of this debate is, or will be, to each of the eight pre-selected candidates.

10. To determine whether these contributions or benefits already exceed the limit of expenditures by each of the candidates entitled to Federal Matching Funds and, in the event they do, so to notify the

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candidates.

II. To take necessary legal action, including notification of the Attorney General of the United States of this complaint not only of possible violation of Federal Election Law but also the violation of other laws concerning the prohibition of the use of government funds to foster partisan political goals; to require the House Democratic Caucus to register immediately with the Federal Election Commission as a "political committee"; and to impose such penalties as may be appropriate for unauthorized involvement of the Caucus with the Corporation for Public Broadcasting and the other parties in a partisan manner in Presidential Primary Campaigns.

—OATH—

I swear that to my knowledge and belief, based on reliable sources, the foregoing is correct.

Sincerely,

Stephen A. Kozak
2932 Macomb Street, N.W.
Washington, D. C. 20008

Subscribed and sworn to before me this 17th day of January, 1984

Lucy J. Holt
Notary Public, D.C.

My commission expires April 14, 1988

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STATEMENT OF CANDIDACY

(see reverse side for instructions)

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RECEIVED AND FILED

DEC 19 1983

1. (a) Name of Candidate (in Full)

STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Identification No.

3. Party Affiliation

Democrat

4. Office Sought

President

5. District & State of Candidate

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 election (Year of Election)

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)

KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak

(Signature of Candidate)

December 13, 1983

(Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of Title 18 §437g.

CANDIDATES FOR —

President mail to:

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

U.S. Senate mail to:

Secretary of the Senate
110 D Street, N.E.
Washington, D.C. 20510

U.S. House of Representatives mail to:

Clerk of the House
1036 Longworth Office Bldg.
Washington, D.C. 20515

For further information contact:

Federal Election Commission
Toll Free 800-424-9530
Local 202 523-4068

FEC FORM

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(2)

The State of New Hampshire

WILLIAM M. GARDNER
SECRETARY OF STATE

ROBERT P. AMBROSE
DEPUTY SECRETARY

Department of State

State House - Room 204
Concord Tel. 271-3242

December 30, 1983

Mr. Stephen A. Koczak
P.O. Box 11656
Washington, D.C. 20008

This is to acknowledge your filing as a DEMOCRATIC candidate for PRESIDENT OF THE UNITED STATES.

Your name will be printed on the Presidential Primary Ballot as:

STEPHEN A. KOCZAK

Sincerely,

Wm. Gardner

William M. Gardner
Secretary of State

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Koppel, Donahue to Moderate Debate

8 Hopeful Democrats on TV Sunday

By Martin Schram
Washington Post Staff Writer

For a grateful nation bereft by the prospect of a day without professional football, the House of Representatives' Democratic Caucus is presenting a televised debate Sunday starring the eight Democratic presidential candidates, with Ted Koppel of ABC News and talk show host Phil Donahue as moderators.

"We wanted to make it interesting," said Rep. Charles E. Schumer (D-N.Y.), who chaired the caucus project. " . . . And it was my idea to do it this Sunday, because now people who are accustomed to watching Sunday football on TV may watch this instead. Their choice will be bicycle racing in Italy, mud-wrestling in Japan or the presidential candidates in New Hampshire."

The event will be telecast live from Dartmouth College in Hanover, N.H., on the Public Broadcasting System from 3 to 6 p.m. (EST).

Advisers to former vice president Walter F. Mondale, the Democratic front-runner, who originally resisted the program's format, predicted that viewers may find it hard to distinguish between mud-wrestling and presidential debating. The Mondale camp is not pleased with the debate's free-wheeling, celebrity-controlled format, but most of the other candidates' advisers say it suits them just fine.

"We know the other candidates will all be jumping on Mondale," said Maxine Isaacs, Mondale's deputy campaign manager and press secretary. "We expect that."

Paul Tully, Mondale's deputy campaign manager for field operations, added, "The other candidates will adopt the strategy of pushing reasons why people should not vote for the guy who's ahead. That's fair politics. But in football, it's called piling on."

For the first 90 minutes, the candidates will be free to question or criticize each other, with no ground rules other than the mediation and interrogation—and interruption—by Koppel, moderator of ABC's Nightline.

The second 90 minutes will feature questions from a carefully screened audience expected to number about 400 that will be guided and shaped by Donahue, whose daytime talk show has won a large following with discussions that cover, among other things, the travails of transvestites, disputes over capital punishment and the lives of male strippers.

Mondale campaign officials made their objections known to the House officials weeks ago, and only reluctantly agreed to participate. They said they would have preferred a more traditional political debate format, with questions by a panel of journalists or academicians.

"We have no problem with the format," said Sen. John Glenn's (D-Ohio) communications director, Greg Schneiders. "The caucus has been criticized for making it into a Phil Donahue Show. But then, every other presidential debate has been criticized for being boring and dull."

Top officials for the other candidates welcomed the event, saying they thought the unconventional format would work to their benefit.

"It's an opportunity for those of us who are behind in the polls—the dark-horse candidates—to strut their 'stuff,' said former senator George McGovern's (D-S.D.) press secretary, Mark Kaminsky. "It's the Donahue part that makes it unconventional. I know the typical Donahue show—but I assume he's going to approach this seriously . . . . It's not quite as though they were going to have Merv Griffin."

Sen. Alan Cranston's (D-Calif.) press secretary, John Russenello, said: "It's out of the control of the candidates—and that makes it riskier. But I think it can be terrific having Donahue. He goes into an audience and gets involved with whatever's asked."

Sen. Gary Hart's (D-Colo.) deputy campaign manager, David Landau, praised the format as "an opportunity for a dark horse to get his message across . . . in a real probing of a candidate's views, depth and character." Hart press secretary Kathy Bushkin expressed hope that Donahue's presence would attract more women viewers; Hart is making a strong appeal for the votes of women.

House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.) initially raised objections to Donahue as a moderator. "On the Donahue part, Tip needed some convincing," said Schumer. "But now he's taking a leap of faith with us."

Schumer said that the idea of using Donahue came from television producer Norman Lear, who served on an advisory panel, but in an interview Lear denied it, saying that he had wanted Koppel to do the entire event.

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c/a.

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The Washington Post STYLE

The Arts/Television/Classified C1

Saturday, January 14, 1984

DYNAMIC DUO OF DEBATE

On the Air

Donahue & Koppel Referees For the Democratic Face-Off

By Tom Shales

IF WORSE COMES to worst, and in television it so often does, Phil Donahue and Ted Koppel can always interview each other. Koppel will moderate the first half, and Donahue the second half of a three-hour forum featuring all eight Democratic presidential hopefuls on Sunday afternoon. Live, from New Hampshire, it's the Super Bowl of blab.

Koppel says Donahue is "a very bright man" and that "I don't know anyone better as an interlocutor between a studio audience and a guest." Donahue says Koppel is a "brilliant interviewer" and that "Nightline," the ABC news show that Koppel hosts, is "a helluva show, the best thing to happen to network news since '60 Minutes.'" Not everyone may be as fond of this pair as they profess to be of each other, however. There have been mutterings to the effect that the choice of moderators, especially in Donahue's case, is too showbizzy.

Perhaps some people fear that with Donahue and Koppel at the helm, the broadcast won't be boring enough, the way political debates traditionally tend to be. The debate will air on public TV Sunday afternoon at 3, a secret the three commercial networks appear determined to keep. They failed to mention the telecast on their morning news shows yesterday; one referred to the big free-for-all as a "statewide" debate. Networks are such worms.

But Donahue is raring to go. Donahue is always raring to go. He's a perpetual rarer, a gray tornado. And yes, he says the Phil Donahue facing off against eight Democratic presidential hopefuls will be the same Phil Donahue who has paraded with Nazis, transvestites, male strippers and Jerry Falwell on his syndicated daily talk show. The program is in its 16th year and now seen on 206 stations in the United States and Canada. As the tough but decorous Koppel is without peer of late-evening news figures, the shaggy and rambunctious Donahue is without peer at productive group mayhem.

Donahue says that in his best daytime-TV manner he will forage about and attempt to rev up an assembled studio audience (a cross section of voters who are not active in any campaigns right now, or so it is being claimed), although he regrets there won't be as much revving-up time as he would like. "I want the opportunity off the air to say to them, 'We're glad you're here, be brief, we want your participation,' and so on," Donahue says. "I want to create an atmosphere in which people are willing to contribute."

Koppel says he doesn't look down on the Donahue segment or the attempt to pull the audience into the fray. "We've found that folks in an audience have a way of asking plain, blunt, simple questions that cut through the bs in ways that the complex nonsense we journalists devise does not," Koppel says. The original idea for the event, co-sponsored by Dartmouth College and the House Democratic Caucus, was to divide it into two debates of 90 minutes each, with Koppel (who was signed first) and Donahue running completely different shows.

But then, Koppel says, someone realized that the second debate would air opposite the Super Bowl "and it

See AIR, C9, Col. 1

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THE WASHINGTON POST Saturday, January 14, 1984

Debate & Donahue

AIR, From C1

seemed pointless to do it for the seven or eight people who might not be watching the football game." Asked if three hours of political debating may be more than even the most devout political junkie would want, Koppel says, "In a word, yes, but that's their choice."

Donahue thinks the tune-in will be high. "We're between the playoffs and the Super Bowl so you don't have any blockbuster television on the other channels," he says. "I think this has a chance of doing very, very well. I don't think this'll do badly. I truly don't."

Shocking as it sounds, some American politicians over the years have been known to show just the teensiest weensiest proclivity toward prolixity. Will Donahue step in and, if necessary, shut them up? "I'll try," he says. "One of my jobs is to make sure one candidate doesn't become William Jennings Bryan. But we're going to rely on the common sense of the candidates, too. I think most of them are aware that if a candidate talks too much, that can curry disfavor in the eyes of the viewer. This can't be a series of confrontations between the host and the candidates, but if I feel a candidate hasn't answered a question, I'm free to suggest that he hasn't."

Perhaps it is beginning to sound as though the organizers of the debate are courting anarchy. But they are trying to avoid mistakes made by the League of Women Voters in the heavily structured political debates of the 1980 election year. "I commend the caucus," Donahue says. "They're trying to get out from under the League of Women Voters' formats. The League has done its best but the debates were really very very wooden and very, very rigid. Elephants designed by a committee of mice. There was some valuable television there, but everyone was hampered by the very, very rigid, often mechanical format that this program will attempt to rise above."

Koppel recalls being invited to moderate a League debate among party honchos two years ago. "It was the most excruciatingly boring exercise I've ever been involved with," Koppel says. "When everything is done according to the clock, when you pose a question and then sit back and let them all fill their time to answer come hell or high water, the result can be very boring." Donahue says, "The League has done us a lot of good but here is the first attempt to say, 'Let's all relax,' not put a clock on anybody, trust in the candidates' common sense, and not insist that everybody gets exactly the same amount of time on the air."

In November, the Federal Communications Commission (FCC) voted a special election-year provision in the section of the Communications Act (Section 315) that requires a TV station to give "equal time" to every single candidate for a public office if it gives time to any one of them on the air. The commission ruled that debates, whether organized by networks or by outside parties, are exempt from the rule, thus paving the way for the kind of "great debates" held between Kennedy and Nixon in 1960 (though not guaranteeing the debates will occur, because Reagan could refuse to participate on any grounds dreamed up by his troops).

Incredibly enough, the League has challenged this FCC ruling with the U.S. Court of Appeals. With any luck, the court won't rule until the election is over. The League will subject us all to its 18th-century debates or die trying. The Koppel-Donahue format was tailored for television, and that's as it should be. Lincoln and Douglas would have adapted to television, too, if it had been around.

Donahue, for his part, is having his own tussle with 315. The FCC has made a number of specific exemptions in recent years so the rule will not inhibit news coverage of campaigns. It has exempted the morning news programs (NBC's "Today" show, ABC's "Good Morning, America" and "The CBS Morning News") but in 1980 refused a request for an exemption by Donahue and his staff.

Thus, although Donahue taped an hour with presidential hopeful and international adventurer Jesse L. Jackson last week, the program will not be shown in Donahue's own town, Chicago. CBS owns the station that airs Donahue there, and CBS lawyers felt Jackson's appearance would lead to appeals from all the other candidates for equal time. Officially, Jackson has not filed the papers necessary for candidacy in every state.

WDVM-TV (Channel 9), which carries Donahue in Washington, will air the Jackson session Thursday at 9 a.m.

"This is something that's bugged me for the entire history of my show," says Donahue of the 315 obstacle. "These rules are very muddy, probably unenforceable, and they deny candidates free access to the most important vehicle of communications we have, television. We're penalized because we're a syndicated program, not a network program. There's a pro-network bias to the rules. If I were on PBS, I'd get relief, but in the Washington view, news is 'network' and syndication is Richard Simmons. And we think that's unfair. I agree with Ronald Reagan: we have too much government. And nowhere is that more manifest than in this 315 regulation."

Donahue concedes there may be some prejudice against his show in particular because it has featured such a wide variety of flora and fauna—bi-, tri-, quadri- and omnisexuals, Ku Klux Klansmen and, just last week, male models parading around in lingerie for men. "We do fashion shows, we've had male strippers," Donahue says. "But Lionel Hampton has appeared on 'Today,' and 'Good Morning, America' has fashion shows, too. An awful lot of People magazine types pop up on these network morning shows."

The Donahue people are trying to get President Reagan to appear on their show, "under any circumstance at all," Donahue says, but preferably in Chicago, mixing it up with the studio audience as other Donahue guests have done. Asked about this request, Mark Weinberg of the White House press office said, "There's nothing currently on the president's schedule" as far as a Donahue appearance goes. Asked if it were a possibility, Weinberg became surly and unpleasant. Not a lot of trickle-down charm over there.

Donahue notes that the president said yes to Merv Griffin but has so far said no to Donahue. But if Donahue doesn't get Reagan before Jan. 29, when Reagan is sure to declare his intention to run again, he can forget about it anyway, because then the equal-time provision will kick in and Donahue will have to have all candidates or none.

"If you're smart at all, under this system, you wait and declare your candidacy at the last possible moment because you'll get more free TV time that way," Donahue says. "We say, 'Let's try this. Let's open the door. The world will not come to an end.' " Donahue says he has hired a Washington communications lawyer to work on the case at the FCC. Milton Gross, chief of the FCC's fairness and political programming branch, says the Donahue decision could be reconsidered but that the FCC ruled against him in 1980 partly because political guests are featured only occasionally, not regularly, on the show.

For the moment, tomorrow's debate is uppermost in Donahue's mind. "The biggest part of the challenge is to keep the thing moving," he says. "I hope I feel I'm in a familiar place. Three is a crowd in this kind of situation. Eight is a *mob*."

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-[illegible]

January 9, 1984

David T. McLaughlin,
President, Dartmouth College,
Hanover, New Hampshire, 03755

Dear President McLaughlin:

I am writing both as a matter of principle and as a principal with interest in the New Hampshire presidential primaries for which the filing closed on January 3, 1984.

On December 28, 1983, I telephoned your office to obtain a place on the presidential candidate debate program scheduled for January 15 and was informed that this was being coordinated by the Nelson A. Rockefeller Center for the Social Sciences.

On telephoning that Center, I was informed that the entire arrangements were being handled by a Mr. Michael Timmeny in Representative Charles Schumer's office.

When reached, Mr. Timmeny rejected my request for participation in this debate on the grounds that access was limited to aspirants who met certain so-called "national" standards, such as qualification for Federal Matching Funds, the possession of a nationwide campaign organization, or benefit of a significant national media attention or significant national poll rating.

I filed with the Federal Election Commission on December 19, 1983 and, obviously, have not been able, as yet, to report to the Commission the results of my trip to the states of Illinois, Oregon, Washington, California, Iowa, Nebraska, Massachusetts, New Hampshire or Florida, all completed within three weeks. In fact, because of the Christmas and New Year Holidays, few of the clippings of the many news reports and columns about my trip are available to me even now.

Nevertheless, I have been admitted to the New Hampshire primary and I am filing a suit to be admitted to the Florida primary.

My suit against the Florida authorities is generated by their flagrant violation of my rights under the First and Fourteenth Amendments. It is based on the precedent of the successful suit filed by Senator Eugene McCarthy in his complaints against the State of Texas (McCarthy versus Briscoe) as well as his later successful suit against the State of Florida regarding the general elections. You will find a full account of the Constitutional issues and the decision of Supreme Court Justice Powell in the American Bar Association Journal, August, 1977, pages 1108 and following.

The access issue in the case of Senator Eugene McCarthy is identical with that in my case both in Florida and in the debate sponsored by Dartmouth College--denial of a right to me to present, in a forum afforded to others, and a concurrent denial of a right to voters to receive from me, in that forum, alternative proposals for an electoral platform which they might prefer over those proffered by my rivals.

Unfortunately, as in the historic case of Dartmouth College itself, when in 1816 it had to resort to the courts to protect its Constitutional rights, I must now expend in lawsuits and protests my time and financial resources, time and resources which I should have available exclusively to address the voters. This impediment is itself a violation of my civil and

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political rights, an impediment difficult ever to redress given the pressures of Democrat National Chairman Charles Manatt.

Even more unfortunately and reprehensibly, the House Democratic Caucus, while claiming to wish as open a debate as possible, is in alliance with the Chairman Charles Manatt to stifle debate and to foreclose any presentation of new ideas.

Allegedly, the main motive of Chairman Manatt and the House Caucus is to compress the primary campaign out of a fear President Reagan will benefit from a full debate among Democrats. This itself is an undemocratic attitude, devised from the propaganda perspectives of paid political commercials, instead of a rational debate.

You are undoubtedly aware of the justified resistance in the matter of primary dates of the aroused citizens of Iowa and New Hampshire to Mr. Manatt's arbitrary and obstinate decisions, reminiscent of the behavior of King George III toward the "colonists". Nevertheless, with your appparent, even if only tacit consent to this debate format, you are permitting, however unwittingly, the electorate in New Hampshire and in the nation, to be misled to believe that there are only certain very limited valid platforms and only eight viable candidates from whom to choose, all incidentally friends and associates of Mr. Manatt or of prominent members of the House Democratic Caucus.

I believe that, as the president of a college founded to spread knowledge originally even in the wilderness and to the unlettered, of a college which fought for its own Constitutional rights, you should sympathize with my insistence that the democratic principles of access to the people is paramount in the present circumstances.

You will understand, as I am sure the faculty and students at Dartmouth will understand, that I cannot accept this attempt to foreclose debate and to manipulate by this insidious propagandistic media device the presentation of options to the people of New Hampshire.

Even more insidious is the circumstance that the debate will be transmitted live through all the public broadcast facilities, whose funding comes at least partially from monies provided by Congress, including members of the House Democratic Caucus which controls authorizations and appropriations in that body. This is a serious abuse of the rules of impartiality which should govern such events and raises a question as to the possible ulterior funding motives of the PBS authorities who are permitting this telecast in this forma.

In fact, in this program it is as much the rights of all citizens and taxpayers as of my own which are being infringed, and Dartmouth College should in no measure be a party to this dismal role of the oligarchs on Capitol Hill and of party boss Manatt to manipulate access to the electorate.

I pray you will not permit this planned infringement of open debate on your campus, a campus still dedicated to the free circulation of knowledge and the profession of the liberal arts and sciences.

Let us face honestly the moral and civil issue involved here. This is a primary election campaign and it is manifest and incontrovertible that the purpose of a presidential primary election is not the same as that of a general election. Its principal purpose is not even to select the party's nominee. It is to afford an opportunity for alternative party platforms to be discussed, so that the delegates to the nominating and platform

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convention can bring the wisdom and the will of the citizens to formulating rational and relevant proposals, following a full display by rival aspirants of different options.

I therefore call upon you either to withdraw from the sponsorship of this debate if access to it continues to be arbitrary or to arrange for another debate with equivalent time and facilities afforded to me, and to others similarly situated, so that we too are given the same democratic rights as are enjoyed by those aspirants favored by the national Democratic Party leadership.

Because I have been detained to file my suit against the authorities in Florida, I am now mailing this request to you from Washington, D.C., with copies to the other parties concerned. Within the next few days, however, I shall be arriving in Hanover where I hope to have the honor of receiving a favorable reply from you personally.

I am enclosing as examples of the partiality and prejudice of the press two December 29, 1983 reports, one from The Washington Post the other from the Manchester Union Leader. The contrast is overwhelming. The prejudice of the Washington Post is even more evident in the letter written to me by Benjamin C. Bradlee, Executive Editor of The Washington Post, dated December 15, 1983. As you will note, the Washington Post delayed any report on my candidacy for two full weeks.

I also enclose photocopies of ostensibly the same Associated Press report carried by the Miami Herald and the Fort Myers News-Press on January 4, 1984. You will note that the Miami Herald omitted completely the Associated Press paragraphs regarding me.

Yet, under the widely proclaimed, so-called "fair" rules used by the various Secretaries of State to determine whether any candidate has a national following or is pursuing a national campaign, The Washington Post and the Miami Herald are the only papers "clipped" for the District of Columbia and for Florida.

Thus does our politically prejudiced press manipulate the election processs.

I hope that, as the President of Dartmouth College, you will not assist this vicious and prejudiced suppression of the truth and that you will join me in seeking genuine liberty of expression.

In that hope and expectation, I close with the request that you receive me at Dartmouth when I arrive.

Sincerely,

Stephen A. Koczak

Enclosures: As reported in text

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SUMMONS IN A CIVIL ACTION

(6)

United States District Court

FOR THE

District of Columbia

Complaint 28 pages

84-0146

CIVIL ACTION FILE NO. _____

Leigh C. Kerzak, Candidate

Plaintiff

v.

Randy McLaughlin, Principal Dartmouth College et al

Hanover, New Hampshire
Newport, New York
Washington DC

Defendant

SUMMONS

To the above named Defendant : Judy Newman; Public Broadcasting Service
Newport, New York & Washington DC

You are hereby summoned and required to serve upon

Leigh C. Kerzak, pro se
plaintiff's attorney, whose address 2432 Pleasant Street NW, Washington DC 20009

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JAMES F. DAVEY

Clerk of Court

Date: _____ (Seal of Court)

NOTE — This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

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United States District Court
For the District of Columbia
Office of the Clerk
3rd and Constitution Avenue, N.E.
Washington, D. C. 20001

James F. Davey
Clerk

NOTICE OF RIGHT TO CONSENT TO TRIAL BEFORE A UNITED STATES MAGISTRATE

In accordance with the provisions of Title 28, U.S.C. §636(c), you are hereby notified that the United States Magistrates of this District Court, in addition to their other duties, upon the consent of all parties in a civil case, may conduct any or all proceedings in a civil case, including a jury or nonjury trial, and order the entry of a final judgment.

You should be aware that your decision to consent, or not to consent, to the referral of your case to a United States Magistrate must be entirely voluntary. Only if all the parties to the case consent to the reference to a Magistrate will either the Judge or the Magistrate to whom the case has been assigned be informed of your decision.

An appeal from a judgment entered by a Magistrate may be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a District Court. Alternatively, upon consent of all parties, an appeal from a judgment entered by a Magistrate may be taken directly to a District Judge. Cases in which an appeal is taken to a District Judge may be reviewed by the United States Court of Appeals for this judicial circuit only by way of petition for leave to appeal.

James F. Davey

JAMES F. DAVEY
Clerk of the Court

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Stephen A. Koczak, Candidate for President of the United States for the Democratic Party Nomination
2912 Macomb Street N.W. Washington DC 20008
Plaintiff

v

David T. McLaughlin, President of Dartmouth College
Judy Newman, of Public Broadcasting Service
Michael Timmeny, Aide to Congressman Charles Shumer
The Democratic House Caucus
Public Broadcasting Service
Dartmouth College

84- 0146

Civil Action No.

FILED
JAN 13 1984
CLERK U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

FILED
JAN 14 1984
JAMES F. DAVEY, Clerk

Motion for temporary restraining order heard, and DENIED. Norma Holloway Johnson Judge January 14, 1984

COMPLAINT-PETITION TO OBTAIN RESTRAINING ORDER

Plaintiff, Stephen A. Koczak, a candidate for the office of President of complaining of defendants herein, applies to, petitions and moves this Court for an order restraining the telecast and the holding of the so-called Dartmouth College Debate, scheduled to be presented this Sunday, January 15, 1984 at Dartmouth College, In havoer New Hampshire and respectully alleges:

1. This Court has jurisdiction to issue this restraining order because the action involves participation in a Federal Election governed by Article II of the Constitution concerning the election of the President of the United States

2. Plaintiff is a fuly qualified candidate for that office, having certified with the Federal Election Commission on December 13, 1983 of his intention to seek that office and having filed successfully with the Secretary of State for New Hampshire on December 28, 1983 and been admitted to the New Hampshire primary to be held on February 28, 1984.

3. Defendants, individually and on behalf of their organizations have sought to deny Plaintiff participation in a debate to be held on Sunday, January 15, 1984 at Dartmouth College and, in so doing, have seriously impaired his opportunity to seek the offie of President, thus violating the provisions of the First and Fourteenth Amendments to the Constitution of the United States.

4.

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4. Defendants are all officers of Public institutions or educational organizations benefitting from tax revenues or deductions from taxes for contributions thereto, under Acts of Congress and the code published by the Internal Revenue Service. Moreover, Michael Timmeny is an employee of Representative Charles Schumer and receives income from authorizations and appropriations of the Congress of the United States.

5. Defendants, by evasions and circumventions, have obstructed access of the Plaintiff to the Dartmouth College Debate. The Public Broadcasting Service, which receives funding in part from the Congress, is in a "confict of interest" situation by dealing ex parte and exclusively with a paid employee of the Congress who has sought to deny access of a Presidential candidate to the Dartmouth College Debate.

6. As Plaintiff's affidavit clearly states, the Federal Election Commission, though notified of the other likely violations of law, including the contribution of services and assets to the benefit solely of candidates favored by the Democratic Caucus, nevertheless finds itself unable to act to provice relief to the Plaintiff.

7. Thus, because of the imprimatur given to the "eight" candidates admitted to the Caucus by such prestigious bodies as Dartmouth College, the House Democratic Caucus and Public Broadcasting Service, Plaintiff is irreparably harmed by his exclusion from the broadcast. This harm applies not only in New Hampshire but also in the other states, whose Secretaries of State rely on reputation and media notoriety in determing which candidates should be admitted automatically to the primary ballots and which candidates must expend funds in order to obtain petitions at great cost and effort.

8. Plaintiff, not having access to an attorney to represent his case, and having been disadvantaged by deliberate delays and evasions by defendants McLaughlin and Timmeny, is forced to plead this case per se and petitions the court to accept his affidavit as part of this petition for an injunction requiring a stay of the debate unless he is admitted as a participant.

Stephen A. Koczak

Stephen A. Koczak, Plaintiff

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United States District Court
for the District of Columbia

Stephen A. Koczak, Candidate for President of the United States for the Democratic Party Nomination 3932 Macomb Street NW, Washington DC 20016 Plaintiff	84- 0146
v	Civil Action No._____
David T. McLaughlin, President of Dartmouth College Udy Newman of Public Broadcasting Service Michael Timmeny, Aide to Congressman Charles Schumer The Democratic House Caucus Public Broadcasting Service Dartmouth College Defendants	FILED JAN 1 [illegible] CLERK, U.S. DISTRICT COURT DISTRICT OF COLUMBIA

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Points and Authorities
in support of
Plaintiff's Motion for Preliminary Injunction and
Other Emergency Relief

Plaintiff, Stephen A. Koczak, petitions the court to accept his affidavit as part of his points and authorities, particularly the reference to the suits brought by Presidential Candidate Eugene McCarthy against the states of Florida and Texas. The text and the outcome of these suits can be found in the American Bar Association Journal, August, 1977, pages 1108 and following. Supreme Court Justice Powell wrote the opinion in the case of Eugene McCarthy on behalf of the Court.

Plaintiff also cites Title 11 of the Federal Code regarding the holding of Federal elections, calling special attention to Paragraph 114.4 (2) (b) (11) which reads as follows:

> "If a Presidential candidate is permitted on the premises, all candidates for that office who request to appear must be given the same opportunity to appear".

Because of the absence of time and attorney, Plaintiff cannot cite speficially violations of Federal statutes prohibiting the use of Federal government funds, such as in the case with Mr. Michael Timmeny, to influence

a Federal election. However, there are general provisions regarding the separation of these funds and prohibiting their use for partisan purposes. In this case, an ex parte arrangement with the Public Broadcasting Service to hold a debate and to televise it without permitting equal access to other Presidential aspirants.

As to the format of the debate, Plaintiff cites Title 11 of the Federal Code, Paragraph 110.13 regarding Debate Structure, which states that such debates "do not promote or advance one candidate over another". This debate structure places candiate Koczak, the Plaintiff, at a disadvantage and promotes or advances other candidates at his expense.

Stephen A. Koczak

Stephen A. Koczak
Plaintiff
pro se

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CLERK, U.S. DISTRICT COURT

CERTIFICATE OF SERVICE

This is to certify that copies of this complaint-petition to obtain a restraining Order, of the Points and Authorities and of the proposed Order have been duly served by first class mail or delivered by hand to defendants David T. McLaughlin, Judy Newman, Michael Timmary, The Democratic House Caucus, Public Broadcasting Service, and Dartmouth College this 13th day of January, 1984. Further, in light of the urgency of the pleading and request for the Order, the defendants have been notified also telephonically.

Stephen L. Kogan
Plaintiff
pro se

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DISTRICT OF COLUMBIA

AFFIDAVIT

I, Stephen A. Keesak, a native citizen of the United States, born November 13, 1917, in Trenton, New Jersey and now resident at 2[illegible] Macomb Street, N.W., Washington, D. C. do state and swear that the following are correct in substance and in detail to the best of my knowledge.

1. I am a candidate for the office of President of the United States as a member of the Democrat Party and the Secretary of State of New Hampshire accepted my application on December 28, 1983 and has published that my name is enrolled in the Presidential Primary to be held in New Hampshire on February 28, 1984. (Attachment 1)

2. I have dutifully, consistently and actively traveled widely throughout the United States to have my name similarly enrolled in the Presidential Primaries of other states.

3. On December 27, 1983 I wrote to the Secretary of State of Florida asking that my name be placed on the ballot for the Presidentil Primary in that State (Attachment 2) and on January 3, 1984 I met with the Deputy Secretary of State, Dr. Dorothy Glisson, reaffirming my candidacy and requesting my admission as a candidate to the Florida primary election. (Attachments 3 and 4)

4. My request was denied by the Florida Secretary of State and only the "list of eight" officially fostered by the Democratic National Committee and by the House of Representatives Democratic Caucus was transmitted by the Florida Secretary of State to, and approved by, the Florida Election Commission. (Attachment 5)

5. From my conversations with Dr. Glisson, it was apparent that the

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Secretary of State and the Election Commission, comprised of the leading Democratic Party officials in Florida (and their Republican counterparts) were unduly influenced by the actions of the Democratic National Committee and by the House of Representatives Democratic Caucus in excluding my name from the ballot.

6. The House Democratic Caucus, together with the authorities of Dartmouth College, the Nelson A. Rockefeller Center for the Social Sciences, an official program of Dartmouth College, and the Public Broadcasting Service, which receives funds authorized and appropriated by Congress, are now proceeding to act further in a way to influence not only the electorate in New Hampshire, where I am a candidate for the office of President, but the electorate in other states and the Secretaries of State of other states in a manner adversely affecting and seriously and irremediably harming my own rights under the First and Fourteenth Amendments to the U. S. Constitution as a candidate.

7. On December 28, 1983, I telephoned the office of President David T. McLaughlin asking that I be included in the "Dartmouth College Debate" and was informed that I should turn to the Nelson A. Rockefeller Center for the Social Sciences which was coordinating the debate. The Center denied it was coordinating the debate and stated the entire program was besing handled by Mr. Michael Timmeny, an aide to Representative Charles Shumer. (Subsequently, I was given to understand that Representative Shumer was acting as chairman of a subcommittee of the House Democratic Caucus and that he had assigned Mr. Timmeny, his aide paid out of U.S. government funds and using U.S. government facilities, to coordinate the "Dartmouth Debate".

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8. Mr. Timmeny rejected out of hand my request for admission to the debate and stated categorically he would not receive me or discuss further my possible participation in the debate.

9. After the rejection of my request to be placed on the Florida ballot and learning of the manner in which the House Democratic Caucus was improperly intervening in the primary campaigns and seeking to deny admission to the primary ballot of candidates other than those approved by it, I wrote to President David T. McLaughlin on January 9, 1984, asking that Dartmouth College withdraw its co-sponsorship of this telecast and the provision of its facilities because, given my exclusion, these actions were improperly prejudicial to my own candidacy. Alternatively, I asked that Dartmouth College "arrange for another debate with equivalent time and facilities afforded to me, and to others similarly situated." (Attachment 6)

10. Failing to hear from President McLaughlin I telephoned him, on January 11, 1984, "person to person" but was told he was in conference. Subsequently, an aide and, I was later told, his legal counsel, Mr. Cary Clark telephoned me saying that President McLaughlin was answering my letter by telegram with confirmation letter copy to follow.

11. During the course of our conversation, I asked Mr. Cary Clark to include in the telegram an estimate of the monetary value of the services being provided by Dartmouth College to the House Congressional Caucus and to the Public Broadcasting Service. I hoped, and expected, that similar services, equivalent in monetary value, would be provided to me and the other candidates in connection with an equivalent future debate. (Attachments 7 and 8, being photocopies of correspondence with Mary Jane Gallagher of the MacNeil/Lehrer News Hour carried on the Public

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Broadcasting Service network, refer in part to this conversation with Mr. Clark.)

12. Not having received from President McLaughlin either the promised telegram or letter copy, I telephoned both President McLaughlin and Mr. Gary Clark "person to person" several times on January 12, 1984. I was repeatedly told both were either in conference, at lunch or out of town.

13. Finally, a lady identifying herself as "Ms Clark" claimed to know that a letter had been sent to me, "regular mail", on January 11, 1984 and said she would read its text to me. (The text was evasive and avoided answering any of my questions and concerns.) I remonstrated that Mr. Clark had promised to send me a telegram and that, as Mr. Clark knew, I wanted a written text in hand to pursue this matter with the Public Broadcasting Service, with the House Democratic Caucus and with the Federal Election Commission. Therefore I considered the omission of a telegram a willing circumvention of a commitment by President McLaughlin and Mr. Clark, intended to frustrate my timely action to resolve the issue of the "Dartmouth College Debate" before it became moot. I asked that she urgently communicate this message to President McLaughlin and Mr. Clark.

14. I immediately telephoned Chairman Lee Ann Elliott of the Federal Election Commission, recounting my understanding of the arrangements made for the Dartmouth College Debate and my belief that, because of the denial of access to me and other candidates to the Debate, these services constituted contributions to the election campaigns of the "eight". I also raised the queston whether Representative Charles Schumer and Mr. Michael Timmeny were not in violation of the law in using government funds and facilities to arrange and influence a debate excluding some candidates.

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15. I added that, by subsidizing the selective participation of only some candidates , Dartmouth College, PBS and the House Democratic Caucus were circumventing and subverting the limitation on expenditures in the New Hampshire primary by the "eight", all of whom were receiving Federal Matching Funds. Thus, both as contribution and as expenditure, the Dartmouth Debate was a violation of law.

16. Chairman Elliott replied that my argument that, under the circumtances of my exclusion, the monetary value of the services provided by Dartmouth College, Public Broadcasting Services, Mr. Timmeny and Mr. Koppel as moderator, did appear to be contributions to the campaigns of the invited "eight". However, since the Federal Election Commission could not act without a sworn complaint from me, I should submit such a sworn statement and inlude in it, if at all possible, a report of the approximate value of the services given by Dartmouth, the Rockefeller Center, Public Broadcasting Service, Mr. Timmeny and Mr. Koppel and others involved.

17. As to the violation of my rights and the issue of the legality of Mr. Timmeny's role, the Federal Election Commission had no jurisdiction over those matters. Nor did the Commission have any power to assure that my rights under the First and Fourteenth Amendments were protected. I would need to turn to the Federal Courts to uphold those rights.

18. As to relief prior to the Dartmouth Debate, or even subsequently, Chairman Elliott said that the Federal Election Commission had no means to intervene prior to the Dartmouth Debate and would need to await a filing, or failure to file, of a report of contributions by Dartmouth and the other parties, including the "eight".

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19. Seeking to obtain the information Chairman Elliot requested regarding monetary value, I telephoned "Nightline". A Ms "Fleischer" who answered confirmed that Mr. Koppel was the moderator of the Dartmouth Debate. When I asked whether he was contributing his services or paid, she told me to inquire with Mr. Michael Timmeny in Representative Charles Shumer's office for the information. She said "Nightline" had no part in the Dartmouth Debate--Mr.Timmeny was in charge of all arrangments with all the participants. Mr. Timmeny would know whether Mr. Koppel was being paid or whether he had been asked to contribute his services. I asked whether "Nightline" had Mr. Timmeny's telephone number. She gave me the number I had been given earlier by the Rockefeller Center of Dartmouth College, a telephone in Mr. Shumer's Congressional office--225-6616.

20. I telephoned Mr.Timmeny's office but was told he was unavailable. A secretary working for Representative Shumer took my message that I was requesting from him official information to supply to the Federal Election Commission and asked that she note the time and content of my telephone call in the event a subpoena was issued for confirmation of my call.

21. On January 12, I also telephoned Public Broadcasting Service in New York and was informed that Ms. Judy Newman was coordinating the Dartmouth Debate for PBS. She was in Boston, 617-492-2777.

22. On January 13, Ms. Newman returned my call from Boston.I informed her of the contents of this affidavit and that I felt that PBS was also in a conflict of interest" situation by dealing exclusively and ex parte with the House Democratic Caucus, which holds part of the power of purse over PBS. I understood that PBS had arranged with Mr. Timmeny, a person paid out of government funds and claiming to act for, and on behalf of the majority

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of Congressional Representatives organized as the House Democratic Caucus, to sponsor a discriminatory and prejudicial telecast of three and a half hours, with tape made available to other broadcasters for repetition and publication.

23. I emphasized that I was requesting participation in the Dartmouth Debate or timely equivalent facilities from PBS. Under present arrangements my candidacy would be irremediably harmed not only in New Hampshire but with the Secretaries of State of the various states holding primaries who would be improperly persuaded, as the Florida Secretary of State appears to have been persuaded, that there are only "eight" legitimate Democratic Party candidates. Unless I had assurances of participation in the Dartmouth Debate or, alternatively of timely, equivalent facilities from PBS, I planned to be in Federal Court to seek an injunction staying the Debate. Since she was named as coordinator for PBS, I would be asking that she and other employees be enjoined from participation in, or transmitting, the debate by television or radio or other media. She said she would transmit my requests for participation in the Dartmouth Debate, or alternatively timely equivalent facilities, to the PBS attorneys.

24. Having exhausted all other remedies, to avoid irreparable damage, my only recourse is an injunction to stay the Debate.

Stephen A. Koczak
January 13, 1984
pro se

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KOCZAK FOR PRESIDENT COMMITT.

P.O. BOX 1656
WASHINGTON, D.C. 20009

TELEPHONE 202 361-4700

FILED

December 28, 1983 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Declaration of Candidacy Deposited with the Secretary of State, New Hampshire.

I, Stephen A. Koczak, declare that I am domiciled in 2932 Macomb Street, N.W., in the city of Washington, D. C., in the District of Columbia and meet the qualifications for the office for which I am a candidate; that I am a registered member of the Democratic Party; that I am a candidate for nomination for the office of President of the United States to be made at the primary election to be held on the 28th day of February, 1984; and I hereby request that my name be printed on the official primary ballot of said Democratic party as a candidate for such nomination.

Stephen A. Koczak

840461081

THE RIGGS NATIONAL BANK OF WASHINGTON D.C.

CASHIER'S CHECK

No. 657218

23 December 1983

Pay to the order of ~~*****~~Secretary of State, New Hampshire~~******************~~ $1,000.00~~*****~~

Dollars

(For Stephen A. Koczak)

⑈657218⑈ ⑆054000030⑆ 01⑈09220704⑈

STATEMENT OF CANDIDACY

83 DEC 13 P3:53

(see reverse side for instructions)

RECEIVED AND FILED

1. (a) Name of Candidate (in Full)

STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Identification No.:

3. Party Affiliation

Democrat

4. Office Sought

President

5. District & State of Candidate

DEC 19 1983

MARCH FONG EU, Secretary of State
H. D. - SACTO.

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 (Year of Election) election.

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)

KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak
(Signature of Candidate)

December 13, 1983
(Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 §437g.

CANDIDATES FOR —

President mail to:	U.S. Senate mail to:	U.S. House of Representatives mail to:		
Federal Election Commission 1325 K Street, N.W. Washington, D.C. 20463	Secretary of the Senate 119 D Street, N.E. Washington, D.C. 20510	Clerk of the House 1036 Longworth Office Bldg. Washington, D.C. 20515	For further information contact:	Federal Election Com Toll Free 800-424-55 Local 202-523-4063

FEC FORM 2

R 4 0 4 0 1 6 1 0 8 2

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX [illegible]
WASHINGTON, D.C. 20045

TELEPHONE [illegible]

December 27, 1983

The Honorable George Firestone,
Secretary of State, Florida,
The Capitol,
Tallahassee, Florida, 32304

Dear Secretary Firestone:

Please accept this communication as the official notification of my candidacy for the office of President of the United States as a member of the Democratic Party.

I filed with the Federal Election Commission on December 13, 1983.

Beginning on December 14, 1983, in order to organize my campaign nationwide, I traveled to Chicago, Illinois; to Portland, Salem, and Eugene, Oregon; to Seattle, Washington; to San Jose and Sacramento, California; to Des Moines, Iowa; to Omaha, Nebraska; and to Boston, Massachusetts.

In those states I notified the respective Secretaries of State, or other competent authorities, of my candidacy.

I shall be filing with the Secretary of State, New Hampshire, tomorrow, December 28, 1983, and proceeding to Florida on December 29, 1983. I shall visit West Palm Beach, Fort Lauderdale, Tampa/St. Petersburg and Miami before traveling to Tallahassee, where I should like to meet with you on January 3, 1984. Thereafter, I shall go to Boston, Massachusetts to file with the Secretary of the Commonwealth there.

I appreciate the likely dilemma which this late communication poses for you respecting my candidacy since, obviously, neither the clipping services nor national periodicals will have reached you regarding the merits of my person or platform.

Permit me to inform you that to date, in the brief two weeks since I filed, the following newspapers carried articles about my candidacy:

December 14: The Washington (D.C.) Times;
December 17: Eugene (Oregon) Register-Guard
December 19: San Jose (California) Mercury-News
December 20: Sacramento (California) Bee
December 26: The Trenton (New Jersey) Times

The circulation of these newspapers includes the capitals of their respective states and the most important universities whose faculties, graduates and current student bodies I am already organizing for my primary campaigns. These include Princeton; Stanford; Santa Clara, Oregon; Oregon State; and San Jose University and the other institutions of the three major California college and university systems throughout that state.

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A graduate of [illegible] Course, our Army. [illegible] with [illegible] career in the military has diplomatic assignment involving some of [illegible] Latin South East Asia posts abroad, I could be relying on my College and foreign service associates for assistance. These persons are located throughout the United States.

As an example of the kinds of articles which have appeared within the brief two weeks since I announced my candidacy, I enclose a photocopy of The Trenton Times of December 20, 1985. I also enclose a somewhat longer press release with more details than the press has carried, as well as a photocopy of my filing with the Federal Election Commission and a brief biography. These are to complete whatever files you may be maintaining on candidates.

In my primary campaigns, I shall support completely the efforts of Claude Pepper to elect as many elderly delegates as possible to the Convention. My purposes go beyond even his—our elderly population has the longest and most profound memories of the domestic problems and foreign wars which our nation has experienced. Because of their wisdom and judgment, I look to them as one of the main constituencies of my primary campaigns.

I recognize the uncertainty and difficulty confronting you in deciding to include my name in the list of Democratic candidates. Perhaps I should have announced earlier. Nevertheless, as my travels and actions since December 15, 1985 indicate, I intend to run in every primary and hope to persuade you of the relevance and importance of my campaign and platform.

With your kind permission, I hope to meet with you and your staff personally on January 3, 1986. In the interval, please accept my very best wishes for a continuing happy Holiday season now and for the fastest recovery of the citrus groves during 1986.

Sincerely,

Stephen A. Kocsak

Enclosures: Four as indicated.

Carbon Copies: Deputy Secretary of Elections, Dorothy Gleason
Chairman, Election Commission, Robert Hart Jr.

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Reagan, 8 Democrats on Florida's ballot

TALLAHASSEE (AP) — Florida's 1984 political season opened Tuesday as President Ronald Reagan, former Gov. Reubin Askew and seven other Democrats earned a spot on the March 13 presidential primary ballot.

Secretary of State George Firestone Tuesday presented a list of eight Democrats and the Republican president to party leaders for final approval.

The three Democrats and three Republicans that comprise the voting members of the Presidential Selection Committee are expected to rubber-stamp the names presented by Firestone, Democratic and GOP state party aides said Tuesday.

Firestone's staff reads newspaper clippings on presidential hopefuls and then determines which candidates have received significant news coverage nationally or within Florida.

Although Tuesday's proceedings are a formality, Florida's 1984 presidential primary is a key race to some presidential campaigns.

The Florida primary, with 143 delegates to the national Democratic convention, is considered crucial for Askew's longshot bid.

Askew has promised to campaign vigorously in Florida, where he was governor from 1971-79. But his favorite-son campaign has been hurt by the fact his name hasn't appeared on the Florida ballot since 1974.

A newspaper-sponsored poll of Florida Democrats showed Askew trailed Mondale among partisan voters in Florida. The former vice president under Jimmy Carter had 32 percent of the Florida vote in the poll while Askew had 25 percent. Ohio Sen. John Glenn was third with 19 percent.

Mondale will stop in Florida with visits scheduled Friday in Jacksonville and Jan. 13 in Tallahassee.

A modified winner-take-all primary system has been adopted in Florida, allowing the winner of each of the 19 congressional districts to take all the delegates from that district. The move was seen as helpful to Askew's campaign.

But the Democratic contenders in Florida likely will have a hard battle with President Reagan, who is officially a candidate for reelection but has not said whether he will seek a second term in the Nov. 6 general election. Reagan carried Florida in 1980.

The other Democratic candidates on the Florida primary ballot, pending final approval, are: California Sen. Alan Cranston, Colorado Sen. Gary Hart, South Carolina Sen. Ernest Hollings, Rev. Jesse Jackson of Chicago and former South Dakota Sen. George McGovern.

Meanwhile, a man billing himself as a "Jeffersonian populist" sought Tuesday to have his name added to the official presidential primary list.

Stephen A. Kocmik, 66, who was in Fort Myers Monday, wrote a letter last week to state elections chief Dot Glisson asking for a spot on the Florida ballot and said he hopes to meet Tuesday with Firestone and Glisson.

No decision on his request had been made by Tuesday morning, but Glisson said she told Kocmik she would talk it over with him if he came to Tallahassee.

Note: Original AP wire report included the political "omitted" by The Miami Herald

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Fort Myers News-Press, Tuesday, January 3, 1984

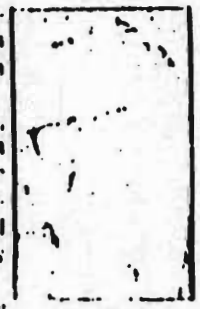
Populist enters race for U.S. presidency

By TIWANA GREENE
News-Press Staff Writer

Motivated by the "banality" of Democratic presidential hopefuls, Stephen A. Koczak says he's running for the nation's highest public office on a populist platform.

"I want to emphasize the citizens' role, as distinguished from the role of special interest," in government, Koczak says.

A retired Washington, D.C., resident, Koczak is one of a group of candidates whose names appear on the Democratic ballot in the first presidential preference primary in New Hampshire.



KOCZAK

Koczak was in the Fort Myers area Monday visiting a cousin. He said he would meet today in Tallahassee with Secretary of State George Firestone in an effort to get his name placed on the Florida ballot.

"Let's face it. I probably won't get the nomination to run, but I'm going to try to run in all the primaries."

Koczak insists he's a legitimate contender, not to be considered another Pat Paulsen (comedian who claimed to be running for president).

"By the time this is over, you'll see I'm a serious contender," Koczak said.

He is in the initial stages of his fund raising.

A retired Department of State foreign service officer, Koczak asserts that Walter Mondale is "a Democratic Tom Dewey," that John Glenn "just has no expertise in foreign policy," and that Alan Cranston "just doesn't perceive how bad a conventional war could be."

He also said his policies greatly differ from Ronald Reagan's.

A native of Trenton, N.J., Koczak says this is his first bid for elective office. Since retiring from the foreign service in 1976, Koczak has worked as a research director for the American Federation of Government Employees and as a community organizer in the Cleveland Park section of Washington, D.C.

He says he decided to run for president in early December after he failed to get specific solutions to the nation's problems from announced Democratic candidates.

Deploring the other men would "come through, elections, to office by accident, by generalities," Koczak based his bid into the presidential ring. He says, "I decided I would have a specific program."

Koczak says, "My platform will be the Declaration of Independence as drafted by the Continental Congress.

"The quickest way to restore the people's liberties is to cut taxes even more, to cut the deficit sharply and to disengage from the foreign entanglements which have led our nation into increasingly dangerous wars," Koczak declares.

Koczak promises to cut the federal deficit by $100 billion in his first year in office by trimming military spending and changing federal contract procedures.

He would "ask that all housewives be added to the Social Security rolls at once and that their pensions be computed as if they had earned $10,000 annually."

Koczak would also raise the personal income tax allowances to $4,000 and triple the number of federal judges "to speed up criminal and federal litigation," he said.

In foreign policy, the former U.S. intelligence agent would demand the Soviet Union withdraw its troops from its satellite nations and "insist that the South African government in Pretoria extend full voting rights to all its residents, irrespective of race."

He also feels the United States government should recognize the Palestinian Liberation Organization.

Listed below are the names of candidates for Florida's Presidential Preference Primary election March 13, 1984, prepared by Secretary of State, George Firestone (Section 103.101(2), Florida Statutes):

Democrat	Republican
Reubin Askew	Ronald Reagan
Alan Cranston	
John Glenn	
Gary Hart	
Ernest Hollings	
Jesse Jackson	
George McGovern	
Walter Mondale	

This list will be presented to the Presidential Candidate Selection Committee on Tuesday, January 3, 1984, at 2 p.m.

Questions may be directed to

Dorothy W. Glisson
Deputy Secretary for Elections
1801 Capitol, Tallahassee
(904) 488-7690

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

2932 Macomb Street, N.W.
Washington, D.C. 20008

TELEPHONE (202) [illegible]
also (202) 686-[illegible]

January 11, 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Ms Mary Jane Gallagher
c/o MacNeil/Lehrer News hour
Box 2626,
Washington, D. C. 20013

Dear Ms. Gallagher:

I thank you for sending the messenger to obtain the packet of material which we discussed.

I tried to reach President McLaughlin several times today unsuccessfully to arrange a meeting with him in Hanover. I shall try the rest of the day and tomorrow morning before flying to Boston and driving to Hanover.

In the meantime, The Uptown Citizen, January 12, 1984 and The Washington Inquirer, January 13, 1984 carried items about my candidacy.

The Uptown Citizen reported, inter alia, that I have drafted model legislation to resolve the increasingly tortuous problem of "confessional schools".

The Inquirer has raised the subject of my being "blacked out" by the media because of my views. You will recall that the Miami Herald omitted the AP wire report referring to me.

Even more interesting in the Florida situation is the "error" which exists on the Federal Election Commission's own listing of filing dates. I enclose a copy of the "latest" list which shows the "filing date" for Florida, meaning the last date, to be "1/16". In fact, it was January 3, 1984. I just finished speaking with Mr. Richard Thomas of the Federal Election Commission (202) 523-4055 and he was "appalled" by this circumstance, since all the candidates rely on the list compiled by the Federal Election Commission. He said that the FEC date, as it appears on the list I have photocopied and enclosed, clearly was constructed from material supplied by Dr. Glission, whose signature appears on the response to the circular request sent to her by the Federal Election Commission.

Naturally, at some point, I hope to appear on the MacNeil/Lehrer News Hour to have these problems, arising from Mr. Manatt's pressuring the Secretaries of State, reviewed. In the meantime, I am running up to Hanover on January 12 to see what I can achieve with President McLaughlin.

Sincerely,

Stephen A. Koczak

Enclosures: News items, Uptown Citizen, Washington Inquirer, photocopy of election date list distributed by FEC, effective 12/1/83 (revision of earlier list 10/26/83.

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Kozak In N Hampshire Primary-Sues Florida

Stephen A. Koczak, the only D.C. resident seeking Presidential nomination, gained access to the New Hampshire presidential primary on December 28, 1983, by filing as a Democrat with the Secretary of State in Concord.

The Manchester Union-Leader, the dominant paper in New Hampshire, reported his candidacy the next day on its front page and carried an extensive account of his platform.

On January 3, 1984, in Tallahassee, Florida, Koczak met with Dr. Dorothy Glisson, the Deputy Secretary of State for Elections in order to have his name placed on the Florida primary ballot. The meeting was reported on the front pages of most of the Florida newspapers and, following denial of his access to the Florida primary, Koczak announced that he was suing the Florida authorities on the grounds that his Constitutional rights under the First and Fourteenth Amendments had been violated.

The widespread press publicity generated in Florida by his meetings and his decision to sue has led, according to Koczak, to his being considered in Florida as the "ninth Democrat", the only other aspirant likely to sustain a challenge to the established well-publicized "recognized official eight".

On returning to Washington, Koczak immediately followed the Flor-

(Continued on page 15)

Kozak In N. Hampshire Primary - Sues Florida

(Continued from page 1)

ida development by requesting the House Democratic Congressional Caucus, which is managing the Dartmouth College democratic party debate on January 15, 1984 to admit him to the program now limited to the "recognized official eight". The Caucus refused, whereupon Koczak wrote to Dartmouth College asking that the College either withdraw its sponsorship of the debate or provide a similar televised debate to him as the "ninth" Democrat. Koczak has not as yet had a response from Dartmouth College to his request.

At the Cleveland Park Citizens Association meeting on January 7, 1984 Koczak announced that he was preparing legislation to be offered to Nebraska and other states to resolve the dispute over "confessional schools". He said that, on the basis of the Supreme Court decisions in the Texas and Minnesota cases regarding the provision and funding of "public" education, it was clear that misconceptions in existing state laws regarding "so-called public" and "so-called private and confessional" schools were caused by erroneous legal semantics. Koczak explained that these errors could be remedied easily by due regard for the explicit passages in the First and Fourteenth Amendments to the benefit of the funding and the functioning of both systems. All that was needed were prudent laws enacted by the state legislatures. [illegible]

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Washington Inquirer

Page 2— January 13, 1984—

Conservative Democrat Blacked Out by Media

As the fateful year 1984 drew near, Stephen A. Koczak, age 66, native of New Jersey, honor graduate of Harvard and long-time resident in the nation's capital, filed as a candidate in the 1984 New Hampshire Presidential Preference Primary.

Koczak had made his formal announcement in Washington, D.C. before a representative citizen's group mixed as to partisanship, ethnicity and financial background. In his prepared announcement statement Presidential Candidate Koczak said he would enter all the open primaries.

Candidate Koczak (pronounced: coke-sock) states frankly that he became involved in presidential politics ". . . because of the banality of the major candidates." He says that he hopes to emphasize "the citizens' role as distinguished from the role of special interests."

Yet he admits candidly that he has had difficulty in getting the power brokers to take his campaign seriously. After asserting to skeptics that he expects to be the candidate nominated in San Francisco, he recalls elfishly that former Democratic National Committee Chairman Robert Strauss predicted that the one who's going to win the New Hampshire race is the one who spends the least money. "That's me!" exclaims the candidate with a twinkle in his eye.

The twinkle disappears when he recalls his contact with Ben Bradlee, Executive Editor of the left-wing *Washington Post*, to whom he had turned in an effort to break the total boycott of any news concerning his candidacy. "I can't believe that you consider yourself a serious candidate," Benjamin Bradlee wrote in a seven sentence letter to Koczak. Bradlee promised to "take another look" and Stephen Koczak hopefully provided the power broker of the Washington Star Estate with all necessary information.

Finally, Editor Bradlee's paper, official organ of the radical chic establishment liberals in Washington disgorged a malicious announcement so terse—it was fully two sentences shorter than the abbreviated Bradlee letter promising to look into the matter—that it shocked even Stephen Koczak who had become hardened to this *Post* syndrome, over the years. To add insult to injury, the five-sentence announcement claimed that the "candidate was not available for comment," when the exact opposite was true. Campaigner Koczak who has received considerable publicity from newspapers who have received his materials has written off such elements of the establishment press as the *New York Times* and the *Washington Post*, but he is considering a lawsuit against the *Post* and editor Bradlee to drive home the point that even a large newspaper has the responsibility to show minimal integrity when reporting on presidential candidates.

Observers believe that the conservative thrust of Koczak's views is the primary reason that the Democratic establishment seeks to freeze him out and exclude him from the primaries. Mr. Koczak already has announced his plans to enter the Florida primary, but this has been resisted by the Florida Secretary of State, George Firestone. The Koczak campaign plans to meet such "stonewalling" with a lawsuit to force the Koczak candidacy onto the Florida primary ballot. Characteristically candid and determined, candidate Koczak views such legal actions as part of the entire proceedings necessary to open up the primary process.

Stephen Koczak, is determined not be labeled as some kind of a "nut" or Don Quixote "I'm going to confront those guys . . . Mondale is going to find he will have to confront me," he asserts. Mr. Koczak, according to Koczak is "a Democratic Tom Dewey," John Glen "just has no expertise in foreign policy," and Alan Cranston "just doesn't perceive how bad a conventional war could be."

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Presidential and Congressional Primary Dates and Candidate Filing Deadlines

~~10/26/83~~ 12/1/83

STATE	PRESIDENTIAL	FD	CONGRESSIONAL		FD	RO	IND. FD
AL	3/13	1/14	9/4	S	7/6	9/25	7/5
AK	3/13	12/28/83	8/23	S	6/1		
AZ			9/11		6/28		9/21
AR			5/29	S	4/3	6/12	4/3
CA	6/5	3/23	6/5		3/9		3/10
CO			9/11	S	7/28		9/4
CT	3/27	2/20	9/11				9/12
DE			9/6	S	7/27		9/3
FL	3/13	1/16	9/4		7/20	10/2	7/20
GA	3/13	2/20	8/14	S	6/13	9/4	7/11
HI			9/22		7/24		7/24
ID	5/22	4/23	5/22	S	4/6		5/24
IL	3/20	12/30/83	3/20	S	12/19/83		3/6
IN	5/8	3/9	5/8		3/9		3/9
IA			6/5	S	3/30		3/31
KS			8/7	S	6/11		6/11
KY			8/28	S	5/30		
LA	4/7	3/2	9/29	S	7/20	11/6	7/20
ME			6/12	S	4/1		4/1
MD	5/3	2/27	5/8		2/27		6/6
MA	3/13	1/6	9/12	S	6/5		6/5
MI			8/7	S	6/5		5/7
MN			9/11	S	7/17		7/17
MS			6/5	S	4/6	6/26	5/7
MO			8/7		3/27		8/6
MT	6/5	3/17	6/5	S	4/16		3/9
NE	5/15	3/16	5/15	S	3/16		3/23
NV			9/4		7/3		6/8
NH	2/28	1/3	9/11	S	6/20		6/20
NJ	6/5	4/25	6/5	S	4/26		4/26
NM	6/5	3/16	6/5	S	2/28		7/10
NY	4/3	2/16	9/11		7/26		8/16
NC	5/8	2/7	5/8	S	2/6	6/5	6/29
ND	6/12	4/18	6/12		4/18		4/18
OH	5/8	2/23	5/8		2/23		2/23
OK			8/23	S	7/11	9/18	7/15
OR	5/15	3/6	5/15	S	3/6		8/28
PA	4/10	1/31	4/10		1/31		4/20
RI	3/13	1/6	9/11	S	6/10		6/10
SC			6/12	S	4/30	6/26	9/13
SD	6/5	4/3	6/5	S	4/3		6/7
TN	5/1	3/6	8/2	S	6/7		6/7
TX	(R) 5/5	2/6	5/5	S	2/6	6/2	2/6
UT			8/21		4/15		5/10

KEY:

FD - Candidate Filing Deadline
RO - Run Off Election
IND-FD - Independent Candidate Filing Deadline
S -- Senate

8404061-091

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

2932 Macomb Street, N.W.
Washington, D. C. 20008

TELEPHONE (202) 686-0953

January 11, 1984

Ms Mary Jane Gallagher
c/o MacNeil/Lehrer News Hour
Box 2626,
Washington, D. C. 20013

Dear Ms. Gallagher:

About a quarter hour after I mailed my earlier letter to you, I received a telephone call from a Mr. Cary Clark, assistant to President McLaughlin.

He said the President was sending me a response by telegram, copy by mail, and wanted my address. He replied, when I asked whether I could see President McLaughlin, that this was impossible because the President was "fully scheduled" for the rest of the week through Sunday.

He said that Dartmouth had nothing to do with the arrangements and that he was informing me of that for the President. All the arrangements had been made by the Rockefeller Center. In any case, various student bodies had already invited individual candidates who had already appeared.

I replied that my point was that the Rockefeller Center was an official program of the College and that I hoped, really expected, an invitation from that Center with the same facilities and arrangements as it had made with the Congressional Caucus. Cary Clark said he believed that President McLaughlin would be making that point to the Center. In any case, he undertook to report my views to President McLaughlin.

I asked whether President McLaughlin would see me after the telecast some time next week so that we could discuss this issue together with the officers of the Center. He said he did not know but would ask President McLaughlin to consider this request.

I find no point of going to Hanover under these circumstances and shall plan to call on President McLaughlin after the telecast. I expect PBS and the Rockefeller Center to be as fair with the other candidates as it was with the powerfully connected "eight".

In any case, after I receive the telegram, I shall send you a photocopy. In the meantime, I shall be pursuing my suit against the Florida authorities. If the Washington Post continues its tendentious reports about me, especially its falsehood that I was not available, I shall file a suit against the Post on the grounds its reporting is intentionally malicious.

Sincerely,

Stephen A. Koczak

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(7)

The Washington Times

PAGE 4A / MONDAY, JANUARY 16, 1984

Washington resident is balked in bid to join Democratic debate

BY A WASHINGTON TIMES STAFF WRITER

Barred from yesterday's nationally televised Dartmouth College debate for Democratic presidential candidates was District resident Stephen A. Koczak, a conservative Democrat who has filed as a candidate with the Federal Election Commission and qualified for the New Hampshire presidential primary ballot on Feb. 28.

Mr. Koczak, a former career foreign service officer for 30 years, lost a last-ditch federal court effort Saturday to force the House Democratic Caucus, sponsor of the debate, to include him on the three-hour program, which was broadcast by the federally funded Public Broadcasting System.

U.S. District Judge Norma Holloway Johnson ruled that she lacked jurisdiction in the case and denied Mr. Koczak's petition for a temporary restraining order to halt the program unless he was included as a participant.

Mr. Koczak's appeal of Judge Johnson's ruling was promptly rejected by Judges Abner J. Mikva and Malcolm R. Wilkey of the U.S. Court of Appeals for the District of Columbia.

Mr. Koczak, 60, of Macomb Street NW, is not an attorney and represented himself in the hour-long court proceeding.

He argued before the court that the decision to block him from appearing in the partisan debate violated his constitutional rights and federal campaign rules and "seriously impaired his opportunity to seek the office of president."

He said election officials in Florida, California, Illinois, Oregon and Washington had so far denied him a place on Democratic presidential primary ballots.

— George Archibald

8404061093

Johnson

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/JODY C. RANSOM JCR

DATE: JANUARY 26, 1984

SUBJECT: MUR 1617 - Supplement to Complaint

The attached has been circulated for your information.

Attachment

8404046109 4

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11696
WASHINGTON, D.C. 20008

January 23, 1984

TELEPHONE 202 363-4750

MUR 1617

84 JAN 25 P4:54

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20043

Dear General Counsel:

AMENDMENT AND SUPPLEMENT TO COMPLIANCE COMPLAINT AND PETITION

I refer to my communication, dated January 17, 1984, delivered by hand to your offices on January 18, 1984, a compliance complaint and petition regarding the House Democratic Caucus and others under Title 11, Code of Federal Regulations, Paragraph 111.4, Complaints, 2 U.S.C. 437 g (a) (1) and other pertitnent statutes, regulations and rules.

Today, under 43 FR 32795, July 28, 1978, as amended at 43 FR 45856, Oct 4, 19778; 43 FR 55769, Nov 29, 1978; BC Docket No. 82:-564, Report and Order, adopted Nov 8, released Nov 16, 1983; and Title 11, Supplement A, Par 73.1940 (h), I filed a complaint with the Federal Communication Commission.

In that FCC complaint, I identified an additional party, the National-House Democratic Caucus whom I herewith request the Federal Election Commission to make a respondent to my earlier complaint.

I request, inter alia, that pursuant to Title 11, CFR, Paragraph 100.5 (a) and 2 U.S.C. 431 (c), the National-House Democratic Caucus be required to file as a "political committee" and that whereever the term "House Democratic Caucus" or variantly "Congressional Democratic Caucus" apppears in my original complaint, there be substituted the phrase, "House Democratic Caucus and/or National-House Democratic Caucus, as appropriate".

I enclose a photocopy of the Letterhead and membership list of the National-House Democratic Caucus which shows Rrepresentative Gillis W. Long and Robert S. Strauss (not a Member of Congress) as Co-Chairman and which identifies Charles T. Manatt (Chairman of the Democratic National Committee) as an Honorary Co-Chairman. In addition to several Members of Congress, there are named approximately eighty "Private Members" of its Board of Advisors and its Staff lists, intermingled, paid employees of the House Democratic Caucus and persons not paid from legislative funds.

As a second Annex, I enclose a photocopy of my complaint filed with the Federal Communication Commission and draw attention that within it there is a photocopy of the Letterhead and the list of members of the National-House Democratic Caucus containing the names of many persons who are not Members nor employees of Congress, but who regularly use government facilities and intermingle functions and operations with Members and employees of the House of Representatives paid from Federal government funds.

It should be noted that in addition to Democratic National Party Chairman Charles Manatt and former Chairman Robert Strauss, Representative Charles Schumer is a member of this overlapping body. Representative Schumer's aide, Michael Timmeny, has been identified by many parties as

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having a central role in organizing the so-called Dartmouth College Debate.

I request the Commission to determine the extent of the participation of the members of the the National-House Democratic Caucus in organizing, publicizing or influencing any person or organization in connection with the so-called Dartmouth College Debate. To this end, I request that the appropriate Congressional and Private Members of its Board of Advisors and of its senior staff also be interviewed as respondents by the Federal Election Commission pursuant to my complaint as herewith amended.

(NOTE: Since the FEC already has copies of my complaint filed with it, its renewed submission would be redundant. Consequently, I have not enclosed it hereunder as part of the annex to the FCC Complaint. I have enclosed photocopies only of the Letterhead and membership list of the National-House Democratic Caucus, my complaint to the Federal Communication Commission and, as an enclosure thereto, my letter to Mr. Al Hotaling.)

—O A T H—

I swear that to my knowledge and belief, based on reliable sources, the foregoing is correct.

Sincerely,

Stephen A. Koczak

Stephen A. Koczak
2432 Macomb Street, N.W.
Washington, D. C. 20008

Subscribed and sworn to before me this 24th day of January, 1984.

Notary Public DC

My commission expires April 14, 1988

R40461096

NATIONAL HOUSE DEMOCRATIC CAUCUS

Co-Chairmen
Gillis W. Long Robert S. Strauss

Honorary Co-Chairmen
Thomas P. O'Neill, Jr.
Charles T. Manatt
Tony Coelho

Senior Advisor: S. Lee Kling

BOARD OF ADVISORS

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Dennis Eckart (Ohio)
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W. G. (Bill) Hefner (North Carolina)
Steny Hoyer (Maryland)
William Hughes (New Jersey)
Ed Jenkins (Georgia)
Jim Jones (Oklahoma)
Marcy Kaptur (Ohio)
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John LaFalce (New York)
Mickey Leland (Texas)
Sander Levin (Michigan)
Mel Levine (California)
Elliott Levitas (Georgia)
Stan Lundine (New York)
Dave McCurdy (Oklahoma)
Matthew McHugh (New York)
Buddy MacKay (Florida)
Norman Mineta (California)
Parren Mitchell (Maryland)
Jim Moody (Wisconsin)
Bruce Morrison (Connecticut)
Mary Rose Oakar (Ohio)
Dave Obey (Wisconsin)
Richard Ottinger (New York)
Timothy Penny (Minnesota)
Claude Pepper (Florida)
Bill Richardson (New Mexico)
Marty Russo (Illinois)
Martin Sabo (Minnesota)
Charles Schumer (New York)
Jim Shannon (Massachusetts)
Philip Sharp (Indiana)
Jim Slattery (Kansas)
Charles Stenholm (Texas)
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Esteban Torres (California)
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Henry Waxman (California)
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Tim Wirth (Colorado)
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W. Michael Blumenthal
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Finn M.W. Caspersen, Esq.
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Jerrold Wexler
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Alan William Wolff

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House Democratic Caucus
Alfred Friendly, Jr., Consulting Editor
Will Marshall, Senior Editor

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Production Assistants: Sharon Jordan, Mildred Porter, Paula Fassi, Janine Hardenstine

Executive Director, National-House Democratic Caucus: Bill Romjue

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DEMOCRATIC CAUCUS

"... Consists of the entire Democratic membership of the House."

Rep. Gillis W. Long (D LA—8), Chairman

Rep. Geraldine A. Ferraro (D NY—9), Secretary

STAFF		Building	Room	Direct Dial
From, Alvin	Executive Director	Annex 1	718	226-3210
Tuttle, Kathleen J.	Assistant to Director	Annex 1	718	226-3210
Porter, Mildred	Staff Assistant and Office Manager	Annex 1	718	226-3210
Jordan, Sharon	Staff Assistant	Annex 1	718	226-3210

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE

Rep. Tony Coelho (D CA—15), Chairman

Rep. Daniel Rostenkowski (D IL—9), Vice Chairman

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Kimas, Deb ..... Donor Development Spec.
Delvecchio, Steven ..... Data Processing Spec.
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Franzen, John ..... Director, Media Center
Eury, Jim ..... Production Manager
Riggs, Lindsay ..... Audio Production
Wright, Frieda ..... Audio Production

DEMOCR

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Lynn, John E. — Executiv
Hastup, Gretlyn — Admin

DEMOCRA

Rep. Thom

Rep. Jim Wright (D TX

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Rep. Dan Rostenkowski (D IL—
OK—1); Rep. Jamie L. Whitten

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Wes W. Watkins (D OK—3); Re
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William R. Ratchford (D CT—5).

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Bernhardt, Gene
Ericsson, Sally
Lew, Jacob
Smith, Spencer M.
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Manley, Owen
Hardenstine, Laura

Rep. Matthew F. McHugh (D

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CA—27); Rep. Mike Lowry
MI—12); Rep. Barbara A. Mik
Frank (D MA—4); Rep. Charles
MO—5); Rep. Sander M. Lev
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Dye, Roy A.
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Campbell, Aaron
Cerkvenik, Paul
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Conlon, Helen
Friedman, Joel
Fruggiero, Christine
Fuller, Mary Helen

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-4750

January 23, 1984

Compaints and Compliance Branch
Broadcast Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Complaints and Compliance Division:

Herewith I am filing a complaint and petition for redress against New Hampshire Public Television for violating my constitutional and statutory rights, the statutes governing Federal elections, the statutes governing the production, broadcasting and television transmitting of "non-partisan debates" by FCC licensees, and the rules and regulations issued under statutes by the Federal Communication Commission.

New Hampshire Public Television is a licensee under the authority of the Federal Communication Commission and I am a bona fide candidate for the office of President of the United States. As the enclosures document, I am registered as such a candidate with the Federal Election Commission and the Secretary of State of New Hampshire.

On January 18, 1984, I requested from New Hampshire Public Television by telephone, well within the time prescribed by the "Seven Day Rule", "equal opportunities" comparable to those afforded to my "eight" well-publicized political rivals and opponents on January 15, 1984 in the so-called Dartmouth College Debate.

On January 19, 1984, Mr. Al Hotaling, acting for New Hampshire Public Television, telephonically rejected my request alleging that, "on the advice of the attorneys of the Public Broadcasting Service", he claimed that the debate was a "bona fide news event" exempted from the rule of "equal opportunities".

On January 20, 1984, I wrote to Mr. Al Hotaling a letter, copy of which is enclosed, confirming the fact of our telephone conversations. In substance I alleged, inter alia, and repeat herewith, that New Hampshire Public Television, licenced to telecast non-commercial broadcasts, had relinquished control over this debate because it was in fact a partisan broadcast which should have been telecast commercially.

I allege that this debate was contrived with great guile and audacity to appear to be accredited as a "bona fide news event" when in reality it was organized by a partisan political body, the National-House Democratic Caucus, which arbitrarily, without accepting any credentials which were available, excluded candidates whose views were unacceptable to the Caucus. Moreover, the broadcast was tainted by the illegal use and misappropriation of Federal government funds by the National-House Democratic Caucus, the Corporation for Public Broadcasting, a quasi-governmental corporation itself receiving Federal government funds, and the Public Broadcasting Service.

Specifically, I documented in my January 20, 1984 letter to Mr. Hotaling my credentials as a Democratic presidential candidate, identified my political rivals and opponents as those Democratic presidential candidates appearing in the Debate. I conformed in every iota with the requirements listed on pages 2 and 3 of "A Political Primer, The Law of

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Political Broadcasting and Cablecasting".

In as much as I am enclosing a copy of my January 20 letter to Mr. Al Hotaling, I request that its text be conbidered an integral part of this letter of complaint as if it appeared in the body of this letter.

In this communication, I wish to recall to the Federal Communication Commission the observations of the Federal Election Commission, in its comments of Octocber 14, 1982. Because of its importance, I quote a passage from it extensively hereunder.

Commenting on the presumed expectation that the proposed FCC rule change related clearly to "nonpartisan federal candidate debates", obviously excluding "partisan debates", the Federal Election Commission nevertheless stated the following:

"As you know, in creating a narrow exemption from the provisions of the Federal Election Campaign Act to permit certain nonprofit organizations and news media organizations to stage nonpartisan federal candidate debates, we relied heavily on our belief that sufficient safeguards as to the nonpartisanship of debates staged by broadcasters are set forth in the Communications Act and the present regulations and interpretations of the FCC. Among those safeguards, of course, is the equal time obligation now imposed on broadcast licensees, who stage and sponsor candidate debates. If the FCC were now to rule that the broadcast of such debates will henceforth be considered 'on-the-spot coverage of bona fide news events' and, thus, not subject to the equal opportunities requirement, one basis of the FEC's regulations concerning candidate debates will have been changed. Attached is a copy of the Explanation & Justificastion which the Commission submitted to Congress with its regulations. This sets forth the Commission's understanding of the implications of Paragraph 315 (a) (4) as they relate to the problems under our Act of insuring that no prohibited corporate contribution results from broadcaster sponsorship of a candidate debate."

I invite the Federal Communication Commission's attention also to the fact that the Public Broadcasting Service, in a communication submitted on October 15, 1982 by Nancy H. Hendry, Deputy General Counsel, aggressively urged the adoption of the amendment relating to nonpartisan repeat nonpartisan debates to which the Federal Election Commission had reservations because of "the problems under our Act of insuring that no prohibited corporate (emphasis on corporate) contribution results from broadcaster sponsorship of a candidate debate."

Like the Corporation for Public Broadcasting, the Public Broadcasting Service is a corporation, as is the New Hampshire Public Television, which is also a licencee of the FCC.

The Federal Election Commission, of course, has had occasion to review a wide range of surreptitious maneuvres and manipulations designed to subvert the Federal Election Laws. Nevertheless, not even the Federal Election Commission could have anticipated the extraordinary guile and audacity of the Corporation for Public Broadcasting and the Public Broadcasting Service to contrive an out-and-out partisan commercial political broadcast with the National-House Democratic Caucus, to expend Federal government funds thereon and yet to pretend boldly that the entire enterprise was only an "on-the-spot coverage" of a "bona fide news event".

This deception and lust to provide advantage for some pre-selected and

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pre-accredited candidates preferred by the National-House Democratic Caucus and the Corporation for Public Broadcasting and the consequent irreparable damage to other legitimate candidates is usually expected to be found normally only in disinformation campaigns associated with diplomatic intrigues.

Certainly, this kind of deception and misappropriation of funds and abuse of public confidence does not belong in a democratic, honest election campaign.

I fear that this is a scandal which the Federal Communication Commission and the Federal Election Commission cannot tolerate without losing their own credibility.

Moreover, as a Democrat who needs to maintain good relations with the rest of my party, I find it most unfortunate that I must make these charges against some of the more senior members of the National-House Democratic Caucus. But in conscience as a citizen, bound further by the august demands on me as a candidate for the office of President who, as President, must uphold the law impartially, I know I have no other choice but to insist that the National Democratic Party refund to the American taxpayer the true value of this Debate which was an unauthorized commercial partisan political program telecast over non-commercial public TV Stations licenced by the Federal Communication Commission.

I call upon the Federal Communication to take immediate action to redress these harms to the public weal.

To facilitate its investigation, I include, in addition to the photocopy of my letter of January 20, 1984 to Mr. Al Hotaling, a photocopy of my sworn statement, submitted on January 17, 1984 to the Federal Election Commission. I request the Federal Communication Commission to accept them as an integral part of my complaint and petition for relief.

Because the passage of every day makes even more costly and more irreparable the damage inflicted on me by the National-House Democratic Caucus and the other institutions mentioned herein, I plead for an expedited investigation and judgment in this matter.

I am sending copies of this complaint to New Hampshire Public Television, Attention, Mr. Al Hotaling, to Public Broadcasting Service, Attention, Ms Nancy Hendry, and to the National-House Democratic Caucus, Attention, The Honorable Gillis W. Long and the Honorable Robert S. Strauss.

I am also sending a copy to the Federal Election Commission to supplement my original compliance complaint and petition of January 17, 1984.

Sincerely

Stephen A. Koczak

Enclosures: Letter to Mr. Al Hotaling;
Compliance Complaint and Petition filed with the Federal Election Commission
Letter to Craig C. Donsanto, Director, Election Crimes Branch Department of Justice

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 20, 1984

TELEPHONE 202 363-4750

Mr. Al Hotaling,
Program Director,
New Hampshire Public Television,
Union Building, Campus,
University of New Hampshire,
Box 1100, Durham, N.H.

Dear Mr. Hotaling:

Herewith I confirm the telephone conversations we have had on Wednesday, January 18 and Thursday, January 19, 1984 regarding my request for "Equal Opportunities" comparable to those given to my "eight" Democratic rivals and opponents in the so-called Dartmouth College Debate, co-produced by your station and TV Station WGBH.

I was illegally excluded from that debate and denied both my Constitutional and statutory rights. Further, the rules and regulations both of the Federal Election Commission and the Federal Communication Commission were subverted by all the parties to that debate

As I told you on January 18, 1984, I am a legally qualified candidate for nomination by the Democratic Party for the office of President of the United States. I filed with the Federal Election Commission on December 13, 1982 and with the New Hampshire Secretary of State on December 28, 1983. I enclose copies of my filing with the FEC and of the confirmation letter of the New Hampshire Secretary of State that I am on the ballot for the primary election on February 28, 1984.

My request, having been made on the third day following the telecast, was well within the period specified by the "Seven Day Rule" of the Federal Communication Commission.

In my telephone conversation, I stated that I considered the telecast identical with paid commercial political advertising and not a "news event" or a debate "exempt" from the "equal opportunities" rule. I compared it, in fact, to a forthcoming telecast by Presidential Candidate Lyndon LaRouche, purported to be telecast commercially by CBS-TV on Saturday, January 21, 1984.

In making that comparison, I emphasized that the Dartmouth College Debate was in fact organized by the House Democratic Caucus, a partisan political body which had used undue and illegal pressure on the Corporation for Public Broadcasting, the Public Broadcasting Service and your stations as producers in obtaining, through a subterfuge which you permitted, time at public expense for which it should have been paying the commercial networks..

On January 19, 1984, you telephoned me refusing my request under "equal opportunities", allegedly on the advice of the attorneys of the Public Broadcasting Service, on the grounds that the debates was a "bona fide news event."

I informed you I would be filing a complaint with the Federal Communication Commission, since you are licenced by that body and subject to its rules and regulations.

I should like to inform you further that I telephoned Ms Nancy Hendry, an attorney in the office of PBS General Counsel, who was present on January

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14 at the hearing of my lawsuit against the House Democratic Caucus and PBS. She indicated that her office had sent out an "opinion" prior to the telecast to the effect that the "Debate" was a "bona fide news event" but she added that the responsibility for determining whether that "opinion" was valid was with the producing TV stations and not with PBS.

To ascertain whether the the LaRouche Campaign was expending campaign funds, I obtained a flyer, a photocopy of which I enclose, and subsequently inquired whether it was being paid for by Federal Matching Funds as well.

I was informed that the LaRouche Campaign claimed it qualified for Matching Funds and intended to apply a portion of them, when received, to pay for this telecast.

As to the House Democratic Caucus, whose staff is paid from Federal government authorized and appropriated funds, I was given to understand by a source who insisted on anonymity, that the arrangements were in fact made by the joint National-House Democratic Caucus, whose co-chairmen are Gillis W. Long and Robert S. Strauss. Its Honorary Co-Chairmen includes Charles T. Manatt, Chairman of the Democratic National Committee and its "Private Members" include a host of influential members of the Democratic Party who are not Members of Congress but media publicists.

Under the circumstances, it is evident that the Debate was carried out as a partisan campaign, misappropriating Federal public funds, and that the entire cost must be reimbursed by the Democratic National Committee to the Corporation for Public Broadcasting, the PBS and to your station and TV Station WGBH.

I enclose photocopies of the LaRouche flyer, of the membership of the National-House Democratic Caucus and of a page 44 from the Congressional Staff Directory. The latter two photocopies clearly identify the interlocking of the House Democratic Caucus and of the National-House Democratic Caucus.

I invite your special attention to the presence of Representative Charles Schumer on the Board of Advisors of the National-House Democratic Caucus. You are, of course, already aware of his own role, and that of his aide, Michael Timmeny, in completely organizing and arranging this telecast.

Under the circumstances, I must contend that you relinquished control over this debate and, despite the "opinion" of the PBS attorneys, you are fully responsible for illegally contributing services of great monetary value to the partisan political campaigns of some pre-selected Democratic candidates, who are my opponents, to the irreparable harm of my own campaign.

Finally, I invite your attention to the testimony given by the Federal Election Commission to the Federal Communication Commission opposing, repeat opposing, the Rule Change adopted on November 8 and released on November16, 1983 (See BC Docket No. 82-544, paragraph 7, page 4 for a summary).

I shall allege against you the forgoing and other charges in my complaints to the Federal Communication Commission and to the Federal Election Commission, with the latter of which I have already filed a complaint against you and Station WGBH and others.

Sincerely,

Stephen A. Kozak

Stephen A. Kozak
Candidate for the Office
of President of the
United States

Enclosures: As Stated.

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The State of New Hampshire

WILLIAM M. GARDNER
SECRETARY OF STATE

ROBERT P. SMITH
DEPUTY SECRETARY OF STATE

Department of State

State House - Room 204
Concord Tel. 271-3242

December 30, 1983

Mr. Stephen A. Koczak
P.O. Box 11656
Washington, D.C. 20008

This is to acknowledge your filing as a DEMOCRATIC candidate for PRESIDENT OF THE UNITED STATES.

Your name will be printed on the Presidential Primary Ballot as:

STEPHEN A. KOCZAK

Sincerely,

Wm. Gardner

William M. Gardner
Secretary of State

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STATEMENT OF CANDIDACY

83 DEC 13 P 3:

1. (a) Name of Candidate (in full)

STEPHEN A. KOZIAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Year Election Sought

3. Party Affiliation

Democrat

4. Office Sought

President U. D. - S.

5. District & State of Candidate

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 election.
(Year of Election)

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in full)

KOZIAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koziak
(Signature of Candidate)

December 13, 1983
(Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR —

President mail to:
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

U.S. Senate mail to:
Secretary of the Senate
119 D Street, N.E.
Washington, D.C. 20510

U.S. House of Representatives mail to:
Clerk of the House
1036 Longworth Office Bldg.
Washington, D.C. 20515

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202 523-4068

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NATIONAL HOUSE DEMOCRATIC CAUCUS

Co-Chairmen
Gillis W. Long **Robert S. Strauss**

Honorary Co-Chairmen
Thomas P. O'Neill, Jr.
Charles T. Manatt
Tony Coelho

Senior Advisor: S. Lee Kling

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LaRouche to Address the Nation On Jan. 21

WASHINGTON, D.C., Jan. 11—Democratic presidential candidate Lyndon H. LaRouche, Jr. has announced that his campaign organization will purchase a half-hour of prime national network television time on Jan. 21, which the candidate will use to inform the American population of the growing danger of a pre-emptive nuclear strike from the Soviet Union. LaRouche's announcement of the Jan. 21 television address, which will be mass distributed in all 50 states over the next 10 days, reads as follows:

LaRouche Declares U.S. National Emergency

"Democratic presidential candidate Lyndon H. LaRouche, Jr. will use a half-hour of nationwide television time to inform you of what any President of the United States should be telling you right now.

"Since Soviet President Yuri Andropov dropped from sight, nearly five months ago, a military junta has taken full charge in Moscow. They are using their growing military superiority over the United States to take control of large chunks of Western Europe and the Middle East. They are moving rapidly toward a nuclear showdown with President Reagan—bigger and far worse than 1962. Moscow is confident that President Reagan, under pressure from 'Neville Chamberlains' like Averell Harriman, Walter Mondale, and the 'New York Times,' will be forced to back down to Soviet demands.

"You and your grandchildren do not necessarily have to be slaves of a Russian Empire. We can defend ourselves, prevent our allies from being gobbled up, and probably force Moscow to negotiate on the basis of President Reagan's March 1983 anti-missile defense doctrine, if Democrats would rise up now and shout loud and clear, 'Democrats are patriots, too!' The sons of the Democratic constituencies—young workers and young farmers and the children of labor and farm families—have always been in the front lines in the defense of the nation.

"If we mobilize our sick economy as President Roosevelt began to do in 1939, and unleash an 'Apollo'-style buildup of weapons to destroy missiles fired against the United States, we have a very good chance of surviving. Hear Democratic statesman LaRouche. If you agree with what he says, then call the White House and your Congressman and tell them so."

Democratic presidential candidate Lyndon H. LaRouche, Jr. will address the nation Saturday evening, Jan. 21 on CBS-TV:

```
*****************************************************************
* In Washington, DC, January 21, 1984, Channel 9, 11:30 PM
*                                   or   Channel 11, 8:30 PM
*****************************************************************
```

8404046110

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 23, 1984/ January 24, 1984

TELEPHONE 202 363-4750

Craig C. Donsanto, Esquire
Director, Election Crimes Branch
Public Integrity Section
Criminal Division, Department of Justice
315 Ninth Street, N.W.
Washington, D. C. 20530

Dear Mr. Donsanto:

On January 18, 1984, I mailed you a copy of my Compliance Complaint and Petition filed with the Federal Election Commission on January 18, 1984.

I have prepared a Complaint today, which I shall be carrying to the Federal Communication Commission tomorrow, January 24, 1984 under its own rules and regulations. I enclose a copy thereof.

I have also prepared an amendment to my complaint with the Federal Election Commission, based on information I uncovered in preparing my complaint with the Federal Communication Commission.

I am enclosing both of those documents.

You will find particularly interesting the information which I uncovered about the existence, alongside the House Democratic Caucus, of another organization, called the "National-House Democratic Caucus". The facts about its existence and membership are included in the complaints which I shall be filing tomorrow.

Sincerely,

Stephen A. Koczak

Enclosures: As stated.

Note: This letter was prepared on January 23, 1984 but the filing of the complaints took place on January 24, 1984.

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January 23, 1984/ January 24, 1984

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RECEIVED AT THE FEC
Gen #1862
84 MAR 13 P12:01
MUR 1617
Curry
84 MAR 13 P1:34

BEFORE THE FEDERAL
ELECTION COMMISSION
WASHINGTON, D.C.

TO: The General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

MUR 1617

RESPONSE

COMES NOW the Respondent, Jesse Jackson For President Committee, 2100 M Street, N.W., Suite 316, Washington, D.C. 20036, to file a Response in accordance with the Regulations of the Federal Election Commission, under Section 111.6 of those Regulations.

As it relates to the said Jesse Jackson For President Committee, the complaint alleges that Respondent accepted contributions in violation of 2 U.S.C. § § 432(c) and 434, and made expenditures of these alleged contributions in violation of 2 U.S.C. § 441a(b)(1)(A). The alleged violations occurred in connection with a nationally televised political debate, which was held on January 15, 1984.

Complainant seeks an Order from the Commission that Respondent submit documentary evidence relating to any "understandings, arrangements, [or] agreements" that Respondent may have made as to the value of the services rendered by individuals who were involved in the planning and broadcasting of the debate.

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Under Section 111.6(a) of the cited Regulations the Respondent Jesse Jackson For President Committee hereby provides the following information in support of its position that the Commission take no action on this complaint as it relates to Respondent:

1. On January 15, 1984, Reverend Jesse Jackson, along with seven other candidates for the Democratic presidential nomination, voluntarily participated in a three-hour debate, which was televised live from Hanover, New Hampshire.

2. The purpose of this debate was not to advance the candidacy of any particular individual, nor was it to "influence any election" within the meaning of 2 U.S.C. § 431 (8)(A)(i).

3. Rather, the purpose of this debate was informative. The program was designed to afford the public an opportunity to examine major issues of the day, and to promote political education of viewers and listeners.

4. As such, the debate falls squarely within the meaning of a "news story," 11 C.F.R. § 100.7(b)(2), or a "bona fide news event." 47 U.S.C. § (a) (4). The Federal Communications Commission ("FCC") recently reaffirmed this when it expanded the exemption of political debates from the equal opportunity requirement of the Communication Act

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of 1934, as amended, to include broadcaster-initiated, as well as the previously-exempt nonbroadcaster-initiated, debates. In so ruling, the FCC noted that the "overriding objective of the exemptions [was] to encourage broadcast coverage of political issues." In re Geller, BC Docket No. 82-564, p. 7.

5. Because the debate was a "news story", any services rendered by persons involved in arranging and producing the January 15, 1984 program fall within the explicit exemption from the definition of a contribution to a political committee. 11 C.F.R. § 100.7(b)(2).

6. Since these alleged "contributions", if any, are exempted, Respondent did not make expenditures in violation of 2 U.S.C. § 441a(b)(1)(A). Any and all expenditures made by Respondent incident to the debate were made in accordance with the Federal Election Campaign Act of 1971, as amended, and the Regulations of the Federal Election Commission.

WHEREFORE, it is prayed that no action should be taken by the FEC on the filed Complaint herein as it relates to Respondent Jesse Jackson For President Committee.

Respectfully submitted,

Ralph C. Thomas III

RALPH C. THOMAS, III
Attorney for Respondent Jesse Jackson
for President Committee
1101 - 14th Street, N.W. #1000
Washington, D.C. 20005
202/347-7444

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Subscribed and sworn to before me, a Notary Public, this 12 day of March, 1984 in Washington, D.C.

Gayle T. Bay Brook
Notary Public

My Commission expires: Dec. 14, 1985

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STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: RALPH C. THOMAS, III

ADDRESS: 1101 -14th Street, N.W.
Suite 1000
Washington, D.C. 20005

TELEPHONE: 202/347-7444

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

2-6-84
Date

Signature

NAME: Samuel L. Foggie, Sr.

ADDRESS: 1850 K Street, N.W., Suite 290
Washington, D.C. 20036

HOME PHONE 301/292-9488

BUSINESS PHONE: 202/388-4392

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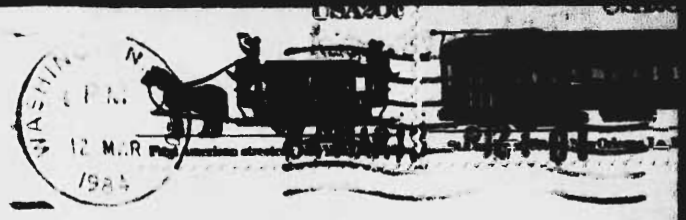
S, JOHN & EVERETT
Fourteenth Street, N.W.
Suite 1000
hington, D. C. 20005



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

Benjamin J. Guthrie
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64#1858
M. Jayne Calley
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Curry

Office of the Clerk
U.S. House of Representatives
Washington, D.C. 20515

March 9, 1984

MUR1617

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

Dear Mr. Steele:

I am writing in reference to your recent communications with Congressman Gillis W. Long, as Chairman of the House Democratic Caucus. By letters dated January 25, 1984, and February 10, 1984, you notified Congressman Long of the Commission's receipt of a "Compliance Complaint and Petition" (Commission Number MUR 1617), and a subsequent "Amendment and Supplement to Compliance Complaint and Petition" which had been submitted by Stephen A. Koczak, identified as a candidate for the office of President of the United States.

Before discussing some of the specific concerns which are pertinent to the Commission's further action on Mr. Koczak's "complaint", I submit that a fair reading of Mr. Koczak's papers fails to reveal either the required differentiation between statements based on personal knowledge and statements based upon information and belief or the required conformity to the provisions of 11 C.F.R. §111.4(d). (Requirement that complaint: (1) clearly identify each respondent; (2) supply the identification of the source of information giving rise to the complainant's belief in statements not based upon the personal knowledge of the complainant; (3) contain a clear and concise recitation of the facts which describe a violation; and (4) accompanied by any documentation supporting the facts alleged.)

It would seem that strict adherence to these threshold requirements is particularly appropriate before the Commission embarks on the statutorily and constitutionally questionable exercise of conducting an enforcement procedure relative to the actions of a component part of the United States House of Representatives. The "complaint's" deficiencies in this regard require the Commission's dismissal.

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Your letter stated that Mr. Koczak's submission had alleged that Congressman Long's "committee" had been alleged to have violated certain sections of the Federal Election Campaign Act of 1971, as amended. A review of Mr. Koczak's submissions reveal that the "committee" which you refer to is apparently the Democratic Caucus of the United States House of Representatives and your letters were addressed to Congressman Long in his capacity as Chairman of the Caucus.

The House Democratic Caucus is an official entity within the House of Representatives. Its status is recognized by House Rule; see H.R. Rule XXXI, Rules of the House of Representatives, §918, reprinted in Constitution, Jefferson's Manual and Rules of the House of Representatives, H.R. Doc. No. 97-271, 97th Cong., 2d Sess., 642-43 (1983)(Rules of the 98th Congress providing for the use of the Hall of the House only for the "business of the House and for the caucus meetings of its Members . . . "), H.R. Rule X, cl. 6(a), Rules of the House of Representatives, §701(a), id. at 398; statutory provision, 2 U.S.C. 29(a)(1)(1)(A) (provision of transportation and per diem to Members and aides to attend caucus meetings), Legislative Branch Appropriations Act for 1976, Pub. L. No. 94-59. (permanent staff for caucuses).

The specific "violation" averred by Mr. Koczak is that the caucus failed to register with the Commission as a political committee. As you are well aware, the statute and the Commission's regulations specifically exclude from the definition of "person" the federal government or any authority of the federal government. 2 U.S.C. §431(11), 11 C.F.R. 110.10. This statutory exclusion would prevent the caucus from being defined as a political committee, 11 C.F.R. §110.5 ("any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 or which makes expenditures aggregating in excess of $1,000 during a calendar year is a political committee), or from receiving contributions, 11 C.F.R. § 100.7, or making expenditures, 11 C.F.R. §100.8. Pursuant to these specific statutory and regulatory exemptions, the Caucus is not required to register as a "political committee." This definitional exemption would also appear to preclude Commission enforcement action directed at the Caucus.

The Commission's jurisdiction over the official actions of the Caucus is restricted by the above-referenced statutory and regulatory provisions. Further limitation is

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provided by the constitutionally based doctrine of separation of powers. See In Re: Grand Union Company, Docket No. 9121, 95 F.T.C. 926, 927 (June 30, 1980) (" . . . Congress never intended to authorize us [the FTC] to make such an inquiry because it legislated on the assumption that the doctrine of separation of powers and the speech or debate clause foreclose the issuance of Commission subpoenas to Congress.")

Mr. Koczak has previously sought to invoke the jurisdiction of the United States District Court for the District of Columbia. I am enclosing a copy of the transcript of the emergency hearing before District Judge Johnson. This transcript reveals that Dartmouth College was the "staging" organization for the debate. This, and the conduct of the Debate, would appear to be in conformity with the Commission's regulations.

For the foregoing reasons, Mr. Koczak's complaint should be dismissed.

Respectfully submitted,

Steven R. Ross
General Counsel to the Clerk

SRR:kj

cc: The Honorable Gillis Long

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEPHEN A. KOCZAK, PLAINTIFF, V. DAVID T. MC LAUGHLIN, ET AL., DEFENDANTS.	CIVIL ACTION NO. 84-0146

COURTROOM NO. 4
WASHINGTON, D.C.

SATURDAY, JANUARY 14, 1984

THE ABOVE-ENTITLED MATTER CAME ON FOR HEARING ON MOTION FOR TEMPORARY RESTRAINING ORDER BEFORE THE HONORABLE NORMA HOLLOWAY JOHNSON, UNITED STATES DISTRICT JUDGE, AT 2 P.M.

APPEARANCES:

FOR THE PLAINTIFF:

STEPHEN A. KOCZAK
PRO SE

FOR THE DEFENDANTS:

NICHOLAS FELS, ESQ.
ERIC BRASS, ESQ.

BARRY REINGOLD, ESQ.

DOUGLAS N. STEENLAND, ESQ.

THEODORE FRANK, ESQ.
NANCY HENDRY, ESQ.

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26 PAGES

Gloria I. Williams
Official Reporter
4800-F U.S. Courthouse
Washington, D.C. 20001
(202) 289-4470

PROCEEDING

THE DEPUTY CLERK: CIVIL ACTION 84-0146, STEPHEN A. KOCZAK VERSUS DAVID T. MC LAUGHLIN AND OTHERS.

THE COURT: THANK YOU.

I NOTE THAT MR. KOCZAK IS PRESENT, AND YOU ARE REPRESENTING YOURSELF; IS THAT CORRECT, MR. KOCZAK?

MR. KOCZAK: YES, MA'AM.

THE COURT: I WONDER IF COUNSEL WOULD BE GOOD ENOUGH TO IDENTIFY YOURSELVES AND THE PARTIES THAT YOU REPRESENT.

MR. FELS: YOUR HONOR, I'M NICHOLAS FELS. I'M A MEMBER OF THE DISTRICT OF COLUMBIA BAR. I AM HERE WITH ERIC BRASS, A MEMBER OF THE MASSACHUSETTS BAR. WE ARE BOTH HERE ON BEHALF OF DEFENDANT NEWMAN TO THE EXTENT NECESSARY.

I WOULD LIKE TO MOVE THE ADMISSION FOR THIS PROCEEDING OF MR. BRASS.

THE COURT: AND HE IS IN GOOD STANDING WITH THE HIGHEST COURT IN HIS STATE?

MR. BRASS: YES, YOUR HONOR.

THE COURT: HE MAY BE ADMITTED PRO HAC VICE, MR. FELS. THANK YOU.

MR. REINGOLD: YOUR HONOR, MY NAME IS BARRY REINGOLD. I AM A MEMBER OF THE DISTRICT OF COLUMBIA BAR AND I AM HERE REPRESENTING MR. TIMMENY AND THE HOUSE DEMOCRATIC CAUCUS.

8404046123
PENGAD CO., BAYONNE, N.J. 07002 · FORM 100

1 THE COURT: THANK YOU VERY MUCH, MR. REINGOLD.

2 MR. STEENLAND; YOUR HONOR, MY NAME IS DOUGLAS N.

3 STEENLAND. I AM A MEMBER OF THE BAR OF THE DISTRICT OF

4 COLUMBIA AND I AM HERE ON BEHALF OF THE TRUSTEES OF DARTMOUTH

5 COLLEGE AND MR. MC LAUGHLIN.

6 THE COURT: THANK YOU, MR. STEENLAND.

7 MR. FRANK: MY NAME IS THEODORE FRANK. I AM A

8 MEMBER OF THE D.C. BAR AND I AM HERE REPRESENTING THE DEFENDANT,

9 PUBLIC BROADCASTING SERVICE.

10 THE COURT: PUBLIC BROADCASTING?

11 MR. FRANK: RIGHT.

12 THE COURT: THANK YOU, MR. FRANK.

13 MS. HENDRY: MY NAME IS NANCY HENDRY. I AM THE

14 DEPUTY GENERAL COUNSEL FOR THE PUBLIC BROADCASTING SERVICE.

15 I AM HERE WITH MR. FRANK.

16 THE COURT: THANK YOU.

17 MR. KOCZAK FILED ON LATE YESTERDAY A PLEADING

18 ENTITLED "COMPLAINT, PETITION TO OBTAIN RESTRAINING ORDER,"

19 AND UPON READING THAT COMPLAINT IT IS CLEAR THAT WHAT

20 MR. KOCZAK SEEKS IS A TEMPORARY RESTRAINING ORDER TO ENJOIN

21 THE DEBATE AND THE BROADCAST OF THE DARTMOUTH COLLEGE DEBATE

22 THAT IS PLANNED FOR TOMORROW.

23 I KNOW THAT MOST OF THE DEFENDANTS WERE NOT SERVED

24 BEFORE 6 P.M. YESTERDAY. I KNOW THAT AS A FACT. I DON'T

25 KNOW WHEN YOU WERE SERVED, BUT I KNOW YOU WERE NOT SERVED

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BEFORE 6 P.M., AND I HAVE NOT RECEIVED ANY OTHERS PAPERS, BUT I HOPE THAT YOU ARE PREPARED TO BE HEARD TODAY.

NOW, MR. KOCZAK, THIS IS YOUR OPPORTUNITY TO COME FORWARD AND TELL ME WHY YOU BELIEVE THIS COURT, ONE, HAS JURISDICTION TO HEAR YOUR COMPLAINT AND, TWO, IF I HAVE JURISDICTION TO HEAR IT, WHY ON THE MERITS THE DEBATE SHOULD BE ENJOINED.

MR. KOCZAK: YES. I BELIEVE THIS COURT, YOUR HONOR, HAS JURISDICTION BECAUSE THE CASE INVOLVES THE CONSTITUTION OF THE UNITED STATES, AN OFFICE SPECIFICALLY ENUMERATED IN THAT CONSTITUTION, AND THE STATUTES WHICH GOVERN THE HOLDING OF ELECTIONS FOR THAT OFFICE. SPECIFICALLY THIS ARTICLE II OF THE CONSTITUTION AND THE FIRST AMENDMENT AND THE FOURTEENTH AMENDMENT, AND THAT IS WHY I BELIEVE THIS COURT HAS JURISDICTION.

AS TO THE MERITS OF THE CASE, I HAVE, IN PRESENTING MY PETITION, CITED THE CASE OF EUGENE MC CARTHY AND GIVE A REFERENCE TO THE PAGES IN THE AMERICAN BAR ASSOCIATION, AND I WOULD LIKE TO ENTER THOSE AS PART OF THE POINTS AND JUSTIFICATIONS OF MY CASE.

IN THE PRESENT INSTANCE, I HAVE SOUGHT BY ALL MEANS AVAILABLE TO ME TO ENJOY MY RIGHTS FIRST AS A CANDIDATE RECOGNIZED BY THE FEDERAL ELECTION COMMISSION, AVOWED ON THE 13TH OF DECEMBER, AND I HAVE BEEN ACCEPTED AS A CANDIDATE FOR THE OFFICE OF THE PRESIDENT OF THE UNITED STATES.

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1 THE 28TH OF DECEMBER I FILED WITH THE SECRETARY
2 OF STATE IN NEW HAMPSHIRE. THE SECRETARY OF STATE HAS
3 ADMITTED ME TO THE PRIMARY IN NEW HAMPSHIRE.
4 ONE OF THE PROBLEMS -- ON THE 14TH OF DECEMBER,
5 FOLLOWING MY FILING WITH THE FEDERAL ELECTION COMMISSION, I
6 UNDERTOOK TRIPS TO ILLINOIS, THE STATES OF OREGON, WASHINGTON
7 AND CALIFORNIA, IOWA AND NEBRASKA, MASSACHUSETTS, NEW HAMPSHIRE
8 AND FLORIDA, AND I FOUND THAT IN ALL INSTANCES THE SECRETARIES
9 OF STATE THERE TOLD ME THAT ABSENT SOME SORT OF INDICATION IN
10 THE PRESS, PARTICULARLY THE PRESS IN WASHINGTON, D.C. AND THE
11 NATIONAL TELEVISION MEDIA, THEY HAD NO WAY OF DETERMINING
12 WHETHER IN FACT I WAS A SERIOUS CANDIDATE.
13 I POINTED OUT TO THE SECRETARIES OF STATE THAT
14 DESPITE MY HAVING VISITED THE WASHINGTON POST PERSONALLY AFTER
15 I WAS TOLD BY THEIR REPORTERS, FIRST, ON THE NATIONAL DESK THAT
16 MY CANDIDACY WAS A LOCAL MATTER, SECOND, BY THE LOCAL DESK
17 THAT IT WAS A NATIONAL MATTER, I CALLED ON MR. BRADLEY, THE
18 EXECUTIVE EDITOR, AND I DEPOSITED WITH HIM SIX PAGES INDICAT-
19 ING MY CANDIDACY HAD BEEN FILED AND MY BIOGRAPHY, AND HE FOR
20 TWO WEEKS DELAYED PLACING ANYTHING INTO THE POST.
21 THE COURT: WELL, LET ME SAY THIS, SIR. I THINK
22 I WOULD PREFER IT IF YOU WOULD ADDRESS YOURSELF TO THE ISSUES
23 BEFORE ME RATHER THAN SOME OF THE OTHER PROBLEMS THAT YOU MAY
24 HAVE EXPERIENCED.
25 I AM CONCERNED NOW PRIMARILY WITH YOUR COMPLAINT

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1 THAT THE DARTMOUTH COLLEGE DEBATE SHALL NOT PROCEED TOMORROW,
2 AND I WISH YOU WOULD ADDRESS THAT.
3 MR. KOCZAK: YES.
4 RECOGNIZING HOW SERIOUSLY I WOULD BE HANDICAPPED
5 BY DENIAL OF ACCESS TO THAT DEBATE, I WROTE TO THE PRESIDENT
6 OF DARTMOUTH COLLEGE AND ASKED THAT UNDER THE REGULATIONS
7 ISSUED FOR THE FEDERAL ELECTION COMMISSION, WHICH STATES THAT
8 IF A CANDIDATE SEEKS TO BE ADMITTED TO A DEBATE, THAT
9 CANDIDATE FOR PRESIDENTIAL OFFICE SHALL BE ADMITTED, I WROTE
10 AND ASKED THAT EITHER THE PRESIDENT WITHDRAW FROM THE
11 SPONSORSHIP OR THE CO-SPONSORSHIP OR PROVIDING FACILITIES FOR
12 THAT DEBATE OR, ALTERNATIVELY, PROVIDE EQUAL FACILITIES AND
13 TIME TO ME.
14 HE NEVER ANSWERED MY LETTER. IT WAS SENT BY
15 EXPRESS MAIL. HIS ATTORNEY CALLED ME AND SAID THAT I WOULD
16 BE RECEIVING A TELEGRAM, WHICH HAS NOT ARRIVED -- A COPY OF
17 THAT TELEGRAM, WHICH TO THIS DATE HAS NOT ARRIVED.
18 I HAD PREVIOUSLY TELEPHONED HIM, HIS OFFICE, ON
19 THE 28TH OF DECEMBER AND WAS REFERRED TO THE ROCKEFELLER
20 CENTER FOR THE SOCIAL SCIENCES ON THE GROUNDS THAT IT WAS
21 ARRANGING A DEBATE. THEY TOLD ME THAT THEY HAD NOTHING TO DO
22 WITH THE DEBATE; IT WAS ALL BEING HANDLED BY MR. MICHAEL
23 TIMMENY, WHO THEY ALLEGED WAS WORKING FOR THE CONGRESSIONAL
24 DEMOCRATIC CAUCUS.
25 THAT DEMOCRATIC CAUCUS ITSELF HAS QUESTIONABLE

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1 STANDING TO HOLD SUCH A DEBATE. UNDER THE SEPARATION OF
2 POWERS OF THE UNITED STATES, I HAVE NO OBJECTION TO A SENATOR
3 OR A CONGRESSMAN IN NEW HAMPSHIRE COMING IN AND ENDORSING A
4 CANDIDATE, BUT WHEN THAT CAUCUS ON ITS OWN AUTHORITY, IN AN
5 ELECTION WHICH DOESN'T INVOLVE ANY CONGRESSMAN OR SENATOR,
6 DOES NOT INVOLVE IT, ARROGATES TO ITSELF THE POWERS AND THE
7 RIGHTS THAT THE DEMOCRATIC CONVENTION HAS --
8 THE COURT: LET ME SAY AGAIN, SIR, I DON'T THINK THAT
9 IS AN ISSUE TODAY. I REALLY DON'T. THAT IS NOT SOMETHING YOU
10 HAVE ASKED ME TO DECIDE. YOU HAVE ASKED ME TO DECIDE SIMPLY
11 WHETHER OR NOT THE DEBATE SHOULD BE ENJOINED BECAUSE YOU HAVE
12 NOT BEEN PERMITTED TO JOIN IN THE DEBATE. WHETHER THE
13 DEMOCRATIC CAUCUS IS DOING SOMETHING RIGHT OR IS DOING SOME-
14 THING WRONG OR SHOULD OR SHOULD NOT DO WHAT IT IS DOING, I
15 THINK IT IS A LITTLE IRRELEVANT.
16 WHEN YOU SEEK A TEMPORARY RESTRAINING ORDER,
17 MR. KOCZAK, THERE ARE CERTAIN ELEMENTS THAT YOU HAVE TO
18 ADDRESS AND PROVE: ONE, YOUR LIKELIHOOD OF SUCCESS ON THE
19 MERITS OF THIS COMPLAINT; TWO, IRREPARABLE INJURY; THREE,
20 WHETHER MORE HARM WILL COME TO YOU THAN TO OTHERS IF SUCH
21 RELIEF IS NOT GRANTED; AND FINALLY, THE PUBLIC INTEREST.
22 I HAVE READ YOUR PAPERS. SO I KNOW WHAT YOUR
23 CONCERNS ARE ABOUT THE DEMOCRATIC CAUCUS. I KNOW YOUR
24 CONCERNS ABOUT MR. TIMMENY. THOSE THINGS MAY HAVE SOME
25 RELEVANCE IF WE GET TO ANOTHER STAGE IN THE PROCEEDINGS, BUT

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RIGHT NOW I DON'T THINK THAT IS IMPORTANT.

MR. KOCZAK: MAY I PROCEED, THEN, TO ANSWER WHY IRREPARABLE HARM?

THE COURT: ABSOLUTELY.

MR. KODZAK: AS YOU KNOW, THE ELECTION HAS BEGUN AND THIS IS GOING TO BE THE 15TH AND IT ENDS ON THE 28TH. BY THE DENIED ACCESS AND NOT BEING AFFORDED EQUIVALENT TIME AND SPACE EITHER BY THE CAUCUS, BY DARTMOUTH COLLEGE, OR BY PUBLIC BROADCASTING SERVICE AND THE ENDORSEMENT THAT IS GIVEN TO THEM, I AM PLACED INTO A POSITION WHICH I CANNOT OVERCOME IN ANY WAY. THERE ARE NO ALTERNATIVES GIVEN TO ME BY THESE INSTITUTIONS, ALL OF WHICH HAVE ENTERED INTO THIS ELECTION CAMPAIGN ON THEIR OWN AUTHORITY, AND AS THE SUPREME COURT HAS HELD THAT SINCE THERE IS NO ALTERNATIVE, THIS BY ITSELF IS A DENIAL OF A CONSTITUTIONAL RIGHT, AND I AM ASSERTING THAT I CANNOT OVERCOME THAT BECAUSE THERE IS NO INDICATION THAT I RECEIVED FROM ANY OF THESE AUTHORITIES THAT THEY WILL DO ANYTHING AT ALL TO PUT ME INTO EQUAL STANDING, SO THAT MY RIGHTS ARE SERIOUSLY VIOLATED AND IRREPARABLE DAMAGE IS GIVEN TO ME.

NOW, THERE IS NO DAMAGE CAUSED TO THEM EITHER BY PUTTING OFF THE DEBATE AND HOLDING A TRIAL IMMEDIATELY, WHICH CAN BE ORDERED RIGHT AWAY -- THERE'S NO HARM CAUSED TO THEM BECAUSE THERE'S ANOTHER SUNDAY.

THERE IS ALSO NO HARM CAUSED TO THEM IF THEY DECIDE TO ADMIT ME TO THE DEBATE, IN WHICH CASE MY PETITION

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FOR AN INJUNCTION I WILL WITHDRAW IF THEY AGREE.

I HAVE TO DEMONSTRATE FIRST THAT THERE IS IRREPARABLE DAMAGE AND THAT THIS IS BEING CAUSED TO ME UNCONSTITIONALLY, AND THAT IS WHAT I HAVE SOUGHT TO DO.

NOW, I DO SUGGEST IF THEY WISH TO PROCEED TO TRIAL, AND I BELIEVE I HAVE EVERY REASON TO BELIEVE I WILL SUCCEED ON THE TRIAL ON THE LIGHT OF THE DECISION TAKEN BY THE SUPREME COURT, THAT IN FACT I WAS NOT AFFORDED ANY OPPORTUNITY WHATSOEVER BY MR. TIMMENY OR OTHER PARTIES EVEN TO PRESENT MY CREDENTIALS. HE NEVER EVEN PERMITTED ME TO COME TO HIM. SO THAT I COULD NOT DEMONSTRATE THAT PERHAPS I AM A CANDIDATE THAT QUALIFIES EVEN UNDER THE DETERMINATIONS OF THE HOUSE DEMOCRATIC CAUCUS.

WHERE ONE IS DENIED ANY ACCESS WHATSOEVER TO DEMONSTRATE A CLAIM, I BELIEVE THIS DOES SHOW THAT IT IS INTENDED BY THAT CAUCUS AND BY THE OTHER PARTIES INVOLVED, THE PUBLIC BROADCASTING SERVICE AND DARTMOUTH COLLEGE, NOT TO AFFORD ME ANY KIND OF REMEDY EQUIVALENT TO THE SERVICES THEY HAVE PROVIDED TO THE OTHER CANDIDATES.

SO THAT I WOULD SUGGEST IF THAT IS A PROBLEM AS TO WHETHER I WOULD PREVAIL IN COURT, WE PROCEED IMMEDIATELY TO A HEARING AND FOR A TRIAL. I AM PREPARED TO GO TO TRIAL ON THIS CASE AND TO TAKE IT TO THE SUPREME COURT.

THE COURT: THANK YOU, MR. KOCZAK.

MR. KOCZAK: THANK YOU. NOW, I DO NOT --

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1 THE COURT: DID YOU HAVE SOMETHING FURTHER TO SAY?

2 MR. KOCZAK: YES. I DID WISH TO STATE THAT THERE

3 ARE IMPROPRIETIES INVOLVED. IN FACT, I THINK DARTMOUTH COLLEGE

4 NOT ONLY IS A DEFENDANT IN THIS CASE, IN FACT, IT SHOULD BE

5 A PLAINTIFF WITH ME ON THE BASIS OF ITS UNDERSTANDING AND ITS

6 OWN HISTORY, HAVING SOUGHT RELIEF FROM THE COURTS BY AN ACTION

7 OF THE LEGISLATURE OF NEW HAMPSHIRE DENYING ITS RIGHTS, AN

8 ACTION WHICH IN FACT THERE IS SIMILAR, BECAUSE IT ISN'T THE

9 ENTIRE CONGRESS, THE HOUSE OF REPRESENTATIVES, BUT A PART OF

10 IT, THE DEMOCRATIC CAUCUS, WHICH HAS INTERVENED AND HAS

11 AUTHORIZED A PAID EMPLOYEE -- NOT EVEN AN ELECTED EMPLOYEE --

12 TO DECIDE WHETHER I AM A QUALIFIED CANDIDATE, EVEN THOUGH THE

13 FEDERAL ELECTION COMMISSION HAS APPROVED MY ELECTION OR MY

14 CANDIDACY AND THE SECRETARY OF STATE OF NEW HAMPSHIRE HAS

15 ENDORSED IT AND I AM ON THE BALLOT.

16 AND YET HERE A PERSON WHO IS NOT EVEN ELECTED IS

17 SOMEHOW AUTHORIZED BY THIS CAUCUS -- I DON'T KNOW BY WHAT

18 STATUTE, BY WHAT LAW -- ARBITRARILY NOT EVEN TO RECEIVE ME.

19 NOW, UNLESS THIS COURT FINDS THAT THAT ACTION IS

20 ARBITRARY AND THAT THE CAUCUS ITSELF HAS DELEGATED POWERS TO

21 THIS INDIVIDUAL AND HAS NOT PROPERLY SUPERVISED HIM AND HAS

22 ALLOWED HIM TO INTERVENE IN A FUNDAMENTAL DEBATE AFFECTING THE

23 OUTCOME OF A PRESIDENTIAL CANDIDACY, THEN I WOULD SAY THAT

24 PERSONS LIKE JESSE JACKSON WHO COMPLAINED OF LESSER PROBLEMS

25 ALSO WILL HAVE NO HEARING AT ALL.

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1 I DO FEEL THAT THIS IS FUNDAMENTAL, MOST
2 IMPORTANT CONSTITUTIONAL ISSUE IN WHICH I BELIEVE THAT THE
3 CITIZENS OF NEW HAMPSHIRE, THE SECRETARY OF STATES OF THE OTHER
4 STATES AND THE CITIZENS OF THE ENTIRE UNITED STATES ARE BEING
5 DEPRIVED OF THEIR RIGHT TO HEAR WHAT IS A PLATFORM AND A
6 PROGRAM.
7 I AM BRINGING THIS SUIT REALLY BECAUSE OF MY RIGHT,
8 A RIGHT ESTABLISHED BY THE FEDERAL ELECTION COMMISSION, BY THE
9 CONSTITUTION, AND BY THE LAWS OF THE STATE OF NEW HAMPSHIRE,
10 AND I AM BEING DENIED ALL MY RIGHTS SIMPLY BY A UKASE OF A
11 PERSON WHO REFUSES TO SEE ME AND I THINK WHO HAS NO PUBLIC
12 AUTHORITY TO MAKE THIS DECISION.
13 PUBLIC BROADCASTING SERVICE HAS EX PARTE NEGOTIATED
14 WITH THIS INDIVIDUAL, AS HAVE OTHER PEOPLE LIKE MR. KOPPEL.
15 NONE OF THEM HAVE GIVEN ME PERMISSION TO SPEAK TO THEM. NONE
16 OF THEM HAVE LISTENED TO MY COMPLAINTS. THE PRESIDENT OF
17 DARTMOUTH COLLEGE HAS NOT IN ANY WAY INDICATED THAT HE AGREED
18 WITH ME. HE PERMITS THE FACILITIES AND GROUNDS OF THAT GREAT
19 UNIVERSITY TO BE USED IN A SITUATION WHERE HE KNOWS THE
20 CIRCUMSTANCES, BECAUSE THE NAME OF MR. TIMMENY WAS GIVEN TO ME
21 BY AN OFFICIAL OF THE ROCKEFELLER CENTER.
22 SO THEY ALL ARE PARTIES TO AN UNDERTAKING IN WHICH
23 THEY IN EFFECT ARE DENYING ME MY RIGHTS AS A CANDIDATE, BOTH AS
24 AN AMERICAN CITIZEN AND AS A CANDIDATE REGISTERED IN NEW
25 HAMPSHIRE, AND I BELIEVE THAT -- AND I AM PREPARED IMMEDIATELY

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TO GO TO COURT IF YOU FEEL THAT --

THE COURT: WELL, YOU KNOW, SIR, THAT IS ABSOLUTELY IMPOSSIBLE. THE PARTIES WERE JUST SERVED YESTERDAY OR TODAY. THEY MUST, UNDER THE CONSTITUTION, HAVE NOTICE AND HAVE A RIGHT TO RESPOND AND TO PREPARE TO DEFEND THEMSELVES.

SO THERE IS NO WAY UNDER THE SUN YOUR SUGGESTION OF AN IMMEDIATE TRIAL COULD BECONSIDERED.

MR. KOCZAK: MAY I ASK ONE PETITION FROM YOU? IF THEY ARE PREPARED TO ADMIT ME TO THE DEBATE --.

THE COURT: WELL --

MR. KOCZAK: WELL, I'M JUST SAYING --

THE COURT: THAT IS SOMETHING, OF COURSE, THAT THIS COURT CANNOT INVOLVE ITSELF IN. THAT IS SOMETHING YOU WILL HAVE TO DEAL WITH THEM ON. I CAN ONLY DEAL WITH THE LEGAL ISSUES THAT YOU HAVE RAISED. I CANNOT DEAL WITH ANY PERSONAL MATTERS BETWEEN YOU AND THE DEFENDANTS, ALL RIGHT.

MR. KOCZAK: MAY I ENTER THIS? I DON'T KNOW WHETHER YOU HAVE A COPY OF THIS.

THE COURT: BEG PARDON?

MR. KOCZAK: I DON'T KNOW WHETHER YOU HAVE A COPY OF THIS ARTICLE.

THE COURT: I DO NOT, BUT WE DO HAVE IT HERE IN THE COURT.

MR. KOCZAK: YES. AND THE REFERENCES AND THE ARGUMENTS AND AUTHORITIES ARE --

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1 THE COURT: WE REVIEWED IT LAST NIGHT. THANK YOU
2 VERY MUCH, MR. KOCZAK.
3 MR. KOCZAK: THANK YOU.
4 THE COURT: MR. BRASS, DO YOU WISH TO RESPOND NOW
5 OR WHO WISHES TO RESPOND FIRST?
6 MR. STEENLAND: YOUR HONOR, I THINK IT MIGHT BE
7 APPROPRIATE --
8 THE COURT: MR. STEENLAND?
9 MR. STEENLAND: YES.
10 THE COURT: ALL RIGHT. YOU ARE ON BEHALF OF
11 DARTMOUTH AND ITS PRESIDENT?
12 MR. STEENLAND: YES, MA'AM.
13 THE COURT: YES, FINE.
14 MR. STEENLAND: MAY IT PLEASE THE COURT.
15 I THINK THE FIRST POINT I WOULD LIKE TO MAKE IS
16 JUST TO NOTE THAT I DON'T BELIEVE MR. KOCZAK HAS ESTABLISHED
17 PERSONAL JURISDICTION OVER DARTMOUTH OR MR. MC LAUGHLIN IN
18 THIS COURT, BUT NOTWITHSTANDING THAT, I WOULD LIKE TO FURTHER
19 POINT OUT THAT I BELIEVE HE IS NOT -- HE HAS MADE NO ALLEGATION
20 THAT MERITS ESTABLISHING A CAUSE OF ACTION IN HIS COMPLAINT.
21 IN PARTICULAR, I WOULD LIKE TO JUST ADDRESS HIS
22 DISCUSSIONS REGARDING THE FEDERAL ELECTION COMMISSION AND
23 DARTMOUTH'S INVOLVEMENT IN THIS DEBATE.
24 DARTMOUTH COLLEGE IS WHAT IS KNOWN UNDER THE REGULA-
25 TIONS PROMULGATED BY THE FEDERAL ELECTIONS COMMISSION AS A

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1 STAGING ORGANIZATION OF THIS DEBATE. THESE REGULATIONS WERE
2 PROMULGATED AND WERE DESIGNED TO PERMIT NOT FOR PROFIT
3 ORGANIZATIONS SUCH AS DARTMOUTH TO, IN A NONPARTISAN FASHION,
4 ESTABLISH DEBATES. THERE ARE SPECIFIC REGULATIONS THAT PRO-
5 VIDE FOR THIS. I BELIEVE MR. KOCZAK CITED THEM OR INTERPRETED
6 THEM INCORRECTLY.
7 IN ANY EVENT, IF THERE IS ANY ALLEGED VIOLATION,
8 IF THERE IS ANY PROBLEM UNDER THOSE REGULATIONS, IT IS THE
9 JURISDICTION OF THE FEDERAL ELECTION COMMISSION, I SUGGEST,
10 THAT HAS THE PRIMARY ROLE IN INITIALLY ESTABLISHING WHETHER
11 THERE IS A PROBLEM. THEY HAVE AN ELABORATE ENFORCEMENT
12 MECHANISM. IT IS DESIGNED TO HANDLE COMPLAINTS SUCH AS THIS.
13 IT HAS PROCEDURES FOR EXPEDITION IF NECESSARY. THE FEDERAL
14 ELECTIONS COMMISSION DOES HAVE CIVIL LITIGATING AUTHORITY, SO
15 IF IT NEEDS TO ENFORCE ANY JUDGMENT OR ANY RULING IN WHICH IT
16 MIGHT ENTER INTO, IT HAS THE AUTHORITY TO DO THAT, AND
17 MR. KOCZAK HAS BEEN ON NOTICE AT LEAST SINCE THE 28TH OF
18 DECEMBER AS TO A POTENTIAL PROBLEM HERE, AND I SUGGEST THAT
19 IT IS HIS FIRST PLACE TO GO TO THE FEDERAL ELECTIONS
20 COMMISSION AND PURSUE HIS REMEDIES THERE.
21 THERE IS A REGULATORY AND STATUTORY SCHEME IN
22 PLACE. IT IS SUBJECT TO INTERPRETATION BY THAT AGENCY WHICH
23 HAS THE EXPERTISE IN THIS AREA. THE REGULATIONS, FOR INSTANCE,
24 SPEAK IN SUCH TERMS AS THE STRUCTURE OF DEBATES SHALL BE LEFT
25 TO THE DISCRETION OF THE STAGING ORGANIZATION.

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1 [redacted], I BELIEVE WHETHER THE [redacted]AGING ORGANIZATION HAS
2 ACTED WITHIN ITS DISCRETION, ABUSED DISCRETION, IS SOMETHING
3 THAT IS CLEARLY SUBJECT TO AT LEAST THE INITIAL INTERPRETATION
4 OF THE AGENCY THAT HAS PROMULGATED THOSE REGULATIONS.
5 SO, I THINK JUST AS TO THE POINT WHETHER THERE IS
6 ANY LIKELY SUCCESS ON THE MERITS IN MR. KOÇZAK'S COMPLAINT,
7 I WOULD SUGGEST THAT THERE IS NOT.
8 IN ADDITION, I WOULD SUGGEST THAT THERE WOULD BE
9 CONSIDERABLE HARM TO THE DEFENDANTS HERE IF A TRO WAS IN FACT
10 ISSUED. THERE HAVE BEEN ELABORATE PREPARATIONS FOR THIS
11 EVENT THAT WOULD -- SO THERE WOULD BE MONETARY EXPENSE INVOLVED,
12 AND I THINK THERE WOULD BE SOME PUBLIC HARM AS WELL.
13 SO, FOR THOSE REASONS I URGE THE COURT NOT TO GRANT
14 THE TEMPORARY RESTRAINING ORDER.
15 THE COURT: THANK YOU, MR. STEENLAND.
16 MR. REINGOLD.
17 MR. REINGOLD: YES. THANK YOU, YOUR HONOR. YOUR
18 HONOR, I WILL TRY TO BE BRIEF. I JUST LEARNED OF THIS
19 PROCEEDING THIS MORNING. I HAVE NOT HAD A CHANCE TO SPEAK
20 WITH MR. TIMMENY.
21 I AGREE WITH WHAT THE PREVIOUS DEFENSE COUNSEL SAID
22 IN EVERY WAY. I ALSO AGREE WITH YOUR STATEMENT THAT THE
23 ACTIVITIES OF MR. TIMMENY AND THE HOUSE CAUCUS ARE NOT RELEVANT
24 AT THIS STAGE, IF AT ALL.
25 I WOULD GO FURTHER THAN PRECEDING COUNSEL ONLY IN

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1 THAT I ARGUE THAT NOT ONLY IS THIS NON-JUSTICIABLE ISSUE WITHIN THE
2 JURISDICTION OF THE COURT -- IT SHOULD BE HEARD AT THE FEC --
3 ON ITS FACE, UNDER THE REGULATIONS, THERE IS NO CAUSE OF
4 ACTION. THERE IS NO CLAIM.
5 THE REGULATIONS ARE QUITE EXPLICIT AND THEY REFLECT
6 A CONTINUING DIALOGUE BETWEEN THE FEDERAL ELECTION COMMISSION
7 AND CONGRESS THAT GOES BACK TO THE 1976 DEBATES BETWEEN
8 PRESIDENT FORD AND JIMMY CARTER.
9 CONGRESS IS AWARE OF THE REGULATIONS. IT APPROVED
10 THE REGULATIONS AND THE REGULATIONS EXPLICITLY STATE AT
11 11 C.F.R. 110.13 THAT THE DEBATE STRUCTURE IS A MATTER OF THE
12 DISCRETION OF THE STAGING ORGANIZATION, PROVIDED ONLY THAT THE
13 DEBATES INCLUDE AT LEAST TWO CANDIDATES AND THEY ARE NON-
14 PARTISAN, IN THAT THEY DON'T PROMOTE ONE OR ANOTHER OVER ONE
15 OF THE OTHER PARTICIPANTS.
16 SO I DON'T THINK ON ITS FACE THERE IS ANY COMPLAINT
17 HERE. IF THERE IS, IT SHOULD CERTAINLY BE AT THE FEC.
18 THAT IS REALLY ALL I HAVE TO SAY UNLESS YOUR HONOR
19 HAS ANY QUESTIONS.
20 THE COURT: I HAVE NO QUESTIONS OF YOU,
21 MR. REINGOLD. THANK YOU FOR APPEARING.
22 MR. FRANK, WOULD YOU LIKE TO SPEAK ON BEHALF OF
23 PBS?
24 MR. FRANK: MY REMARKS WILL BE ALSO BRIEF.
25 I THINK IT'S IMPORTANT THAT PBS'S ROLE IN THIS

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1 DEBATE BE MADE CLEAR. WE ARE NOT A CO-SPONSORING ORGANIZATION.
2 PBS HAS AGREED TO BROADCAST THIS DEBATE, TO PRESENT IT TO THE
3 AMERICAN PUBLIC BY TELEVISION BUT HAS HAD NO ROLE IN THE
4 STRUCTURING OF THE DEBATE, HAS HAD NO ROLE IN SELECTING THE
5 PARTICIPANTS, HAS HAD NO ROLE IN SELECTING WHERE IT WOULD BE
6 HELD, BUT, RATHER, THE ONLY THING THAT IT HAS DONE IS MADE AN
7 INDEPENDENT NEWS JUDGMENT THAT THIS PROGRAM WAS A -- THAT THIS
8 DEBATE WAS A NEWSWORTHY PROGRAM AND THAT IT SHOULD BE MADE
9 AVAILABLE AS WIDELY AS POSSIBLE.
10 SO, TO THE EXTENT THAT PLAINTIFF WOULD LIKE TO
11 ASSURE ACCESS TO THE DEBATE, WE ARE WITHOUT POWER TO DO ANY-
12 THING ABOUT IT. ALL WE CAN DO IS DECIDE WHETHER OR NOT TO
13 CARRY IT. IT SEEMS HIS CLAIMS, THEREFORE, TO GAIN ACCESS TO
14 THE DEBATE AS FAR AS PBS IS CONCERNED ARE IRRELEVANT.
15 INSOFAR AS IF HE IS SEEKING ACCESS TO PBS AS A
16 BROADCAST MEDIUM, THERE IS A COMPLETE STATUTORY SCHEME
17 ESTABLISHED IN THE COMMUNICATIONS ACT OF 1934 WHICH IS
18 ADMINISTERED BY DETAILED AND COMPLICATED REGULATIONS OF THE
19 FCC AND IT IS WELL ESTABLISHED BY DECISIONS GOING BACK INTO
20 THE EARLY THIRTIES THAT THE FCC HAS PRIMARY JURISDICTION AND
21 THAT IF HE WISHES TO GAIN ACCESS TO A BROADCAST STATION AND
22 IS UNABLE TO DO SO, HIS FIRST RECOURSE MUST BE TO THE FCC UNDER
23 THE COMMUNICATIONS ACT.
24 SO, I THINK NO MATTER WHICH WAY YOU'RE LOOKING AT
25 IT, IN TERMS OF GAINING ACCESS, IN TERMS OF A SUBSTANTIVE

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1 CLAIM FOR RELIEF, HE FAILS TO SHOW A SUBSTANTIAL LIKELIHOOD
2 OF SUCCESS ON THE MERITS.
3 INSOFAR AS IRREPARABLE INJURY IS CONCERNED, FROM
4 MY OWN CLIENT'S PERSPECTIVE, WE WILL HAVE A THREE-HOUR HOLE
5 TO FILL ON SUNDAY AFTERNOON WITH VIRTUALLY NO NOTICE IN WHICH
6 TO FILL IT. THAT'S NOT A VERY EASY THING TO DO.
7 INSOFAR AS THE PARTICIPANTS OF THE DEBATE AND
8 INSOFAR AS THE PUBLIC IS CONCERNED, THE CHANCES THAT THIS
9 DEBATE COULD BE RECONSTRUCTED IF IT DOESN'T GO FORWARD AS
10 SCHEDULED SEEMS TO ME TO BE VERY LIMITED. THE CANDIDATES HAVE
11 COMPLICATED AND DETAILED SCHEDULES. THEY ARE AT THE HEIGHT OF
12 THE PRIMARY SEASON. THE CHANCES THAT THEY COULD BE GOTTEN
13 BACK TOGETHER AGAIN FOR A DEBATE OF COMPARABLE LENGTH OR IN
14 ANY WAY COMPARABLE TO THIS ONE WILL BE SEVERELY DIMINISHED
15 AND THEREFORE THE AMERICAN PUBLIC WILL BE DEPRIVED OF THE
16 OPPORTUNITY TO SEE SOME OF THE LEADING CANDIDATES DISCUSS
17 ISSUES WHICH THEY THINK ARE IMPORTANT TO THE ELECTION IN THIS
18 ELECTION YEAR.
19 SO, I THINK THERE IS INJURY TO US AND THERE IS
20 SUBSTANTIAL INJURY TO THE PUBLIC.
21 AND FINALLY I MIGHT SAY THAT I THINK AN INJUNCTION
22 TO PRECLUDE PBS FROM DISTRIBUTING THIS PROGRAM WOULD
23 CONSTITUTE A PRIOR RESTRAINT AND MR. KOCZAK HAS FAILED TO MAKE
24 EVEN THE BEGINNING OF A SHOWING NECESSARY FOR A COURT TO
25 ISSUE AN INJUNCTION WHICH WOULD AMOUNT TO A PRIOR RESTRAINT.

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1 THE COURT: ALL RIGHT. THANK YOU VERY MUCH,
2 MR. FRANK.
3 MR. BRASS, DO YOU WISH TO BE HEARD ON BEHALF OF
4 MS. NEWMAN?
5 MR. BRASS: THANK YOU, YOUR HONOR.
6 MS. NEWMAN IS AN EMPLOYEE OF THE WGBH EDUCATIONAL
7 FOUNDATION, WHICH IS THE LICENSEE OF WGBH TV IN BOSTON AND
8 SHE ONLY HAS A TEMPORARY ASSIGNMENT TO COORDINATE ON THE
9 PUBLICITY MATTERS INVOLVED IN THE DEBATE. SHE PERSONALLY HAS
10 NO CONTROL OVER THE FORMAT, THE SETTING, THE TIME, THE PLACE,
11 THE PARTICIPANTS OR ANY OTHER MATTERS INVOLVED.
12 IN ADDITION TO, I SUBMIT, THAT THERE IS NO PERSONAL
13 JURISDICTION OVER HER, I RESPECTFULLY SUBMIT THAT THERE IS NO
14 ACTION THAT SHE COULD OR COULD NOT TAKE THAT WOULD AFFECT THE
15 OUTCOME OF THE DEBATE.
16 AND AS AN ASIDE, WGBH TV'S ROLE IS SIMILAR TO
17 PUBLIC BROADCASTING SERVICE. WE HAVE THE SAME LACK OF CONTROL
18 OVER THE DEBATE, ITS TIME, ITS SETTING, THE PARTICIPANTS, THE
19 FORMAT, EVEN THE AUDIENCE. WE HAVE NO CONTROL OVER WHO IS IN
20 THE AUDIENCE. WGBH IS ACTING AS A CO-PRODUCER WITH NEW
21 HAMPSHIRE PUBLIC TELEVISION OF THE EVENT AND THERE WOULD BE --
22 ALTHOUGH WGBH IS NOT A DIRECT PARTY TO THIS ACTION, THERE
23 WOULD BE IRREPARABLE INJURY TO -- NOT IRREPARABLE BUT THERE
24 WOULD BE DAMAGES TO WGBH AND NEW HAMPSHIRE PUBLIC TELEVISION,
25 IN THAT WE HAVE ALREADY EXPENDED THOUSANDS OF DOLLARS IN

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PENGAD CO., BAYONNE, N.J. 07002 · FORM 740

1 PREPARATION FOR THE TECHNICAL END OF THE PRODUCTION OF THE
2 DEBATE, INCLUDING LEASING OF TRANSMISSION LINES, AND THAT
3 MONEY COULD NOT BE RECOVERED.
4 THANK YOU.
5 THE COURT: THANK YOU.
6 THEN, MR. KOCZAK, YOU HAVE HEARD THE POSITION OF
7 THE DEFENDANTS IN THIS CASE, AND I CAN GIVE YOU FIVE MINUTES
8 FOR ANY FURTHER RESPONSE THAT YOU WISH TO MAKE.
9 MR. KOCZAK: I THINK THE COUNSEL FOR THE DEFENDANTS
10 QUOTES FROM THE FEDERAL ELECTION REGULATIONS SELECTIVELY AND
11 ARBITRARILY. THEY OMIT THE REFERENCE THAT IF A PRESIDENTIAL
12 CANDIDATE IS PERMITTED ON THE PREMISES, ALL CANDIDATES FOR THAT
13 OFFICE WHO REQUEST TO APPEAR MUST BE GIVEN THE SAME OPPORTUNITY
14 TO APPEAR.
15 I AM BEING DENIED APPEARANCE ON THAT PREMISE AT
16 THAT TIME, AND THAT IS IRREPARABLE. WE CANNOT GO BACK IN
17 TIME. I AM BEING DENIED DAMAGES, BECAUSE NOT HAVING APPEARED,
18 IT IS LEFT TO THE AUDIENCE THAT SEES THAT BROADCAST THAT
19 PERHAPS I AM NOT A SERIOUS CANDIDATE.
20 CONSEQUENTLY, UNLESS I AM AFFORDED THE OPPORTUNITY
21 TO APPEAR AT THAT TIME -- AND I BELIEVE THE REGULATIONS ARE
22 CLEAR -- IT IS IRREPARABLE. WE CANNOT GO BACK SOME TIME IN
23 THE FUTURE TO JANUARY 15TH. ON JANUARY 22ND WE CANNOT GO
24 BACK.
25 NOW, THEY ALSO DO TALK ABOUT THE FORMAT BEING LEFT

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PENGAD CO., BAYONNE, N.J. 07002 · FORM 240

1 TO THE SPONSORING ORGANIZATION. I STILL HAVEN'T HEARD WHO THE
2 SPONSORING ORGANIZATION IS. IT HAS NOT BEEN IDENTIFIED,
3 BECAUSE IT IS VARIOUSLY REPORTED AS TO WHO IS DOING IT. BUT
4 IT DOES STATE THAT IN A NONPARTISAN DEBATE -- THIS HAPPENS TO
5 BE A PARTISAN DEBATE. THERE ARE NO REPUBLICANS PRESENT. SO
6 THAT THE VERY REGULATIONS THAT ARE QUOTED ARE QUOTED OUT OF
7 CONTEXT AND ARE QUOTED IMPROPERLY, AND I DO ARGUE THAT THIS IS
8 A PARTISAN DEBATE. THIS IS A PARTISAN DEBATE IN WHICH PBS,
9 THE CONGRESSIONAL COMMITTEE, AND DARTMOUTH COLLEGE HAVE
10 ENTERED. HAVING ENTERED INTO A PARTISAN DEBATE, THE ONLY RULE
11 THAT APPLIES IS THE ONE THAT CONCERNS A PRESIDENTIAL CANDIDATE
12 BEING ADMITTED.
13 NOW, I AM A PRESIDENTIAL CANDIDATE. I HAVE STANDING
14 BEFORE THE FEDERAL ELECTION COMMISSION. I HAVE STANDING IN
15 THE STATE OF NEW HAMPSHIRE, AND I AM BEING DENIED THAT AND
16 THAT IS IRREPARABLE. THERE IS NO WAY THAT IN TIME THAT CAN
17 BE RESTORED.
18 SO THAT I DO ARGUE THAT IN FACT I AM LOSING FUNDS.
19 THE CONTRIBUTION OF PBS AND OF THE CAUCUS AND OF DARTMOUTH TO
20 THE CAMPAIGNS OF THESE PERSONS, OF THESE EIGHT PERSONS, IS
21 PHENOMENAL. THEY HAVE THEMSELVES STATED HOW MUCH MONEY THEY
22 HAVE SPENT ON IT. THEY HAVE CONCEDED THAT. I HAVE ASKED
23 DARTMOUTH COLLEGE, I HAVE ASKED PBS, I HAVE ASKED THE CAUCUS
24 TO DETERMINE HOW MUCH MONEY HAS BEEN CONTRIBUTED BY THEM TO
25 THE FEC.

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1 [illegible]EY REFERRED TO THE FEC A[illegible] THE FINAL AUTHORITY. I
2 SPOKE WITH THE CHAIRMAN OF THE FEC WHO CONCEDED THAT IT WILL
3 TAKE PERHAPS WEEKS OR MONTHS AND MAYBE EVEN A YEAR TO DETERMINE
4 WHETHER OR NOT THE CONTRIBUTIONS HAVE BEEN PROPERLY REPORTED,
5 WHETHER THEY ARE.
6 SO THAT THE WHOLE ISSUE WOULD BE MOOT. THE ELECTION,
7 NOT ONLY IN THE PRIMARIES BUT IN THE GENERAL ELECTIONS, WILL
8 BE OVER. SO THAT I THINK THESE ARGUMENTS ARE EXTRANEOUS AND
9 THEY ARE MISLEADING. THEY ARE MEANT TO MISLEAD THE COURT.
10 THEY DO NOT AT ALL REFER TO THE FACTS OR RELATE TO THEM.
11 THEY ARE NOT RELEVANT.
12 IN MY BRIEF I HAVE POINTED OUT THAT I TALKED WITH
13 THE CHAIRMAN OF THE FEDERAL ELECTION COMMISSION WHO STATED
14 THAT FIRST I MUST TAKE AN OATH, WHO SAID THEN THEY MUST FIRST
15 HAVE THE BROADCAST BEFORE THEY CAN EVEN BEGIN TO INVESTIGATE,
16 AND THAT IS PRECISELY WHY I HAVE APPEALED TO THIS COURT ON
17 THE BASIS OF SUPREME COURT DECISIONS IN THE PAST THAT NO ONE
18 CAN REPAIR THAT TO ME, THAT EVEN IF THE FEDERAL ELECTION
19 COMMISSION FINDS FOR ME, THERE'S NO WAY THAT ANYONE CAN GIVE
20 ME BACK THE TIME LOST, THE OPPORTUNITY LOST, AND MY
21 CONSTITUTIONAL RIGHTS WILL HAVE BEEN TRAMPLED ON.
22 THE FEC CANNOT PROTECT ME. THEY ARE VERY CLEAR.
23 I HAVE BEEN REFERRED BY THE FEC TO THE COURTS, AND IT'S IN
24 MY BRIEF, AND THEY HAVE READ THOSE BRIEFS, OR IF THEY HAVEN'T,
25 I'M SORRY BUT THEY SHOULD KNOW THAT THE FEC HAS NO POWER TO

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1 MAKE THESE DECISIONS.

2 THEREFORE, I PLEAD AGAIN THAT THIS INJUNCTION BE
3 GIVEN TO ME. THEY HAVE A RELIEF. ONCE IT IS ISSUED, THEY ARE
4 FREE AT ANY MOMENT TO VACATE THAT INJUNCTION BY COMING IN WITH
5 ME AND SAYING THEY HAVE ADMITTED ME TO THE BROADCAST. AT THAT
6 POINT I WILL COME IN WITH THEM AND WE WILL ASK FOR THE
7 VACATION OF THIS INJUNCTION. SO THAT THERE IS NO IRREPARABLE
8 DAMAGE CAUSED TO THEM IN ANY WAY WHATSOEVER, GIVEN THEIR
9 WILLINGNESS TO ABIDE BY THE CONSTITUTION AND BY THE LAWS OF
10 THE LAND. THERE IS NO IRREPARABLE DAMAGE CAUSED TO THEM.
11 THEIR COUNSEL COULD AT ANY MOMENT ASK THEM TO ADMIT ME AND
12 THEN I WILL HAVE ACHIEVED WHAT I WANT, THE BROADCAST WILL GO
13 FORWARD, NO MONEY WILL BE LOST, AND THE ONLY GAINERS WILL BE
14 THE DEMOCRATIC CITIZENS AND THE OTHER CITIZENS OF NEW HAMPSHIRE
15 WHO WILL HEAR ONE MORE POINT.

16 SO THAT I CANNOT ACCEPT THIS NOTION THAT THERE IS
17 IRREPARABLE DAMAGE TO BE SUFFERED BY THEM. I AM THE ONLY ONE
18 TO SUFFER AND THE CITIZENS OF THE UNITED STATES ARE THE ONES
19 TO SUFFER THE IRREPARABLE DAMAGE IN THIS SITUATION.

20 AND MAY I PLEAD AGAIN FOR THIS INJUNCTION, AND IF
21 IT IS NOT GRANTED TO ME, I SHOULD LIKE TO APPEAL IMMEDIATELY
22 TO THE APPELLATE COURT AND TO THE SUPREME COURT TO ASK THEM TO
23 ISSUE AN INJUNCTION.

24 THANK YOU VERY MUCH.

25 THE COURT: FINE. THANK YOU VERY MUCH, SIR.

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PENGAD CO., BAYONNE, N.J. 07002 · FORM 340

1 E COURT WILL RULE THAT M KOCZAK,
2 A CANDIDATE FOR THE OFFICE OF PRESIDENT OF THE UNITED STATES,
3 AND I SHOULD SAY A DEMOCRATIC PARTY CANDIDATE FOR PRESIDENT
4 OF THE UNITED STATES, HAS COME BEFORE THE COURT SEEKING A
5 TEMPORARY RESTRAINING ORDER TO ENJOIN THE DARTMOUTH COLLEGE
6 DEBATE SCHEDULED TO BE PRESENTED TOMORROW, SUNDAY, JANUARY 15,
7 1984, AT DARTMOUTH COLLEGE IN HANOVER, NEW HAMPSHIRE.
8 MR. KOCZAK HAS SUED DAVID T. MC LAUGHLIN, PRESIDENT
9 OF DARTMOUTH COLLEGE; DARTMOUTH COLLEGE; JUDY NEWMAN OF THE
10 PUBLIC BROADCASTING SERVICE; MICHAEL TIMMENY, WHO IS IDENTIFIED
11 AS AN AID TO CONGRESSMAN CHARLES SHUMER; THE DEMOCRATIC HOUSE
12 CAUCUS; AND THE PUBLIC BROADCASTING SERVICE.
13 AFTER REVIEWING THE PLEADINGS PRESENTED BY
14 MR. KOCZAK AND HEARING HIS ARGUMENTS AND THE ARGUMENTS OF
15 COUNSEL FOR THE VARIOUS PARTIES, THE COURT FINDS THAT IT LACKS
16 JURISDICTION TO HEAR THIS MATTER.
17 THE PLAINTIFF HAS THE BURDEN OF ESTABLISHING
18 FEDERAL JURISDICTION, AND BASED UPON THE PLEADINGS AND THE
19 ARGUMENTS OF MR. KOCZAK, HE HAS NOT MET THAT BURDEN.
20 MOREOVER, THERE IS ANOTHER JURISDICTIONAL ISSUE
21 HERE AND THAT IS WHETHER THIS COURT HAS ANY PERSONAL JURISDIC-
22 TION OVER DARTMOUTH COLLEGE, ITS PRESIDENT, MR. MC LAUGHLIN,
23 JUDY NEWMAN OF THE PUBLIC BROADCASTING SERVICE, EVEN OF THE
24 PUBLIC BROADCASTING SERVICE. I JUST DON'T KNOW THAT I HAVE
25 PERSONAL JURISDICTION OVER THOSE PEOPLE. IT MAY BE, AND THERE

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1 WAS NO ARGUMENT TO THE CONTRARY, THAT THE COURT MIGHT
2 HAVE PERSONAL JURISDICTION OVER MICHAEL TIMMENY, BUT THAT IS
3 NOT EVEN CLEAR FROM THE COMPLAINT.
4 SINCE THE PLAINTIFF HAS FAILED TO ESTABLISH THAT
5 THERE IS FEDERAL JURISDICTION, THIS COURT CERTAINLY CANNOT ACT
6 ON HIS COMPLAINT. BUT I WOULD SAY THAT EVEN IF I DID HAVE
7 JURISDICTION TO HEAR HIS COMPLAINT AND EVEN IF I HAD JURISDIC-
8 TION OVER THE PARTIES, I WOULD HAVE TO RULE THAT HE HAS NOT
9 ESTABLISHED A RIGHT TO THE EXTRAORDINARY RELIEF OF A TEMPORARY
10 RESTRAINING ORDER.
11 FIRST AND FOREMOST, HE HAS NOT ESTABLISHED OR
12 DEMONSTRATED A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS
13 OF HIS COMPLAINT.
14 SECONDLY, HE HAS ESTABLISHED INJURY, PERHAPS, BUT
15 HE HAS NOT ESTABLISHED IRREPARABLE INJURY.
16 WITH RESPECT TO THE THIRD CRITERION OR BALANCING
17 THE EQUITIES, I CANNOT FIND THAT HE HAS DEMONSTRATED THAT MORE
18 HARM WILL BEFALL HIM THAN IT WILL THE DEFENDANTS.
19 I FURTHER FIND THAT THE PUBLIC INTEREST DOES NOT
20 FAVOR THE GRANTING OF THIS RELIEF.
21 I DO BELIEVE THAT MR. KOCZAK HAS FAILED TO EXHAUST
22 ESSENTIAL ADMINISTRATIVE REMEDIES BEFORE THIS COURT COULD TAKE
23 JURISDICTION, AND FOR THOSE REASONS THAT I HAVE STATED, THE
24 COURT WILL DENY HIS MOTION FOR A TEMPORARY RESTRAINING ORDER.
25 MR. KOCZAK, I HAVE DENIED YOUR MOTION FOR A TEMPORARY

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RESTRAINING ORDER AND THUS WILL NOT AND CANNOT ENJOIN THIS DEBATE.

YOU ARE CERTAINLY WELCOME, SIR, TO TAKE WHATEVER FURTHER ACTION YOU DEEM APPROPRIATE. AND IT IS SO ORDERED.

(WHEREUPON, AT 2:40 P.M., THE HEARING WAS CONCLUDED.)

* * *

CERTIFICATE OF REPORTER

I HEREBY CERTIFY THAT THE FOREGOING IS THE OFFICIAL TRANSCRIPT OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER AND THAT IT IS COMPLETE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE AND ABILITY.

Gloria I. Williams

GLORIA I. WILLIAMS
OFFICIAL COURT REPORTER

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Curry

March 9, 1984

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

Re: MUR 1617

Dear Mr. Gross:

This letter constitutes the response of The Trustees of Dartmouth College ("Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences ("Center") to the complaint filed by Mr. Stephen A. Koczak ("Koczak") with the Federal Election Commission ("Commission") alleging violations by Dartmouth and the Center of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, Mr. Koczak's complaint appears to allege, inter alia, that Dartmouth and the Center violated the Act by failing to permit Koczak to particpate in the debate between significant candidates for the Democratic Party's presidential nomination that was sponsored by Dartmouth on January 15, 1984.

As to the allegations regarding Dartmouth and the Center, Mr. Koczak's complaint is totally without merit. Accordingly, the Commission should take no action against Dartmouth or the Center and should dismiss the complaint as it pertains to each institution. Dartmouth's actions in sponsoring the January 15, 1984 debate were fully consistent with the Act, the Commission's specific regulations governing political debates and the Commission's decisions interpreting and enforcing those regulations. As the Commission's regulations and previous enforcement decisions make clear, an organization staging a political debate is not obligated to invite every single declared

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candidate for the elective office at issue so long as the criteria used to select the participants are both nonpartisan and objective. Rather, a staging organization may invite to its debate only those candidates that it determines are significant.

That is exactly what happened here. Nonpartisan and objective criteria, patterned after those used by the League of Women Voters' Education Fund, were employed to select the participants in the January 15 debate. Mr. Koczak simply did not pass muster under these criteria. Accordingly, there was no obligation to invite Mr. Koczak to participate in the debate. For these reasons, Mr. Koczak's allegations have no merit and should be dismissed.

As further support for this conclusion, Dartmouth submits the following:

1. Dartmouth is a private educational institution located in Hanover, New Hampshire. In addition to the four-year undergraduate college, other major academic centers at Dartmouth include the Dartmouth Medical School, the Thayer School of Engineering, the Amos Tuck School of Business Administration and the Rockefeller Center.[1/]

As a private educational institution, Dartmouth is an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. In addition, it has never been Dartmouth's policy or practice to support or oppose candidates for elective office or to support one political party over another.

2. In deciding to sponsor the January 15 Democratic Presidential Debate, Dartmouth's intention was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process. In order to achieve this

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1/ As an academic center within Dartmouth College, the Center has no status independent of Dartmouth and, thus, should not have been named as a separate respondent in Mr. Koczak's complaint.

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objective, it was determined, in consultation with the Democratic Caucus of the House of Representatives ("Caucus"),[2] that only those Democratic presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate.

As experience with the political debate framework has shown, there is an inverse relationship between the number of participants, on the one hand, and the time available for the expression of views and the opportunity for effective interchange between or among the participants, on the other. Debates that are too lengthy or that include candidates for whom the public has little voting interest will not be effective.

3. Because of the limited amount of time available in the January 15 debate, it was decided that it was necessary to limit participation to candidates whom the public would regard as truly significant candidates. To do the opposite, i.e., invite all declared candidates for the Democratic presidential nomination would have been impossible. For example, in New Hampshire alone, there were 22 candidates on the ballot contesting for the Democratic presidential nomination.[3]

Therefore, nonpartisan and objective criteria were developed to determine which candidates should be invited to appear in the

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2/ From the outset, Dartmouth, in its role as sponsor of the debate, worked closely with the Caucus. Dartmouth affirmatively sought the Caucus' active assistance and expertise to help manage and implement the complex tasks involved in staging a televised, multi-candidate debate.

3/ Traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000.00 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions.

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debate. These criteria were modeled after the criteria employed on numerous occasions by the League of Women Voters' Education Fund. See Attachment A. The basic tests for determining participation in the January 15 debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility of federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

Based on these criteria, it was determined that Mr. Koczak was not eligible to participate in the Dartmouth debate.

4. In view of these facts, the allegations raised by Mr. Koczak against Dartmouth and the Center must be dismissed as groundless. Under the Commission's regulations, Dartmouth, as a nonpartisan and nonprofit organization exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, "may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b)."[4/] Section 110.13(b) states that "[t]he structure of debates...is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another."

4/ 11 C.F.R. § 110.13(a)(1).

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In promulgating the debate regulations, the Commission expressly recognized that "[a] nonpartisan candidate debate...provides a forum for significant candidates to communicate their views to the public." Explanation and Justification, 44 Fed. Reg. 76734 (Dec. 27, 1979) (emphasis added). In providing such a forum, debate sponsors may, in accordance with the express provisions of 11 C.F.R. § 110.13(b)(2), exercise "discretion" so long as debates "are nonpartisan in that they do not promote or advance one candidate over another." According to the Commission, "[t]he primary question in determining nonpartisanship is the selection of candidates to participate in the debates." Explanation and Justification, 44 Fed. Reg. 76735.

The criteria for inviting candidates to participate in the Dartmouth debate comply with the letter and the spirit of the Commission's regulations as reflected in the Commission's holding in MUR 1287 where selection criteria similar to those employed for the Dartmouth debate were found to be objective and nonpartisan.

Therefore, for the above stated reasons, the Commission should take no action against either Dartmouth or the Center in connection with the allegations in the Koczak complaint.

Sincerely,

Douglas M. Steenland

Douglas M. Steenland
Counsel for The Trustees of
Dartmouth College

cc: Cary Clark, Esq.
Dartmouth College
P.O. Box 31
Hanover, NH 03755

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1984 LEAGUE OF WOMEN VOTERS EDUCATION FUND
DEMOCRATIC PRESIDENTIAL PRIMARY DEBATES
PARTICIPANT SELECTION CRITERIA

The League of Women Voters Education Fund will sponsor during the 1984 election season a series of primary debates among significant candidates for the Democratic Party's nomination for President. The purpose of these debates is to educate the nation's electorate in a nonpartisan manner about the issues in the 1984 Presidential campaign and about the positions of candidates on these issues and to stimulate increased voter interest and participation in the electoral process.

The League's goal of fostering voter education and participation in the electoral process is furthered by inviting to debate only candidates in whom a substantial number of voters has an interest. Inclusion of candidates in whom there is little voter interest would result in debates that are too long or that do not provide sufficient time for the meaningful expression of views by significant candidates. Accordingly, the League has chosen to limit participation in its 1984 Democratic primary Debates to candidates who present a significant national candidacy for the Democratic nomination for President.

Candidates who meet the following criteria will be invited to participate in the League's 1984 Democratic primary debates:

1. The candidate must have made a public announcement of his or her intention to run for the Democratic Party's nomination for President.

2. The candidate must be legally qualified to hold the office of President.

3. The candidate must be a significant candidate for the Democratic Party's nomination for President.

In assessing the significance of a candidacy, the League will consider a number of factors including the following:

-- Eligibility for matching payments under the Presidential Primary Matching Payment Account Act (26 U.S.C. Chapter 96). This criterion furthers the identification of significant candidates by focusing on those candidates who are significant enough to solicit, and have sufficient voter support to receive, contributions from a number of persons in a

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number of states.

-- Active campaigning in a number of states for the Democratic Party's nomination. Candidates who have established an active campaign presence in several different states may pose a significnt national candidacy for the Democratic Presidential nomination. A candidate's efforts to be named on primary ballots, his or her fundraising activities, the extent of the candidate's campaign organization, the amount of his or her campaign appearances, as well as any other factors evidencing substantial campaign activity, may be considered.

-- Recognition by the national media as a candidate meriting media attention. Since media coverage of particular candidates by major newspapers and television networks tends to evidence a recognition by the national media of substantial voter interest in a candidate and serves independently to foster such interest, this criterion is an appropriate consideration in determining the significance of particular candidates in the national campaign.

-- Other factors. The League may consider such other factors which in the League's good faith judgment may provide substantive evidence of nationwide voter interest in a candidate, such as the extent of campaign contributions and national voter poll results.

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BY HAND

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MUR 1617
Curry

March 9, 1984

9 AM 10:25

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

Re: MUR 1617

Dear Mr. Gross:

This letter constitutes the response of The Trustees of Dartmouth College ("Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences ("Center") to the complaint filed by Mr. Stephen A. Koczak ("Koczak") with the Federal Election Commission ("Commission") alleging violations by Dartmouth and the Center of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, Mr. Koczak's complaint appears to allege, inter alia, that Dartmouth and the Center violated the Act by failing to permit Koczak to particpate in the debate between significant candidates for the Democratic Party's presidential nomination that was sponsored by Dartmouth on January 15, 1984.

As to the allegations regarding Dartmouth and the Center, Mr. Koczak's complaint is totally without merit. Accordingly, the Commission should take no action against Dartmouth or the Center and should dismiss the complaint as it pertains to each institution. Dartmouth's actions in sponsoring the January 15, 1984 debate were fully consistent with the Act, the Commission's specific regulations governing political debates and the Commission's decisions interpreting and enforcing those regulations. As the Commission's regulations and previous enforcement decisions make clear, an organization staging a political debate is not obligated to invite every single declared

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candidate for the elective office at issue so long as the criteria used to select the participants are both nonpartisan and objective. Rather, a staging organization may invite to its debate only those candidates that it determines are significant.

That is exactly what happened here. Nonpartisan and objective criteria, patterned after those used by the League of Women Voters' Education Fund, were employed to select the participants in the January 15 debate. Mr. Koczak simply did not pass muster under these criteria. Accordingly, there was no obligation to invite Mr. Koczak to participate in the debate. For these reasons, Mr. Koczak's allegations have no merit and should be dismissed.

As further support for this conclusion, Dartmouth submits the following:

1. Dartmouth is a private educational institution located in Hanover, New Hampshire. In addition to the four-year undergraduate college, other major academic centers at Dartmouth include the Dartmouth Medical School, the Thayer School of Engineering, the Amos Tuck School of Business Administration and the Rockefeller Center.[1/]

As a private educational institution, Dartmouth is an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. In addition, it has never been Dartmouth's policy or practice to support or oppose candidates for elective office or to support one political party over another.

2. In deciding to sponsor the January 15 Democratic Presidential Debate, Dartmouth's intention was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process. In order to achieve this

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1/ As an academic center within Dartmouth College, the Center has no status independent of Dartmouth and, thus, should not have been named as a separate respondent in Mr. Koczak's complaint.

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objective, it was determined, in consultation with the Democratic Caucus of the House of Representatives ("Caucus"),[2] that only those Democratic presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate.

As experience with the political debate framework has shown, there is an inverse relationship between the number of participants, on the one hand, and the time available for the expression of views and the opportunity for effective interchange between or among the participants, on the other. Debates that are too lengthy or that include candidates for whom the public has little voting interest will not be effective.

3. Because of the limited amount of time available in the January 15 debate, it was decided that it was necessary to limit participation to candidates whom the public would regard as truly significant candidates. To do the opposite, i.e., invite all declared candidates for the Democratic presidential nomination would have been impossible. For example, in New Hampshire alone, there were 22 candidates on the ballot contesting for the Democratic presidential nomination.[3]

Therefore, nonpartisan and objective criteria were developed to determine which candidates should be invited to appear in the

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2/ From the outset, Dartmouth, in its role as sponsor of the debate, worked closely with the Caucus. Dartmouth affirmatively sought the Caucus' active assistance and expertise to help manage and implement the complex tasks involved in staging a televised, multi-candidate debate.

3/ Traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a $1,000.00 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some emperical evidence of voter support, e.g. signed petitions.

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debate. These criteria were modeled after the criteria employed on numerous occasions by the League of Women Voters' Education Fund. See Attachment A. The basic tests for determining participation in the January 15 debate were:

(1) Public announcement of the intention to seek the Democratic Party's presidential nomination;

(2) Constitutional eligibility to hold the Office of President;

(3) A significant candidacy as evidenced by

(a) eligibility of federal matching funds,

(b) active campaigning in several states,

(c) recognition by the national media as a national candidate, and

(d) other factors including public opinion polls and broad based fundraising efforts.

Based on these criteria, it was determined that Mr. Koczak was not eligible to participate in the Dartmouth debate.

4. In view of these facts, the allegations raised by Mr. Koczak against Dartmouth and the Center must be dismissed as groundless. Under the Commission's regulations, Dartmouth, as a nonpartisan and nonprofit organization exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, "may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b)."[4/] Section 110.13(b) states that "[t]he structure of debates...is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another."

4/ 11 C.F.R. § 110.13(a)(1).

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In promulgating the debate regulations, the Commission expressly recognized that "[a] nonpartisan candidate debate...provides a forum for significant candidates to communicate their views to the public." Explanation and Justification, 44 Fed. Reg. 76734 (Dec. 27, 1979) (emphasis added). In providing such a forum, debate sponsors may, in accordance with the express provisions of 11 C.F.R. § 110.13(b)(2), exercise "discretion" so long as debates "are nonpartisan in that they do not promote or advance one candidate over another." According to the Commission, "[t]he primary question in determining nonpartisanship is the selection of candidates to participate in the debates." Explanation and Justification, 44 Fed. Reg. 76735.

The criteria for inviting candidates to participate in the Dartmouth debate comply with the letter and the spirit of the Commission's regulations as reflected in the Commission's holding in MUR 1287 where selection criteria similar to those employed for the Dartmouth debate were found to be objective and nonpartisan.

Therefore, for the above stated reasons, the Commission should take no action against either Dartmouth or the Center in connection with the allegations in the Koczak complaint.

Sincerely,

Douglas M. Steenland
Counsel for The Trustees of
Dartmouth College

cc: Cary Clark, Esq.
Dartmouth College
P.O. Box 31
Hanover, NH 03755

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TO:

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

BY HAND

Mondale for President
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Telephone: 202-625-1600

MONDALE

Curry

March 8, 1984

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

RE: MUR 1617

Dear Mr. Steele:

This letter constitutes the response of the Mondale for President Committee ("Committee") to the complaint filed by Stephen A. Koczak on January 20, 1984, and amended on January 24, 1984. Complainant Koczak has alleged that Walter Mondale, as one of the eight presidential candidates who participated in the debate held on January 15, 1984 at Dartmouth College, accepted illegal contributions from Dartmouth College, the Rockefeller Center for Public Policy, the House Democratic Caucus, and the radio and television stations who covered the debate.

These allegations are without merit. First, Dartmouth College and the Rockefeller Center for Public Policy were proper staging organizations for the debate, and as such, were not contributors, since the debate was non-partisan and was not for the purpose of influencing the election. Second, the House Democratic Caucus was not a staging organization and therefore made no contribution. Finally, the broadcasters' coverage of the debate did not constitute a contribution.

In light of these facts, discussed more fully below, the Commission should find no reason to believe that a violation of the Federal Election Campaign Act ("FECA") has occurred.

Dartmouth College and the Rockefeller Center for Public Policy Were Proper Staging Organizations

It is the Committee's understanding that Dartmouth College and the Rockefeller Center for Public Policy provided the facilities for the debate and paid the expenses incurred in staging the event.1/ Under 11 C.F.R. Section 110.13(a), any non-

1/ During a January 14, 1984 hearing before United States District Court Judge Norma Halloway Johnson on a complaint brought by Mr. Koczak to enjoin any broadcast of the debate, Douglas N. Steenland, Esquire, attorney for Dartmouth College, stated that Dartmouth was the staging organization for the event. Koczak v. McLaughlin, Civ. Action No. 84-0146 (D.D.C. January 14, 1984).

Paid for by Mondale for President, Inc.

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profit educational and charitable organization which is exempt from taxation under 2 U.S.C. Section 501(c)(3) or Section 501(c)(4), and which does not endorse, support or oppose political candidates or political parties, may stage a nonpartisan candidate debate without making a contribution.

Both Dartmouth College and the Rockefeller Center are tax exempt organizations and neither has endorsed, supported, or opposed political candidates or parties. Thus, since the costs of the event were paid for by proper staging organizations, no contribution in violation of FECA resulted.

The Selection of Candidates to Participate in the Debate Complied with FEC Regulations

The debate was a nonpartisan event designed to educate and inform the public, and its structure complied with FEC regulations. Thus, there was no obligation on the part of the staging organization to include Complainant in the debate.

Under the regulations, funds donated or used to stage nonpartisan candidate debates are not considered contributions for the purpose of influencing an election to federal office. 11 C.F.R. 100.7(b)(21) & 100.8(b)(23). The regulations further state that the selection of candidates invited to appear in a debate "is left to the discretion of the staging organization." 11 C.F.R. 110.13(b). The regulations specify two conditions which a staging organization is required to meet: at least two candidates must appear in a debate and a debate must be nonpartisan in that it does not promote or advance one candidate over another.

The Explanation and Justification accompanying Section 110.13 further clarifies the requirement of nonpartisanship and expressly states that only the "significant candidates" in a race need be invited to participate in a debate. 44 Fed. Reg. 76734(1979). Furthermore, the Explanation and Justification indicates that the overall fairness and purpose should also determine whether it is nonpartisan:

> A debate is nonpartisan if it is for the purpose of educating and informing the voters, provides fair and impartial treatment of candidates and does not promote or advance one candidate over another.

44 Fed. Reg. 76,735(1979).

In the January 15 Dartmouth debate, the eight participating candidates were all significant candidates seeking the Democratic nomination on a nationwide basis. Each debate participant had a viable campaign organization in several states, each had a significant standing in major nationwide polls, and each qualified to

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appear on the ballot in at least 20 states.2/ Furthermore, all of the eight candidates have qualified to receive and are receiving primary matching funds. In order to qualify, these candidates were required to show substantial fundraising efforts in at least 20 states. 26 U.S.C. Section 9033.3/

By contrast, Complainant can not be considered a "significant candidate", since his affidavit indicates he has qualified to appear on the ballot in only two states, New Hampshire and Florida. He has made no submission to qualify for matching funds, nor does he have anything which even approaches a nationwide campaign organization. The only reason put forth by Complainant as to why he should have been included in the debate was his appearance on the New Hampshire ballot. However, since there were at least 24 candidates who were on the New Hampshire ballot, the staging organizations properly applied other national criteria in making their selection.

Thus, it is clear that in all respects, including the selection of candidates, the debate was nonpartisan and held in accordance with FEC regulations.

The House Democratic Caucus Was Not a Contributor

While the House Democratic Caucus was instrumental in encouraging participation in the debate, Dartmouth College and the Rockefeller Center, not the House Democratic Caucus, paid the costs of staging the debate. Thus, no contribution was made.

The Broadcasters Covering the Debate Were Exempt from the FECA

Finally, Complainant asserts that those radio and television broadcasters which aired the January 15 debate made illegal contributions. However, since the only involvement by the broadcasting stations was their coverage of the debate, no contribution was made.

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2/ For a number of months prior to the debate, each of the eight candidates received a rating in the following nationwide polls: Harris, Gallup, ABC/Washington Post, CBS/New York Times, NBC Yankelovich.

3/ In MURs 1167, 1168, and 1170, all of the candidates excluded from the debate received matching funds and had met a number of other nationwide criteria. Consequently, the Commission found reason to believe that the Nashua Telegraph and the Telegraph Publishing Co. were about to violate 2 U.S.C. Section 441b by arranging a debate which included only President Reagan and Vice President Bush.

Under 2 U.S.C. Section 431(9)(B)(i), a broadcasting station is exempt from FECA limitations or prohibitions when covering and broadcasting a bona fide news event. The statutory provision states that:

> The term 'expenditure' does not include -- (i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station...unless such facilities are owned or controlled by any political party, political committee, or candidate....

The Explanation and Justification of the debate regulations expressly states the Commission's intent to preserve the right of broadcasters to cover debates:

> Nothing in this section limits the right of broadcasters...to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act...

44 Fed. Reg. 76735 (1979).

Thus, the public broadcasting stations named as respondents did not make contributions to the participants by broadcasting the debate staged by the Dartmouth College and the Rockefeller Center.

In light of the foregoing response, the Mondale for President Committee respectfully requests that the Commission find no reason to believe a violation of the Act occurred and close its file in this matter.

Sincerely,

David M. Ifshin CWO

David M. Ifshin
General Counsel

Carolyn Oliphant

Carolyn Oliphant
Deputy General Counsel

cc: Michael S. Berman

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dale for President
Wisconsin Avenue, N.W.
hington, D.C. 20007

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MONDALE

Charles N. Steele
General Counsel
Federal Election Commission
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* MEMBER OF GEORGIA BAR ONLY

14 MAR 2 P12:47

MUR 1617
Curry

March 2, 1984

HAND DELIVER

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

Re: MUR 1617 (Complaint of Stephen Koczak)

Dear Mr. Steele:

On behalf of Phillip J. Donahue, and in accordance with Federal Election Commission procedures, we submit this letter commenting upon Stephen Koczak's "Compliance Complaint and Petition" ("Complaint"). A "Statement of Designation of Counsel" executed by Mr. Donahue in favor of the undersigned is enclosed.

The Complaint makes a variety of allegations of wrong-doings by a number of named parties. However, with respect to Mr. Donahue, the Complaint makes no allegation of any election law violation. In fact, Mr. Donahue is only referred to twice in the Complaint, once in the introductory paragraph where the respondents are enumerated, and the second time on page 9, ¶8 where it seeks certain documents from Mr. Donahue. Significantly, the January 23, 1984 "Amendment and Supplement to Compliance Complaint and Petition," makes no reference whatsoever to Mr. Donahue.

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Since the Complaint is completely devoid of any allegations against Mr. Donahue, it is not possible to provide a substantive response. What appears from the Complaint is that, in his zeal to challenge the organization of the televised New Hampshire debate and to obtain material he considers relevant, Mr. Koczak has sought to involve everyone associated with the program, even in the absence of alleged legal infraction.

Since the Complaint fails to allege that Mr. Donahue has committed any violation of federal election law or other statutes over which the Commission has jurisdiction, it is fatally defective and must be dismissed as regards Mr. Donahue. See 2 U.S.C. §437g(a)(1), 11 C.F.R. §111.4(d)(1) and (3). This dismissal is appropriate whether or not the Commission proceeds to conduct an investigation against any other named respondent. Furthermore, as no allegation is made against Mr. Donahue, we hereby move, in accordance with 2 U.S.C. §437g(a)(1), that the Commission take no action against Mr. Donahue on the basis of this Complaint.

Kindly direct all further correspondence and questions in this matter to the undersigned.

Sincerely,

Arnold P. Lutzker

APL/sh

Enclosure

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 1617

NAME OF COUNSEL: Arnold P. Lutzker, Esquire
Dow, Lohnes & Albertson

ADDRESS: 1225 Connecticut Avenue, N. W.
Suite 500
Washington, D. C. 20036

TELEPHONE: (202) 862-5702

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

February 1, 1984
Date

Signature Phillip J. Donahue

NAME: The Donahue Show

ADDRESS: Television Station WBBM-TV
630 N. McClurg Court
Chicago, Illinois 60611

HOME PHONE:

BUSINESS PHONE: (312) 281-5210

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Mr. Charles N. Steele
General Counsel
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COUNSEL

DIRECT DIAL NO.
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'84 FEB 29 P3:03

February 29, 1984

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

Attention: Charles N. Steele,
General Counsel

Re: Response of Ted Koppel to
Complaint of Koczak for
President Committee (MUR-1617)

Dear Mr. Steele:

This letter is written on behalf of Ted Koppel in response to the complaint of the Koczak for President Committee (MUR 1617).1/ For the reasons stated below, Mr. Koppel urges the Commission to dismiss the complaint as to him without further Commission action.

I.

Preliminary Statement

The subject complaint stems from the televised debate among eight Democratic Presidential candidates from the campus of Dartmouth College in Hanover, New Hampshire on January 15, 1984 (hereinafter "Dartmouth Debate"). The first

1/ A copy of the complaint was transmitted to Mr. Koppel under the Commission's letter dated January 25, 1984. An amendment to the complaint was thereafter transmitted under a second Commission letter dated February 10, 1984.

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half of the Dartmouth Debate was moderated by Mr. Koppel, a national news reporter and anchor for the American Broadcasting Companies, Inc. ("ABC").

The complaint by Stephen A. Koczak of Washington, D.C., is principally directed against those parties who it is alleged were responsible for arranging and conducting the subject debate. These are, according to the complaint, the House or Congressional Democratic Caucus (hereinafter "Caucus"),2/ the Corporation for Public Broadcasting ("CPB"), the Public Broadcasting Service ("PBS"), Dartmouth College, the Rockefeller Center for the Social Sciences and Public Policy at Dartmouth College, the New Hampshire Public Television System, public television station WGBH-TV, Boston, Massachusetts, and the "MacNeil/Lehrer News Program" (as well as other programs funded in whole or part by CPB). Secondarily, it appears, the complaint is also directed against the eight Presidential candidates who participated in the Dartmouth Debate and against Messrs. Koppel and syndicated talk-show host Phil Donohue (who moderated the second half of the debate).

In general, the complaint appears to allege that when the Caucus assisted in arranging the Dartmouth Debate it was effectively acting as a "political committee" and should have been registered as such with the Commission under 2 U.S.C. § 431(c). In addition, the complaint asserts that the Caucus, CPB, PBS, Dartmouth College and WGBH-TV offered services or expended funds in a manner that may have constituted an unauthorized or unreported "contribution" to the campaigns of the eight Democratic candidates who participated in the debate. Accordingly, the complaint ends with the observation that when "the approximate value of all services, facilities and activities undertaken or completed" by the parties to the complaint are determined or estimated (which the Commission is asked to undertake), and such "monetary value or benefit" allocated pro rata to each of the eight candidates taking part in the Dartmouth Debate, it may be possible to determine whether any of those candidates exceeded appropriate expenditure limits. (Complaint, paras. 8-9.)

2/ In his amended complaint Mr. Koczak requests that the name of this respondent be changed to read "House Democratic Caucus and/or National-House Democratic Caucus." Amended Complaint, p. 1.

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II.

The Complaint Fails To Allege Any Violation With Respect To Mr. Koppel And Should Be Dismissed

As noted, the complaint essentially argues that when the Caucus arranged (or assisted in arranging) the Dartmouth Debate it acted as a "political committee" and should have been registered as such with the Commission. In addition, it is alleged that the Caucus and other parties directly involved in the debate arrangements effectively "contributed" to the campaigns of the eight candidates who participated. Overall, however, the complaint is cast in highly general terms and concludes by merely asking the Commission to undertake an investigation seemingly designed to add substance to the foregoing allegations.

Nowhere is the complaint more general and non-specific than in dealing with Mr. Koppel. Indeed, nowhere in the complaint is there any specific allegation that Mr. Koppel violated any provision of either the Federal Election Campaign Act ("FECA") or the Commission's Rules and Regulations. Rather, other than merely naming Mr. Koppel (in the introduction), the only reference to Mr. Koppel in the entire complaint comes at the very end when the Commission is urged:

> "To obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, contacts, undertakings and agreements reached with any of the parties named in the complaint." (Complaint, para. 8).

Accordingly, at least as to Mr. Koppel, the complaint should be dismissed forthwith inasmuch as it completely fails to satisfy the threshold procedural standards of the Commission's Rules. Thus, whereas the Rules require a complaint to "contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction,"3/ as noted, the complaint here does not even allege a violation as to Mr. Koppel,

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3/ See Section 114.4(d)(2) of the Commission's Rules, 11 C.F.R. § 114.4(d)(2).

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much less describe the facts purporting to demonstrate such violation.

In fact, at best, with respect to Mr. Koppel, the complaint merely seeks to obtain background information presumably designed to assist the complainant in demonstrating the nature or extent of a possible violation by other named parties. However, unless and until it is determined that a violation by others may have occurred, it would be premature and totally unnecessary to examine, in any fashion, the independent journalistic function performed by Mr. Koppel in connection with the Dartmouth Debate.4/ In addition, it should be emphasized that no showing has been made that the information sought from Mr. Koppel -- to the extent such information exists -- is not available directly from other parties named in the complaint.

There can be no question that when Mr. Koppel served as the moderator of the first half of the Dartmouth Debate he did so in his capacity as an independent journalist. Indeed, Mr. Koppel's questioning of political candidates participating in that debate merely mirrored the interviewer-moderator type role he performs on a daily (Monday-Friday) basis as the anchor of ABC's "Nightline" news program. To even suggest that Mr. Koppel's role as an objective, non-partisan moderator of the Dartmouth Debate should have any adverse consequences under federal election laws represents an affront to fundamental First Amendment values and policies.

Accordingly, as to Mr. Koppel at least, the subject complaint is patently deficient for failing to even allege any specific violation and, in any event, demonstrably premature and superfluous as a practical matter. For instance, even if it is assumed that valid allegations have been (or can be)

4/ In this regard, it can be observed that the generally analogous and critically important "news story" exemption to the FECA (2 U.S.C. § 441b(a) (1976)) was specifically intended to narrow the FEC's permissible investigation of press entities. See, e.g., Reader's Digest Association, Inc. v. Federal Election Commission, 509 F.Supp. 1210, 1214 (S.D.N.Y. 1981). Similarly, the Supereme Court, in reviewing the FECA, has noted that the Act "exempts most elements of the institutional press, limiting only expenditures by institutional press facilities that are owned or controlled by candidates and political parties." Buckley v. Valeo, 424 U.S. 1, 50 n.56 (1976).

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framed as to parties other than Mr. Koppel,5/ there can be no basis for ordering Mr. Koppel to, as the complaint requests, come forward with an unspecified showing regarding "costs, contracts, contacts, undertakings and agreements reached" with such parties. In short, to the extent any such matters exist, and the production thereof should ultimately be considered relevant, warranted, and necessary, they can be obtained from other parties more central to the complaint. There is clearly no need to burden either Mr. Koppel or this proceeding with such an unnecessary exercise.

III.

Conclusion

The subject complaint centers exclusively on the question of whether the Caucus should be registered as a political committee and whether the Caucus and other named parties (not Mr. Koppel) made unspecified campaign "contributions" when they provided services or facilities to facilitate the Dartmouth Debate. The complaint makes no allegations whatsoever concerning the activities of Mr. Koppel -- but nevertheless requests the Commission to order Mr. Koppel to come forward with an unspecified and detailed showing concerning costs, contracts, agreements and understandings reached with other parties named in the complaint.

5/ While plainly beyond the vague and unspecified procedural parameters of the current complaint, it should perhaps nevertheless be observed that even were the Caucus or other parties to the subject complaint ultimately considered to have acted as a political committee, as alleged, both the FECA and the Commission's regulations specifically exempt from coverage of the federal election laws the rendering of professional services similar to those involved here. See, e.g., 2 U.S.C. § 431(8)(B)(i). See also Advisory Opinions 1975-97, 1980-42 and 1980-88. In fact, while clearly not relevant here, under such provisions and interpretations it is even possible for personal services to be donated in a partisan capacity and still remain exempt from the "contribution" restrictions of the FECA and the Commission's regulations.

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The complaint as to Mr. Koppel should be dismissed without further action by the Commission. The complaint is patently defective in that it contains absolutely no recital of facts or circumstances alleging that Mr. Koppel violated any statute or regulation within the Commission's jurisdiction. Moreover, until and unless it is determined that a violation may have occurred with respect to the activities of other parties named in the complaint, it would be unfair and premature to require Mr. Koppel or any similarly situated party to attempt to provide any background information concerning such matters.

Accordingly, for all the foregoing reasons, it is hereby respectfully requested that -- at least with respect to Mr. Koppel -- the subject complaint be dismissed without further Commission action.

Respectfully submitted,

TED KOPPEL

By Carl R. Ramey

Carl R. Ramey

His Attorney

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LAW OFFICES

McKENNA, WILKINSON & KITTNER

1150 SEVENTEENTH STREET, N.W.

WASHINGTON, D. C. 20036

To:

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

Attention: Charles N. Steele,
General Counsel

GCL#1772

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TAX COUNSEL
ROBERT A. KRAMER

February 28, 1984

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1617

Dear Mr. Steele:

On behalf of the University of New Hampshire, we hereby respond to the "Compliance Complaint and Petition" (Complaint) filed January 17, 1984 and the "Amendment and Supplement to Compliance Complaint and Petition" (Amendment) filed January 23, 1984 with the Commission by Stephen A. Koczak. The University is licensee of five noncommercial educational television stations which, pursuant to authority from the Federal Communications Commission, provide a statewide public television service referred to sometimes as "New Hampshire Public Television". The University helped to produce the Public Broadcasting Service (PBS) coverage of the January 15, 1984 "Dartmouth College Debate" among eight candidates for the Democratic presidential nomination. Mr. Koczak alleges that the University thereby violated the Federal Election Campaign Act of 1971, as amended (the Act).

Mr. Koczak's January 17, 1984 submission to you notes that the University collaborated with PBS to produce the debate coverage (Complaint, ¶11) and alleges generally that "[t]he value contributed and expended on behalf of the candidates" by the University "is a significant contribution" (Complaint, ¶26). He asks that this Commission obtain from the University documents relating to its debate coverage (Complaint, Pet. ¶4). In his Amendment Mr. Koczak does not mention the University, but he provides a copy of a complaint which he filed on January 24, 1984 with the Federal Communications Commission asserting a right to "equal opportunities" with respect to the debate coverage by the University. The complainant does not state in either of his submissions with any reasonable degree of specificity the statutory or regulatory basis for his complaint. No showing whatever is made that the University expended any funds for the benefit of any

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FEB 28 P5:06
GENERAL COUNSEL

candidate, and the Complaint and Amendment should be summarily dismissed or denied for failure to set forth any possible violation of the Federal Election Campaign Act.

As a procedural matter, the University submits that its debate coverage falls squarely within the exclusion of 2 U.S.C. Section 431(9)(B)(i) to the general rule of Section 441(b)(2) with respect to a "contribution or expenditure". The provision of Section 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station. . . unless such facilities are owned or controlled by any political party, political committee, or candidate . . .". As a state institution, the University obviously is not owned or controlled by "any political party, political committee, or candidate". The University covered the Dartmouth debate as a news story (as did approximately 300 other journalists who covered the debate). The University had no involvement with the staging of the debate or with selection of candidates to participate. It was solely a co-producer of public television coverage. Appended hereto as Attachment A is a copy of the decision of the Federal Communications Commission, released February 16, 1984, rejecting Mr. Koczak's "equal opportunities" complaint and finding that he had provided no information which would indicate that the University was unreasonable in determining that the debate was a newsworthy event. Inasmuch as the University was clearly operating as a press entity in producing and covering the debate and is a public institution not owned by any party or candidate, the Commission should not investigate the insubstantial complaint of Mr. Koczak any further. Cf., Reader's Digest v. Federal Election Commission, 509 F.Supp. 1210 (DCSNY, 1981).

Very truly yours,

SCHWARTZ, WOODS & MILLER

By: Lawrence M. Miller
Lawrence M. Miller

LMM/nmc

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

8330-D
C1-670
C2-137

In re Complaint of	)
	)
Stephen A. Koczak	)
	)
against	)
	)
University of New Hampshire	)

Staff Ruling

Adopted: February 16, 1984 ; Released: February 16, 1984

By the Chief, Fairness/Political Programming Branch:

1. The Commission has before it a complaint, received on January 24, 1984, filed by Mr. Stephen A. Koczak, a Democratic candidate for the Office of President of the United States.

2. Koczak states that on January 15, 1984, New Hampshire Public Television 1/ aired a program he referred to as the "Dartmouth College Debate," which was a debate among eight Democratic presidential candidates. 2/ Koczak states that at the time the Dartmouth College Debate was aired he was a legally qualified candidate in New Hampshire 3/, and three days after the debate was aired, he requested "equal opportunities," pursuant to 47 U.S.C. 315(a), based on the appearance of his eight opponents on that program. He states that the licensee denied his request on the basis that the subject program was a "bona fide news event."

3. Koczak alleges "that New Hampshire Public Television, licensed to telecast noncommercial broadcasts, had relinquished control over the debate because it was in fact a partisan broadcast which should have been telecast commercially." He states that the debate was actually organized by a partisan political body, the National House Democratic Caucus, which had arbitrarily excluded other Democratic candidates from the debate. Furthermore, he alleges

1/ Commission records indicate that the University of New Hampshire is the licensee of five New Hampshire noncommercial television stations, which are WEDB-TV, Berlin, WENH-TV, Durham, WHED-TV, Hanover, WEKW-TV, Keene, and WLED-TV, Littleton.

2/ The Democratic candidates who appeared on the program were Reubin Askew, Ernest Hollings, Alan Cranston, Jessie Jackson, John Glenn, George McGovern, Gary Hart, and Walter Mondale.

3/ In this connection, Mr. Koczak has enclosed a copy of his "Declaration of Candidacy" filed with the Secretary of State in New Hampshire.

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that "the broadcast was tainted by the illegal use and misappropriation of Federal government funds by the National House Democratic Caucus, the Corporation for Public Broadcasting . . . and the Public Broadcasting Service." Therefore, Koczak alleges that this debate, which was organized by a partisan political body and funded with federal monies, could not be considered a "bona fide news event." 4/

Discussion

4. The Commission has ruled that a broadcaster-sponsored debate will fall within the § 315(a)(4) exemption as on-the-spot coverage of a bona fide news event. Henry Geller, ___ FCC 2d ___ (FCC 83-529, released November 16, 1983). Therefore, with respect to the allegation that New Hampshire Public Television had relinquished control over the subject debate, we find that control is an irrelevant consideration for purposes of a broadcaster determining whether a debate is a bona fide news program. The Geller decision served to broaden Section 315(a)(4) to include broadcaster-sponsored debates, but it did not remove third-party sponsored debates from the scope of the exemption.

5. With regard to Koczak's allegation that the debate was "tainted" by the use of federal funds, such matters are beyond the scope of the Commission's statutory jurisdiction. Koczak has presented no information which would indicate New Hampshire Public Television was unreasonable in concluding that the subject debate was a newsworthy event.

6. Therefore, the complaint IS DENIED.

7. Staff action is taken under delegated authority. Application for Review by the full Commission may be requested within thirty days of the date of public notice of this document (see Commission Rule 1.4(b) [47 C.F.R. § 1.4(b)]) by writing the Secretary, Federal Communications Commission, Washington, D.C. 20554, stating the factors warranting consideration and, if

4/ By letter received February 7, 1984, Koczak amended his complaint to make the same allegations against WGBH Educational Foundation (WEF). Commission records indicate that WEF is the licensee of the following noncommercial broadcast stations, which have been included in this proceeding: WGBH-TV, WGBX-TV, and WGBH-FM, all in Boston, Massachusetts, and WGBY-TV, Springfield, Massachusetts.

Because the service areas of these stations allegedly extend into New Hampshire, where the debate was held and Koczak is legally qualified, he includes them as part of his complaint. He states that he made an "equal opportunities" request of WEF within seven days of the debate, but he has received no response to date. Due to our ruling herein, it is unnecessary for the Commission to determine which service areas of these noncommercial Massachusetts stations extend into New Hampshire, and if any do, whether such coverage is sufficient to warrant Section 315 obligations.

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mailed, should be sent by certified mail. Copies must be sent to the parties to the complaint. See Commission Rule 1.115 (47 C.F.R. § 1.115).

FEDERAL COMMUNICATIONS COMMISSION

Milton O. Gross, Chief,
Fairness/Political Programming Branch
Enforcement Division
Mass Media Bureau

cc: University of New Hampshire
WGBH Educational Foundation
Counsel

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WASHINGTON, D.C. 20036

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Charles N. Steele, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, DC

GCC#1771

PUBLIC BROADCASTING SERVICE PBS 475 L'ENFANT PLAZA, S.W., WASHINGTON, D.C. 20024 • (202) 488-5000

84 FEB 28 P4:35

February 28, 1984

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1617

Dear Mr. Steele:

This letter responds both to the original complaint that Stephen Koczak filed with the Federal Election Commission against the Public Broadcasting Service ("PBS") and others and to the subsequently filed amendment to that complaint, which PBS received on February 13, 1984.

Mr. Koczak's amended complaint focuses on the debate held at Dartmouth College on January 15, 1984, among eight candidates for the Democratic presidential nomination and alleges that the activities of those involved in arranging, hosting, and broadcasting the debate in some way violated the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431 et seq. (1982) ("the Act"). The complaint fails, however, to identify the specific provisions of the Act that Mr. Koczak believes PBS has violated. As we will show, to the extent PBS had any involvement in the debate, its activities fall within the Section 431(9)(B)(i) exemption for legitimate press activities and do not qualify as an "expenditure" or "contribution" subject to the Act's reporting requirements or dollar limitations.

PBS is a nonprofit membership corporation whose members are licensees of noncommercial educational television stations throughout the United States and its territories. PBS was established by public television stations to operate the distribution facilities that enable its members to share programming on a national basis. At present, such program distribution is accomplished via the public television satellite interconnection system. PBS also assists its member stations to acquire, schedule, publicize, and promote programming. However, PBS does not itself produce any programming and, indeed, is barred from doing so by its Articles of Incorporation.

New Hampshire Public Television ("New Hampshire") and WGBH

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Educational Foundation ("WGBH"), both of which are noncommercial educational television licensees and members of PBS, made the journalistic decision to provide television broadcast coverage of the Dartmouth debate and to make coverage of this newsworthy event available to other public television stations. PBS furnished the satellite uplinking and transmission services used to distribute the debate to public television stations for broadcast around the country. In addition, PBS contributed $40,000 to WGBH and New Hampshire to help defray the cost of producing the debate and assist them in making it available to all of PBS's member stations. This money was taken from a fund earmarked for coverage of special news events such as presidential press conferences, the State of the Union message, the NAACP convention, and candidate debates; this special events fund is provided to PBS by the Corporation for Public Broadcasting, a private, nonprofit corporation. PBS understands that WGBH and New Hampshire used the $40,000 to cover the production costs incurred in providing broadcast coverage of the debate. PBS had no control over selection of the debate participants or format; rather, PBS's role was limited to facilitating broadcast coverage of a bona fide news event by its member public television stations, which it did by providing interconnection services and financial assistance.

The Act expressly exempts traditional journalistic activities, such as those PBS engaged in, from the definition of "expenditure." Section 431(9)(B)(i) provides that

> "The term 'expenditure' does not include -- (i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate . . . ."

The regulations implementing the Act incorporate this press exemption in the definitions of both "contribution" (see 11 C.F.R. § 100.7(b)(2)) and "expenditure" (see 11 C.F.R. § 100.8(b)(2)).

It is beyond question that the Dartmouth debate was a major news story within the meaning of this exemption. Large numbers of the press attended the debate, and it not only received live television and radio coverage, but was also the subject of extensive commentary in the print media and on nightly

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PBS

newscasts. To the extent that the debate was broadcast through the facilities of PBS and its member stations, those facilities are neither owned nor controlled by any political party, political committee, or candidate. Accordingly, PBS's role in distributing and financing broadcast coverage of the debate does not rise to the level of either a "contribution" or an "expenditure" under the Act and therefore is not subject to the Act's restrictions.

We submit that no further action is warranted on Mr. Koczak's complaint against PBS. PBS's only involvement with the Dartmouth debate was consistent with the traditional role of a broadcast journalist covering a live news event. Such activity falls squarely within the press exemption to the Act's reporting requirements and limitations on expenditures and contributions. PBS's journalistic activity can in no way be construed as a contribution or expenditure of funds to advance a particular candidacy; any other result would severely burden the media's right to cover and comment on political campaigns and would raise serious First Amendment issues.

Sincerely,

Nancy H. Hendry

Nancy H. Hendry
Deputy General Counsel

NHH:ats

cc: Deborah Curry
Kenneth A. Gross

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PBS

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

Gcc# 1771

PUBLIC BROADCASTING SERVICE 475 L'ENFANT PLAZA, S.W., WASHINGTON, D.C. 20024 • (202) 488-5000

February 28, 1984

RECEIVED
GENERAL COUNSEL
84 FEB 28 P 4: 35

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1617

Dear Mr. Steele:

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New Hampshire Public Television ("New Hampshire") and WTSN

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It is beyond question that the Dartmouth debate was a major news story within the meaning of this exemption. Large numbers of the press attended the debate, and it not only received live television and radio coverage, but was also the subject of extensive commentary in the print media and on nightly

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We submit that no further action is warranted on Mr. Koczak's complaint against PBS. PBS's only involvement with the Dartmouth debate was consistent with the traditional role of a broadcast journalist covering a live news event. Such activity falls squarely within the press exemption to the Act's reporting requirements and limitations on expenditures and contributions. PBS's journalistic activity can in no way be construed as a contribution or expenditure of funds to advance a particular candidacy; any other result would severely burden the media's right to cover and comment on political campaigns and would raise serious First Amendment issues.

Sincerely,

Nancy H. Hendry

Nancy H. Hendry
Deputy General Counsel

NHH:ats

cc: Deborah Curry
Kenneth A. Gross

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PBS

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Washington, D.C. 20463

Gcc# 1771

PUBLIC BROADCASTING SERVICE 475 L'ENFANT PLAZA, S.W., WASHINGTON, D.C. 20024 • (202) 488-5000

February 28, 1984

84 FEB 28 P4:36

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1617

Dear Mr. Steele:

This letter responds both to the original complaint that Stephen Koczak filed with the Federal Election Commission against the Public Broadcasting Service ("PBS") and others and to the subsequently filed amendment to that complaint, which PBS received on February 13, 1984.

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New Hampshire Public Television ("New Hampshire") and WGBH

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Sincerely,

Nancy H. Hendry

Nancy H. Hendry
Deputy General Counsel

NHH:ats

cc: Deborah Curry
Kenneth A. Gross

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GCC#1770

February 28, 1984

HAND DELIVERED

Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

CORPORATION
FOR PUBLIC
BROADCASTING

In Re: MUR 1617

Dear Mr. Steele:

This is in response to your letters of January 25 and February 10, 1984, to Ron Hull and myself concerning the complaint filed by Stephen A. Koczak in the above-referenced proceeding.

1. Mr. Koczak's complaint does not clearly state which, if any, laws or regulations he alleges that CPB has violated, or the actions constituting any such violation. The complaint does, however, mischaracterize the nature of CPB, and misrepresents CPB's involvement in the production and broadcast of the debate among eight Democratic presidential candidates held at Dartmouth College on January 15, 1984 (hereinafter the "Dartmouth debate"). Mr. Koczak describes CPB as a "quasi-Federal governmental institution," Complaint of January 17, 1984 at ¶¶17 and 26, and implies that CPB, reacting to unspecified political pressure from members of the House of Representatives, somehow influenced or participated in the choice of candidates to be included in the Dartmouth debate, id. at ¶¶7, 9, 10 and 26.

2. These vague allegations are erroneous and have no basis in fact. This answer will correct the record, and will demonstrate that CPB has engaged in no conduct governed by the Federal Election Campaign Act of 1971, as amended ("the Act"), and that the Dartmouth debate was a bonafide news event, the coverage of which is exempt under the Act.

A. CPB Is A Private, Nonprofit Corporation

3. CPB is the private, nonprofit corporation authorized by Congress by the Public Broadcasting Act of 1967, as amended, 47 U.S.C. § 396 et seq. CPB is not a Federal agency, nor are the members of its Board of Directors officers or employees of the United States. 47 U.S.C. § 396(d)(2) (1983 Supp.).

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GENERAL COUNSEL

1111 16th Street NW Washington DC 20036 (202) 293-6160

4. CPB was established by Congress to provide financial assistance for the growth and operation of the nation's public broadcasting system. CPB's funds from Congress are authorized in three-year increments, three years in advance, and are appropriated two years in advance, to ensure maximum insulation from political control and to permit the long-range planning essential to the creation of high-quality programming and distribution services. CPB's authorization and appropriation are effected through the regular working processes of the appropriate House and Senate committees and subcommittees.

5. CPB is prohibited by law from, among other things, "producing programs, scheduling programs for dissemination, or disseminating programs to the public." 47 U.S.C. § 396(g)(3)(B) (1983 Supp.). CPB provides funds to the Public Broadcasting Service, National Public Radio, public television and radio stations, and other public telecommunications entities to carry out these functions. Thus, as a matter of law and of fact CPB does not participate in program production in the manner described, albeit vaguely, in the complaint.

B. CPB Provides Funds to the Public Broadcasting Service to Cover Special Events

6. Most of CPB's funds are allocated to two principle purposes: grants to public broadcasting stations and grants to support the production and acquisition of programming to be distributed to public broadcasting stations. As part of its FY 1984 national television programming budget, CPB allocated $500,000 to the Public Broadcasting Service for the coverage of Special Events, such as the Dartmouth debate. CPB, prohibited by law from producing, scheduling, or disseminating programs (see paragraph 5, above), does not designate which Special Events are to be covered by PBS, but rather, leaves the choice to the discretion and journalistic judgment of PBS. The budgeted funds will be paid to PBS on a cost reimbursement basis, upon the receipt by CPB of certain reports and accounts from PBS to demonstrate actual expenditures.

7. CPB has been informed that PBS allocated $40,000 from its Special Events towaard the costs of production and distribution of the Dartmouth debate. To date, no reimbursement of any such funds has been requested from CPB by PBS for FY 1984.

8. Thus, although CPB has budgeted $500,000 for the coverage by PBS of Special Events, no funds have actually been paid by CPB for coverage of the Dartmouth debate, or for any other PBS Special Events coverage.

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9. CPB routinely provides funds to public broadcasting stations for use in promoting programs. With respect to the Dartmouth debate, CPB agreed to reimburse WGBH for its expenditures, up to $40,000, in the acquisition of print advertising for the debate. This oral agreement was made contemporaneously with the deadline for purchasing the print advertising. To date no funds have been disbursed by CPB pursuant to this agreement.

10. In sum, CPB's only connection with the Dartmouth debate is CPB's potential obligation to reimburse PBS for the $40,000 expended by PBS from its Special Events fund, and CPB's oral agreement to reimburse WGBH for funds expended on print advertising. The only communication with CPB concerning the debate was the oral agreement with WGBH. There was no communication concerning the debate between CPB and any member of Congress, any representative of the House Democratic Caucus, PBS, New Hampshire Public Television, or any other entity.

C. The Dartmouth Debate Was A News Event Exempt from The Federal Election Campaign Act

11. Although CPB has not in fact expended any funds for the coverage of the Dartmouth Debate, any such expenditure would be exempt from the requirements and limitations of the Federal Election Campaign Act of 1971, as amended. The Act specifically excludes "any news story, commentary, or editorial distributed through the facilities of any broadcasting station . . . ." 2 U.S.C. § 431(9)(B)(i) (1983 Supp.). The debate received extensive coverage as a news story, both before and after its occurrence, by the major national newspapers and magazines, by the three commercial television networks, and on both commercial and noncommercial radio networks. Thus, any reimbursement by CPB of expenses incurred in connection with the debate, pursuant to its agreements with PBS and WGBH, will not constitute "expenditures" within the meaning contemplated by the Act, and will give rise to no requirements or limitations under the Act.

12. For all of the foregoing reasons, CPB denies Mr. Koczak's allegations against CPB and urges that the complaint be dismissed for failure to state a cause of action.

Respectfully submitted,

Linda Colvard Dorian/sd

Linda Colvard Dorian
Vice President, General Counsel
and Secretary

Susan Dillon

Susan Dillon
Deputy Assistant
General Counsel

cc: Kenneth A. Gross
Deborah Curry
Ron Hull, Director, Program Fund

8 4 0 4 0 4 6 1 1 9 9

Deborah Curry

February 28, 1984

HAND DELIVERED

Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

FEB 28 P4:02
GENERAL COUNSEL

CORPORATION
FOR PUBLIC
BROADCASTING

8 4 0 4 0 4 6 1 2 0 0

In Re: MUR 1617

Dear Mr. Steele:

This is in response to your letters of January 25 and February 10, 1984, to Ron Hull and myself concerning the complaint filed by Stephen A. Koczak in the above-referenced proceeding.

1. Mr. Koczak's complaint does not clearly state which, if any, laws or regulations he alleges that CPB has violated, or the actions constituting any such violation. The complaint does, however, mischaracterize the nature of CPB, and misrepresents CPB's involvement in the production and broadcast of the debate among eight Democratic presidential candidates held at Dartmouth College on January 15, 1984 (hereinafter the "Dartmouth debate"). Mr. Koczak describes CPB as a "quasi-Federal governmental institution," Complaint of January 17, 1984 at ¶¶17 and 26, and implies that CPB, reacting to unspecified political pressure from members of the House of Representatives, somehow influenced or participated in the choice of candidates to be included in the Dartmouth debate, id. at ¶¶7, 9, 10 and 26.

2. These vague allegations are erroneous and have no basis in fact. This answer will correct the record, and will demonstrate that CPB has engaged in no conduct governed by the Federal Election Campaign Act of 1971, as amended ("the Act"), and that the Dartmouth debate was a bonafide news event, the coverage of which is exempt under the Act.

A. CPB Is A Private, Nonprofit Corporation

3. CPB is the private, nonprofit corporation authorized by Congress by the Public Broadcasting Act of 1967, as amended, 47 U.S.C. § 396 et seq. CPB is not a Federal agency, nor are the members of its Board of Directors officers or employees of the United States. 47 U.S.C. § 396(d)(2) (1983 Supp.).

1111 16th Street NW Washington DC 20036 (202) 293-6160

4. CPB was established by Congress to provide financial assistance for the growth and operation of the nation's public broadcasting system. CPB's funds from Congress are authorized in three-year increments, three years in advance, and are appropriated two years in advance, to ensure maximum insulation from political control and to permit the long-range planning essential to the creation of high-quality programming and distribution services. CPB's authorization and appropriation are effected through the regular working processes of the appropriate House and Senate committees and subcommittees.

5. CPB is prohibited by law from, among other things, "producing programs, scheduling programs for dissemination, or disseminating programs to the public." 47 U.S.C. § 396(g)(3)(B) (1983 Supp.). CPB provides funds to the Public Broadcasting Service, National Public Radio, public television and radio stations, and other public telecommunications entities to carry out these functions. Thus, as a matter of law and of fact CPB does not participate in program production in the manner described, albeit vaguely, in the complaint.

B. CPB Provides Funds to the Public Broadcasting Service to Cover Special Events

6. Most of CPB's funds are allocated to two principle purposes: grants to public broadcasting stations and grants to support the production and acquisition of programming to be distributed to public broadcasting stations. As part of its FY 1984 national television programming budget, CPB allocated $500,000 to the Public Broadcasting Service for the coverage of Special Events, such as the Dartmouth debate. CPB, prohibited by law from producing, scheduling, or disseminating programs (see paragraph 5, above), does not designate which Special Events are to be covered by PBS, but rather, leaves the choice to the discretion and journalistic judgment of PBS. The budgeted funds will be paid to PBS on a cost reimbursement basis, upon the receipt by CPB of certain reports and accounts from PBS to demonstrate actual expenditures.

7. CPB has been informed that PBS allocated $40,000 from its Special Events towaard the costs of production and distribution of the Dartmouth debate. To date, no reimbursement of any such funds has been requested from CPB by PBS for FY 1984.

8. Thus, although CPB has budgeted $500,000 for the coverage by PBS of Special Events, no funds have actually been paid by CPB for coverage of the Dartmouth debate, or for any other PBS Special Events coverage.

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12. For all of the foregoing reasons, CPB denies Mr. Koczak's allegations against CPB and urges that the complaint be dismissed for failure to state a cause of action.

Respectfully submitted,

Linda Colvard Dorian/ss

Linda Colvard Dorian
Vice President, General Counsel
and Secretary

Susan Dillon

Susan Dillon
Deputy Assistant
General Counsel

cc: Kenneth A. Gross
Deborah Curry
Ron Hull, Director, Program Fund

8 4 0 4 0 4 6 1 2 0 2

Kenneth Gross

February 28, 1984

HAND DELIVERED

Charles N. Steele
General Counsel
Federal Election Commission
Washington, D.C. 20463

RECEIVED
GENERAL COUNSEL
'84 FEB 28 P4:02

CORPORATION
FOR PUBLIC
BROADCASTING

8 4 0 4 0 1 6 1 2 0 3

In Re: MUR 1617

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1111 16th Street NW Washington DC 20036 (202) 293-6160

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Respectfully submitted,

Linda Colvard Dorian/sd

Linda Colvard Dorian
Vice President, General Counsel
and Secretary

Susan Dillon

Susan Dillon
Deputy Assistant
General Counsel

cc: Kenneth A. Gross
Deborah Curry
Ron Hull, Director, Program Fund

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CORPORATION
FOR PUBLIC
BROADCASTING

1111 16th Street NW
Washington DC 20036

P4: 02

CORPORATION
FOR PUBLIC
BROADCASTING

L. Dorian

1111 16th Street NW
Washington DC 20036

Charles N. Steele
General Counsel
Federal Election Commission
Washington, DC 20463

MUR 1617
Curry

BAKER & HOSTETLER

ATTORNEYS AT LAW

[illegible] CONNECTICUT AVE., N.W.

WASHINGTON, D.C. 20006

(202) [illegible]

TELECOPIER (202) [illegible]

IN CLEVELAND, OHIO
3200 NATIONAL CITY CENTER
CLEVELAND, OHIO 44114
(216) 621-0200
TWX 810 421 8379

IN COLUMBUS, OHIO
100 EAST BROAD STREET
COLUMBUS, OHIO 43215
(614) [illegible]

IN DENVER, COLORADO
SUITE [illegible], 303 EAST 17TH AVENUE
DENVER, COLORADO 80203
(303) [illegible]

IN ORLANDO, FLORIDA
250 CNA TOWER
ORLANDO, FLORIDA 32801
(305) [illegible]

WRITER'S DIRECT DIAL NO.:
(202) 861- 1543

February 22, 1984

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

Re: Matter Under Review 1617

Dear Mr. Steele:

This will refer to the complaint filed by Stephen A. Koczak on January 20, 1984 and to our response thereto dated February 7, 1984 filed with the Commission on February 14, 1984.

In your letter of February 10, 1984 you advise that an amendment to the complaint was received by the Commission on January 24, 1984 and you are therefore extending the time for response to the original complaint an additional 15 days.

Since the response which we filed with the Commission on February 14, 1984 would be the same with or without the amendment to the complaint of January 24, 1984, please consider our initial response to be applicable to the complaint as amended.

Very truly yours,

Harlan Pomeroy
General Counsel
John Glenn Presidential
Committee Inc.

HP:md

cc: Mr. Robert A. Farmer
Mr. William R. White

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KER & HOSTETLER
ONNECTICUT AVE., N. W.
SHINGTON, D. C. 20008

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WASHINGTON D.C.

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

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MUR 1617
Curry

McGOVERN for PRESIDENT

P.O. Box 1984
Washington, D.C. 20009
202-332-2662

February 13, 1984

84 FEB 15 PM 12:27
GENERAL COUNSEL

Dear Mr. Steele: RE: MUR 1617

This will acknowledge receipt of your letter, as signed by Associate FEC General Counsel, Kenneth A. Gross, in relation to the above entitled matter to which this campaign has responded previously.

We have read the additional submission by the complaint. We reiterate our request that the complaint as it pertains to George McGovern the candidate and the McGovern for President Committee be dismissed.

As indicated in our previous response, neither candidate McGovern or the McGovern for President Committee had any part in the arrangement relative to the debate format, participants, coverage or publication to which complaint now objects. As solely a participant, Mr. McGovern and his campaign committee should be held harmless from the complaint's charges and all charges against Mr. McGovern the candidate and his campaign committee should be dismissed.

To do otherwise would require individual candidates and their committees to take extraordinary and unwarranted action to check into the background, sponsorship and planning for each invitation received. This imposes a burden that is not envisioned by the Federal Election Act.

We again ask that the complaint as it pertains to this campaign and the candidate be dismissed.

Sincerely,

George Cunningham

George V. Cunningham
General Chairman

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

Paid for by the McGovern for President Committee

OVERN for PRESIDENT
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ngton, D.C. 20009

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

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AND DELIVERED
84 FEB 28 A10:31
GCC#1767

WGBH Educational Foundation
125 Western Avenue
Boston
Massachusetts 02134
617 492 2777
Telex 710 330 6887

February 28, 1984

Public Broadcasting
Boston:
Channel 2
Channel 44
WGBH Radio
Springfield:
Channel 57

Lowell Institute Cooperative Broadcasting Council
Boston College
Boston Symphony Orchestra
Boston University
Brandeis University
Harvard University
Lowell Institute
Massachusetts Institute of Technology
Museum of Fine Arts
Museum of Science
New England Conservatory of Music
Northeastern University
Simmons College
Suffolk University
Tufts University
University of Massachusetts
Wellesley College

1984 FEB 28 PM 12:44

By Federal Express

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

Re: MUR 1617

Dear Ms. Curry:

The WGBH Educational Foundation (WGBH) hereby responds by this letter to MUR 1617. Without responding to each paragraph in Mr. Koczak's latest outlandish complaint, WGBH wishes to provide a background of its identity and its activities concerning the debate in Hanover, New Hampshire on January 15, 1984.

1. WGBH is incorporated under chapter 180 of the General Laws of the Commonwealth of Massachusetts as a charitable non-profit corporation having its principal place of business at 125 Western Avenue, Boston, Massachusetts 02134. WGBH is exempt from federal taxation under 26 U.S.C. section 501(c)(3).

2. WGBH is the licensee of non-commercial educational stations WGBH-TV, WGBX-TV and WGBH(FM), all in Boston, Massachusetts, and WGBY-TV in Springfield, Massachusetts. WGBH's television stations are members of the Public Broadcasting Service.

3. WGBH did not initiate the idea for the debate. When WGBH learned that the event would take place, WGBH considered the opportunity to cover and report the debate and sought funding from its usual sources, such as PBS, the Corporation for Public Broadcasting, and other corporations. This is part of the ordinary procedure in producing programs.

4. The debate plans were well under way by the time WGBH, in exercising its independent editorial discretion, decided to commit itself to covering and reporting the event. These plans included the choice of moderators, format and candidate participants. Furthermore, WGBH did not have any control over ticket distribution or accomodations for the participants. Ms. Gail Harris, who served as the television

anchor for the debate coverage, was situated in the back of the auditorium and did not interact with the participants or the audience. WGBH's activities as a co-producer were limited to being primarily responsible for the production staff, while New Hampshire Public Television was primarily responsible for providing the technical personnel and equipment.

5. WGBH's legitimate press activities in covering and reporting the debate are protected under the First Amendment and are exempt from F.E.C. regulation. [(See for example, 2 U.S.C. section 431(9)(B)(i) and Reader's Digest Association, Inc. v. F.E.C., 509 F. Supp. 1210 (S.D.N.Y. 1981).] There can be no doubt that the debate was a bona fide news event. Well over 300 journalists from the print and electronic media were present in Hanover to cover and report the proceedings. Regardless of whether or not the organization of the debate met every technical requirement of federal regulation, WGBH had the constitutional right to be present at and report the proceedings.

Wherefore, the Federal Election Commission's inquiry of WGBH's broadcast activities should be terminated.

Respectfully submitted,

WGBH EDUCATIONAL FOUNDATION

By Its Attorney

Eric Adam Brass

Eric Adam Brass
WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134
(617) 492-2777, ext. 4405

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WGBH Educational Foundation
125 Western Avenue
Boston
Massachusetts 02134

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GBH

FEC

HAND DELIVERED

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

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GCC #1768
84 FEB 28 AM 11:44

CURTIS, MALLET-PREVOST, COLT & MOSLE
ATTORNEYS AND COUNSELLORS AT LAW
1735 I STREET N.W.
WASHINGTON, D.C. 20006

NEW YORK OFFICE
101 PARK AVENUE
NEW YORK, N.Y. 10178
TELEPHONE (212) 696-6000
CABLE: MIGNIARD NEWYORK

TELEPHONE: (202) 331-5757
CABLE: MIGNIARD WASHINGTON, D.C.
TELEX: ITT: 440379 CMPUI
TWX: 7108229317

MEXICO CITY, MEXICO
LONDON, ENGLAND
PARIS, FRANCE

February 27, 1984

84 FEB 28 P12:44

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

RE: MUR 1617

Dear Ms. Curry:

I send this letter in response to the above-captioned matter on behalf of Hollings for President, Inc. (the "Committee"). As I confirmed with you last week on the phone, a letter response that bears today's date is a sufficient response.

The Committee expressly denies the charges against it. Moreover, the Commission suggests that Mr. Koczak review the recent position announced by the Federal Communications Commission regarding "public access" which specifically allows a limitation on appearances by candidates.

Please direct all further correspondence to me as counsel for the Committee.

Thank you for your consideration.

Sincerely,

James H. Rowe, III

cc: Ms. Karin Kollmansperger

8404046121 4

, MALLET-PREVOST, COLT & MOSLE
1 STREET N. W., WASHINGTON, D. C. 20006

GENERAL COUNSEL

84 FEB 28 P12:46

WASHINGTON, DC 200
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27 FEB
1984

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

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84 FEB 15 A11:58

LAW OFFICES
McKENNA, WILKINSON & KITTNER
1150 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 861-2600

VERNON L. WILKINSON
COUNSEL

DIRECT DIAL NO.
2622
861-

JAMES A. McKENNA, JR.
JOSEPH M. KITTNER
ROBERT W. COLL
THOMAS R. FROHOCK
CARL R. RAMEY
EDWARD F. TAPTICH
STEVEN A. LERMAN
R. MICHAEL SENKOWSKI
RANDOLPH J. MAY
LAWRENCE J. MOVSHIN
JAMES S. BLABZAK
WILLIAM K. KEANE
DENNIS P. CORBETT
JILL ABERHOUSE STERN
CHARLES C. HUNTER
JEAN L. KIDDOO
PATRICK J. WHITTLE
TIMOTHY J. COONEY
GEORGE L. LYON, JR.*
ALBERT J. CATALANO***
LAURA C. HOW
ROBERT B. KELLY*
JOSEPH R. GILL**

*ADMITTED IN VIRGINIA ONLY
**ADMITTED IN NEW YORK ONLY
***ADMITTED IN N.Y. & PA. ONLY

HAND DELIVER

MUR 1617
Curry

February 12, 1984

84 FEB 15 P12:29

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

Attention: Charles N. Steele,
General Counsel

Re: MUR-1617

Dear Mr. Steele:

Enclosed is a "Statement" designating the undersigned as counsel for Mr. Ted Koppel, a named respondent in MUR-1617.

It is my understanding that the complaint in MUR-1617 has recently been amended, thereby extending the time for responding to the material forwarded under your letter dated January 25, 1984.

Very truly yours,

Carl R. Ramey

Carl R. Ramey

CRR/dmc

Enclosure
cc: Deborah Curry, Esq.

8 4 0 4 0 4 6 1 2 1 6

LAW OFFICES
KENNA, WILKINSON & KITTNER
1150 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20036

84 FEB 15 A11:58

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

#1633

LAW OFFICES
McKENNA, WILKINSON & KITTNER
1150 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 861-2600

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RANDOLPH J. MAY
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ROBERT B. KELLY*
JOSEPH P. GILL**

*ADMITTED IN VIRGINIA ONLY
**ADMITTED IN NEW YORK ONLY
***ADMITTED IN N.Y. & PA. ONLY

RECEIVED
GENERAL COUNSEL
FEB 13 P 3:09

VERNON L. WILKINSON
COUNSEL

DIRECT DIAL NO.
2622
SGIL

HAND DELIVER

Curry

February 12, 1984

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

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Carl R. Ramey

CRR/dmc

Enclosure
cc: Deborah Curry, Esq.

8 4 0 4 0 4 6 1 2 1 8

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Mr. Carl R. Ramey
McKenna, Wilkinson & Kittner

ADDRESS: 1150 Seventeenth Street, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 861-2622

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

Feb. 8, 1984

Date

Ted Koppel

Signature

NAME: Mr. Ted Koppel

ADDRESS: 1717 DeSales Street, N.W.
Washington, D.C. 20036

HOME PHONE (202) 887-7777

BUSINESS PHONE:

8404046112 19

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HAND DELIVER

LAW OFFICES

McKENNA, WILKINSON & KITTNER

1150 SEVENTEENTH STREET, N.W.

WASHINGTON, D. C. 20036

To:

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

Attn: Charles N. Steele,
General Counsel

RECEIVED AT THE FEC
Cert #1638
84 FEB 13 A8:31

February 9, 1984

84 FEB 13 P3:32

Ms. Deborah Curry
General Counsel's Office
Federal Elections Commission
Washington, D.C. 20463

CORPORATION
FOR PUBLIC
BROADCASTING

Re: MUR 1617

Dear Ms. Curry:

This is to confirm our understanding that an amended complaint has been filed in the above captioned case, and that you are in the process of duplicating and forwarding to respondents copies of the amended complaint. At your suggestion, therefore, we will not file an answer to the initial complaint, but will wait instead to respond to both complaints in one filing. We expect to file that response within 15 days of receipt of the amended complaint.

Sincerely,

Susan Dillon

Susan Dillon
Deputy Assistant
General Counsel

Encl: Designation of Counsel
Statements (Dorian/Hull), 9 Feb 84

SD/aar

8 4 0 4 0 4 6 1 2 2 1

1111 16th Street NW Washington DC 20036 (202) 293-6160

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Linda Colvard Dorian
Susan Dillon

ADDRESS: CPB
1111 16th Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202-9555287 (Linda C. Dorian)
955-5288 (Susan Dillon)

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

Feb. 9, 1984
Date

L. C. Dorian
Signature

NAME: Linda Colvard Dorian

ADDRESS: CPB
1111 16th Street, N.W.
Washington, D.C. 20036

HOME PHONE

BUSINESS PHONE: 202-955-5287

8404046122 2

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Linda Colvard Dorian
Susan Dillon

ADDRESS:

CPB
1111 16th Street, N.W.
Washington, D.C. 20036

TELEPHONE:

202-9555287 (Linda C. Dorian)
9555288 (Susan Dillon)

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

9 Feb. 84
Date

Ron Hull
Signature

NAME: Ron Hull, Director
Program Fund

ADDRESS: CPB
1111 16th Street, N.W.
Wash., D.C. 20036

HOME PHONE

BUSINESS PHONE: 202-955-5123

8 4 0 4 0 4 6 1 2 2 3

8 4 0 4 0 4 6 1 2 2 4

RECD
WASHINGTON D.C.
84 FEB 13 A8:34

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HERE

CORPORATION
FOR PUBLIC
BROADCASTING

1111 16th Street NW
Washington DC 20036

Ms. Deborah Curry
General Counsel's Office
Federal Elections Commission
Washington, DC 20463

Cont 1628

PUBLIC BROADCASTING SERVICE PBS 475 L'ENFANT PLAZA, S.W., WASHINGTON, D.C. 20024 • (202) 488-5000

February 9, 1984

Deborah Curry, Esquire
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1617

Dear Ms. Curry:

This will confirm our telephone conversation of February 8, 1984, in which you informed me that Stephen Koczak has filed an amendment to his complaint against the Public Broadcasting Service (PBS). You told me that the amended complaint is being mailed to PBS and that you intend to treat the original and amended complaint as one. Accordingly, you advised me that PBS should wait until it receives the amended complaint and submit a single response to both the original complaint and the amendment. That response will be due fifteen days from the date PBS receives the amended complaint.

Sincerely,

Nancy H. Hendry

Nancy H. Hendry
Deputy General Counsel

NHH:ats

3 4 0 4 0 1 6 1 2 2 5

FEB 13 A10:15

PBS
OADCASTING SERVICE
NFANT PLAZA, S.W.
GTON, D.C. 20024.

8 4 0 4 0 4 6 1 2

WASHINGTON D.C. FEB 9 '84

Deborah Curry, Esquire

Federal Election Commission

Washington, D.C. 20463

RECEIVED AT THE FEC
Gen 1650
84 FEB 14 P1:28
Curry
MUR 1617

STEEL HECTOR & DAVIS
SOUTHEAST BANK BUILDING
MIAMI, FLORIDA 33131
TELEPHONE (305) 577-2800
TELEX 51-5756

DONALD M. MIDDLEBROOKS
(305) 577-2904

PALM BEACH OFFICE
205 WORTH AVENUE
PALM BEACH, FLORIDA 33480

84 FEB 15 A9:00

February 7, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
Washington, DC 20463

Re: MUR 1617

Dear Mr. Steele:

We have received your letter dated January 25, 1984 pertaining to a complaint filed by Stephen A. Koczak against several groups and individuals including the Askew for President Committee. Review of the complaint indicates that it does not allege facts which if true would constitute a violation of the Act on the part of the Askew Committee. Reubin Askew, after an invitation was extended, and together with several other candidates, attended a debate held at Dartmouth College. His participation in the debate cannot constitute a violation of the Federal Election Campaign Act.

Please notify me of any subsequent actions taken by the Federal Election Commission. Please also let me know if any further information might be helpful to you in the performance of your duties.

Sincerely,

Donald M. Middlebrooks

DMM/w

8 4 0 4 0 4 6 1 2 2 7

SEITECTOR & DAVIS
SOUTHEAST BANK BUILDING
MIAMI, FLORIDA 33131

0 1 6 1 2

CERTIFIED
No. 456967
MAIL

MIAMI FLA FEB 8 84

RECEIVED AT THE FEC
84 FEB 14 P 1:18

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
Washington, DC 20463

RECEIVED AT THE FEC
Oct #1647
84 FEB 14 P1:52

BAKER & HOSTETLER
ATTORNEYS AT LAW
818 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20006
(202) 861-1500
TELECOPIER (202) 857-0040

IN CLEVELAND, OHIO
3200 NATIONAL CITY CENTER
CLEVELAND, OHIO 44114
(216) 621-0200
TWX 810 421 8375

IN COLUMBUS, OHIO
100 EAST BROAD STREET
COLUMBUS, OHIO 43215
(614) 228-1541

IN DENVER, COLORADO
SUITE 1020, 303 EAST 17TH AVENUE
DENVER, COLORADO 80203
(303) 861-0600

IN ORLANDO, FLORIDA
400 CNA TOWER
ORLANDO, FLORIDA 32801
(305) 841-1111

WRITER'S DIRECT DIAL NO.:
(202) 861- 1543

February 7, 1984

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

Re: Matter Under Review 1617

Dear Mr. Steele:

This office represents the John Glenn Presidential Committee Inc. ("Committee"). Enclosed please find a Statement of Designation of Counsel signed by Robert A. Farmer, the Committee's Treasurer, confirming our designation as counsel.

On January 30, 1984, Mr. Farmer received your letter of January 25, 1984, notifying him that a complaint was filed by Stephen A. Koczak. This complaint has been designated by you Matter Under Review ("MUR") 1617. The complaint alleges that eight candidates for the Democratic Party nomination for President, including Senator John Glenn, received in kind contributions and incurred expenditures in excess of limits imposed by federal election laws by virtue of having participated in a nonpartisan public debate at Dartmouth College, New Hampshire, on January 15, 1984.

Please be advised that the Committee denies any such violations on the grounds that such nonpartisan debates are expressly permitted by Federal Election Commission ("FEC") regulations. 11 C.F.R. §§ 110.13 & 114.4(e). We respectfully suggest that the complaint is frivolous and should be disposed of summarily by the FEC.

Sincerely,

Harlan Pomeroy
General Counsel
John Glenn Presidential
Committee Inc.

HP:md
Enc.
cc: Mr. Robert A. Farmer
Mr. William R. White

8404046129

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: HARLAN POMEROY, ESQ.

ADDRESS: BAKER & HOSTETLER
818 Connecticut Avenue
Washington, D. C. 20006

TELEPHONE: (202) 861-1500

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

2/6/84

Date

Robert A. Farmer, Treasurer

Signature

NAME: ROBERT A. FARMER, TREASURER

ADDRESS: JOHN GLENN PRESIDENTIAL COMMITTEE INC.
444 North Capitol Street
Washington, D. C. 20001

HOME PHONE

BUSINESS PHONE:

8 4 0 4 0 4 6 1 2 3 0

Barry BCC #1614

LAW OFFICES
SONOSKY, CHAMBERS, SACHSE & GUIDO
1050 31st STREET, N.W.
WASHINGTON, D.C. 20007

TELEPHONE
(202) 342-9131

MARVIN J. SONOSKY
HARRY R. SACHSE
REID PEYTON CHAMBERS
KENNETH J. GUIDO, JR.

WILLIAM R. PERRY
LLOYD BENTON MILLER
KEVIN A. GRIFFIN
MARY V. BARNEY
LOFTUS E. BECKER, JR.
DONALD J. SIMON
DOUGLAS B. L. ENDRESON*

*ADMITTED ONLY IN WISCONSIN

February 9, 1984

FEB 9 P 1:56

9 4 0 4 0 4 6 1 2 3 1

BY HAND

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1617

Dear Mr. Gross:

We are writing on behalf of the Americans with Hart Committee, the principal authorized presidential campaign committee of Senator Gary Hart, in reference to the filing of a complaint with the Commission by the Koczak for President Committee. The complaint is -- on its face -- an utter frivolity, and should be dismissed by the Commission without further proceedings.

The Koczak Committee implies that the Hart Committee violated the federal campaign finance laws by accepting an illegal in-kind contribution arising from Seantor Hart's participation in the New Hampshire debate among the eight Democratic presidential candidates on January 15, 1984. See Complaint at ¶22. This allegation can be disposed of in three points:

First, the New Hampshire debate was clearly legal. The Commission's regulation provide, at 11 C.F.R. §§110.13 and 114.4(e), that a nonprofit organization may stage "nonpartisan candidate debates" so long as (1) such debates include at least two candidates, and (2) such debates are nonpartisan "in that they do not promote or advance one candidate over another." 11 C.F.R. §110.3(b).

Both conditions are met here. The New Hampshire debate included the eight nationally recognized Democratic candidates, and was structured so as not to favor any one of those eight candidates over any other. The Koczak Committee makes no allegation to the contrary. 1/

1/ In MUR 1287 (Sept. 17, 1980), the Commission approved a sponsor's decision to exclude candidates who had not achieved "significant voter support and interest" as measured by attaining at least a 15 percent standing in the polls.

Second, because the debate was conducted in accordance with 11 C.F.R. §110.13 and 114.4(e), the funds spent by its sponsors are not considered to be contributions to any candidate. The Commission's regulations expressly exempt from the definition of "contribution" any "funds provided to defray the costs incurred in staging nonpartisan candidate debates in accordance with the provisions of 11 C.F.R. §§110.13 and 114.4(e)." 11 C.F.R. §100.7(b)(21). 2/

Third, and finally, because the funds spent by the sponsors of the debate were, by definition, not "contributions" to any candidate, the Americans with Hart Committee did not accept any contribution whatsoever from any sponsor or news organization in connection with the New Hampshire debate, much less a contribution in excess of any applicable limit.

Mr. Koczak, at bottom, is complaining not about any violation of the law, but rather just that he was left out of the New Hampshire debate. A federal district judge and two federal appellate judges have reviewed his exclusion, and found it not to be impermissible. See Washington Times, January 16, 1984 at p. 4A, attached as Exhibit to Koczak Complaint. Whatever the merits of his exclusion as a matter of policy, it raises no compliance issue within the jurisdiction of the Federal Election Commission. His complaint certainly demonstrates no reason to believe that any violation of the campaign finance laws has been committed by the Americans with Hart Committee.

Accordingly, at least as it pertains to the Americans with Hart Committee, the Koczak complaint should be summarily dismissed.

Sincerely,

Kenneth J. Guido, Jr.
Donald J. Simon
Counsel for the Americans
with Hart Committee

KJG/DJS/md

cc: Oliver Henkel, Jr., Esq.
Jack Quinn, Esq.
Michael R. Moore

2/ Commission regulations further exempt from the definition of "contribution" any cost "incurred in covering or carrying a news story. . .by any broadcasting station, newspaper, magazine or other periodical. . ." 11 C.F.R. §100.7(b)(2).

R 4 0 4 0 4 6 1 2 3 2

LAW OFFICES
SONOSKY, CHAMBERS, SACHSE & GUIDO
1050 31ST STREET, N.W.
WASHINGTON, D.C. 20007

8404046123

HAND DELIVER

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Case # 1510

McGOVERN for PRESIDENT

P.O. Box 1984
Washington, D.C. 20009
202-332-2662

January 27, 1984

FEDERAL ELECTION COMMISSION
84 JAN 30 A10:24

RE: MUR 1617

Dear Mr. Steele:

This responds to your letter of January 25, 1984 directed to Helene Mae Bordenick, Treasurer, McGovern for President Committee, in relation to the above entitled matter.

After reviewing the complaint it is our belief that insofar as it pertains to candidate George McGovern it is superfluous and frivilous on its face and should be dismissed by the Federal Election Commission.

We ask that the portion of the complaint as it relates to candidate George McGovern be dismissed and that Mr. McGovern be stricken as a party to any further action taken or contemplated by the FEC in relation to the allegations brought by the complainant Stephen A. Koczak and/or the Koczak for President Committee.

While we cannot speak for the other 1984 Democratic Presidential candidates involved in this matter, it is our belief that the arrangements were similar for all.

Mr. McGovern was invited to participate in a debate to be held at Dartmouth College's Rockefeller Center for the Social Sciences. He accepted the invitation as one of scores of invitations that are processed and considered by his office each week.

Mr. McGovern received no fee for his appearance. His campaign paid for the travel expenses of the candidate to reach the debate site and paid for all lodging and other costs associated with Mr. McGovern's appearance at the debate.

Neither Mr. McGovern nor any member of his campaign staff were consulted on the format of the debate, the print or electronic media coverage of the debate or any other details relating to the physical arrangements for the debate, the conduct of the debate, the way in which the public would be advised about the debate or the results thereof.

Nor was Mr. McGovern or his campaign consulted or advised as to who the other participants would be except in the most general terms which are normal for events of this kind.

In short, Mr. McGovern was an uncompensated, invited participant who had no authority, responsibility or control over the circumstances or details which are alleged in MUR 1617 as possible violations of Federal Election Law.

Unless facts other than those reflected in MUR 1617 in its present form are brought to our attention, we do not believe it is necessary to be represented by counsel on this matter.

8 4 0 4 0 4 6 1 2 3 4

Paid for by the McGovern for President Committee

If, for some reason, the FEC rules against our request, stated above, for dismissal of this action as it relates to candidate George McGovern, please advise us of such decision at which point counsel will be designated.

Sincerely,

George Cunningham

George V. Cunningham
GENERAL CHAIRMAN
McGOVERN FOR PRESIDENT COMMITTEE

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

GVC/ss

8404046123 5

GOVERN for PRESIDENT

Box 1984
hington, D.C. 20009

8 4 0 4 0 4 6 1 2

WASHINGTON, DC 200
PM
27 JAN

84 JAN 30 A9

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

The Honorable Gillis W. Long, Chairman
House Democratic Caucus
718 HOB Annex 1
Washington, D.C. 20515

MUR 1617

Dear Mr. Long:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. Please note that the amendment identifies members of the House Democratic Caucus. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 3 7

8 4 0 4 0 4 6 1 2 3 8

2-10-84

PS Form 3811, July 1983

● SENDER: Complete items 1, 2, 3, and 4.
Put your address in the "RETURN TO" space on reverse.

GENERAL POSTMASTER FOR FEES

1. The following service is requested (check one):
☐ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery ..... ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
Linda Dorian
1111 16th St. N.W.
Washington, D.C. 20036

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943046

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY

POSTMARK (may be on reverse side)
1980

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

GPO: 1983-379-503

MYR 1617 DC

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Linda Dorian
Vice President, General Counsel and Secretary
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

MUR 1617

Dear Ms. Dorian:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your corporation violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 3 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Lawrence Horn
General Counsel
Public Broadcasting Service
475 L'Enfant Plaza West, S.W.
Washington, D.C. 20024

MUR 1617

Dear Mr. Horn:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 4 0

8 4 0 4 0 4 6 1 2 4 1

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered ..... $
   - ☐ Show to whom, date, and address of delivery .. $
2. ☐ RESTRICTED DELIVERY ..... $
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO:
Lawrence M. Miller
325 1st St. N.W.
Washington, D.C. 20036

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☐ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☒ Authorized agent

Beverly Shelton

5. DATE OF DELIVERY 2/13

POSTMARK (may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

* GPO: 1983-370-865

DC MUR 1617 21084

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Lawrence M. Miller
Schwartz, Woods & Miller
Suite 206, The Palladium
1325 18th Street, N.W.
Washington, D.C. 20036

MUR 1617

Dear Mr. Miller:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 4 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

David O. Ives, President
WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134

MUR 1617

Dear Mr. Ives:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8404061243

8 4 0 4 0 4 6 1 2 4 4

2-10-87

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered ..... ___¢
   - ☐ Show to whom, date, and address of delivery .. ___¢
2. ☐ RESTRICTED DELIVERY ..... ___¢
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $___

3. ARTICLE ADDRESSED TO:
Ron Hull, Director
1111 16th St. N.W.
Washington, D.C. 20036

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943050

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY

POSTMARK
(may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN REC

1617 DC

• GPO: 1983-379-503

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Ron Hull, Director
Program Fund
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

MUR 1617

Dear Mr. Hull:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 4 5

8 4 0 4 0 4 6 1 2 4 6

2-10-84

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery ..... ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restriction asked by you is condited to the addressee's authority to receive mail for the addressee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
Gary P. Clark, Esq.
P.O. Box 31
Hanover, NH. 03755

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943051

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Charles Pike

5. DATE OF DELIVERY
2/14/84

POSTMARK
(only if no receipt date)
FEB 14 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

PS Form 3811, July 1982

★ GPO: 1983-370-003

MUR 1617 DC

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Cary P. Clark, Esquire
Dartmouth College
Investments & Legal Affairs Office
P.O. Box 31
Hanover, New Hampshire 03755

MUR 1617

Dear Mr. Clark:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your college violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 4 7

8 4 0 4 0 4 6 1 2 4 8

PS Form 3811, July 1983

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☐ Show to whom and date delivered .....
- ☐ Show to whom, date, and address of delivery ..
- 2. ☐ RESTRICTED DELIVERY .....
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
Jed Koppel
1717 De Sales St. N.W.
Washington D.C. 20036

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☑ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER
943052

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☑ Authorized agent

R. Hanson

5. DATE OF DELIVERY
2/13

POSTMARK
(may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

* GPO: 1983-378-848

MUR 1617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Ted Koppel
American Broadcasting Company
1717 DeSales Street, N.W.
Washington, D.C. 20036

MUR 1617

Dear Mr. Koppel:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that you violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 4 9

8 4 0 4 0 4 6 1 2 5 0

● ADDRESS: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The additional charge for a charge is added to the return receipt fee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
Phil Donahue
630 North McClurg Ct.
Chicago Ill 60611

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☐ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943353

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent
B. Steffen

5. DATE OF DELIVERY
2-17-84

POSTMARK
(For additional data)

FEB 14 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

RETURN RECEIPT

MUR 617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Phil Donahue
630 North McClurg Court
Chicago, Illinois 60611

MUR 1617

Dear Mr. Donahue:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that you violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 5 1

R 4 0 4 0 4 6 1 2 5 2

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
2. ☐ RESTRICTED DELIVERY
(The addressee's address may be changed to address in the return receipt box.)

TOTAL $

3. ARTICLE ADDRESSED TO:
Frank Smallwood
13 Rockefeller Center
Hanover N.H. 03755

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943054

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Frank Smallwood

5. DATE OF DELIVERY
2-13-84

6. ADDRESSEE'S ADDRESS (Only if requested)

FEB 13 1984

7. UNABLE TO DELIVER BECAUSE:

EMPLOYEE'S INITIALS

RETURN RECEIPT

MUR 1617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Frank Smallwood, Director
Nelson A. Rockfeller Center for the Social Sciences
103 Rockfeller Center
Dartmouth College
Hanover, New Hampshire 03755

MUR 1617

Dear Mr. Smallwood:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 5 3

8 4 0 4 0 4 6 1 2 5 4

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered ..... ____¢
   - ☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
Ronald C. Peterson Trs.
1120 G St. N.W. Rm801
Washington, D.C. 20005

4. TYPE OF SERVICE:
   - ☐ REGISTERED
   - ☐ INSURED
   - ☑ CERTIFIED
   - ☐ COD
   - ☐ EXPRESS MAIL

ARTICLE NUMBER
943055

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent
Lisa Ballard

5. DATE OF DELIVERY
2-13-84

POSTMARK
(may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

● GPO: 1983-379-503

MAR 16 17 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Ronald C. Peterson, Treasurer
Cranston for President Committee, Inc.
1120 G Street, N.W., Rm 801
Washington, D.C. 20005

MUR 1617

Dear Mr. Peterson:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Alan Cranston

8404061255

8 4 0 4 0 4 6 1 2 5 6

● WARNING: Complete Items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery ..... ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
Michael J. Berman, Esq.
2201 Wisconsin Ave, N.W.
Washington, D.C 20007

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☑ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943056

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY

POSTMARK (may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

* GPO: 1983-379-000

MUR 1617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Michael S. Berman, Treasurer
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

MUR 1617

Dear Mr. Berman:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Walter F. Mondale

8 4 0 4 0 4 6 1 2 5 7

8 4 0 4 0 4 6 1 2 5 8

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered .....
   - ☐ Show to whom, date, and address of delivery ..
2. ☐ RESTRICTED DELIVERY.....
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO:
Daniel L. Foggie Jr.
2100 M St. N.W. Suite 316
Washington D.C. 20036

4. TYPE OF SERVICE:
   - ☐ REGISTERED
   - ☒ CERTIFIED
   - ☐ EXPRESS MAIL
   - ☐ INSURED
   - ☐ COD

ARTICLE NUMBER
943057

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Lorelei Drugan

5. DATE OF DELIVERY
4/13/84

POSTMARK
(may be delivery date)
FEB 2 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

RETURN RECEIPT

MUR 1617 DC 2-10-84

★ GPO: 1982-379-503

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Samuel L. Foggie, Sr., Treasurer
Jesse Jackson for President
2100 M Street, N.W.
Suite 316
Washington, D.C. 20036

MUR 1617

Dear Mr. Foggie:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: Jesse L. Jackson

8 4 0 4 0 4 6 1 2 5 9

8 4 0 4 0 4 6 1 2 6 0

PS Form 3811, July 1983

RETURN RECEIPT

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery ..... ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL ¢ ____

3. ARTICLE ADDRESSED TO:
Michael B. Moore Esq.
1670 Broadway Suite 2500
Denver, Co. 80202

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☑ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943058

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Mark

5. DATE OF DELIVERY

POSTMARK

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

8. ADDRESSEE'S INITIALS

MUR 1617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Micheal R. Moore, Treasurer
Americans With Hart
1670 Broadway, Suite 2500
Denver, Colorado 80202

MUR 1617

Dear Mr. Moore:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Gary W. Hart

8 4 0 4 0 4 6 1 2 6 1

8 4 0 4 0 4 6 1 2 6 2

PS Form 3811, July 1983

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
Robert G. Farmer Esq.
444 N. Capitol St. N.W.
Washington D.C. 20001

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☑ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943059

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Robert T Hall

5. DATE OF DELIVERY
2 11-84

POSTMARK
(may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

MUR 1617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Robert A. Farmer, Treasurer
John Glenn Presidential Committee, Inc.
444 North Capitol Street, N.W.
Suite 407
Washington, D.C. 20001

MUR 1617

Dear Mr. Farmer:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable John Glenn

8404046126 3

8 4 0 4 0 4 6 1 2 6 4

PS Form 3811, July 1988

RETURN RECEIPT

3. ARTICLE ADDRESSED TO:

George V. Lumsington
575 Pine Ave N.W.
Washington, D.C 20007

4. TYPE OF SERVICE:

☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER

943060

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY

2/13/84

POSTMARK

USPO

6. ADDRESSEE'S ADDRESS

7. UNABLE TO DELIVER BECAUSE:

DELIVERING EMPLOYEE'S INITIALS

MUR 1617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

George V. Cunningham
General Chairman
McGovern for President Committee
1875 Connecticut Avenue, N.W.
Washington, D.C. 20007

MUR 1617

Dear Mr. Cunningham:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable George Stanley McGovern

8 4 0 4 0 4 6 1 2 6 5

8 4 0 4 0 4 6 1 2 6 6

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered ..... ____¢
   - ☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
Donald M. Middebrooks
1465 South Miami Ave Apt
Miami Fl. 33131

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☒ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 943061

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

M. Sanguinetti

5. DATE OF DELIVERY: 2/13/84

POSTMARK (may be ...)

FL FLORIDA FEB 15 1984 POSTMASTER MIAMI USPS

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

RETURN RECEIPT

★ GPO: 1983-379-003

MUK 1617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Donald M. Middlebrooks, Treasurer
Askew for President Committee
1465 South Miami Avenue, 2nd Floor
Miami, Florida 33131

MUR 1617

Dear Mr. Middlebrooks:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Reubin O. Askew

8 4 0 4 0 4 6 1 2 6 7

8 4 0 4 0 4 6 1 2 6 8

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered ..... ____¢
   - ☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
Jane Pl Becker Treasurer
400 North Capitol Suite
Washington D.C 20001

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943062

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

X Kellman

5. DATE OF DELIVERY
2 15 84

POSTMARK
FEB 15 1984

6. ADDRESSEE'S ADDRESS (Only if requested)
Civil Aeronautics Board
Washington D. C. 20428

7. UNABLE TO DELIVER BECAUSE:
United States of America

POSTMASTER'S INITIALS

RETURN RECEIPT

MUR 1617 DC 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Rene DeBacker, Treasurer
Hollings for President, Inc.
400 North Capitol, Suite 318
Washington, D.C. 20001

MUR 1617

Dear Ms. DeBacker:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Ernest F. Hollings

8 4 0 4 0 4 6 1 2 6 9

8 4 0 4 0 4 6 1 2 7 0

PS Form 3811, July 1982

● SENDER: Complete Items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered ..... ____¢
   - ☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
The Honorable Alan Cranston
2024 Camden Ave
Los Angeles, CA. 90025

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☑ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER
943063

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Christa C

5. DATE OF DELIVERY
2/13/84

POSTMARK (Post Office of Delivery)
FEB 10 1984
LOS ANGELES STA.

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

★GPO: 1982-370-059

Mur 1617 Curry 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Ronald C. Peterson, Treasurer
Cranston for President Committee, Inc.
1120 G Street, N.W., Rm 801
Washington, D.C. 20005

MUR 1617

Dear Mr. Peterson:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Alan Cranston

8404061271

P8 Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☐ Show to whom and date delivered ..... ____¢
   - ☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
The Honorable Rewbin O. Askew
1401 Brickwell Ave. PH-1
Miami, Fl 33131

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943069

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Agent

5. DATE OF DELIVERY
2/13/84

POSTMARK (for delivery date)
FEB 13 1984
MIAMI, FL MAILING DIST.

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

GPO: 1982-379-003

MUR 1617 CURRY 2-10-84

R 4 0 4 0 4 6 1 2 7 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Donald M. Middlebrooks, Treasurer
Askew for President Committee
1465 South Miami Avenue, 2nd Floor
Miami, Florida 33131

MUR 1617

Dear Mr. Middlebrooks:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Reubin O. Askew

8 4 0 4 0 4 6 1 2 7 3

8 4 0 4 0 4 6 1 2 7 4

PS Form 3811, July 1983

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered _____ $
☐ Show to whom, date, and address of delivery _____ $
2. ☐ RESTRICTED DELIVERY _____ $
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ _____

3. ARTICLE ADDRESSED TO:
The Honorable Everett F. Hollins
119 Russell Bldg/Senate Office Bldg
Wash D.C. 20510

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☑ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943070

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

J. Bergen

5. DATE OF DELIVERY
2-13-84

POSTMARK
(may be in place date)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

LAMINATION PROTECTED

MUR 1617 CURRY 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Rene DeBacker, Treasurer
Hollings for President, Inc.
400 North Capitol, Suite 318
Washington, D.C. 20001

MUR 1617

Dear Ms. DeBacker:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Ernest F. Hollings

8 4 0 4 0 4 6 1 2 7 5

R 4 0 4 0 4 6 1 2 7 6

RETURN RECEIPT

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one)
   - ☐ Show to whom and date delivered
   - ☐ Show to whom, date, and address of delivery
2. ☐ RESTRICTED DELIVERY (Only authorized agency or employee of addressee or his agent may sign for)

TOTAL $

3. ARTICLE ADDRESSED TO:
The Honorable John Glenn
Sen. Franklin station
P.O. Box 1984
Washington DC 20044

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☑ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 943067

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

5. J Brown Jr

DATE OF DELIVERY: 2-15

POSTMARK FOR DELIVERY

FEB 15 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a.

2-10-84 HWR 1617 Cuttle

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Robert A. Farmer, Treasurer
John Glenn Presidential Committee, Inc.
444 North Capitol Street, N.W.
Suite 407
Washington, D.C. 20001

MUR 1617

Dear Mr. Farmer:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable John Glenn

8 4 0 4 0 4 6 1 2 7 7

8 4 0 4 0 4 6 1 2 7 8

POSTMASTER FOR FEES

1. The following service is requested (check one)
   - ☐ Show to whom and date delivered ____ $
   - ☐ Show to whom, date, and address of delivery ____ $
2. ☐ RESTRICTED DELIVERY ____ $
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
Jesse L. Jackson
6844 S. Constance Ave.
Chicago, Ill. 60649

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☐ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

X. Jordan

5. DATE OF DELIVERY
2/7/84

POSTAGE

6. ADDRESSEE'S ADDRESS (Only if requested)

CHICAGO, ILL. STA. FEB 1984

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

DELIVERY RECEIPT

GPO: 1982-370-550

MUR 1617 Curry 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Samuel L. Foggie, Sr., Treasurer
Jesse Jackson for President
2100 M Street, N.W.
Suite 316
Washington, D.C. 20036

MUR 1617

Dear Mr. Foggie:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

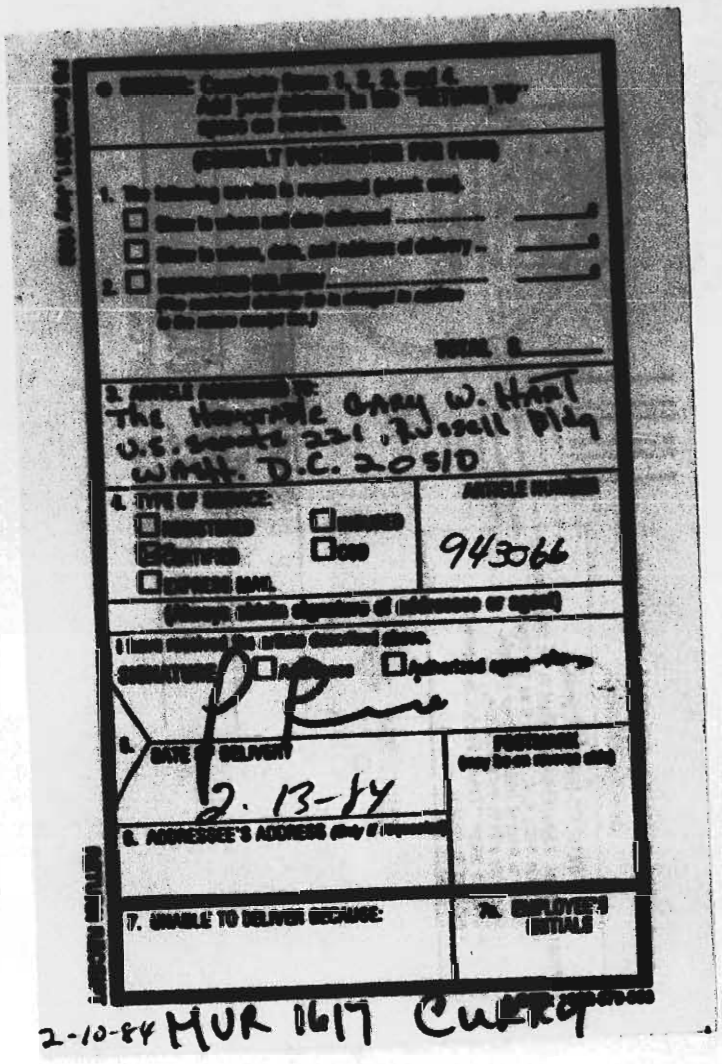
By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: Jesse L. Jackson

8404061279

8 4 0 4 0 4 6 1 2 8 0



2. ARTICLE ADDRESSED TO:
The Honorable Gary W. Hart
U.S. Senate 221 Russell Bldg
Wash. D.C. 20510

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943066

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

6. DATE OF DELIVERY
2-13-84

POSTMARK (only if not covered elsewhere)

5. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7A. EMPLOYEE'S INITIALS

2-10-84 MUR 1617 Cuerq

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Micheal R. Moore, Treasurer
Americans With Hart
1670 Broadway, Suite 2500
Denver, Colorado 80202

MUR 1617

Dear Mr. Moore:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Gary W. Hart

8 4 0 4 0 1 6 1 2 8 1

8 4 0 4 0 4 6 1 2 8 2

● WARNING: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ____¢
☐ Show to whom, date, and address of delivery ..... ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ____

3. ARTICLE ADDRESSED TO:
The Honorable Walter F. Mondale
16276 Suicide Hill Drive South
Afton, MN 55001

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943064

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Michael D. Hoffman SA RATF

5. DATE OF DELIVERY

POSTMARK
(only for an insured case)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

MOV 1617 Curry 2-10-84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Michael S. Berman, Treasurer
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

MUR 1617

Dear Mr. Berman:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Walter F. Mondale

8404046128 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

George V. Cunningham
General Chairman
McGovern for President Committee
1875 Connecticut Avenue, N.W.
Washington, D.C. 20007

MUR 1617

Dear Mr. Cunningham:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

✓cc: The Honorable George Stanley McGovern

8 4 0 4 0 4 6 1 2 8 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

The Honorable Gillis W. Long, Chairman
House Democratic Caucus
718 HOB Annex 1
Washington, D.C. 20515

MUR 1617

Dear Mr. Long:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. Please note that the amendment identifies members of the House Democratic Caucus. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 8 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Linda Dorian
Vice President, General Counsel and Secretary
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

D.C. 2-10-84

D.C. 2-10-84

MUR 1617

Dear Ms. Dorian:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your corporation violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Lawrence Horn
General Counsel
Public Broadcasting Service
475 L'Enfant Plaza West, S.W.
Washington, D.C. 20024

D.C. 2-10-84

MUR 1617

8 4 0 4 0 4 6 1 2 8 7

Dear Mr. Horn:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Lawrence M. Miller
Schwartz, Woods & Miller
Suite 206, The Palladium
1325 18th Street, N.W.
Washington, D.C. 20036

D.C.
2-10-84

MUR 1617

Dear Mr. Miller:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

David O. Ives, President
WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134

D.C. 2-10-84

MUR 1617

Dear Mr. Ives:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Ron Hull, Director
Program Fund
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

D.C. 2-10-84

MUR 1617

Dear Mr. Hull:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 9 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Cary P. Clark, Esquire
Dartmouth College
Investments & Legal Affairs Office
P.O. Box 31
Hanover, New Hampshire 03755

D.C. 2-10-84

MUR 1617

Dear Mr. Clark:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your college violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

D.C
2.10.84

Ted Koppel
American Broadcasting Company
1717 DeSales Street, N.W.
Washington, D.C. 20036

MUR 1617

Dear Mr. Koppel:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that you violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 9 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Phil Donahue
630 North McClurg Court
Chicago, Illinois 60611

J.C. 2-10-84

MUR 1617

Dear Mr. Donahue:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that you violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8404046 1293

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Frank Smallwood, Director
Nelson A. Rockfeller Center for the Social Sciences
103 Rockfeller Center
Dartmouth College
Hanover, New Hampshire 03755

D.C.
2-10-84

MUR 1617

Dear Mr. Smallwood:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your organization violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

8 4 0 4 0 4 6 1 2 9 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Ronald C. Peterson, Treasurer
Cranston for President Committee, Inc.
1120 G Street, N.W., Rm 801
Washington, D.C. 20005

D.C
2-10-84

MUR 1617

Dear Mr. Peterson:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Alan Cranston

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Michael S. Berman, Treasurer
Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

D.C. 2-10-84

MUR 1617

Dear Mr. Berman:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Walter F. Mondale

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
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Samuel L. Foggie, Sr., Treasurer
Jesse Jackson for President
2100 M Street, N.W.
Suite 316
Washington, D.C. 20036

D.C. 2-10-84

MUR 1617

Dear Mr. Foggie:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: Jesse L. Jackson

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Micheal R. Moore, Treasurer
Americans With Hart
1670 Broadway, Suite 2500
Denver, Colorado 80202

D.C. 2-10-84

MUR 1617

Dear Mr. Moore:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Gary W. Hart

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Robert A. Farmer, Treasurer
John Glenn Presidential Committee, Inc.
444 North Capitol Street, N.W.
Suite 407
Washington, D.C. 20001

D.C. 2-10-84 MUR 1617

Dear Mr. Farmer:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable John Glenn

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
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George V. Cunningham
General Chairman
McGovern for President Committee
1875 Connecticut Avenue, N.W.
Washington, D.C. 20007

D.C. 2-10-84

MUR 1617

Dear Mr. Cunningham:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable George Stanley McGovern

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
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Donald M. Middlebrooks, Treasurer
Askew for President Committee
1465 South Miami Avenue, 2nd Floor
Miami, Florida 33131

D.C. 2-10-84

MUR 1617

Dear Mr. Middlebrooks:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

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If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Reubin O. Askew

84040161301

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Rene DeBacker, Treasurer
Hollings for President, Inc.
400 North Capitol, Suite 318
Washington, D.C. 20001

D.C. 2-10-84

MUR 1617

Dear Ms. DeBacker:

On January 25, 1984, you were notified that the Federal Election Commission received a complaint from Stephen Koczak alleging that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended. You were also given a copy of the complaint and informed that your response to the complaint should be submitted within fifteen days of your receipt of the notification.

On January 24, 1984, the Commission received an amendment from the complainant pertaining to the allegations in the complaint. We are enclosing a copy of the amendment. As this information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: The Honorable Ernest F. Hollings

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 23, 1984

MUR 1617
Curry

TELEPHONE 202 363-4750

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20043

Dear General Counsel:

AMENDMENT AND SUPPLEMENT TO COMPLIANCE COMPLAINT AND PETITION

I refer to my communication, dated January 17, 1984, delivered by hand to your offices on January 18, 1984, a compliance complaint and petition regarding the House Democratic Caucus and others under Title 11, Code of Federal Regulations, Paragraph 111.4, Complaints, 2 U.S.C. 437 g (a) (1) and other pertitnent statutes, regulations and rules.

Today, under 43 FR 32795, July 28, 1978, as amended at 43 FR 45856, Oct 4, 19778; 43 FR 55769, Nov 29, 1978; BC Docket No. 82:-564, Report and Order, adopted Nov 8, released Nov 16, 1983; and Title 11, Supplement A, Par 73.1940 (h), I filed a complaint with the Federal Communication Commission.

In that FCC complaint, I identified an additional party, the National-House Democratic Caucus whom I herewith request the Federal Election Commission to make a respondent to my earlier complaint.

I request, inter alia, that pursuant to Title 11, CFR, Paragraph 100.5 (a) and 2 U.S.C. 431 (c), the National-House Democratic Caucus be required to file as a "political committee" and that whereever the term "House Democratic Caucus" or variantly "Congressional Democratic Caucus" apppears in my original complaint, there be substituted the phrase, "House Democratic Caucus and/or National-House Democratic Caucus, as appropriate".

I enclose a photocopy of the Letterhead and membership list of the National-House Democratic Caucus which shows Rrepresentative Gillis W. Long and Robert S. Strauss (not a Member of Congress) as Co-Chairman and which identifies Charles T. Manatt (Chairman of the Democratic National Committee) as an Honorary Co-Chairman. In addition to several Members of Congress, there are named approximately eighty "Private Members" of its Board of Advisors and its Staff lists, intermingled, paid employees of the House Democratic Caucus and persons not paid from legislative funds.

As a second Annex, I enclose a photocopy of my complaint filed with the Federal Communication Commission and draw attention that within it there is a photocopy of the Letterhead and the list of members of the National-House Democratic Caucus containing the names of many persons who are not Members nor employees of Congress, but who regularly use government facilities and intermingle functions and operations with Members and employees of the House of Representatives paid from Federal government funds.

It should be noted that in addition to Democratic National Party Chairman Charles Manatt and former Chairman Robert Strauss, Representative Charles Schumer is a member of this overlapping body. Representative Schumer's aide, Michael Timmeny, has been identified by many parties as

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having a central role in organizing the so-called Dartmouth College Debate.

I request the Commission to determine the extent of the participation of the members of the the National-House Democratic Caucus in organizing, publicizing or influencing any person or organization in connection with the so-called Dartmouth College Debate. To this end, I request that the appropriate Congressional and Private Members of its Board of Advisors and of its senior staff also be interviewed as respondents by the Federal Election Commission pursuant to my complaint as herewith amended.

(NOTE: Since the FEC already has copies of my complaint filed with it, its renewed submission would be redundant. Consequently, I have not enclosed it hereunder as part of the annex to the FCC Complaint. I have enclosed photocopies only of the Letterhead and membership list of the National-House Democratic Caucus, my complaint to the Federal Communication Commission and, as an enclosure thereto, my letter to Mr. Al Hetaling.)

—O A T H—

I swear that to my knowledge and belief, based on reliable sources, the foregoing is correct.

Sincerely,

Stephen A. Kocak

Stephen A. Kocak
2932 Macomb Street, N.W.
Washington, D. C. 20008

Subscribed and sworn to before me this 24th day of January, 1984.

Lucy J. Holt
Notary Public DC

My commission expires April 14, 1988

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NATIONAL HOUSE DEMOCRATIC CAUCUS

Co-Chairmen
Gillis W. Long Robert S. Strauss

Honorary Co-Chairmen
Thomas P. O'Neill, Jr.
Charles T. Manatt
Tony Coelho

Senior Advisor: S. Lee Kling

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Mickey Leland (Texas)
Sander Levin (Michigan)
Mel Levine (California)
Elliott Levitas (Georgia)
Stan Lundine (New York)
Dave McCurdy (Oklahoma)
Matthew McHugh (New York)
Buddy MacKay (Florida)
Norman Mineta (California)
Parren Mitchell (Maryland)
Jim Moody (Wisconsin)
Bruce Morrison (Connecticut)
Mary Rose Oakar (Ohio)
Dave Obey (Wisconsin)
Richard Ottinger (New York)
Timothy Penny (Minnesota)
Claude Pepper (Florida)
Bill Richardson (New Mexico)
Marty Russo (Illinois)
Martin Sabo (Minnesota)
Charles Schumer (New York)
Jim Shannon (Massachusetts)
Philip Sharp (Indiana)
Jim Slattery (Kansas)
Charles Stenholm (Texas)
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Wes Watkins (Oklahoma)
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Alan Wheat (Missouri)
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Will Marshall, Senior Editor

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Production Assistants: Sharon Jordan, Mildred Porter, Paula Fassi, Janine Hardenstine

Executive Director, National-House Democratic Caucus: Bill Romjue

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DEMOCRATIC CAUCUS

"... Consists of the entire Democratic membership of the House."

Rep. Gillis W. Long (D LA—8), Chairman

Rep. Geraldine A. Ferraro (D NY—9), Secretary

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Porter, Mildred	Staff Assistant and Office Manager	Annex 1	718	226-3210
Jordan, Sharon	Staff Assistant	Annex 1	718	226-3210

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Finance Chairman, S. Lee Kling; Counsel, Christopher O'Neill; Treasurer, Ms. Jacqueline McCurdy

Suite 319, 400 N. Capitol St., Dial 202-789-2520

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Eury, Jim	Production Manager
Riggs, Lindsay	Audio Production
Wright, Frieda	Audio Production

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Lynn, John E.	Executive D
Haslup, Gretlyn	Administrat

DEMOCRATIC

Rep. Thomas

Rep. Jim Wright (D TX—

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OK—1); Rep. Jamie L. Whitten (D

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Rep. Matthew F. McHugh (D NY—

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Fruggiero, Christine	
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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-4750

January 23, 1984

Compaints and Compliance Branch
Broadcast Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Complaints and Compliance Division:

Herewith I am filing a complaint and petition for redress against New Hampshire Public Television for violating my constitutional and statutory rights, the statutes governing Federal elections, the statutes governing the production, broadcasting and television transmitting of "non-partisan debates" by FCC licensees, and the rules and regulations issued under statutes by the Federal Communication Commission.

New Hampshire Public Television is a licensee under the authority of the Federal Communication Commission and I am a bona fide candidate for the office of President of the United States. As the enclosures document, I am registered as such a candidate with the Federal Election Commission and the Secretary of State of New Hampshire.

On January 18, 1984, I requested from New Hampshire Public Television by telephone, well within the time prescribed by the "Seven Day Rule", "equal opportunities" comparable to those afforded to my "eight" well-publicised political rivals and opponents on January 15, 1984 in the so-called Dartmouth College Debate.

On January 19, 1984, Mr. Al Hotaling, acting for New Hampshire Public Television, telephonically rejected my request alleging that, "on the advice of the attorneys of the Public Broadcasting Service", he claimed that the debate was a "bona fide news event" exempted from the rule of "equal opportunities".

On January 20, 1984, I wrote to Mr. Al Hotaling a letter, copy of which is enclosed, confirming the fact of our telephone conversations. In substance I alleged, inter alia, and repeat herewith, that New Hampshire Public Television, licenced to telecast non-commercial broadcasts, had relinquished control over this debate because it was in fact a partisan broadcast which should have been telecast commercially.

I allege that this debate was contrived with great guile and audacity to appear to be accredited as a "bona fide news event" when in reality it was organised by a partisan political body, the National-House Democratic Caucus, which arbitrarily, without accepting any credentials which were available, excluded candidates whose views were unacceptable to the Caucus. Moreover, the broadcast was tainted by the illegal use and misappropriation of Federal government funds by the National-House Democratic Caucus, the Corporation for Public Broadcasting, a quasi-governmental corporation itself receiving Federal government funds, and the Public Broadcasting Service.

Specifically, I documented in my January 20, 1984 letter to Mr. Hotaling my credentials as a Democratic presidential candidate, identified my political rivals and opponents as those Democratic presidential candidates appearing in the Debate. I conformed in every iota with the requirements listed on pages 2 and 3 of "A Political Primer, The Law of

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Political Broadcasting and Cablecasting".

In as much as I am enclosing a copy of my January 20 letter to Mr. Al Motaling, I request that its text be considered an integral part of this letter of complaint as if it appeared in the body of this letter.

In this communication, I wish to recall to the Federal Communication Commission the observations of the Federal Election Commission, in its comments of October 14, 1982. Because of its importance, I quote a passage from it extensively hereunder.

Commenting on the presumed expectation that the proposed FCC rule change related clearly to "nonpartisan federal candidate debates", obviously excluding "partisan debates", the Federal Election Commission nevertheless stated the following:

"As you know, in creating a narrow exemption from the provisions of the Federal Election Campaign Act to permit certain nonprofit organizations and news media organizations to stage nonpartisan federal candidate debates, we relied heavily on our belief that sufficient safeguards as to the nonpartisanship of debates staged by broadcasters are set forth in the Communications Act and the present regulations and interpretations of the FCC. Among those safeguards, of course, is the equal time obligation now imposed on broadcast licensees, who stage and sponsor candidate debates. If the FCC were now to rule that the broadcast of such debates will henceforth be considered 'on-the-spot coverage of bona fide news events' and, thus, not subject to the equal opportunities requirement, one basis of the FEC's regulations concerning candidate debates will have been changed. Attached is a copy of the Explanation & Justificastion which the Commission submitted to Congress with its regulations. This sets forth the Commission's understanding of the implications of Paragraph 315 (a) (4) as they relate to the problems under our Act of insuring that no prohibited corporate contribution results from broadcaster sponsorship of a candidate debate."

I invite the Federal Communication Commission's attention also to the fact that the Public Broadcasting Service, in a communication submitted on October 15, 1982 by Nancy H. Hendry, Deputy General Counsel, aggressively urged the adoption of the amendment relating to nonpartisan repeat nonpartisan debates to which the Federal Election Commission had reservations because of "the problems under our Act of insuring that no prohibited corporate (emphasis on corporate) contribution results from broadcaster sponsorship of a candidate debate."

Like the Corporation for Public Broadcasting, the Public Broadcasting Service is a corporation, as is the New Hampshire Public Television, which is also a licencee of the FCC.

The Federal Election Commission, of course, has had occasion to review a wide range of surreptitious maneuvres and manipulations designed to subvert the Federal Election Laws. Nevertheless, not even the Federal Election Commission could have anticipated the extraordinary guile and audacity of the Corporation for Public Broadcasting and the Public Broadcasting Service to contrive an out-and-out partisan commercial political broadcast with the National-House Democratic Caucus, to expend Federal government funds thereon and yet to pretend boldly that the entire enterprise was only an "on-the-spot coverage" of a "bona fide news event".

This deception and lust to provide advantage for some pre-selected and

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pre-accredited candidates preferred by the National-House Democratic Caucus and the Corporation for Public Broadcasting and the consequent irreparable damage to other legitimate candidates is usually expected to be found normally only in disinformation campaigns associated with diplomatic intrigues.

Certainly, this kind of deception and misappropriation of funds and abuse of public confidence does not belong in a democratic, honest election campaign.

I fear that this is a scandal which the Federal Communication Commission and the Federal Election Commission cannot tolerate without losing their own credibility.

Moreover, as a Democrat who needs to maintain good relations with the rest of my party, I find it most unfortunate that I must make these charges against some of the more senior members of the National-House Democratic Caucus. But in conscience as a citizen, bound further by the august demands on me as a candidate for the office of President who, as President, must uphold the law impartially, I know I have no other choice but to insist that the National Democratic Party refund to the American taxpayer the true value of this Debate which was an unauthorized commercial partisan political program telecast over non-commercial public TV Stations licenced by the Federal Communication Commission.

I call upon the Federal Communication to take immediate action to redress these harms to the public weal.

To facilitate its investigation, I include, in addition to the photocopy of my letter of January 20, 1984 to Mr. Al Hotaling, a photocopy of my sworn statement, submitted on January 17, 1984 to the Federal Election Commission. I request the Federal Communication Commission to accept them as an integral part of my complaint and petition for relief.

Because the passage of every day makes even more costly and more irreparable the damage inflicted on me by the National-House Democratic Caucus and the other institutions mentioned herein, I plead for an expedited investigation and judgment in this matter.

I am sending copies of this complaint to New Hampshire Public Television, Attention, Mr. Al Hotaling, to Public Broadcasting Service, Attention, Ms Nancy Hendry, and to the National-House Democratic Caucus, Attention, The Honorable Gillis W. Long and the Honorable Robert S. Strauss.

I am also sending a copy to the Federal Election Commission to supplement my original compliance complaint and petition of January 17, 1984.

Sincerely

Stephen A. Kozak

Enclosures: Letter to Mr. Al Hotaling;
Compliance Complaint and Petition filed with the Federal Election Commission
Letter to Craig C. Donsanto, Director, Election Crimes Branch Department of Justice

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 20, 1984

TELEPHONE 202 361-4750

Mr. Al Hotaling,
Program Director,
New Hampshire Public Television,
Union Building, Campus,
University of New Hampshire,
Box 1100, Durham, N.H.

Dear Mr. Hotaling:

Herewith I confirm the telephone conversations we have had on Wednesday, January 18 and Thursday, January 19, 1984 regarding my request for "Equal Opportunities" comperable to those given to my "eight" Democratic rivals and opponents in the so-called Dartmouth College Debate, co-produced by your station and TV Station WGBH.

I was illegally excluded from that debate and denied both my Constitutional and statutory rights. Further, the rules and regulations both of the Federal Election Commission and the Federal Communication Commission were subverted by all the parties to that debate

As I told you on January 18, 1984, I am a legally qualified candidate for nomination by the Democratic Party for the office of President of the United States. I filed with the Federal Election Commission on December 13, 1983 and with the New Hampshire Secretary of State on December 28, 1983. I enclose copies of my filing with the FEC and of the confirmation letter of the New Hampshire Secretary of State that I am on the ballot for the primary election on February 28, 1984.

My request, having been made on the third day following the telecast, was well within the period specified by the "Seven Day Rule" of the Federal Communication Commission.

In my telephone conversation, I stated that I considered the telecast identical with paid commercial political advertising and not a "news event" or a debate "exempt" from the "equal opportunities" rule. I compared it, in fact, to a forthcoming telecast by Presidential Candidate Lyndon LaRouche, purported to be telecast commercially by CBS-TV on Saturday, January 21, 1984.

In making that comparison, I emphasised that the Dartmouth College Debate was in fact organized by the House Democratic Caucus, a partisan political body which had used undue and illegal pressure on the Corporation for Public Broadcasting, the Public Broadcasting Service and your stations as producers in obtaining, through a subterfuge which you permitted, time at public expense for which it should have been paying the commercial networks..

On January 19, 1984, you telephoned me refusing my request under "equal opportunities", allegedly on the advice of the attorneys of the Public Broadcasting Service, on the grounds that the debates was a "bona fide news event."

I informed you I would be filing a complaint with the Federal Communication Commission, since you are licenced by that body and subject to its rules and regulations.

I should like to inform you further that I telephoned Ms Nancy Hendry, an attorney in the office of PBS General Counsel, who was present on January

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14 at the hearing of my lawsuit against the House Democratic Caucus and PBS. She indicated that her office had sent out an "opinion" prior to the telecast to the effect that the "Debate" was a "bona fide news event" but she added that the responsibility for determining whether that "opinion" was valid was with the producing TV stations and not with PBS.

To ascertain whether the the LaRouche Campaign was expending campaign funds, I obtained a flyer, a photocopy of which I enclose, and subsequently inquired whether it was being paid for by Federal Matching Funds as well.

I was informed that the LaRouche Campaign claimed it qualified for Matching Funds and intended to apply a portion of them, when received, to pay for this telecast.

As to the House Democratic Caucus, whose staff is paid from Federal government authorized and appropriated funds, I was given to understand by a source who insisted on anonymity, that the arrangements were in fact made by the joint National-House Democratic Caucus, whose co-chairmen are Gillis W. Long and Robert S. Strauss. Its Honorary Co-Chairmen includes Charles T. Manatt, Chairman of the Democratic National Committee and its "Private Members" include a host of influential members of the Democratic Party who are not Members of Congress but media publicists.

Under the circumstances, it is evident that the Debate was carried out as a partisan campaign, misappropriating Federal public funds, and that the entire cost must be reimbursed by the Democratic National Committee to the Corporation for Public Broadcasting, the PBS and to your station and TV Station WGBH.

I enclose photocopies of the LaRouche flyer, of the membership of the National-House Democratic Caucus and of a page 44 from the Congressional Staff Directory. The latter two photocopies clearly identify the interlocking of the House Democratic Caucus and of the National-House Democratic Caucus.

I invite your special attention to the presence of Representative Charles Schumer on the Board of Advisors of the National-House Democratic Caucus. You are, of course, already aware of his own role, and that of his aide, Michael Timmeny, in completely organizing and arranging this telecast.

Under the circumstances, I must contend that you relinquished control over this debate and, despite the "opinion" of the PBS attorneys, you are fully responsible for illegally contributing services of great monetary value to the partisan political campaigns of some pre-selected Democratic candidates, who are my opponents, to the irreparable harm of my own campaign.

Finally, I invite your attention to the testimony given by the Federal Election Commission to the Federal Communication Commission opposing, repeat opposing, the Rule Change adopted on November 8 and released on November16, 1983 (See BC Docket No. 82-364, paragraph 7, page 4 for a summary).

I shall allege against you the forgoing and other charges in my complaints to the Federal Communication Commission and to the Federal Election Commission, with the latter of which I have already filed a complaint against you and Station WGBH and others.

Sincerely,

Stephen A. Koczak

Stephen A. Koczak
Candidate for the Office
of President of the
United States

Enclsoures: As Stated.

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(2)

The State of New Hampshire

WILLIAM M. GARDNER
SECRETARY OF STATE

ROBERT P. AMBROSE
DEPUTY SECRETARY

Department of State

State House - Room 204
Concord Tel. 271-3242

December 30, 1983

Mr. Stephen A. Koczak
P.O. Box 11656
Washington, D.C. 20008

This is to acknowledge your filing as a DEMOCRATIC candidate for PRESIDENT OF THE UNITED STATES.

Your name will be printed on the Presidential Primary Ballot as:

STEPHEN A. KOCZAK

Sincerely,

Wm. Gardner

William M. Gardner
Secretary of State

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STATEMENT OF CANDIDACY

83 DEC 13 P 3:33

(See reverse side for instructions)

REGISTERED AND FILED

1. (a) Name of Candidate (in Full)

STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Identification No.

3. Party Affiliation

Democrat

DEC 13 1983

4. Office Sought

President U. S.

5. District & State of Candidate

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 (Year of Election) election.

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)

KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak
(Signature of Candidate)

December 13, 1983
(Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR —

President mail to:
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

U.S. Senate mail to:
Secretary of the Senate
119 D Street, N.E.
Washington, D.C. 20510

U.S. House of Representatives mail to:
Clerk of the House
1036 Longworth Office Bldg.
Washington, D.C. 20515

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202 523-4068

FEC FORM 2 (3)

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P.O. Box 2150, G.P.O., New York, N.Y. 10116, (212) 247-8820

The LaRouche Campaign

FOR IMMEDIATE RELEASE
For more information call:
Christina Huth, Stephanie Ezrol
(212) 247-8820 ext. 807

LaRouche to Address the Nation On Jan. 21

WASHINGTON, D.C., Jan. 11—Democratic presidential candidate Lyndon H. LaRouche, Jr. has announced that his campaign organization will purchase a half-hour of prime national network television time on Jan. 21, which the candidate will use to inform the American population of the growing danger of a pre-emptive nuclear strike from the Soviet Union. LaRouche's announcement of the Jan. 21 television address, which will be mass distributed in all 50 states over the next 10 days, reads as follows:

LaRouche Declares U.S. National Emergency

"Democratic presidential candidate Lyndon H. LaRouche, Jr. will use a half-hour of nationwide television time to inform you of what any President of the United States should be telling you right now.

"Since Soviet President Yuri Andropov dropped from sight, nearly five months ago, a military junta has taken full charge in Moscow. They are using their growing military superiority over the United States to take control of large chunks of Western Europe and the Middle East. They are moving rapidly toward a nuclear showdown with President Reagan—bigger and far worse than 1962. Moscow is confident that President Reagan, under pressure from 'Neville Chamberlains' like Averell Harriman, Walter Mondale, and the 'New York Times,' will be forced to back down to Soviet demands.

"You and your grandchildren do not necessarily have to be slaves of a Russian Empire. We can defend ourselves, prevent our allies from being gobbled up, and probably force Moscow to negotiate on the basis of President Reagan's March 1983 anti-missile defense doctrine, if Democrats would rise up now and shout loud and clear, 'Democrats are patriots, too!' The sons of the Democratic constituencies—young workers and young farmers and the children of labor and farm families—have always been in the front lines in the defense of the nation.

"If we mobilize our sick economy as President Roosevelt began to do in 1939, and unleash an 'Apollo'-style buildup of weapons to destroy missiles fired against the United States, we have a very good chance of surviving. Hear Democratic statesman LaRouche. If you agree with what he says, then call the White House and your Congressman and tell them so."

Democratic presidential candidate Lyndon H. LaRouche, Jr. will address the nation Saturday evening, Jan. 21 on CBS-TV:

```
*****************************************************************
* In Washington, DC, January 21, 1984, Channel 9, 11:30 PM     *
*                                  or   Channel 11, 8:30 PM     *
*****************************************************************
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Authorized and paid for by The LaRouche Campaign, Edward Spannaus, Treasurer

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 23, 1984/ January 24, 1984

TELEPHONE 202 363-4750

Craig C. Donsanto, Esquire
Director, Election Crimes Branch
Public Integrity Section
Criminal Division, Department of Justice
315 Ninth Street, N.W.
Washington, D. C. 20530

Dear Mr. Donsanto:

On January 18, 1984, I mailed you a copy of my Compliance Complaint and Petition filed with the Federal Election Commission on January 18, 1984.

I have prepared a Complaint today, which I shall be carrying to the Federal Communication Commission tomorrow, January 24, 1984 under its own rules and regulations. I enclose a copy thereof.

I have also prepared an amendment to my complaint with the Federal Election Commission, based on information I uncovered in preparing my complaint with the Federal Communication Commission.

I am enclosing both of those documents.

You will find particularly interesting the information which I uncovered about the existence, alongside the House Democratic Caucus, of another organization, called the "National-House Democratic Caucus" The facts about its existence and membership are included in the complaints which I shall be filing tomorrow.

Sincerely,

Stephen A. Koczak

Stephen A. Koczak

Enclosures: As stated.

Note: This letter was prepared on January 23, 1984 but the filing of the complaints took place on January 24, 1984.

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Gen# 1613

U.S. Department of Justice

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MUR 1617
Curry

Washington, D.C. 20530

FEB 0 3 1984

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Mr. Stephen A. Koczak
P.O. Box 11656
Washington, D.C. 20008

Dear Mr. Koczak:

This will acknowledge our receipt of your correspondence dated January 19 and 24, 1984, forwarding to this office for appropriate attention materials that you have filed with the Federal Election Commission and the Federal Communications Commission charging the House Democratic Caucus with violations of the Federal Election Campaign Act and the Federal Communications Act respectively.

The substance of both of your complaints appears to be that the Caucus acted improperly in its sponsorship of the debate held recently at Dartmouth College, New Hampshire among the eight principal candidates for the Democratic Presidential nomination. You were not invited to participate in this debate, despite your apparent status as a Presidential candidate. Accordingly, you maintain that the Caucus's sponsorship of the debate was a "partisan" political event that made the Caucus liable to register and report under the FECA, and that news coverage of the debate by the broadcast media was subject to the so-called "Equal Time Rule."

Whether the Dartmouth debate was a "partisan" event without your participation, and the extent to which its sponsors were obligated to comply with the Federal Election Campaign Act and the "Equal Time Rule," are issues that are properly addressed by the administrative agencies charged by the Congress with enforcing such regulatory provisions. In this regard, we note that you have already brought your complaint to the Federal Election Commission and the Federal Communications Commission.

Your complaint does not, in our opinion, indicate federal criminal offenses such as would warrant a criminal investigation by this Department. We therefore do not plan to take enforcement action with respect to your complaint at this time.

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We appreciate your bring this matter to our attention.

Sincerely,

Gerald E. McDowell, Chief
Public Integrity Section
Criminal Division

By:
CRAIG C. DONSANTO, Director
Election Crimes Branch
Public Integrity Section

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

Marjorie S. Reed
General Counsel
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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, D.C. 20530

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of Justice
JUS-431

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Stephen A. Koczak, Candidate for President of the United States for the Democratic Party Nomination
2922 Macomb Street N.W. Washington DC 20008
Plaintiff

v

David T. McLaughlin, President of Dartmouth College
Judy Newman, of Public Broadcasting Service
Michael Timmeny, Aide to Congressman Charles Shumer
The Democratic House Caucus
Public Broadcasting Service
Dartmouth College

FILED
JAN 14 1984
JAMES F. DAVEY, Clerk

84-0146

Civil Action No._____

FILED
JAN 13 1984
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Motion for temporary restraining order heard DENIED. Young Holtzoff Judge January 14, 19

COMPLAINT-PETITION TO OBTAIN RESTRAINING ORDER

Plaintiff, Stephen A. Koczak, a candidate for the office of President of complaining of defendants herein, applies to, petitions and moves this Court for an order restraining the telecast and the holding of the so-called Dartmouth College Debate, scheduled to be presented this Sunday, January 15, 1984 at Dartmouth College, In havoer New Hampshire and respectully alleges:

1. This Court has jurisdiction to issue this restraining order because the action involves participation in a Federal Election governed by Article II of the Constitution concerning the election of the President of the United States

2. Plaintiff is a fuly qualified candidate for that office, having certified with the Federal Election Commission on December 13, 1983 of his intention to seek that office and having filed successfully with the Secretary of State for New Hampshire on December 28, 1983 and been admitted to the New Hampshire primary to be held on February 28, 1984.

3. Defendants, individually and on behalf of their organizations have sought to deny Plaintiff participation in a debate to be held on Sunday, January 15, 1984 at Dartmouth College and, in so doing, have seriously impaired his opportunity to seek the offie of President, thus violating the provisions of the First and Fourteenth Amendments to the Constitution of the United States.

4.

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4. Defendants are all officers of Public institutions or educational organizatio benefitting from tax revenues or deductions from taxes for contributions thereto, under Acts of Congress and the code published by the Internal Revenue Service. Moreover, Michael Timmeny is an employee of Representative Charles Shumer and receives income from authorizations and appropriations of the Congress of the United States.

5. Defendants, by evasions and circumventions, have obstructed access of the Plaintiff to the Dartmouth College Debate. The Public Broadcasting Service, which receives funding in part from the Congress, is in a "confict of interest" situation by dealing ex parte and exclusively with a paid employee of the Congress who has sought to deny access of a Presidential candidate to the Dartmouth College Debate.

6. As Plaintiff's affidavit clearly states, the Federal Election Commission, though notified of the other likely violations of law, including the contribution of services and assets to the benefit solely of candidates favored by the Democratic Caucus, nevertheless finds itself unable to act to provide relief to the Plaintiff.

7. Thus, because of the imprimatur given to the "eight" candidates admitted to the Caucus by such prestigious bodies as Dartmouth College, the House Democratic Caucus and Public Broadcasting Service, Plaintiff is irreparably harmed by his exclusion from the broadcast. This harm applies not only in New Hampshire but also in the other states, whose Secretaries of State rely on reputation and media notoriety in determing which candidates should be admitted automatically to the primary ballots and which candidates must expend funds in order to obtain petitions at great cost and effort.

8. Plaintiff, not having access to an attorney to represent his case, and having been disadvantaged by deliberate delays and evasions by defendants McLaughlin and Timmeny, is forced to plead this case per se and petitions the court to accept his affidavit as part of this petition for an injunction requiring a stay of the debate unless he is admitted as a participant.

Stephen A. Koczak

Stephen A. Koczak, Plaintiff

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United States District Court
for the District of Columbia

Stephen A. Koczak, Candidate for President of the United States for the Democratic Party Nomination
2932 Macomb Street NW, Washington DC 20008
Plaintiff

v

David T. McLaughlin, President of Dartmouth College
Udy Newman of Public Broadcasting Service
Michael Timmeny, Aide to Congressman Charles Shumer
The Democratic House Caucus
Public Broadcasting Service
Dartmouth College

Defendants

84- 0146

Civil Action No. _____

FILED
JAN 13 1984
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

D

Points and Authorities
in support of
Plaintiff's Motion for Preliminary Injunction and
Other Emergency Relief

Plaintiff, Stephen A. Koczak, petitions the court to accept his affidavit as part of his points and authorities, particularly the reference to the suits brought by Presidential Candidate Eugene McCarthy against the states of Florida and Texas. The text and the outcome of these suits can be found in the American Bar Association Journal, August, 1977, pages 1108 and following. Supreme Court Justice Powell wrote the opinion in the case of Eugene McCarthy on behalf of the Court.

Plaintiff also cites Title 11 of the Federal Code regarding the holding of Federal elections, calling special attention to Paragraph 114.4 (2) (b) (ii) which reads as follows:

> "If a Presidential candidate is permitted on the premises, all candidates for that office who request to appear must be given the same opportunity to appear".

Because of the absence of time and attorney, Plaintiff cannot cite specifically violations of Federal statutes prohibiting the use of Federal government funds, such as is the case with Mr. Michael Timmeny, to influence

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a Federal election. However, there are general provisions regarding the separation of these funds and prohibiting their use for partisan purposes, in this case, an ex parte arrangement with the Public Broadcasting Service to hold a debate and to televise it without permitting equal access to other Presidential aspirants.

As to the format of the debate, Plaintiff cites Title 11 of the Federal Code, Paragraph 110.13 regarding Debate Structure, which states that such debates "do not promote or advance one candidate over another". This debate structure places candiate Koczak, the Plaintiff, at a disadvantage and promotes or advances other candidates at his expense.

Stephen A. Koczak

Stephen A. Koczak
Plaintiff
pro se

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FILED

JAN 13 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

CERTIFICATE OF SERVICE

This is to certify that copies of this complaint-petition, restraining Order, of the Points and Authorities and of the proposed Order have been duly served by first class mail or delivered by hand to defendants David T. McLaughlin, Judy Newman, Michael Timmeny, The Democratic House Caucus, Public Broadcasting Service, and Dartmouth College this 13th day of January, 1984. Further, in light of the urgency of the pleading and request for the Order, the defendants have been notified also telephonically.

Stephen L. Kozak
Plaintiff
pro se

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84- 0146

FILED

JAN 13 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

A F F I D A V I T

I, Stephen A. Kossak, a native citizen of the United States, born November 13, 1917, in Trenton, New Jersey and now resident at [illegible] Street, N.W., Washington, D. C. do state and swear that the following are correct in substance and in detail to the best of my knowledge.

1. I am a candidate for the office of President of the United States as a member of the Democrat Party and the Secretary of State of New Hampshire accepted my application on December 28, 1983 and has published that my name is enrolled in the Presidential Primary to be held in New Hampshire on February 28, 1984. (Attachment 1)

2. I have dutifully, consistently and actively traveled widely throughout the United States to have my name similarly enrolled in the Presidential Primaries of other states.

3. On December 27, 1983 I wrote to the Secretary of State of Florida asking that my name be placed on the ballot for the Presidentil Primary in that State (Attachment 2) and on January 3, 1984 I met with the Deputy Secretary of State, Dr. Dorothy Glisson, reaffirming my candidacy and requesting my admission as a candidate to the Florida primary election. (Attachments 3 and 4)

4. My request was denied by the Florida Secretary of State and only the "list of eight" officially fostered by the Democratic National Committee and by the House of Representatives Democratic Caucus was transmitted by the Florida Secretary of State to, and approved by, the Florida Election Commission. (Attachment 5)

5. From my conversations with Dr. Glisson, it was apparent that the

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Secretary of State and the Election Commission, comprised of the leading Democratic Party officials in Florida (and their Republican counterparts) were unduly influenced by the actions of the Democratic National Committee and by the House of Representatives Democratic Caucus in excluding my name from the ballot.

6. The House Democratic Caucus, together with the authorities of Dartmouth College, the Nelson A. Rockefeller Center for the Social Sciences, an official program of Dartmouth College, and the Public Broadcasting Service, which receives funds authorized and appropriated by Congress, are now proceeding to act further in a way to influence not only the electorate in New Hampshire, where I am a candidate for the office of President, but the electorate in other states and the Secretaries of State of other states in a manner adversely affecting and seriously and irremediably harming my own rights under the First and Fourteenth Amendments to the U. S. Constitution as a candidate.

7. On December 28, 1983, I telephoned the office of President David T. McLaughlin asking that I be included in the "Dartmouth College Debate" and was informed that I should turn to the Nelson A. Rockefeller Center for the Social Sciences which was coordinating the debate. The Center denied it was coordinating the debate and stated the entire program was besing handled by Mr. Michael Timmeny, an aide to Representative Charles Shumer. (Subsequently, I was given to understand that Representative Shumer was acting as chairman of a subcommittee of the House Democratic Caucus and that he had assigned Mr. Timmeny, his aide paid out of U.S. government funds and using U.S. government facilities, to coordinate the "Dartmouth Debate".

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8. Mr. Timmeny rejected out of hand my request for admission to the debate and stated categorically he would not receive me or discuss further my possible participation in the debate.

9. After the rejection of my request to be placed on the Florida ballot and learning of the manner in which the House Democratic Caucus was improperly intervening in the primary campaigns and seeking to deny admission to the primary ballot of candidates other than those approved by it, I wrote to President David T. McLaughlin on January 9, 1984, asking that Dartmouth College withdraw its co-sponsorship of this telecast and the provision of its facilities because, given my exclusion, these actions were improperly prejudicial to my own candidacy. Alternatively, I asked that Dartmouth College "arrange for another debate with equivalent time and facilities afforded to me, and to others similarly situated." (Attachment 6)

10. Failing to hear from President McLaughlin I telephoned him, on January 11, 1984, "person to person" but was told he was in conference. Subsequently, an aide and, I was later told, his legal counsel, Mr. Cary Clark telephoned me saying that President McLaughlin was answering my letter by telegram with confirmation letter copy to follow.

11. During the course of our conversation, I asked Mr. Cary Clark to include in the telegram an estimate of the monetary value of the services being provided by Dartmouth College to the House Congressional Caucus and to the Public Broadcasting Service. I hoped, and expected, that similar services, equivalent in monetary value, would be provided to me and the other candidates in connection with an equivalent future debate. (Attachments 7 and 8, being photocopies of correspondence with Mary Jane Callagher of the MacNeil/Lehrer News Hour carried on the Public

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Broadcasting Service network, refer in part to this conversation with Mr. Clark.)

12. Not having received from President McLaughlin either the promised telegram or letter copy, I telephoned both President McLaughlin and Mr. Cary Clark "person to person" several times on January 12, 1984. I was repeatedly told both were either in conference, at lunch or out of town.

13. Finally, a lady identifying herself as "Ms Clark" claimed to know that a letter had been sent to me, "regular mail", on January 11, 1984 and said she would read its text to me. (The text was evasive and avoided answering any of my questions and concerns.) I remonstrated that Mr. Clark had promised to send me a telegram and that, as Mr. Clark knew, I wanted a written text in hand to pursue this matter with the Public Broadcasting Service, with the House Democratic Caucus and with the Federal Election Commission. Therefore I considered the omission of a telegram a witting circumvention of a commitment by President McLaughlin and Mr. Clark, intended to frustrate my timely action to resolve the issue of the "Dartmouth College Debate" before it became moot. I asked that she urgently communicate this message to President McLaughlin and Mr. Clark.

14. I immediately telephoned Chairman Lee Ann Elliott of the Federal Election Commission, recounting my understanding of the arrangements made for the Dartmouth College Debate and my belief that, because of the denial of access to me and other candidates to the Debate, these services constituted contributions to the election campaigns of the "eight". I also raised the queston whether Representative Charles Shumer and Mr. Michael Timmeny were not in violation of the law in using government funds and facilities to arrange and influence a debate excluding some candidates.

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15. I added that, by subsidizing the selective participation of only some candidates , Dartmouth College, PBS and the House Democratic Caucus were circumventing and subverting the limitation on expenditures in the New Hampshire primary by the "eight", all of whom were receiving Federal Matching Funds. Thus, both as contribution and as expenditure, the Dartmouth Debate was a violation of law.

16. Chairman Elliott replied that my argument that, under the circumtances of my exclusion, the monetary value of the services provided by Dartmouth College, Public Broadcasting Services, Mr. Timmeny and Mr. Koppel as moderator, did appear to be contributions to the campaigns of the invited "eight". However, since the Federal Election Commission could not act without a sworn complaint from me, I should submit such a sworn statement and inlude in it, if at all possible, a report of the approximate value of the services given by Dartmouth, the Rockefeller Center, Public Broadcasting Service, Mr. Timmeny and Mr. Koppel and others involved.

17. As to the violation of my rights and the issue of the legality of Mr. Timmeny's role, the Federal Election Commission had no jurisdiction over those matters. Nor did the Commission have any power to assure that my rights under the First and Fourteenth Amendments were protected. I would need to turn to the Federal Courts to uphold those rights.

18. As to relief prior to the Dartmouth Debate, or even subsequently, Chairman Elliott said that the Federal Election Commission had no means to intervene prior to the Dartmouth Debate and would need to await a filing, or failure to file, of a report of contributions by Dartmouth and the other parties, including the "eight".

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19. Seeking to obtain the information Chairman Elliot requested regarding monetary value, I telephoned "Nightline". A Ms "Fleischer" who answered confirmed that Mr. Koppel was the moderator of the Dartmouth Debate. When I asked whether he was contributing his services or paid, she told me to inquire with Mr. Michael Timmeny in Representative Charles Shumer's office for the information. She said "Nightline" had no part in the Dartmouth Debate--Mr.Timmeny was in charge of all arrangments with all the participants. Mr. Timmeny would know whether Mr. Koppel was being paid or whether he had been asked to contribute his services. I asked whether "Nightline" had Mr. Timmeny's telephone number. She gave me the number I had been given earlier by the Rockefeller Center of Dartmouth College, a telephone in Mr. Shumer's Congressional office--225-6616.

20. I telephoned Mr.Timmeny's office but was told he was unavailable. A secretary working for Representative Shumer took my message that I was requesting from him official information to supply to the Federal Election Commission and asked that she note the time and content of my telephone call in the event a subpoena was issued for confirmation of my call.

21. On January 12, I also telephoned Public Broadcasting Service in New York and was informed that Ms. Judy Newman was coordinating the Dartmouth Debate for PBS. She was in Boston, 617-492-2777.

22. On January 13, Ms. Newman returned my call from Boston.I informed her of the contents of this affidavit and that I felt that PBS was also in a conflict of interest" situation by dealing exclusively and ex parte with the House Democratic Caucus, which holds part of the power of purse over PBS. I understood that PBS had arranged with Mr. Timmeny, a person paid out of government funds and claiming to act for, and on behalf of the majority

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of Congressional Representatives organized as the House Democratic Caucus, to sponsor a discriminatory and prejudicial telecast of three and a half hours, with tape made available to other broadcasters for repetition and publication.

13. I emphasized that I was requesting participation in the Dartmouth Debate or timely equivalent facilities from PBS. Under present arrangements my candidacy would be irremediably harmed not only in New Hampshire but with the Secretaries of State of the various states holding primaries who would be improperly persuaded, as the Florida Secretary of State appears to have been persuaded, that there are only "eight" legitimate Democratic Party candidates. Unless I had assurances of participation in the Dartmouth Debate or, alternatively of timely, equivalent facilities from PBS, I planned to be in Federal Court to seek an injunction staying the Debate. Since she was named as coordinator for PBS, I would be asking that she and other employees be enjoined from participation in, or transmitting, the debate by television or radio or other media. She said she would transmit my requests for participation in the Dartmouth Debate, or alternatively timely equivalent facilities, to the PBS attorneys.

14. Having exhausted all other remedies, to avoid irreparable damage, my only recourse is an injunction to stay the Debate.

Stephen A. Koczak
January 13, 1984
pro se

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KOCZAK FOR PRESIDENT COMMITTEE

(1)(a)

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-4790

FILED

December 28, 1983

JAN 13 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Declaration of Candidacy Deposited with the Secretary of State, New Hampshire.

I, Stephen A. Koczak, declare that I am domiciled in 2932 Macomb Street, N.W., in the city of Washington, D. C., in the District of Columbia and meet the qualifications for the office for which I am a candidate; that I am a registered member of the Democratic Party; that I am a candidate for nomination for the office of President of the United States to be made at the primary election to be held on the 28th day of February, 1984; and I hereby request that my name be printed on the official primary ballot of said Democratic party as a candidate for such nomination.

Stephen A. Koczak

Stephen A. Koczak

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THE RIGGS NATIONAL BANK OF WASHINGTON, D.C.

CASHIER'S CHECK

No. 657218 15-3/540

23 December 1983

Pay to the order of *****Secretary of State, New Hampshire********** $1,000.00*****

Dollars

AUTHORIZED SIGNATURE

(For Stephen A. Koczak)

⑈657218⑈ ⑆054000030⑆ 01⑈09220704⑈

HAND DELIVERED
83 DEC 13 P 3:53

STATEMENT OF CANDIDACY

(see reverse side for instructions)

1. (a) Name of Candidate (in Full)
STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)
2932 Macomb Street, N.W.

(c) City, State and ZIP Code
Washington, D. C. 20008

2. Identification No.

RECEIVED AND FILED
in the office of the Secretary of State
the State of California
DEC 19 1983
SACTO.

3. Party Affiliation
Democrat

4. Office Sought
President

5. District & State of Candidate

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 (Year of Election) election(s).

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)
KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)
2932 Macomb Street, N.W.

(c) City, State and ZIP Code
Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak (Signature of Candidate) December 13, 1983 (Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR —

President mail to:
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

U.S. Senate mail to:
Secretary of the Senate
119 D Street, N.E.
Washington, D.C. 20510

U.S. House of Representatives mail to:
Clerk of the House
1036 Longworth Office Bldg.
Washington, D.C. 20515

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

FEC FORM 2 (3/80)

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 367

December 27, 1983

FILED

JAN 13 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

The Honorable George Firestone,
Secretary of State, Florida,
The Capitol,
Tallahassee, Florida, 32304

Dear Secretary Firestone:

Please accept this communication as the official notification of my candidacy for the office of President of the United States as a member of the Democratic Party.

I filed with the Federal Election Commission on December 13, 1983.

Beginning on December 14, 1983, in order to organize my campaign nationwide, I traveled to Chicago, Illinois; to Portland, Salem, and Eugene, Oregon; to Seattle, Washington; to San Jose and Sacramento, California; to Des Moines, Iowa; to Omaha, Nebraska; and to Boston, Massachusetts.

In those states I notified the respective Secretaries of State, or other competent authorities, of my candidacy.

I shall be filing with the Secretary of State, New Hampshire, tomorrow, December 28, 1983, and proceeding to Florida on December 29, 1983. I shall visit West Palm Beach, Fort Lauderdale, Tampa/St. Petersburg and Miami before traveling to Tallahassee, where I should like to meet with you on January 3, 1984. Thereafter, I shall go to Boston, Massachusetts to file with the Secretary of the Commonwealth there.

I appreciate the likely dilemma which this late communication poses for you respecting my candidacy since, obviously, neither the clipping services nor national periodicals will have reached you regarding the merits of my person or platform.

Permit me to inform you that to date, in the brief two weeks since I filed, the following newspapers carried articles about my candidacy:

December 14: The Washington (D.C.) Times;
December 17: Eugene (Oregon) Register-Guard
December 19: San Jose (California) Mercury-News
December 20: Sacramento (California) Bee
December 26: The Trenton (New Jersey) Times

The circulation of these newspapers includes the capitals of their respective states and the most important universities whose faculties, graduates and current student bodies I am already organizing for my primary campaigns. These include Princeton; Stanford; Santa Clara, Oregon; Oregon State; and San Jose University and the other institutions of the three major California college and university systems throughout that state.

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FILED
JAN 13 1984
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DISTRICT OF COLUMBIA

3

Reagan, 8 Democrats on Florida's ballot

TALLAHASSEE (AP) — Florida's 1984 political season opened Tuesday as President Ronald Reagan, former Gov. Reubin Askew and seven other Democrats earned a spot on the March 13 presidential primary ballot.

Secretary of State George Firestone Tuesday presented a list of eight Democrats and the Republican president to party leaders for final approval.

The three Democrats and three Republicans that comprise the voting members of the Presidential Selection Committee are expected to rubber-stamp the names presented by Firestone, Democratic and GOP state party aides said Tuesday.

Firestone's staff reads newspaper clippings on presidential hopefuls and then determines which candidates have received significant news coverage nationally or within Florida.

Although Tuesday's proceedings are a formality, Florida's 1984 presidential primary is a key race to some presidential campaigns.

The Florida primary, with 143 delegates to the national Democratic convention, is considered crucial for Askew's longshot bid.

Askew has promised to campaign vigorously in Florida, where he was governor from 1971-79. But his favorite-son campaign has been hurt by the fact his name hasn't appeared on the Florida ballot since 1974.

A newspaper-sponsored poll of Florida Democrats showed Askew trailed Mondale among partisan voters in Florida. The former vice president under Jimmy Carter had 32 percent of the Florida vote in the poll while Askew had 26 percent. Ohio Sen. John Glenn was third with 19 percent.

Mondale will stop in Florida, with visits scheduled Friday in Jacksonville and Jan. 13 in Tallahassee.

A modified winner-take-all primary system has been adopted in Florida, allowing the winner of each of the 19 congressional districts to take all the delegates from that district. The move was seen as helpful to Askew's campaign.

But the Democratic contenders in Florida likely will have a hard battle with President Reagan, who is officially a candidate for re-election but has not said whether he will seek a second term in the Nov. 6 general election. Reagan carried Florida in 1980.

The other Democratic candidates on the Florida primary ballot, pending final approval, are: California Sen. Alan Cranston, Colorado Sen. Gary Hart, South Carolina Sen. Ernest Hollings, Rev. Jesse Jackson of Chicago and former South Dakota Sen. George McGovern.

Meanwhile, a man billing himself as a "Jeffersonian populist" sought Tuesday to have his name added to the official presidential primary list.

Stephen A. Koczak, 66, who was in Fort Myers Monday, wrote a letter last week to state elections chief Dot Glisson asking for a spot on the Florida ballot and also asked to meet Tuesday with Firestone and Glisson.

No decision on his request had been made by Tuesday morning, but Glisson said she told Koczak she would talk it over with him if he came to Tallahassee.

Note: Original AP wire report included this material omitted by The Miami Herald

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Fort Myers News-Press, Tuesday, January 3, 1984

Populist enters race for U.S. presidency

By TYWANA GREENE
News-Press Staff Writer

Motivated by the "banality" of Democratic presidential hopefuls, Stephen A. Koczak says he's running for the nation's highest public office as a Jeffersonian Populist.

"I want to emphasize the citizen's role, as distinguished from the role of special interest," in government, Koczak says.

KOCZAK

A 68-year-old Washington, D.C., resident, Koczak is one of a group of candidates whose names appear on the Democratic ballot in the first presidential preference primary in New Hampshire.

Koczak was in the Fort Myers area Monday visiting a cousin. He said he would meet today in Tallahassee with Secretary of State George Firestone in an effort to get his name placed on the Florida ballot.

"Let's face it, I probably won't get the nomination in '84. But I'm going to try to run in all the primaries."

Koczak insists he's a legitimate contender, not to be considered another Pat Paulsen (comedian who claimed to be running for president).

"By the time this is over, you'll see I'm a serious contender," Koczak said.

He is in the initial stages of his fund raising.

A retired Department of State foreign service officer, Koczak asserts that Walter Mondale is "a Democratic Tom Dewey," that John Glenn "just has no expertise in foreign policy," and that Alan Cranston "just doesn't perceive how bad a conventional war could be."

He also said his policies greatly differ from Ronald Reagan's.

A native of Trenton, N.J., Koczak says this is his first bid for elective office. Since retiring from the foreign service in 1966, Koczak has worked as a research director for the American Federation of Government Employees and as a community organizer in the Cleveland Park section of Washington, D.C.

He says he decided to run for president in early December after he failed to get specific solutions to the nation's problems from announced Democratic candidates.

Fearing the others would "coax themselves into office by resorting to generalities," Koczak tossed his hat into the presidential ring. He says, "I decided I would have specific proposals."

Koczak says, "My platform will be the Declaration of Independence as drafted by the Continental Congress.

"The quickest way to restore the people's liberties is to cut taxes even more, to cut the deficit sharply and to disengage from the foreign entanglements which have led our nation into increasingly dangerous wars," Koczak declares.

Koczak promises to cut the federal deficit by $100 billion in his first year in office by trimming military spending and changing federal contract procedures.

He would "ask that all housewives be added to the Social Security rolls at once and that their pensions be computed as if they had earned $10,000 annually."

Koczak would also raise the personal income tax allowances to $4,000 and triple the number of federal judges "to speed up criminal and federal litigation," he said.

In foreign policy, the former U.S. intelligence agent would demand the Soviet Union withdraw its troops from its satellite nations and "insist that the South African government in Pretoria grant full voting rights to all its residents, irrespective of race."

He also feels the United States government should reorganize the Palestinian Liberation Organization.

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December 27, 1983

A graduate of Harvard College, cum laude, [illegible]2, with a long career in the military and diplomatic services including some of the most intense crisis posts abroad, I shall be relying on my college and foreign service associates for assistance. These persons are located throughout the United States.

As an example of the kinds of articles which have appeared within the brief two weeks since I announced my candidacy, I enclose a photocopy of The Trenton Times of December 26, 1983. I also enclose a somewhat longer press release with more details than the press has carried, as well as a photocopy of my filing with the Federal Election Commission and a brief biography. These are to complete whatever files you may be maintaining on candidates.

In my primary campaigns, I shall support completely the efforts of Claude Pepper to elect as many elderly delegates as possible to the Convention. My purposes go beyond even his—our elderly population has the longest and most profound memories of the domestic problems and foreign wars which our nation has experienced. Because of their wisdom and judgment, I look to them as one of the main constituencies of my primary campaigns.

I recognize the uncertainty and difficulty confronting you in deciding to include my name in the list of Democratic candidates. Perhaps I should have announced earlier. Nevertheless, as my travels and actions since December 13, 1983 indicate, I intend to run in every primary and hope to persuade you of the relevance and importance of my campaign and platform.

With your kind permission, I hope to meet with you and your staff personally on January 3, 1984. In the interval, please accept my very best wishes for a continuing happy Holiday Season now and for the fastest recovery of the citrus groves during 1984.

Sincerely,

Stephen A. Koczak

Enclosures: Four as indicated.

Carbon Copies: Deputy Secretary of Elections, Dorothy Glisson
Chairman, Election Commission, Robert Hart Jr.

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FILED
JAN 1 1984
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

(5)

Listed below are the names of candidates for Florida's Presidential Preference Primary election March 13, 1984, prepared by Secretary of State, George Firestone (Section 103.101(2), Florida Statutes):

Democrat	Republican
Reubin Askew	Ronald Reagan
Alan Cranston	
John Glenn	
Gary Hart	
Ernest Hollings	
Jesse Jackson	
George McGovern	
Walter Mondale	

This list will be presented to the Presidential Candidate Selection Committee on Tuesday, January 3, 1984, at 2 p.m.

Questions may be directed to

Dorothy W. Glisson
Deputy Secretary for Elections
1801 Capitol, Tallahassee
(904) 488-7690

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(6)

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

JAN 1 - 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

TELEPHONE 202 363-4750

January 9, 1984

David T. McLaughlin,
President, Dartmouth College,
Hanover, New Hampshire, 03755

Dear President McLaughlin:

I am writing both as a matter of principle and as a principal with interest in the New Hampshire presidential primaries for which the filing closed on January 3, 1984.

On December 28, 1983, I telephoned your office to obtain a place on the presidential candidate debate program scheduled for January 15 and was informed that this was being coordinated by the Nelson A. Rockefeller Center for the Social Sciences.

On telephoning that Center, I was informed that the entire arrangements were being handled by a Mr. Michael Timmeny in Representative Charles Shumer's office.

When reached, Mr. Timmeny rejected my request for participation in this debate on the grounds that access was limited to aspirants who met certain so-called "national" standards, such as qualification for Federal Matching Funds, the possession of a nationwide campaign organization, or benefit of a significant national media attention or significant national poll rating.

I filed with the Federal Election Commission on December 13, 1983 and, obviously, have not been able, as yet, to report to the Commission the results of my trip to the states of Illinois, Oregon, Washington, California, Iowa, Nebraska, Massachusetts, New Hampshire or Florida, all completed within three weeks. In fact, because of the Christmas and New Year Holidays, few of the clippings of the many news reports and columns about my trip are available to me even now.

Nevertheless, I have been admitted to the New Hampshire primary and I am filing a suit to be admitted to the Florida primary.

My suit against the Florida authorities is generated by their flagrant violation of my rights under the First and Fourteenth Amendments. It is based on the precedent of the successful suit filed by Senator Eugene McCarthy in his complaints against the State of Texas (McCarthy versus Briscoe) as well as his later successful suit against the State of Florida regarding the general elections. You will find a full account of the Constitutional issues and the decision of Supreme Court Justice Powell in the American Bar Association Journal, August, 1977, pages 1108 and following.

The access issue in the case of Senator Eugene McCarthy is identical with that in my case both in Florida and in the debate sponsored by Dartmouth College--denial of a right to me to present, in a forum afforded to others, and a concurrent denial of a right to voters to receive from me, in that forum, alternative proposals for an electoral platform which they might prefer over those proffered by my rivals.

Unfortunately, as in the historic case of Dartmouth College itself, when in 1816 it had to resort to the courts to protect its Constitutional rights, I must now expend in lawsuits and protests my time and financial resources, time and resources which I should have available exclusively to address the voters. This impediment is itself a violation of my civil and

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political rights, an impediment difficult ever to redress given the pressures of Democrat National Chairman Charles Manatt.

Even more unfortunately and reprehensibly, the House Democratic Caucus, while claiming to wish as open a debate as possible, is in alliance with the Chairman Charles Manatt to stifle debate and to foreclose any presentation of new ideas.

Allegedly, the main motive of Chairman Manatt and the House Caucus is to compress the primary campaign out of a fear President Reagan will benefit from a full debate among Democrats. This itself is an undemocratic attitude; devised from the propaganda perspectives of paid political commercials, instead of a rational debate.

You are undoubtedly aware of the justified resistance in the matter of primary dates of the aroused citizens of Iowa and New Hampshire to Mr. Manatt's arbitrary and obstinate decisions, reminiscent of the behavior of King George III toward the "colonists". Nevertheless, with your appparent, even if only tacit consent to this debate format, you are permitting, however unwittingly, the electorate in New Hampshire and in the nation, to be misled to believe that there are only certain very limited valid platforms and only eight viable candidates from whom to choose, all incidentally friends and associates of Mr. Manatt or of prominent members of the House Democratic Caucus.

I believe that, as the president of a college founded to spread knowledge originally even in the wilderness and to the unlettered, of a college which fought for its own Constitutional rights, you should sympathize with my insistence that the democratic principles of access to the people is paramount in the present circumstances.

You will understand, as I am sure the faculty and students at Dartmouth will understand, that I cannot accept this attempt to foreclose debate and to manipulate by this insidious propagandistic media device the presentation of options to the people of New Hampshire.

Even more insidious is the circumstance that the debate will be transmitted live through all the public broadcast facilities, whose funding comes at least partially from monies provided by Congress, including members of the House Democratic Caucus which controls authorizations and appropriations in that body. This is a serious abuse of the rules of impartiality which should govern such events and raises a question as to the possible ulterior funding motives of the PBS authorities who are permitting this telecast in this forma.

In fact, in this program it is as much the rights of all citizens and taxpayers as of my own which are being infringed, and Dartmouth College should in no measure be a party to this dismal role of the oligarchs on Capitol Hill and of party boss Manatt to manipulate access to the electorate.

I pray you will not permit this planned infringement of open debate on your campus, a campus still dedicated to the free circulation of knowledge and the profession of the liberal arts and sciences.

Let us face honestly the moral and civil issue involved here. This is a primary election campaign and it is manifest and incontrovertible that the purpose of a presidential primary election is not the same as that of a general election. Its principal purpose is not even to select the party's nominee. It is to afford an opportunity for alternative party platforms to be discussed, so that the delegates to the nominating and platform

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convention can bring the wisdom and the will of the citizens to formulating rational and relevant proposals, following a full display by rival aspirants of different options.

I therefore call upon you either to withdraw from the sponsorship of this debate if access to it continues to be arbitrary or to arrange for another debate with equivalent time and facilities afforded to me, and to others similarly situated, so that we too are given the same democratic rights as are enjoyed by those aspirants favored by the national Democratic Party leadership.

Because I have been detained to file my suit against the authorities in Florida, I am now mailing this request to you from Washington, D. C., with copies to the other parties concerned. Within the next few days, however, I shall be arriving in Hanover where I hope to have the honor of receiving a favorable reply from you personally.

I am enclosing as examples of the partiality and prejudice of the press two December 29, 1983 reports, one from The Washington Post the other from the Manchester Union Leader. The contrast is overwhelming. The prejudice of the Washington Post is even more evident in the letter written to me by Benjamin C. Bradlee, Executive Editor of The Washington Post, dated December 15, 1983. As you will note, the Washington Post delayed any report on my candidacy for two full weeks.

I also enclose photocopies of ostensibly the same Associated Press report carried by the Miami Herald and the Fort Myers News-Press on January 4, 1984. You will note that the Miami Herald omitted completely the Associated Press paragraphs regarding me.

Yet, under the widely proclaimed, so-called "fair" rules used by the various Secretaries of State to determine whether any candidate has a national following or is pursuing a national campaign, The Washington Post and the Miami Herald are the only papers "clipped" for the District of Columbia and for Florida.

Thus does our politically prejudiced press manipulate the election processs.

I hope that, as the President of Dartmouth College, you will not assist this vicious and prejudiced suppression of the truth and that you will join me in seeking genuine liberty of expression.

In that hope and expectation, I close with the request that you receive me at Dartmouth when I arrive.

Sincerely,

Stephen A. Koczak

Stephen A. Koczak

Enclosures: As reported in text

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

2932 Macomb Street, N.W.
Washington, D. C. 20008

TELEPHONE 202 363-47
also (202) 686-

January 11, 1984

FILED
JAN 13 1984
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Ms Mary Jane Gallagher
c/o MacNeil/Lehrer News Hour
Box 2626,
Washington, D. C. 20013

Dear Ms. Gallagher:

I thank you for sending the messenger to obtain the packet of material which we discussed.

I tried to reach President McLaughlin several times today unsuccessfully to arrange a meeting with him in Hanover. I shall try the rest of the day and tomorrow morning before flying to Boston and driving to Hanover.

In the meantime, The Uptown Citizen, January 12, 1984 and The Washington Inquirer, January 13, 1984 carried items about my candidacy.

The Uptown Citizen reported, inter alia, that I have drafted model legislation to resolve the increasingly tortuous problem of "confessional schools".

The Inquirer has raised the subject of my being "blacked out" by the media because of my views. You will recall that the Miami Herald omitted the AP wire report referring to me.

Even more interesting in the Florida situation is the "error" which exists on the Federal Election Commission's own listing of filing dates. I enclose a copy of the "latest" list which shows the "filing date" for Florida, meaning the last date, to be "1/16". In fact, it was January 3, 1984. I just finished speaking with Mr. Richard Thomas of the Federal Election Commission (202) 523-4055 and he was "appalled" by this circumstance, since all the candidates rely on the list compiled by the Federal Election Commission. He said that the FEC date, as it appears on the list I have photocopied and enclosed, clearly was constructed from material supplied by Dr. Glission, whose signature appears on the response to the circular request sent to her by the Federal Election Commission.

Naturally, at some point, I hope to appear on the MacNeil/Lehrer News Hour to have these problems, arising from Mr. Manatt's pressuring the Secretaries of State, reviewed. In the meantime, I am rushing up to Hanover on January 12 to see what I can achieve with President McLaughlin.

Sincerely,

Stephen A. Koczak

Enclosures: News items, Uptown Citizen, Washington Inquirer, photocopy of election date list distributed by FEC, effective 12/1/83 (revision of earlier list 10/26/83.

8404061349

Washington Inquirer

January 13, 1984—

Conservative Democrat Blacked Out by Media

As the fateful year 1984 drew near, Stephen A. Koczak, age 66, native of New Jersey, honor graduate of Harvard and long-time resident in the nation's capital, filed as a candidate in the 1984 New Hampshire Presidential Preference Primary.

Koczak had made his formal announcement in Washington, D.C. before a representative citizen's group mixed as to partisanship, ethnicity and financial background. In his prepared announcement statement Presidential Candidate Koczak said he would enter all the open primaries.

Candidate Koczak (pronounced: coke-sock) states frankly that he became involved in presidential politics ". . . because of the banality of the major candidates." He says that he hopes to emphasize "the citizens' role as distinguished from the role of special interests."

Yet he admits candidly that he has had difficulty in getting the power brokers to take his campaign seriously. After asserting to skeptics that he expects to be the candidate nominated in San Francisco, he recalls elfishly that former Democratic National Committee Chairman Robert Strauss predicted that the one who's going to win the New Hampshire race is the one who spends the least money. "That's me!" exclaims the candidate with a twinkle in his eye.

The twinkle disappears when he recalls his contact with Ben Bradlee, Executive Editor of the left-wing *Washington Post*, to whom he had turned in an effort to break the total boycott of any news concerning his candidacy. "I can't believe that you consider yourself a serious candidate," Benjamin Bradlee wrote in a seven sentence letter to Koczak. Bradlee promised to "take another look" and Stephen Koczak hopefully provided the power broker of the Washington 4th Estate with all necessary information.

Finally, Editor Bradlee's paper, official organ of the radical chic establishment liberals in Washington disgorged a malicious announcement so terse—it was fully two sentences shorter than the abbreviated Bradlee letter promising to look into the matter—that it shocked even Stephen Koczak who had become hardened to this *Post* syndrome, over the years. To add insult to injury, the five-sentence announcement claimed that the "candidate was not available for comment," when the exact opposite was true. Campaigner Koczak who has received considerable publicity from newspapers who have received his materials has written off such elements of the establishment press as the *New York Times* and the *Washington Post*, but he is considering a lawsuit against the *Post* and editor Bradlee to drive home the point that even a large newspaper has the responsibility to show minimal integrity when reporting on presidential candidates.

Observers believe that the conservative thrust of Koczak's views is the primary reason that the Democratic establishment seeks to freeze him out and exclude him from the primaries. Mr. Koczak already has announced his plans to enter the Florida primary, but this has been resisted by the Florida Secretary of State, George Firestone. The Koczak campaign plans to meet such "stonewalling" with a lawsuit to force the Koczak candidacy onto the Florida primary ballot. Characteristically candid and determined, candidate Koczak views such legal actions as part of the entire proceedings necessary to open up the primary process.

Stephen Koczak, is determined not be labeled as some kind of a "nut" or Don Quixote "I'm going to confront those guys . . . Mondale is going to find he will have to confront me," he asserts. Mondale, according to Koczak is "a Democratic Tom Dewey," John Glen" just has no expertise in foreign policy," and Alan Cranston "just doesn't perceive how bad a conventional war could be."

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The Uptown Citizen

Vol. 38, No. 2 Thursday, January 12, 1984

Kozak In N Hampshire Primary-Sues Florida

Stephen A. Koczak, the only D.C. resident seeking Presidential nomination, gained access to the New Hampshire presidential primary on December 28, 1983, by filing as a Democrat with the Secretary of State in Concord.

The Manchester Union-Leader, the dominant paper in New Hampshire, reported his candidacy the next day on its front page and carried an extensive account of his platform.

On January 3, 1984, in Tallahassee, Florida, Koczak met with Dr. Dorothy Glisson, the Deputy Secretary of State for Elections in order to have his name placed on the Florida primary ballot. The meeting was reported on the front pages of most of the Florida newspapers and, following denial of his access to the Florida primary, Koczak announced that he was suing the Florida authorities on the grounds that his Constitutional rights under the First and Fourteenth Amendments had been violated.

The widespread press publicity generated in Florida by his meetings and his decision to sue has led, according to Koczak, to his being considered in Florida as the "ninth Democrat", the only other aspirant likely to sustain a challenge to the established well-publicized "recognized official eight".

On returning to Washington, Koczak immediately followed the Flor-

(Continued on page 25)

Kozak In N. Hampshire Primary - Sues Florida

(Continued from page 1)

ida development by requesting the House Democratic Congressional Caucus, which is managing the Dartmouth College democratic party debate on January 15, 1984 to admit him to the program now limited to the "recognized official eight". The Caucus refused, whereupon Koczak wrote to Dartmouth College asking that the College either withdraw its sponsorship of the debate or provide a similar televised debate to him as the "ninth" Democrat. Koczak has not as yet had a response from Dartmouth College to his request.

At the Cleveland Park Citizens Association meeting on January 7, 1984 Koczak announced that he was preparing legislation to be offered to Nebraska and other states to resolve the dispute over "confessional schools". He said that, on the basis of the Supreme Court decisions in the Texas and Minnesota cases regarding the provision and funding of "public" education, it was clear that misconceptions in existing state laws regarding "so-called public" and "so-called private and confessional" schools were caused by erroneous legal semantics. Koczak explained that these errors could be remedied easily by due regard for the explicit passages in the First and Fourteenth Amendments to the benefit of the funding and the functioning of both systems. All that was needed were prudent laws enacted by the state legislatures. He would provide the lawmakers with model texts, he said.

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12/1/83 ~~10/26/83~~

Presidential and Congressional Primary Dates and Candidate Filing Deadlines

STATE	PRESIDENTIAL	FD	CONGRESSIONAL		FD	RO	IND. FD
AL	3/13	1/14	9/4	S	7/6	9/25	7/6
AK	3/13	12/28/83	8/28	S	6/1		
AZ			9/11		6/28		9/21
AR			5/29	S	4/3	6/12	4/3
CA	6/5	3/23	6/5		3/9		8/10
CO			9/11	S	7/28		9/4
CT	3/27	2/20	9/11				9/12
DE			9/8	S	7/27		9/3
FL	3/13	1/16	9/4		7/20	10/2	7/20
GA	3/13	2/20	8/14	S	6/13	9/4	7/11
HI			9/22		7/24		7/24
ID	5/22	4/23	5/22	S	4/6		6/24
IL	3/20	12/30/83	3/20	S	12/19/83		8/6
IN	5/8	3/9	5/8		3/9		3/9
IA			6/5	S	3/30		8/31
KS			8/7	S	6/11		6/11
KY			8/28	S	5/30		
LA	4/7	3/2	9/29	S	7/20	11/6	7/20
ME			6/12	S	4/1		4/1
MD	5/8	2/27	5/8		2/27		8/6
MA	3/13	1/6	9/18	S	6/5		6/5
MI			8/7	S	6/5		5/7
MN			9/11	S	7/17		7/17
MS			6/5	S	4/6	6/26	9/7
MO			8/7		3/27		8/6
MT	6/5	3/17	6/5	S	4/16		8/8
NE	5/15	3/16	5/15	S	3/16		8/28
NV			9/4		7/3		6/8
NH	2/28	1/3	9/11	S	6/20		6/20
NJ	6/5	4/26	6/5	S	4/26		4/26
NM	6/5	3/16	6/5	S	2/28		7/10
NY	4/3	2/16	9/11		7/26		9/18
NC	5/8	2/7	5/8	S	2/6	6/5	6/29
ND	6/12	4/18	6/12		4/18		4/18
OH	5/8	2/23	5/8		2/23		2/23
OK			8/28	S	7/11	9/18	7/15
OR	5/15	3/6	5/15	S	3/6		8/28
PA	4/10	1/31	4/10		1/31		4/20
RI	3/13	1/6	9/11	S	6/10		6/10
SC			6/12	S	4/30	6/26	9/18
SD	6/5	4/3	6/5	S	4/3		8/7
TN	5/1	3/6	8/2	S	6/7		6/7
TX	(R) 5/5	2/6	5/5	S	2/6	6/2	2/6
UT			8/21		4/15		5/10

KEY:

FD - Candidate Filing Deadline
RO - Run Off Election
IND-FD - Independent Candidate Filing Deadline
S -- Senate

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Second Letter of January 11, 1984

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

2932 Macomb Street, N.W.
Washington, D. C. 20008

TELEPHONE 202 363-47
(202) 686-095

JAN 1 0 1984

January 11, 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Ms Mary Jane Gallagher
c/o MacNeil/Lehrer News Hour
Box 2626,
Washington, D. C. 20013

Dear Ms. Gallagher:

About a quarter hour after I mailed my earlier letter to you, I received a telephone call from a Mr. Cary Clark, assistant to President McLaughlin.

He said the President was sending me a response by telegram, copy by mail, and wanted my address. He replied, when I asked whether I could see President McLaughlin, that this was impossible because the President was "fully scheduled" for the rest of the week through Sunday.

He said that Dartmouth had nothing to do with the arrangements and that he was informing me of that for the President. All the arrangements had been made by the Rockefeller Center. In any case, various student bodies had already invited individual candidates who had already appeared.

I replied that my point was that the Rockefeller Center was an official program of the College and that I hoped, really expected, an invitation from that Center with the same facilities and arrangements as it had made with the Congressional Caucus. Cary Clark said he believed that President McLaughlin would be making that point to the Center. In any case, he undertook to report my views to President McLaughlin.

I asked whether President McLaughlin would see me after the telecast some time next week so that we could discuss this issue together with the officers of the Center. He said he did not know but would ask President McLaughlin to consider this request.

I find no point of going to Hanover under these circumstances and shall plan to call on President McLaughlin after the telecast. I expect PBS and the Rockefeller Center to be as fair with the other candidates as it was with the powerfully connected "eight".

In any case, after I receive the telegram, I shall send you a photocopy. In the meantime, I shall be pursuing my suit against the Florida authorities. If the Washington Post continues its tendentious reports about me, especially its falsehood that I was not available, I shall file a suit against the Post on the grounds its reporting is intentionally malicious.

Sincerely,

Stephen A. Koczak

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PRAECIPE

FILED

JAN 14 1984

JAMES F. DAVEY, Clerk

United States District Court
for the District of Columbia

the _____ day of _____ 19____

Koczak

vs.

McLaughlin

Civil/Criminal Action No. 84-0146

The Clerk of said Court will enter my appearance for defts. Timmony + Democratic House Caucus

BARRY J. REINGOLD

PERKINS, COIE, STONE
OLSEN & WILLIAMS
SEATTLE
ANCHORAGE
WASHINGTON, D.C.

1110 VERMONT AVENUE, N.W.
WASHINGTON, D.C. 20005
(202) 887-9030

Barry Reingold

Address _____

Phone No. _____

Attorney for _____

4

8404061350

PRAECIPE

FILED

JAN 14 1984

JAMES F. DAVEY, Clerk

United States District Court
for the District of Columbia

the 14th day of January 1984

Kozack

vs.

McLaughlin

Civil/Criminal Action No. 84-0146

The Clerk of said Court will enter the appearance of counsel listed below as attorneys for defendant Judy Newman:

Nicholas W. Fels, a member of the bar of this court

Eric Bruss, a member of the Massachusetts bar, seeking admission pro hac vice

Nicholas W. Fels

Address P.O. Box 7566, Wash. DC 20

Phone No. 202-662-5648

Attorney for Judy Newman

8404061351

PRAECIPE

United States District Court
for the District of Columbia

FILED
JAN 14 1984
JAMES F. DAVEY, Clerk

the 14th day of January 1984

Stephen Koczak

vs.

David T. McLaughlin, Public Broadcasting Service et al.

Civil/Criminal Action No. 84-0146

The Clerk of said Court will enter my appearance for PBS.

Theodore D. Frank

Address 1250 Connecticut Avenue N.W.
Washington DC 20036

Phone No. 857-4016

Attorney for Public Broadcasting Service

8404046 1352

PRAECIPE

FILED
JAN 14 1984
JAMES F. DAVEY, C

United States District Court
for the District of Columbia

the 14th day of January 19 84

Koczak
vs.
McLaughlin

Civil/Criminal Action No. 84-0146

The Clerk of said Court will enter my appearance for those listed below:

DOUGLAS M. STEENLAND

VERNER, LIIPFERT, BERNHARD AND MCPHERSON
CHARTERED
SUITE 1000
1660 L STREET, N. W.
WASHINGTON, D. C. 20036
(202) 452-7476

Douglas M. Steenland

Address 1660 L Street N

Phone No. 202-452-7476

Attorney for Trustees of Dartmouth Co
+ Mr. McLaughlin

8404046135 3

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1617

NAME OF COUNSEL: Arnold P. Lutzker, Esquire
Dow, Lohnes & Albertson

ADDRESS: 1225 Connecticut Avenue, N. W.
Suite 500
Washington, D. C. 20036

TELEPHONE: (202) 862-5702

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

February 1, 1984
Date

Signature Phillip J. Donahue

NAME: The Donahue Show

ADDRESS: Television Station WBBM-TV
630 N. McClurg Court
Chicago, Illinois 60611

HOME PHONE:

BUSINESS PHONE: (312) 281-5210

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RECEIVED AT THE FEC
HAND DELIVERED
84 FEB 24 P 4:29

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Douglas M. Steenland

ADDRESS: Verner, Liipfert, Bernhard and McPherson
Suite 1100
1660 L Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202-452-7476

84 FEB 28 A9:58

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

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TRUSTEES OF DARTMOUTH COLLEGE,
By

February 21, 1984
Date

College Counsel CARY P. CLARK
Signature

NAME: Trustees of Dartmouth College

ADDRESS: P. O. Box 31
Hanover, NH 03755

HOME PHONE

BUSINESS PHONE: 603-646-2444

RECEIVED AT THE FEC
84 FEB 13 All: 34
1724
GENERAL CO
P12: 14

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL:

ADDRESS:

FEB 9 1984

TELEPHONE:

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

Karen Kollmansperger
Karen Kollmansperger, Campaign Administrator

February 6, 1984
Date

Signature

COUNSEL'S NAME: James H Rowe, III Esq.

ADDRESS: Curtis Mallet-Prevost Colt & Mosle
1735 I Street NW Suite 715
Washington, D.C. 20006

HOME PHONE 202-333-6469

BUSINESS PHONE:
202-331-9797

I am the counsel for the Hollings for President Committee. Please send all communications on this matter to me directly

Thank you

8404061356

S, MALLET-PREVOST, COLT & MOSLE
I STREET N.W., WASHINGTON, D.C. 20006

WASHINGTON, DC 200
PM
21 FEB
1984

RECEIVED AT THE FEC
84 FEB 23 AM 11:34

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FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20005

RE: MUR1617

6044 1729

84 FEB 23 P4:30

GENERAL COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: David M. Ifshin, Carolyn U. Oliphant

ADDRESS: Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

TELEPHONE: 625-1780

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

2/21/84
Date

Signature

NAME: Michael S. Berman

ADDRESS: Mondale for President Committee, Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

HOME PHONE 342-9553

BUSINESS PHONE: 452-8387

8404061358

le for President
Wisconsin Avenue, N.W.
ngton, D.C. 20007

8 4 0 4 0 6 1 3 5

MONDALE

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K STreet, N.W.
Washington, D.C. 20463

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Linda Colvard Dorian
Susan Dillon

ADDRESS: CPB
1111 16th Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202-9555287 (Linda C. Dorian)
955-5288 (Susan Dillon)

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

Feb. 9, 1984 — Date

L. C. Dorian — Signature

NAME: Linda Colvard Dorian

ADDRESS: CPB
1111 16th Street, N.W.
Washington, D.C. 20036

HOME PHONE

BUSINESS PHONE: 202-955-5287

8404046136 0

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Linda Colvard Dorian
Susan Dillon

ADDRESS:

CPB
1111 16th Street, N.W.
Washington, D.C. 20036

TELEPHONE:

202-9555287 (Linda C. Dorian)
9555288 (Susan Dillon)

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

9 Feb. 84
Date

Ron Hull
Signature

NAME: Ron Hull, Director
Program Fund

ADDRESS: CPB
1111 16th Street, N.W.
Wash., D.C. 20036

HOME PHONE

BUSINESS PHONE: 202-955-5123

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WGBH

Cont 1234

84 FEB 13 A 9:50

Curry

13 P3:19

WGBH Educational Foundation
125 Western Avenue
Boston
Massachusetts 02134
617 492 2777
Telex 710 330 6887

Deborah Curry, Esquire
Federal Election Commission
Washington, D.C. 20463

February 8, 1984

Re: MUR 1617

Public Broadcasting
Boston:
Channel 2
Channel 44
WGBH Radio
Springfield
Channel 57

Lowell Institute Cooperative Broadcasting Council
Boston College
Boston Symphony Orchestra
Boston University
Brandeis University
Harvard University
Lowell Institute
Massachusetts Institute of Technology
Museum of Fine Arts
Museum of Science
New England Conservatory of Music
Northeastern University
Simmons College
Suffolk University
Tufts University
University of Massachusetts
Wellesley College

Dear Ms. Curry:

Enclosed is a Designation of Counsel Statement signed on behalf of the WGBH Educational Foundation. Please direct any further communications to my attention. Thank you.

Very truly yours,

Eric Brass

Eric Brass
Attorney

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Eric Adam Brass

ADDRESS: WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134

TELEPHONE: (617) 492-2777, ext. 4405

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

1/30/84

Date

David O. Ives

Signature

NAME: David O. Ives
President
ADDRESS: WGBH Educational Foundation
125 Western Avenue
Boston, MA. 02134

HOME PHONE

BUSINESS PHONE: (617) 492-2777

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WGBH Educational Foundation
125 Western Avenue
Boston
Massachusetts 02134

84 FEB 13 A9:4

8404061364

WGBH

Deborah Curry, Esq.
Federal Election Commission
Washington, D.C. 20463

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Mr. Carl R. Ramey
McKenna, Wilkinson & Kittner

ADDRESS: 1150 Seventeenth Street, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 861-2622

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

Feb. 8, 1984

Date

Signature

NAME: Mr. Ted Koppel

ADDRESS: 1717 DeSales Street, N.W.
Washington, D.C. 20036

HOME PHONE (202) 887-7777

BUSINESS PHONE:

R 4 0 4 0 4 6 1 3 6 5

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: HARLAN POMEROY, ESQ.

ADDRESS: BAKER & HOSTETLER
818 Connecticut Avenue
Washington, D. C. 20006

TELEPHONE: (202) 861-1500

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

2/6/84

Date

Robert A. Farmer, Treasurer

Signature

NAME: ROBERT A. FARMER, TREASURER

ADDRESS: JOHN GLENN PRESIDENTIAL COMMITTEE INC.
444 North Capitol Street
Washington, D. C. 20001

HOME PHONE

BUSINESS PHONE:

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RECEIVED AT THE FEC
Ccf 1506
84 FEB 2 P1:48

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

RECEIVED
GENERAL COUNSEL
84 FEB 2 P3:34

NAME OF COUNSEL: Kenneth J. Guido, Jr.

ADDRESS: Sonosky, Chambers, Sachse & Guido
1050 31st Street, N.W.
Washington, D.C. 20007

TELEPHONE: (202) 342-9131

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

8 4 0 4 0 4 6 1 3 6 7

January 30, 1984
Date

Michael R. Moore
Signature

NAME: Michael R. Moore

ADDRESS: 1670 Broadway, Suite 2500

HOME PHONE (303) 761-2430

BUSINESS PHONE: (303) 831-9500

0 1 0 4 0 1 6 1 3 6 8

84 FEB 2 P

ARTHUR YOUNG & COMPANY
1670 BROADWAY, SUITE 2500
DENVER, COLORADO 80202

FIRST CLASS MAIL

ARTHUR YOUNG & COMPANY
1670 BROADWAY, SUITE 2500
DENVER, COLORADO 80202

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

FIRST CLASS

RETURN RECEIPT
REQUESTED

CERTIFIED
P 423 798 656
MAIL

New Hampshire Public Television

Box Z
Durham
New Hampshire
03824

David W. Gessner
Assistant General Manager
Planning & Policy
Telephone
(603) 862-2047

Geo# 1545

84 FEB 2 A8:52

MUR 1617
Curry

January 31, 1984

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

Dear Mr. Gross:

We have received your letter of January 25, 1984, concerning the complaint against us by one Stephen A. Koczak, and we have referred the matter to our Washington attorneys--Schwartz, Woods & Miller, of Suite 206, The Palladium, 1325 18th Street, N.W., Washington, DC 20036 (833-1700), attention Lawrence M. Miller, Esq. I am enclosing your form designating this firm as our counsel.

Sincerely yours,

DWG:j

Enclosure

R 4 0 4 0 4 6 1 3 6 9

STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR 1617

NAME OF COUNSEL: Lawrence M. Miller, of Schwartz, Woods & Miller

ADDRESS: Suite 206, The Palladium
1325 18th Street, N.W.
Washington, DC 20036

TELEPHONE: (202) 833-1700

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

1/31/84

Date

Signature

NAME: Davis W. Griffith
Assistant General Manager

ADDRESS: New Hampshire Public Television
Box 1100
Durham, NH 03824

HOME PHONE

BUSINESS PHONE: (603) 862-1047

8404061370

New Hampshire Public Television

Box Z
Durham
New Hampshire
03824

3-93150

8404046113

RECEIVED AT FEC FEC

DURHAM NEW HAMPSHIRE 84 FEB 22 A 11:25 N.H.

U.S. POSTAGE

PB METER P.B. 337n53

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1984

Stephen A. Koczak
Koczak for President Committee
P.O. Box 11656
Washington, D.C. 20008

Dear Mr. Koczak:

Pursuant to your conversation on February 2, 1984, with Deborah Curry enclosed please find a copy of our notification of receipt of your complaint for your files.

Sincerely,

Gary L. Johnsen
Assistant General Counsel

Enclosure

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

Curry

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 20, 1984

Stephen A. Koczak
Koczak for President Committee
P. O. Box 11656
Washington, D.C. 20008

Dear Mr. Koczak:

This letter is to acknowledge receipt of your complaint which we received on January 18, 1983 against the Congressional Democratic Caucus, the Corporation for Public Broadcasting, the Public Broadcasting Service, Dartmouth College and others, 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 five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

8404046137 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Gillis W. Long, Chairman
House Democratic Caucus
718 House Office Building, Annex 1
Washington, D.C. 20515

Re: MUR 1617

Dear Mr. Long:

This letter is to notify you that on January 20, 1984, the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

8404046137 4

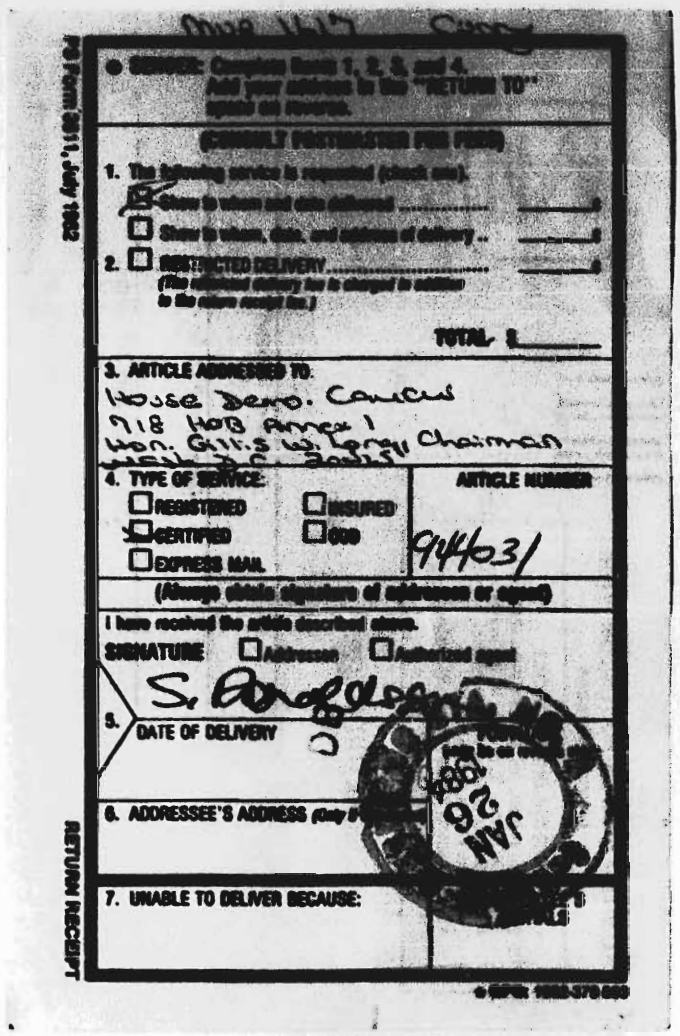
If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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



8404046 1375

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Linda Dorian
Vice President, General Counsel
and Secretary
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

Re: MUR 1617

Dear Ms. Dorian:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your corporation may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your corporation in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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.

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If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

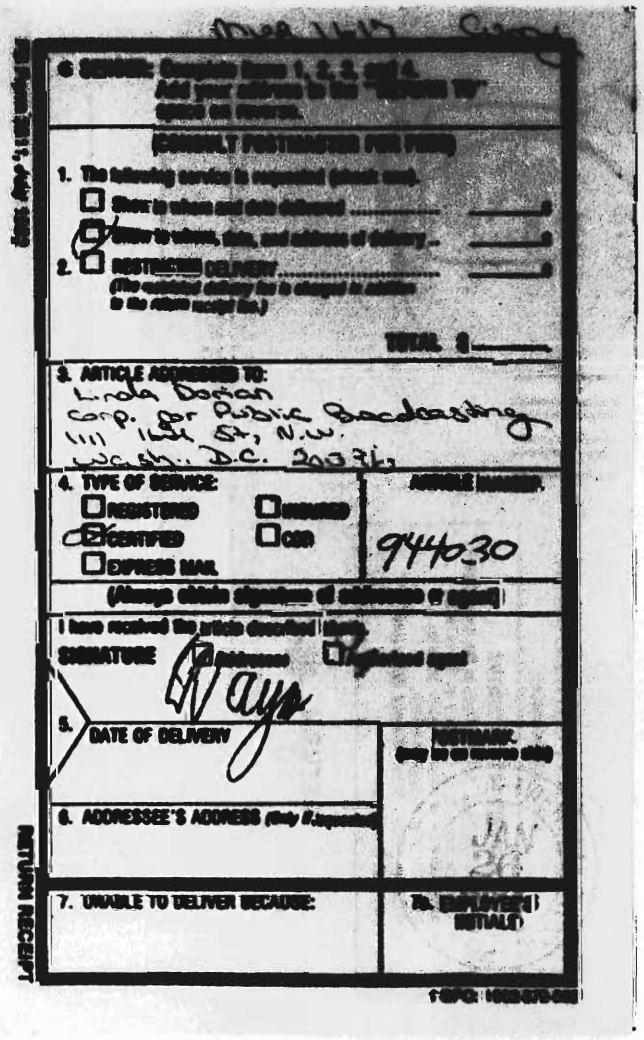
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 3 7 7

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lawrence Horn
General Counsel
Public Broadcasting Service
475 L'Enfant Plaza West, S.W.
Washington, D.C. 20024

Re: MUR 1617

Dear Mr. Horn:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your organization may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your organization in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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.

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If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

8404061378

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 3 7 9

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

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ted Koppel
American Broadcasting Company
1717 DeSalles Street, N.W.
Washington, D.C. 20036

Re: MUR 1617

Dear Mr. Koppel:

This letter is to notify you that on January 20, 1984, the Federal Election Commission received a complaint which alleges that you may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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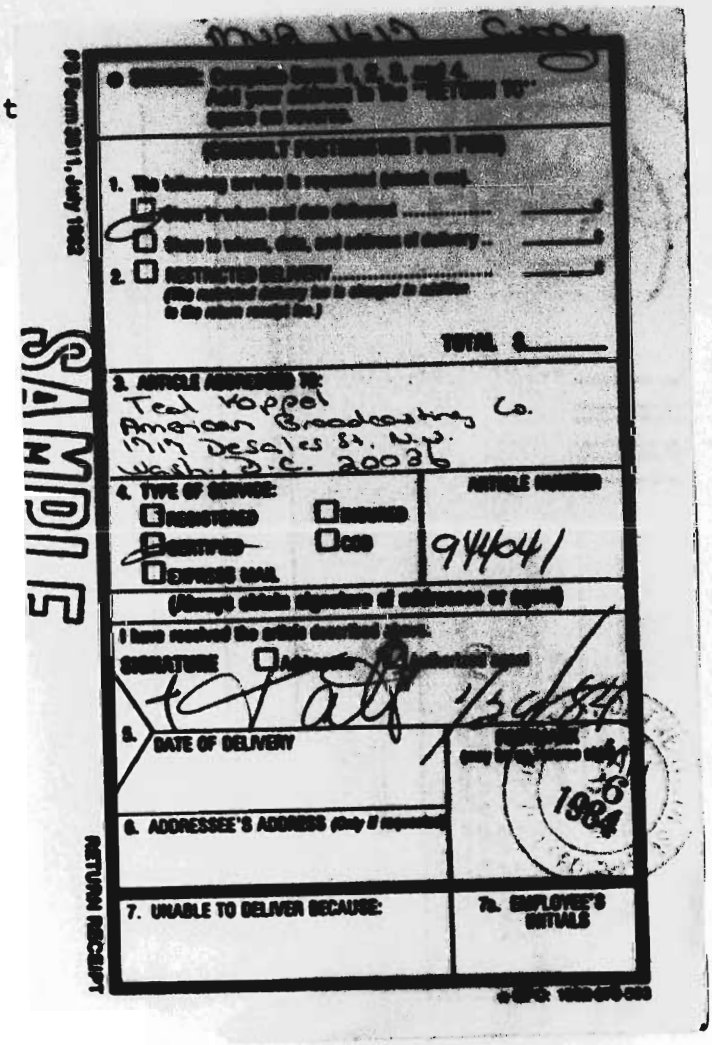
If you have any questions, please contact Deborah Curry, the staff member assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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



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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Arthur J. Singer, General Manager
New Hampshire Public Television
University of New Hampshire
Box 2
Durham, NH 03824

Re: MUR 1617

Dear Mr. Singer:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your organization may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your organization in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

R 4 0 4 0 4 6 1 3 8 2

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

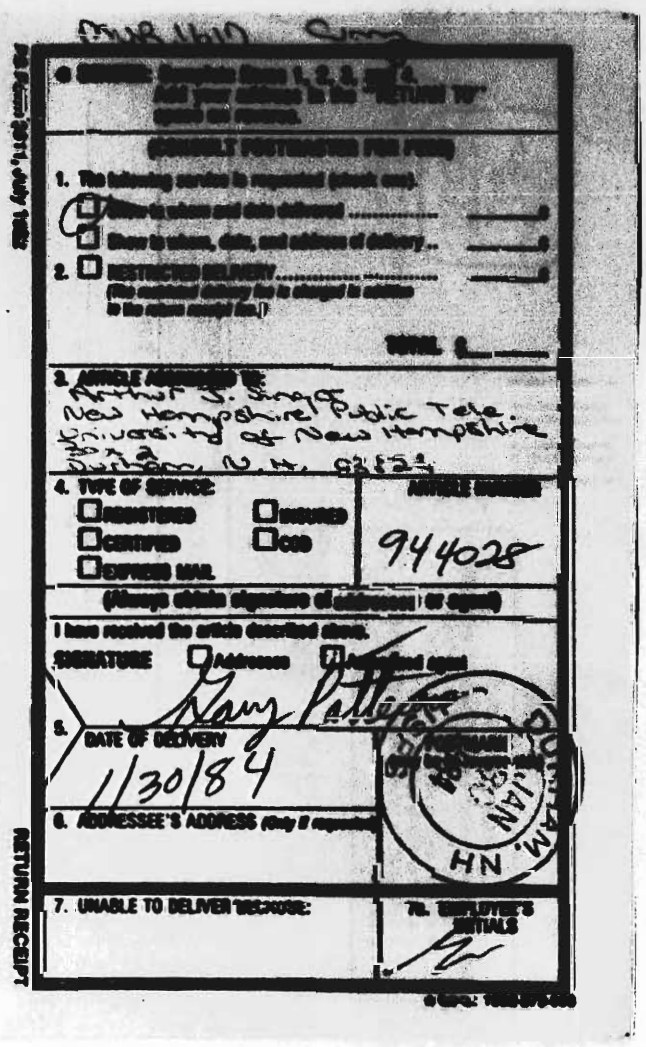
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8404046138 3

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David O. Ives, President
WGBH Educational Foundation
125 Western Avenue
Boston, Massachusetts 02134

Re: MUR 1617

Dear Mr. Ives:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your organization may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your organization in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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8 4 0 4 0 4 6 1 3 8 4

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

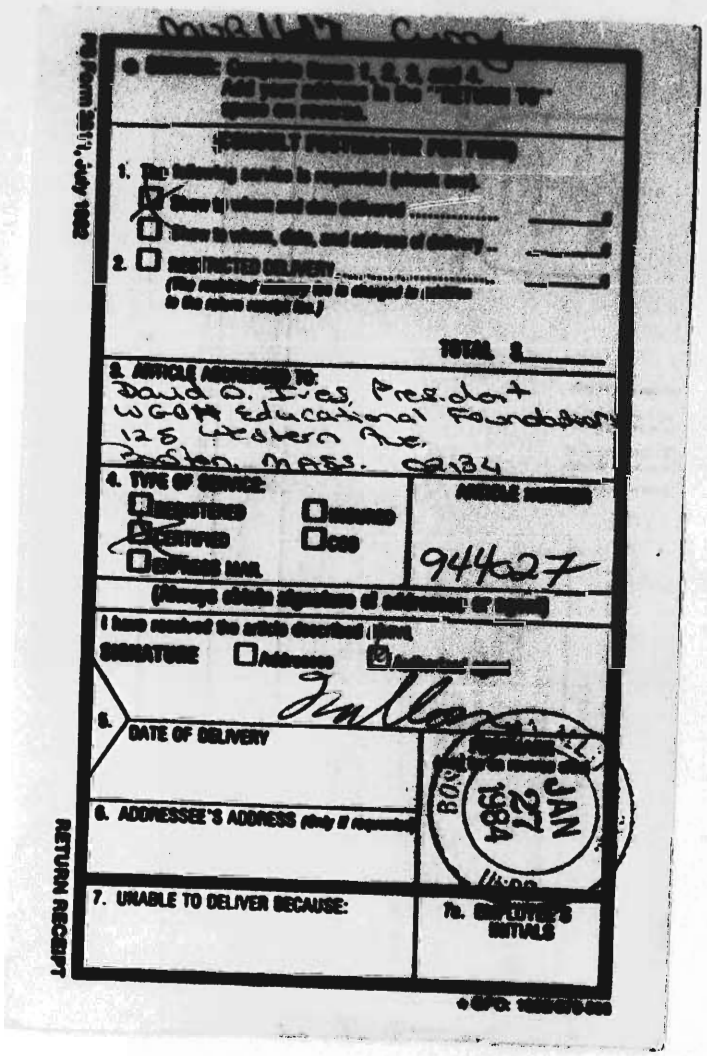
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 3 8 5

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ron Hull, Director
Program Fund
Corporation for Public Broadcasting
1111 16th Street, N.W.
Washington, D.C. 20036

Re: MUR 1617

Dear Mr. Hull:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your corporation may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your corporation in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

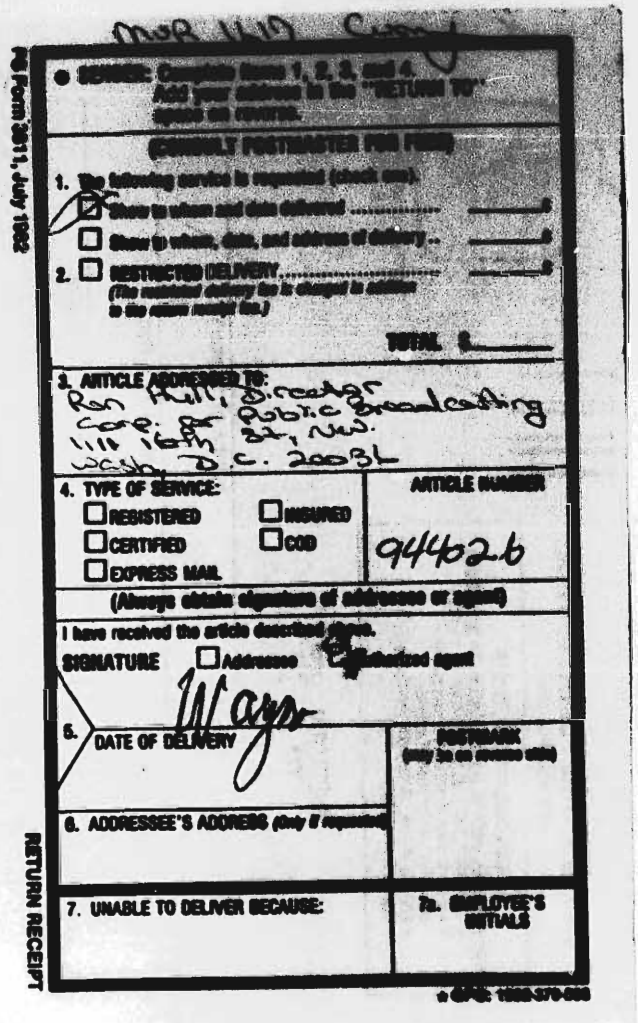
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

R 4 0 4 0 4 6 1 3 8 7

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


PS Form 3811, July 1982

RETURN RECEIPT

Mar 1119 Cuny

1. The following service is requested (check one).
☐ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
2. ☐ RESTRICTED DELIVERY
TOTAL $

3. ARTICLE ADDRESSED TO:
Ron Hull, Director
Cong. for Public Broadcasting
1111 16th St, NW.
Wash, D.C. 20036

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☐ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
944626

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY

POSTMARK

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Cary P. Clark, Esquire
Dartmouth College
Investments & Legal Affairs Office
P.O. Box 31
Hanover, NH 03755

Re: MUR 1617

Dear Mr. Clark:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your organization may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your organization in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

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If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

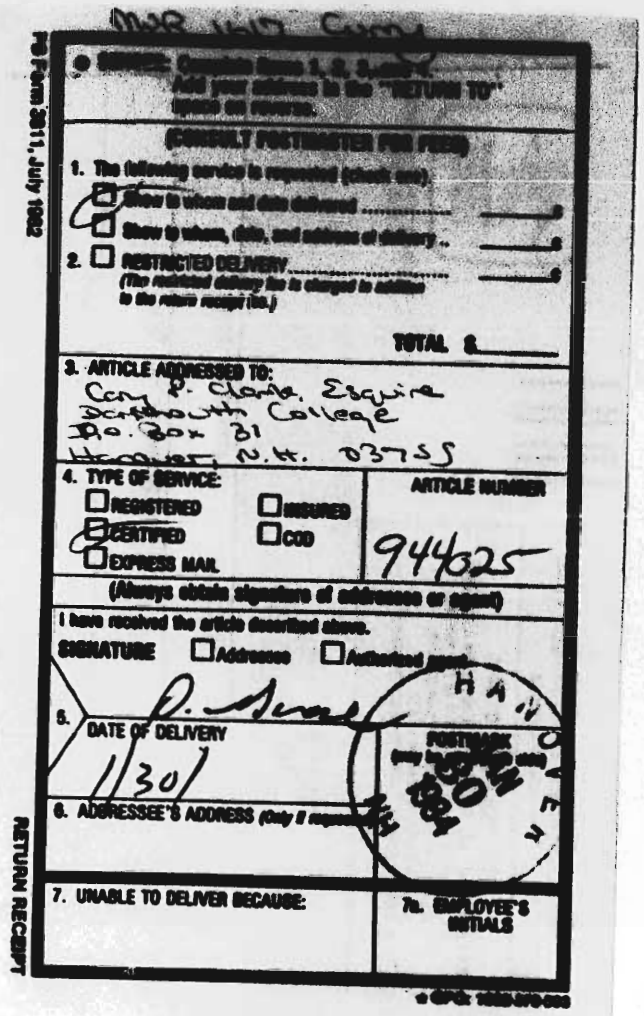
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 3 8 9

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


PS Form 3811, July 1992

1. The following service is requested (check one)
☐ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
2. ☐ RESTRICTED DELIVERY
(The restricted delivery fee is charged in addition to the return receipt fee.)
TOTAL $

3. ARTICLE ADDRESSED TO:
Cary P. Clarke, Esquire
Dartmouth College
P.O. Box 31
Hanover, N.H. 03755

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☑ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
944025

(Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY
1/30

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Phil Donahue
630 North McClurg Ct.
Chicago, IL 60611

Re: MUR 1617

Dear Mr. Donahue:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that you may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

8 4 0 4 0 4 6 1 3 9 0

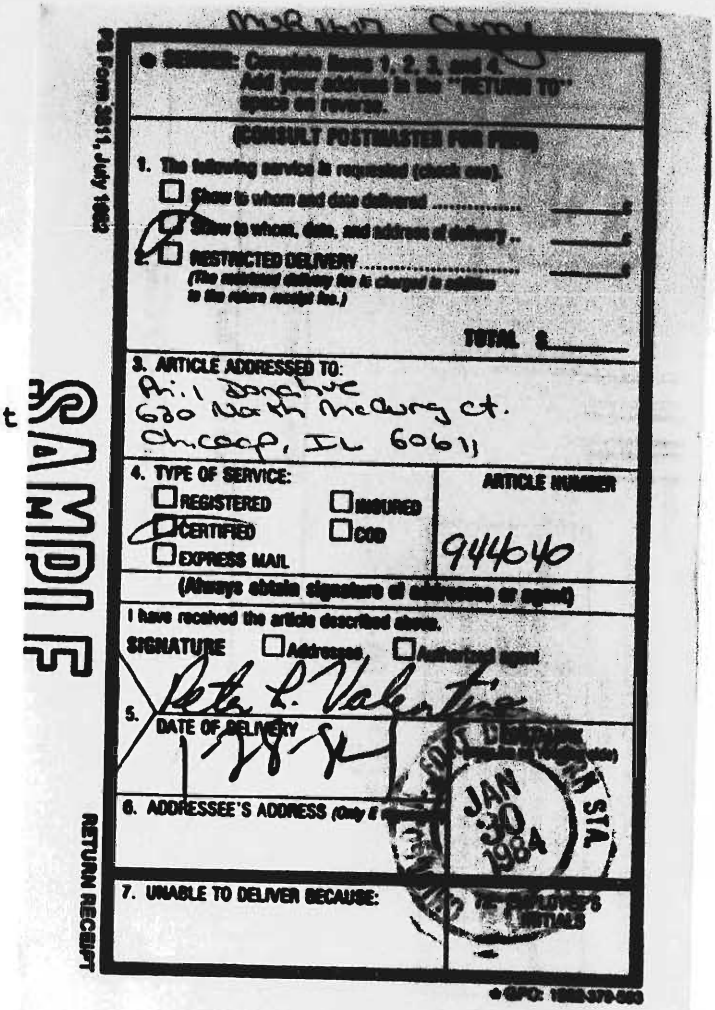
If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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



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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank Smallwood, Director
Nelson A. Rockfellar Center
for the Social Sciences
103 Rockfellar Center
Dartmouth College
Hanover, NH 03755

Re: MUR 1617

Dear Mr. Smallwood:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your organization may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your organization in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

8 4 0 4 0 4 6 1 3 9 2

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

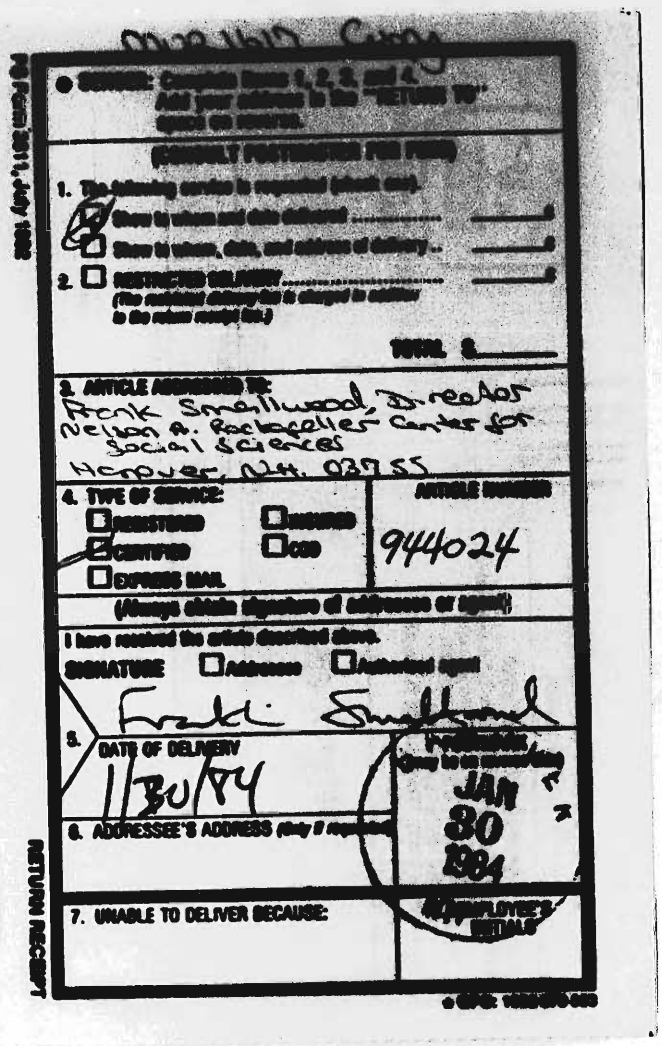
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 3 9 3

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


Mur 1610 Curry

1. The following service is requested (check one).
Show to whom and date delivered
Show to whom, date, and address of delivery
2. RESTRICTED DELIVERY
(The additional delivery fee is charged in addition to the return receipt fee.)
TOTAL $

3. ARTICLE ADDRESSED TO:
Frank Smallwood, Director
Nelson A. Rockefeller Center for Social Sciences
Hanover, N.H. 03755

4. TYPE OF SERVICE:
REGISTERED INSURED
CERTIFIED COD
EXPRESS MAIL
ARTICLE NUMBER
944024

(Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE Addressee Authorized agent
Frank Smallwood

5. DATE OF DELIVERY
1/30/84
POSTMARK (Only for registered mail)
JAN 30 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:
EMPLOYEE'S INITIALS

RETURN RECEIPT

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael S. Berman, Treasurer
Mondale for President Committee,
Inc.
2201 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Re: MUR 1617

Dear Mr. Berman:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

8 4 0 4 0 4 6 1 3 9 4

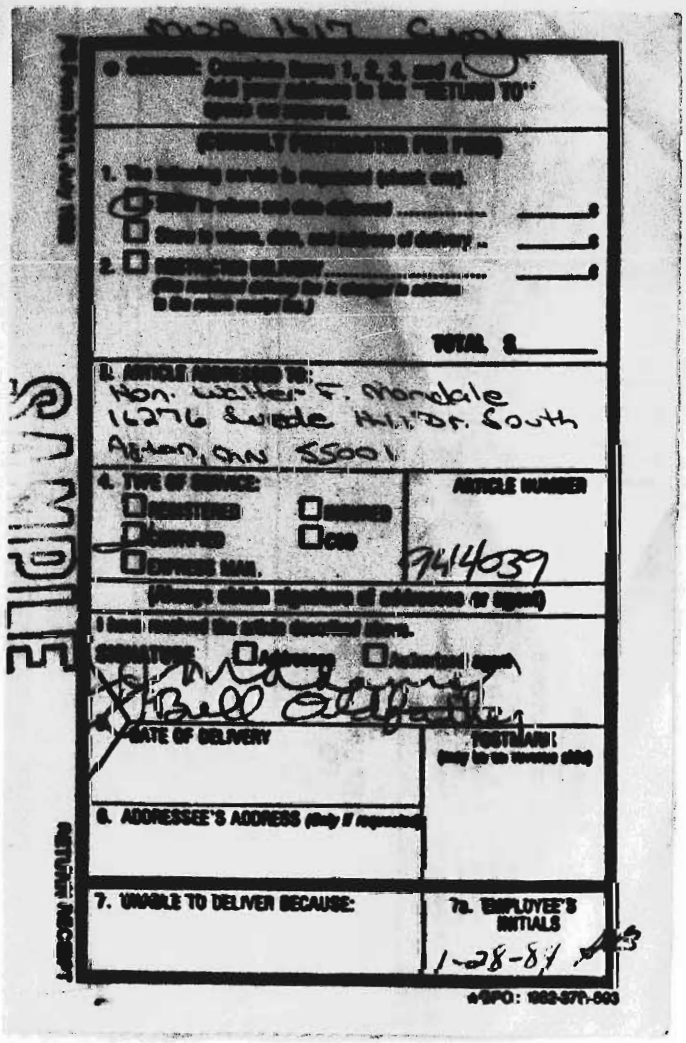
If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

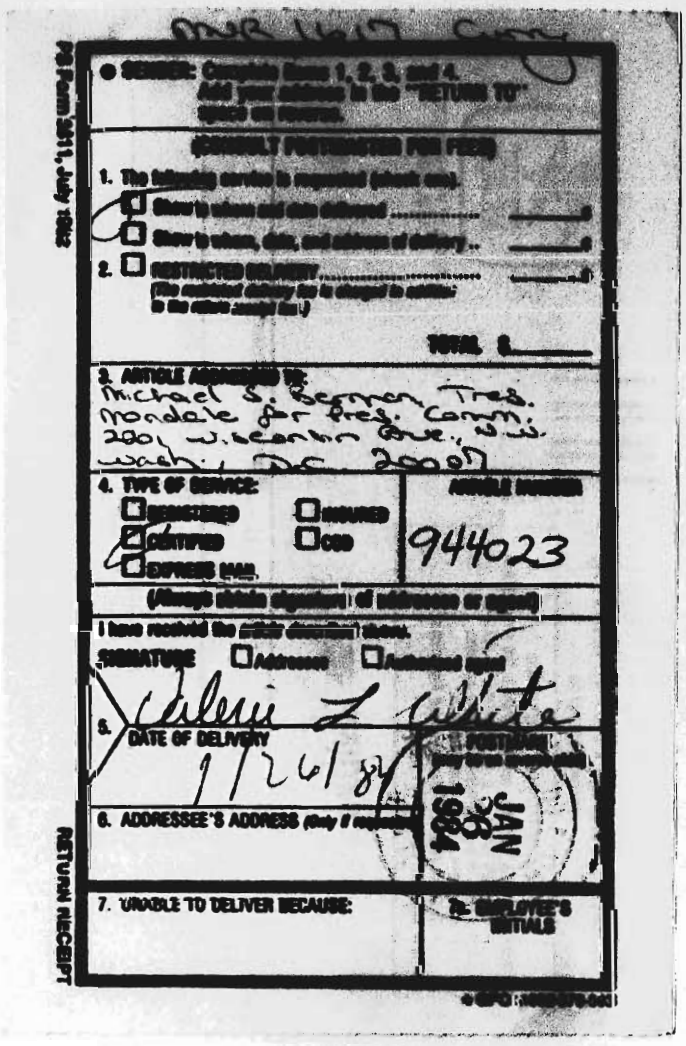
Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 3 9 5





FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Helene Mae Borderick, Treasurer
McGovern for President Committee,
Inc.
1875 Connecticut Avenue, N.W.
Washington, D.C. 20009

Re: MUR 1617

Dear Ms. Borderick:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

8 4 0 4 0 4 6 1 3 9 6

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 3 9 7

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

cc: Hon. George Stanley McGovern

8 4 0 4 0 1 6 1 3 9 8

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- [x] Show to whom and date delivered ..... $
- [ ] Show to whom, date, and address of delivery .. $
2. [ ] RESTRICTED DELIVERY ..... $
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO:
Hon. George Stone, Inclusion
1009 Connecticut Ave.
Wash, D.C. 20006

4. TYPE OF SERVICE:
- [ ] REGISTERED
- [ ] INSURED
- [ ] CERTIFIED
- [ ] COD
- [ ] EXPRESS MAIL

ARTICLE NUMBER: 944038

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [x] Authorized agent
Leslie Parker

5. DATE OF DELIVERY

POSTMARK (may be applied on reverse side)
26 JAN 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- [ ] Show to whom and date delivered ..... $
- [x] Show to whom, date, and address of delivery .. $
2. [ ] RESTRICTED DELIVERY ..... $
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO:
Helene Mae Bordeick, Treas.
McGovern for Pres. Comm.
1876 Conn. Ave
Wash. D.C. 20009

4. TYPE OF SERVICE:
- [ ] REGISTERED
- [ ] INSURED
- [ ] CERTIFIED
- [ ] COD
- [x] EXPRESS MAIL

ARTICLE NUMBER: 944022

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [x] Authorized agent
Shelley Stanton

5. DATE OF DELIVERY

POSTMARK (may be applied on reverse side)
JAN 27 1984 USPO

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Samuel L. Foggie, Sr., Treasurer
Jesse Jackson for President
2100 M Street, N.W.
Suite 316
Washington, D.C. 20036

Re: MUR 1617

Dear Mr. Foggie:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

8 4 0 4 0 4 6 1 3 9 9

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 4 0 0

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

cc: Jesse L. Jackson

8 4 0 4 0 4 6 1 4 0 1

PS Form 3811, July 1982

MOR 1610 Copy

● SENDER: Complete items 1, 2, 3, and 4. Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☑ Show to whom and date delivered ..... ____ $
   - ☐ Show to whom, date, and address of delivery .. ____ $
2. ☐ RESTRICTED DELIVERY..... ____ $
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
Samuel L. Foggie, Sr. Treas
Jesse Jackson for Pres.
2100 M St, N.W.
Wash. D.C. 20036

4. TYPE OF SERVICE:
   - ☐ REGISTERED ☐ INSURED
   - ☐ CERTIFIED ☐ COD
   - ☐ EXPRESS MAIL

ARTICLE NUMBER: 944019

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Gita Gravi

5. DATE OF DELIVERY: 1/27/84

POSTMARK (may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

PS Form 3811, July 1982

MOR 1610 Copy

● SENDER: Complete items 1, 2, 3, and 4. Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☑ Show to whom and date delivered ..... ____ $
   - ☐ Show to whom, date, and address of delivery .. ____ $
2. ☐ RESTRICTED DELIVERY..... ____ $
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO
Jesse L. Jackson
6645 S Constance Ave.
Chicago, IL 60649

4. TYPE OF SERVICE:
   - ☐ REGISTERED ☐ INSURED
   - ☐ CERTIFIED ☐ COD
   - ☐ EXPRESS MAIL

ARTICLE NUMBER: 944036

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☑ Addressee ☐ Authorized agent
H. Hardaway

5. DATE OF DELIVERY: 2/2/84

POSTMARK (may be on reverse side)
FEB 3 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

SAMPLE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert A. Farmer, Treasurer
John Glenn Presidential Committee,
Inc.
444 North Capitol Street, N.W.
Suite 407
Washington, D.C. 20001

Re: MUR 1617

Dear Mr. Farmer:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

8 4 0 4 0 4 6 1 4 0 2

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 4 0 3

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

cc: Hon. John Glenn

8 4 0 4 0 4 6 1 4 0 4

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☑ Show to whom and date delivered ..... ____¢
- ☑ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
[illegible]

4. TYPE OF SERVICE:
- ☐ REGISTERED ☐ INSURED
- ☑ CERTIFIED ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 944835

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY: 1-30

POSTMARK (May be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

SAMPLE

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☑ Show to whom and date delivered ..... ____¢
- ☐ Show to whom, date, and address of delivery .. ____¢
2. ☐ RESTRICTED DELIVERY ..... ____¢
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
Robert A. Fortney, Pres.
Bio Gen Res Corp, Inc.
[illegible]
[illegible] D.C. 20001

4. TYPE OF SERVICE:
- ☐ REGISTERED ☐ INSURED
- ☑ CERTIFIED ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 944018

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

E. Hoke

5. DATE OF DELIVERY: 1-27-84

POSTMARK (May be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael R. Moore, Treasurer
Americans With Hart
1670 Broadway, Suite 2500
Denver, CO 80202

Re: MUR 1617

Dear Mr. Moore:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

8 4 0 4 0 1 6 1 4 0 5

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 4 0 6

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

cc: Hon. Gary W. Hart

8 4 0 4 0 4 6 1 4 0 7

PS Form 3811, July 1982

SAMPLE

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☐ Show to whom and date delivered ..... ____ $
- ☑ Show to whom, date, and address of delivery .. ____ $
2. ☐ RESTRICTED DELIVERY ..... ____ $
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
Hon Gary D. Hart
US Senate 221 Russell Bldg.
Wash, D.C. 20510

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☐ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 944037

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
K. M. Moss

5. DATE OF DELIVERY

POSTMARK (may be on reverse side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☐ Show to whom and date delivered ..... ____ $
- ☑ Show to whom, date, and address of delivery .. ____ $
2. ☐ RESTRICTED DELIVERY ..... ____ $
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO
Michael R. Moss, Vice President
American Water Works
Mile 1616 Broadway Suite 2500
Denver, CO 80202

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☑ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 944021

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Richard B. [illegible]

5. DATE OF DELIVERY
1-28

POSTMARK (may be on reverse side)
JAN 28 '86

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS
JW

RETURN RECEIPT

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rene De Backer, Treasurer
Hollings for President, Inc.
400 North Capitol, Suite 318
Washington, D.C. 20001

Re: MUR 1617

Dear Ms. De Backer:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

8 4 0 4 0 1 6 1 4 0 8

If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8 4 0 4 0 4 6 1 4 0 9

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

cc: Hon. Ernest F. Hollings

8 4 0 4 0 4 6 1 4 1 0

MSR 1617 Cong

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☐ Show to whom and date delivered ..... ___ $
- ☑ Show to whom, date, and address of delivery .. ___ $
- 2. ☐ RESTRICTED DELIVERY ..... ___ $
  (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ___

3. ARTICLE ADDRESSED TO:
Rong De Barbar Tres
Wolings for Pres., Inc.
100 D. Capitol, Suite 313
Wash., D.C. 20001

4. TYPE OF SERVICE: ☐ REGISTERED ☐ INSURED ☑ CERTIFIED ☐ COD ☐ EXPRESS MAIL

ARTICLE NUMBER: 944020

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Krista Polusoo

5. DATE OF DELIVERY: 1-27-84

POSTMARK (may be on stamps side)

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

MSR 1617 Cong

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☑ Show to whom and date delivered ..... ___ $
- ☐ Show to whom, date, and address of delivery .. ___ $
- 2. ☐ RESTRICTED DELIVERY ..... ___ $
  (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $ ___

3. ARTICLE ADDRESSED TO:
Hon. Ernest F. Hollings
115 Russell Bldg / Senate Office Bldg
Wash., D.C. 20510

4. TYPE OF SERVICE: ☐ REGISTERED ☐ INSURED ☑ CERTIFIED ☐ COD ☐ EXPRESS MAIL

ARTICLE NUMBER: 944034

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
J. Wilson

5. DATE OF DELIVERY

POSTMARK (may be on stamps side)
DC STATION 20 JAN 26 1984 USPO

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

SAMPLE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donald M. Middlebrooks, Treasurer
Askew for President Committee
1465 South Miami Avenue
2nd Floor
Miami, FL 33131

Re: MUR 1617

Dear Mr. Middlebrooks:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

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If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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

cc: Hon. Reubin O. Askew

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MDB 1617 Cuny

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☐ Show to whom and date delivered ..... ____¢
- ☑ Show to whom, date, and address of delivery .. ____¢
- 2. ☐ RESTRICTED DELIVERY ..... ____¢
  (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

3. ARTICLE ADDRESSED TO:
Donald M. Malinkrodt, Treas.
Acting for Rec. Corp.
1165 S. Miami Ave.
Miami, FL 33131

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☑ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 944016

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Todd W. Kersey

5. DATE OF DELIVERY

POSTMARK (may be on reverse side)

MIAMI FLA. SEC. SPS JAN 30 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

RETURN RECEIPT

MDB 1617 Cuny

PS Form 3811, July 1982

● SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- ☑ Show to whom and date delivered ..... ____¢
- ☐ Show to whom, date, and address of delivery .. ____¢
- 2. ☐ RESTRICTED DELIVERY ..... ____¢
  (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $____

SAMPLE

3. ARTICLE ADDRESSED TO:
Hon. Reuben O. Askew
1111 Brickell Ave., PH-1
Miami, FL 33131

4. TYPE OF SERVICE:
- ☐ REGISTERED
- ☐ INSURED
- ☑ CERTIFIED
- ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 944033

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☑ Authorized agent

Miguel Freire

5. DATE OF DELIVERY

JAN 30 1984

POSTMARK (apply on all reverse sides)

MIAMI SEC. 1984

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

EMPLOYEE'S INITIALS

RETURN RECEIPT

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald C. Peterson, Treasurer
Cranston for President Committee,
Inc.
1120 G Street, N.W., Room 801
Washington, D.C. 20005

Re: MUR 1617

Dear Mr. Peterson:

This letter is to notify you that on January 20, 1984 the Federal Election Commission received a complaint which alleges that your committee may 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 1617. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 completing the enclosed form 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.

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If you have any questions, please contact Deborah Curry the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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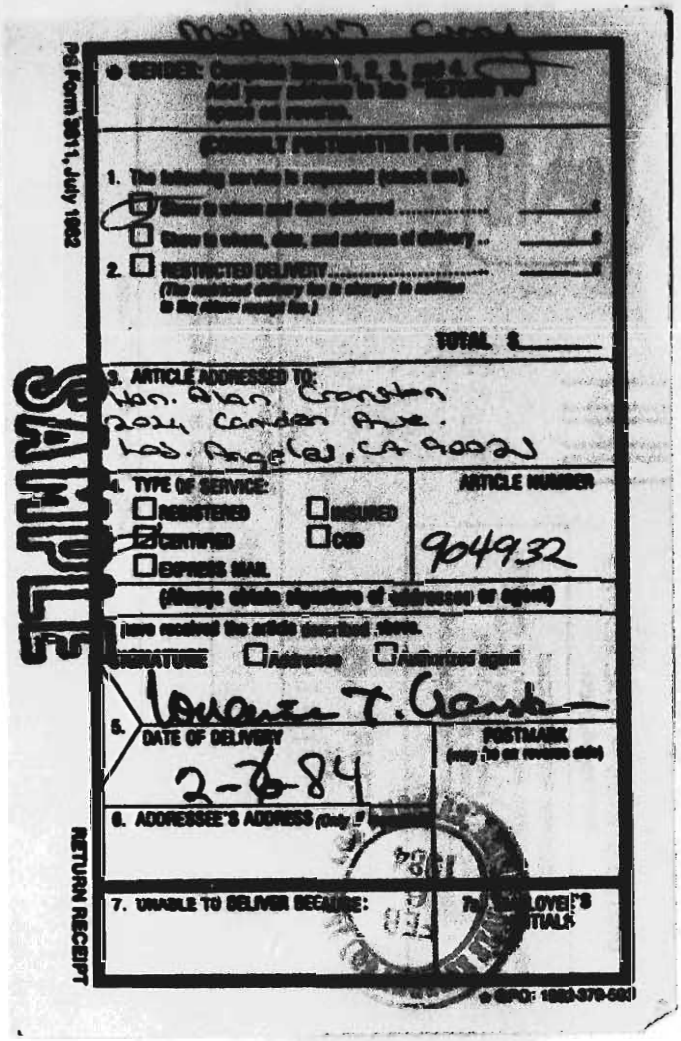
Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: Hon. Alan Cranston


PS Form 3811, July 1982

SAMPLE

3. ARTICLE ADDRESSED TO:
Hon. Alan Cranston
2024 Camden Ave.
Los Angeles, CA 90025

4. TYPE OF SERVICE:
REGISTERED INSURED
CERTIFIED COD
EXPRESS MAIL

ARTICLE NUMBER
904932

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE Addressee Authorized agent

5. DATE OF DELIVERY
2-6-84

POSTMARK

6. ADDRESSEE'S ADDRESS

7. UNABLE TO DELIVER BECAUSE:

RETURN RECEIPT

8 4 0 4 0 4 6 1 4 1 6

Stephen L. Koczak
c/o Koczak for President Committee
P.O. Box 11656
Washington D.C. 20008

General Counsel
Federal Election Commission
1325 K Street NW
Washington D.C. 20463

Delivered in person

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 20, 1984

Stephen A. Koczak
Koczak for President Committee
P. O. Box 11656
Washington, D.C. 20008

Dear Mr. Koczak:

This letter is to acknowledge receipt of your complaint which we received on January 18, 1983 against the Congressional Democratic Caucus, the Corporation for Public Broadcasting, the Public Broadcasting Service, Dartmouth College and others, 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 five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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Submitted in Telephone GCC#1439 Mur 1617

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-4750
Also (202) 686-0953

January 17, 1984

'84 JAN 18 AM 10:23

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

Dear General Counsel:

COMPLIANCE COMPLAINT AND PETITION

Under Title 11, Code of Federal Regulations, Paragraph 111.4, Complaints (2 U.S.C. 437 g (a) (1) and other pertinent statutes, regulations and rules, I am filing this complaint against the Congressional Democratic Caucus*, the Corporation for Public Broadcasting, the Public Broadcasting Service, Dartmouth College, Darthmouth College's Rockefeller Center for the Social Sciences and its Public Policy program, New Hampshire Public Television, located on the premises of the University of New Hampshire, and Public Television Station, WGBH, located in Boston, Massachusetts, the McNeil/Lehrer News Hour and other programs funded directly or indirectly, in whole or in part, by the Corporation for Public Broadcasting. I am also filing a complaint against the eight candidates who appeared on the so-called "Dartmouth College Debate" and against Messrs Ted Koppel and Phil Donohue.

In compliance with Paragraph 111.4, I state under oath the following:

1. I am a candidate for the office of President of the United States, filing with the Federal Election Commission on December 13, 1983. On December 28, 1983, I filed with the Secretary of State in New Hampshire for the Presidential Primary to be held in that state on February 28, 1984 and

*Also denominated herein as "House Democratic Caucus"

R40461418

have received official notification from that Secretary of State that my name will appear on the Presidential Primary Ballot as "Stephen A. Kocsak". (Documentation of these facts appear as Attachments 1 and 2.)

2. The House Democratic Caucus, chaired by Representative Willis Long of Louisiana, by not complying with, and observing, the provision in the definition of "political committee" contained in Title 11, CFR, Paragraph 100.5 (a) and 2 U.S.C.431 (e) illegally and knowingly established itself as a "political committee" while failing to register as such with the Federal Election Commission. Inter alia, the House Democratic Caucus established a Committee on which prominent members of the House of Representatives served, this Committee chaired by Representative Charles Shumer of New York.

3. This Committee chaired by Representative Shumer carried out functions not related to the legislative processes authorised by Article I of the Constitution of the United States but participated in organizing partisan political activities relating to Presidential primaries, activities which under the Separation of Powers prescribed by the Constitution are wholly outside the Constitutional functions of the House of Representatives.

4. This Committee further ordered and supervised personnel paid out of Federal funds to organize, influence, manipulate partisan political activities relating to Presidential Primaries in violation of the Federal Election Campaign Laws, including the "Federal Election Campaign Act Amendments of 1979", PL No. 96-187.

5. All Caucus members are members of Congress and most voted for the said "Campaign Act Amendments of 1979". Therefore they must be considered

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as fully conversant with its provisions, including the definition of "political committee" and the requirement that an "political committee" expending more than $1,000 a year must register with the Federal Election Commission.

6. The Caucus authorized and expended more than $1,000 in Federal funds, including the salaries of Alvin From, Michael Timmony and Leo Coco, among others, on Presidential primaries, including the primary election in New Hampshire, in which I am recognized as a candidate.

7. Specifically, under the direction of the Representatives Willis Long, Charles Shumer, with the knowledge of Tip O'Neil and other senior members, the Caucus used the services of Alvin From, Michael Timmony and Leo Coco, and other employees paid from Legislative Branch Federal funds, together with Federally owned buildings, rooms, telephones, office machinery, stationery to communicate with the Corporation for Public Broadcasting, the Public Broadcasting Service, Dartmouth College and the Rockefeller Center at Dartmouth which provided services and facilities for a program not related in an way to legislation or the legislative branch of government but related to publicizing the views of certain pre-selected Presidential primary candidates participating in the Presidential primary to take place in New Hampshire. (See attachments 3 and 4) 8. The Corporation for Public Broadcasting receives major funding from Congressionally authorized and appropriated funds. In the House of Representatives, the members of the Democratic Caucus are chairmen of the authorization and appropriation committees and subcommittees providing these funds, reputedly nearly $130,000,000 this fiscal year.

9. The Corporation for Public Broadcasting, fully aware of the Public

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Laws regarding Presidential elections nevertheless permitted itself to be influenced by the House Democratic Caucus to "fund" the Dartmouth College Debate limited to eight pre-selected Presidential candidates.

10. Thus, in a "conflict of interest" situation, the Corporation for Public Broadcasting contracted to expend Federal funds, originating from Congressional authorizations and appropriations, to televise and broadcast a debate on behalf of certain pre-selected candidates. Thereby it contributed materially, significantly and illegally to the funding of the primary election campaigns of the eight presidential candidates appearing on the televised and broadcast Dartmouth College Debate to the harm of other candidates, whose Constitutional and statutory rights were violated.

11. The Public Broadcasting Service, incorporated at the behest and on the advise of the Public Broadcasting Corporation, collaborated with the Congressional Democratic Caucus, the Corporation for Public Broadcasting, Dartmouth College and Rockefeller Center programs and with the New Hampshire Public Television Station and Station WGBH, Boston, to produce and distribute the Dartmouth College Debate nationwide.

12. Dartmouth College, its Trustees, its President, its Rockefeller Center provided facilities to the Dartmouth College Debate, and agreed to co-sponsor with the Congressional Democratic Caucus a debate limited to eight pre-selected candidates, despite the fact that the Trustees, President and the Rockefeller had been apprised through the press that there were additional candidates certified by the New Hampshire Secretary of State. Moreover, the President of Dartmouth College had received a communication from Presidential Candidate Stephen A. Kocak complaining of this arrangement as a violation of his rights under the Federal Election

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Laws. (Candidate Kocsak's letter to President McLaughlin appears as Annex 5 hereto.)

13. Having failed by all other means to protect his rights under the Constitution of the United States, Article II, Amendment I and XIV, Presidential Candidate Stephen A. Kocsak sought to obtain a restraining order to prohibit the broadcast on January 15, 1984 if he were excluded. (The complaint filed "pro se" appears as Annex 6 hereto)

14. Judge Norma Holloway Johnson denied his petition on January 14, 1984 on the grounds that the Federal District Court of the District of Columbia did not have jurisdiction.

15. Candidate Kocsak appealed the decision but was denied redress by the Appellate Court. (A Washington Times news report of the hearing and appeal appear as Annex 7 herete. NOTE: The last paragraph of that report stating Kocsak was denied ballot access by certain named states is inaccurate)

16. At the hearing ordered by Judge Johnson, the Congressional Democratic Caucus was represented by Barry J. Reingold of the firm of Perkins, Cole, Stone, Olsen & Williams; the Public Broadcasting Service, incorporated under the laws of the District of Columbia, was represented by Theodore D. Frank, one of its employee attorneys; and the Trustees and President of Dartmouth College were represented by Douglas M. Steenland; moreover, Judy Newman, associated with Station WGBH, was represented by Nicholas W. Fels and Eric Brass, a member of the Massachusetts bar who sought admission pro hac vice.

17. Thus, prior to the debate and its telecast, the House Democratic Caucus, Public Broadcasting Service, Dartmouth College, its Trustees and

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President, and co-producer WGBH were all apprised through the proceedings at the hearing of January 14, 1984 of their alleged violations of the Constitution and of the Federal Election Statutes by their participating in a partisan Presidential campaign activity allegedly illegally co-sponsored by the House Democratic Caucus and Dartmouth College, funded by the Corporation for Public Broadcasting, considered a "quasi-Federal governmental institution", co-produced by Station WGBH and distributed nationwide by the network of the Public Broadcasting Service.

18. Therefore, these parties involved were fully aware through counsel that Candidate Kocsak alleged that their actions were illegal, that their services were contributions to the funding of the campaigns of the participants and that Kocsak's rights as a candidate legally on the ballot in New Hampshire were about to violated irreparably.

19. Though aware from the proceedings through legal counsel attending the hearing, the Caucus, PBS, Dartmouth College, Station WGBH, and the Public Broadcasting Service nevertheless proceeded to hold and telecast the debate.

20. As to Judge Norma Holloway Johnson's ruling of lack of jurisdiction, that is a matter to be resolved in other competencies than the Federal Election Commission. Candidate Stephen A. Kocsak contends that the House Democratic Caucus, located in a House Annex, its agents, including Michael Timmeny, an aide to Representative Charles Shumer, housed in the Cannon House Office Building, and the Public Broadcasting Service, incorporated in the District of Columbia are all under the jurisdiction of the Federal District Court for the District of Columbia.

21. Relevant to the jurisdiction of the Federal Election Commission is

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this complaint relating to the illegal provision and expenditure of contributions, not reported to the Federal Election Commission, to the funding of the campaigns of the pre-selected eight candidates permitted to participate in the debate.

22. Moreover, by participating in a partisan, repeat partisan, political debate excluding from the premises other presidential candidates, the eight pre-selected candidates accepted and expended funds, albeit their origin is illegal according to Candidate Kocsak.

23. Further, Candidate Kocsak calls particular attention to the fact that, in the instant circumstances, the contribution and the expenditure of most of the funds were contemporaneous, in that most of the services received by the pre-selected eight candidates and the services expended through telecommunication were identical and instantaneous.

23. By repute and report in the press and communication media, all eight of the pre-selected candidates are entitled, or seeking entitlement, to Federal matching funds.

24. Under the statutes, those receiving Federal matching funds are limited by a ceiling in the amount they may legally expend in any primary election campaign.

25. According to a recent estimate by the Federal Election Commission, the total amount permissable in New Hampshire for candidates receiving Federal Matching Funds is approximately $392,000.

26. The value contributed and expended on behalf of the candidates by the House Democratic Caucus, the "quasi-governmental" Corporation for Public Broadcasting, Public Broadcasting Service, New Hampshire Television Station and Station WGBH and Dartmouth College Trustees, is a significant

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contribution, perhaps already exceeding the spending limit permitted those candidates receiving Federal Matching Funds.

--PETITION--

On the basis of the foregoing complaint, in order to protect the public interest, uphold the Constitution and the statutes, and, in my situation as a qualified Presidential candidate to extend to me the protection of the laws against further irreparable damages, I petition the Federal Election Commission as follows:

1. To obtain from the House Democratic Caucus as expeditiously as possible a complete report on the monies or other contributions of value resulting from its authorities, orders, activities, assignments of Members, of its own paid staff, of the paid staff of any Democratic Representative to the preparation, organization and participation in the Dartmouth College Debate, as well as a determination as to who insisted and why to limit the Debate to eight pre-selected candidates in the New Hampshire presidential primary even after New Hampshire Secretary of State on January 3, 1984 had certified more candidates.

2. To obtain from the Corporation for Public Broadcasting copies of all its contracts, expenditures, and administrative transactions with the House Congressional Caucus, with the Public Broadcasting Service, New Hampshire Television Station and Station WGBH in Boston, Massachusetts, with Dartmouth College and any other person or organization involved in the Dartmouth College Debate.

3. Similarly to obtain from the Public Broadcasting Service any and all documents relating to costs, including contracts, travel of its own personnel, leased lines, and any other administrative or other costs

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involved in the Debate.

4. To obtain the same kind of information from New Hampshire Television Station, including use of its mobile transmitters, and from TV Station WGBH.

5. To obtain from the Trustees and President of Dartmouth College an accounting of the value of the contributions made directly or indirectly by the College or its programs to the Debate.

6. To obtain a copy of the transcript of the Hearing before Judge Norma Holloway Johnson, of her decision and of the decision of the Appellate Court.

7. To obtain statements from the eight pre-selected candidates as to any understandings, arrangements, agreements they may have made, either directly or through their staffs, with the members of the Caucus, or any employee working for a House Member of the Caucus, the Corporation for Public Broadcasting, Public Broadcasting Service and/or any other facility contributing to the Debate as to the value of these contributions.

8. To obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, contacts, undertakings and agreements reached with any of the parties mentioned in this complaint.

8.To determine or estimate the approximate value of all the services, facilities and activities undertaken or completed by all the parties named in the complaint.

9. To establish what the pro rata monetary value or benefit of this debate is, or will be, to each of the eight pre-selected candidates.

10. To determine whether these contributions or benefits already exceed the limit of expenditures by each of the candidates entitled to Federal Matching Funds and, in the event they do, so to notify the

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candidates.

11. To take necessary legal action, including notification of the Attorney General of the United States of this complaint not only of possible violation of Federal Election Law but also the violation of other laws concerning the prohibition of the use of government funds to foster partisan political goals; to require the House Democratic Caucus to register immediately with the Federal Election Commission as a "political committee"; and to impose such penalties as may be appropriate for unauthorized involvement of the Caucus with the Corporation for Public Broadcasting and the other parties in a partisan manner in Presidential Primary Campaigns.

—OATH—

I swear that to my knowledge and belief, based on reliable sources, the foregoing is correct.

Sincerely,

Stephen A. Koczak
2932 Macomb Street, N.W.
Washington, D. C. 20008

Subscribed and sworn to before me this 17th day of January, 1984

Lucy J. Hoel
Notary Public, D.C.

My commission expires April 14, 1988

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STATEMENT OF CANDIDACY

(See reverse side for instructions)

83 DEC 13 P3:53

RECEIVED AND FILED

DEC 19 1983

SECRETARY OF STATE

1. (a) Name of Candidate (in Full)

STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Identification No.

3. Party Affiliation

Democrat

4. Office Sought

President

5. District & State of Candidate

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 (Year of Election) election(s).

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)

KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak (Signature of Candidate)

December 13, 1983 (Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR —

President mail to:

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

U.S. Senate mail to:

Secretary of the Senate
119 D Street, N.E.
Washington, D.C. 20510

U.S. House of Representatives mail to:

Clerk of the House
1036 Longworth Office Bldg.
Washington, D.C. 20515

For further information contact:

Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

FEC FORM 2 (3/80)

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(2)

The State of New Hampshire

WILLIAM M. GARDNER
SECRETARY OF STATE

ROBERT P. AMBROSE
DEPUTY SECRETARY

Department of State

State House - Room 204
Concord Tel. 271-3242

December 30, 1983

Mr. Stephen A. Koczak
P.O. Box 11656
Washington, D.C. 20008

This is to acknowledge your filing as a DEMOCRATIC candidate for PRESIDENT OF THE UNITED STATES.

Your name will be printed on the Presidential Primary Ballot as:

STEPHEN A. KOCZAK

Sincerely,

Wm. Gardner

William M. Gardner
Secretary of State

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(3)

Koppel, Donahue to Moderate Debate

8 Hopeful Democrats on TV Sunday

By Martin Schram
Washington Post Staff Writer

For a grateful nation bereft by the prospect of a day without professional football, the House of Representatives' Democratic Caucus is presenting a televised debate Sunday starring the eight Democratic presidential candidates, with Ted Koppel of ABC News and talk show host Phil Donahue as moderators.

"We wanted to make it interesting," said Rep. Charles E. Schumer (D-N.Y.), who chaired the caucus project. " . . . And it was my idea to do it this Sunday, because now people who are accustomed to watching Sunday football on TV may watch this instead. Their choice will be bicycle racing in Italy, mud-wrestling in Japan or the presidential candidates in New Hampshire."

The event will be telecast live from Dartmouth College in Hanover, N.H., on the Public Broadcasting System from 3 to 6 p.m. (EST).

Advisers to former vice president Walter F. Mondale, the Democratic front-runner, who originally resisted the program's format, predicted that viewers may find it hard to distinguish between mud-wrestling and presidential debating. The Mondale camp is not pleased with the debate's free-wheeling, celebrity-controlled format, but most of the other candidates' advisers say it suits them just fine.

"We know the other candidates will all be jumping on Mondale," said Maxine Isaacs, Mondale's deputy campaign manager and press secretary. "We expect that."

Paul Tully, Mondale's deputy campaign manager for field operations, added, "The other candidates will adopt the strategy of pushing reasons why people should not vote for the guy who's ahead. That's fair politics. But in football, it's called piling on."

For the first 90 minutes, the candidates will be free to question or criticize each other, with no ground rules other than the mediation and interrogation—and interruption—by Koppel, moderator of ABC's Nightline.

The second 90 minutes will feature questions from a carefully screened audience expected to number about 400 that will be guided and shaped by Donahue, whose daytime talk show has won a large following with discussions that cover, among other things, the travails of transvestites, disputes over capital punishment and the lives of male strippers.

Mondale campaign officials made their objections known to the House officials weeks ago, and only reluctantly agreed to participate. They said they would have preferred a more traditional political debate format, with questions by a panel of journalists or academicians.

"We have no problem with the format," said Sen. John Glenn's (D-Ohio) communications director, Greg Schneiders. "The caucus has been criticized for making it into a Phil Donahue Show. But then, every other presidential debate has been criticized for being boring and dull."

Top officials for the other candidates welcomed the event, saying they thought the unconventional format would work to their benefit.

"It's an opportunity for those of us who are behind in the polls—the dark-horse candidates—to strut their stuff," said former senator George McGovern's (D-S.D.) press secretary, Mark Kaminsky. "It's the Donahue part that makes it unconventional. I know the typical Donahue show—but I assume he's going to approach this seriously . . . . It's not quite as though they were going to have Merv Griffin."

Sen. Alan Cranston's (D-Calif.) press secretary, John Russenello, said: "It's out of the control of the candidates—and that makes it riskier. But I think it can be terrific having Donahue. He goes into an audience and gets involved with whatever's asked."

Sen. Gary Hart's (D-Colo.) deputy campaign manager, David Landau, praised the format as "an opportunity for a dark horse to get his message across . . . in a real probing of a candidate's views, depth and character." Hart press secretary Kathy Bushkin expressed hope that Donahue's presence would attract more women viewers; Hart is making a strong appeal for the votes of women.

House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.) initially raised objections to Donahue as a moderator. "On the Donahue part, Tip needed some convincing," said Schumer. "But now he's taking a leap of faith with us."

Schumer said that the idea of using Donahue came from television producer Norman Lear, who served on an advisory panel, but in an interview Lear denied it, saying that he had wanted Koppel to do the entire event.

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The Washington Post STYLE

The Arts/Television/Classified C1

Saturday, January 14, 1984

DYNAMIC DUO OF DEBATE

On the Air

Donahue & Koppel: Referees For the Democratic Face-Off

By Tom Shales

IF WORSE COMES to worst, and in television it so often does, Phil Donahue and Ted Koppel can always interview each other. Koppel will moderate the first half, and Donahue the second half of a three-hour forum featuring all eight Democratic presidential hopefuls on Sunday afternoon. Live, from New Hampshire, it's the Super Bowl of blab.

Koppel says Donahue is "a very bright man" and that "I don't know anyone better as an interlocutor between a studio audience and a guest." Donahue says Koppel is a brilliant interviewer and that "Nightline," the ABC roost that Koppel rules, is "a helluva show, the best thing to happen to our business since '60 Minutes.'" Not everyone may be as fond of this pair as they profess to be of each other, however. There have been mutterings to the effect that the choice of moderators, especially in Donahue's case, is too showbizzy.

Perhaps some people fear that with Donahue and Koppel at the helm, the broadcast won't be boring enough, the way political debates traditionally tend to be. The debate will air on public TV Sunday afternoon at 3, a secret the three commercial networks appear determined to keep. They failed to mention the telecast on their morning news shows yesterday; one referred to the big free-for-all as a "statewide" debate. Networks are such worms.

But Donahue is raring to go. Donahue is always raring to go. He's a perpetual rarer, a gray tornado. And yes, he says the Phil Donahue facing off against eight Democratic presidential hopefuls will be the same Phil Donahue who has parried with Nazis, transvestites, male strippers and Jerry Falwell on his syndicated daily talk show. The program is in its 16th year and now seen on 206 stations in the United States and Canada. As the tough but decorous Koppel is without peer at interviewing news figures, the shaggy and rambunctious Donahue is without peer at productive gaggery.

Donahue says that in his best daytime-TV manner he will forage about and attempt to rev up an assembled studio audience (a cross section of voters who are not active in any campaigns right now, or so it is being claimed), although he regrets there won't be as much revving-up time as he would like. "I want the opportunity off the air to say to them, 'We're glad you're here, be brief, we want your participation,' and so on," Donahue says. "I want to create an atmosphere in which people are willing to contribute."

Koppel says he doesn't look down on the Donahue segment or the attempt to pull the audience into the fray. "We've found that folks in an audience have a way of asking plain, blunt, simple questions that cut through the bs in ways that the complex nonsense we journalists devise does not," Koppel says. The original idea for the event, co-sponsored by Dartmouth College and the House Democratic Caucus, was to divide it into two debates of 90 minutes each, with Koppel (who was signed first) and Donahue running completely different shows.

But then, Koppel says, someone realized that the second debate would air opposite the Super Bowl "and it

See AIR, C9, Col. 1

Debate & Donahue

AIR, From C1

seemed painfully to do it for the seven or eight people who might not be watching the football game." Asked if three hours of political debating may be more than even the most devout political junkie would want, Koppel says, "In a word, yes, but that's their choice."

Donahue thinks the tune-in will be high. "We're between the playoffs and the Super Bowl so you don't have any blockbuster television on the other channels," he says. "I think this has a chance of doing very, very well. I don't think this'll do badly. I truly don't."

Shocking as it sounds, some American politicians over the years have been known to show just the teensiest weensiest proclivity toward prolixity. Will Donahue step in and, if necessary, shut them up? "I'll try," he says. "One of my jobs is to make sure one candidate doesn't become William Jennings Bryan. But we're going to rely on the common sense of the candidates, too. I think most of them are aware that if a candidate talks too much, that can carry disfavor in the eyes of the viewer. This can't be a series of confrontations between the host and the candidates, but if I feel a candidate hasn't answered a question, I'm free to suggest that he hasn't."

Perhaps it is beginning to sound as though the organizers of the debate are courting anarchy. But they are trying to avoid mistakes made by the League of Women Voters in the heavily structured political debates of the 1960 election year. "I commend the caucus," Donahue says. "They're trying to get out from under the League of Women Voters' formats. The League has done its best but the debates were really very very wooden and very, very rigid. Elephants designed by a committee of mice. There was some valuable television there, but everyone was hampered by the very, very rigid, often mechanical format that this program will attempt to rise above."

Koppel recalls being invited to moderate a League debate among party honchos two years ago. "It was the most excruciatingly boring exercise I've ever been involved with," Koppel says. "When everything is done according to the clock, when you pose a question and then sit back and let them all fill their time to answer come hell or high water, the result can be very boring." Donahue says, "The League has done us a lot of good but here in the first attempt to say, 'Let's all relax,' not put a clock on anybody, trust in the candidates' common sense, and not insist that everybody gets exactly the same amount of time on the air."

In November, the Federal Communications Commission (FCC) voted a special election-year provision in the section of the Communications Act (Section 315) that requires a TV station to give "equal time" to every single candidate for a public office if it gives time to any one of them on the air. The commission ruled that debates, whether organized by networks or by outside parties, are exempt from the rule, thus paving the way for the kind of "great debates" held between Kennedy and Nixon in 1960 (though not guaranteeing the debates will occur, because Reagan could refuse to participate on any grounds dreamed up by his troops).

Incredibly enough, the League has challenged this FCC ruling with the U.S. Court of Appeals. With any luck, the court won't rule until the election is over. The League will subject us all to its 18th-century debates or die trying. The Koppel-Donahue format was tailored for television, and that's as it should be. Lincoln and Douglas would have adapted to television, too, if it had been around.

Donahue, for his part, is having his own tussle with 315. The FCC has made a number of specific exemptions in recent years so the rule will not inhibit news coverage of campaigns. It has exempted the morning news programs (NBC's "Today" show, ABC's "Good Morning, America" and "The CBS Morning News") but in 1980 refused a request for an exemption by Donahue and his staff.

Thus, although Donahue taped an hour with presidential hopeful and international adventurer Jesse L. Jackson last week, the program will not be shown in Donahue's own town, Chicago. CBS owns the station that airs Donahue there, and CBS lawyers felt Jackson's appearance would lead to appeals from all the other candidates for equal time. Officially, Jackson has not filed the papers necessary for candidacy in every state.

WDVM-TV (Channel 9), which carries Donahue in Washington, will air the Jackson session Thursday at 9 a.m.

"This is something that's bugged me for the entire history of my show," says Donahue of the 315 obstacle. "These rules are very muddy, probably unenforceable, and they deny candidates free access to the most important vehicle of communications we have, television. We're penalized because we're a syndicated program, not a network program. There's a pro-network bias to the rules. If I were on PBS, I'd get called, but in the Washington view, news is 'network' and syndication is Richard Simmons. And we think that's unfair. I agree with Ronald Reagan: we have too much government. And nowhere is that more manifest than in this 315 regulation."

Donahue concedes there may be some prejudice against his show in particular because it has featured such a wide variety of fleas and flea—bi-, tri-, quadri- and omnicrush, Ku Klux Klansman said, just last week, male models parading around in lingerie for men. "We do fashion shows, we've had male strippers," Donahue says. "But Lionel Hampton has appeared on 'Today,' and 'Good Morning, America' has fashion shows, too. An awful lot of People magazine types pop up on these network morning shows."

The Donahue people are trying to get President Reagan to appear on their show, "under any circumstance at all," Donahue says, but preferably in Chicago, mixing it up with the studio audience as other Donahue guests have done. Asked about this request, Mark Weinberg of the White House press office said, "There's nothing currently on the president's schedule" as far as a Donahue appearance goes. Asked if it were a possibility, Weinberg became surly and unpleasant. Not a lot of trickle-down charm over there.

Donahue notes that the president said yes to Merv Griffin but has so far said no to Donahue. But if Donahue doesn't get Reagan before Jan. 29, when Reagan is sure to declare his intention to run again, he can forget about it anyway, because then the equal time provision will kick in and Donahue will have to have all candidates or none.

"If you're smart at all, under this system, you wait and declare your candidacy at the last possible moment because you'll get more free TV time that way," Donahue says. "We say, 'Let's try this. Let's open the door. The world will not come to an end.'" Donahue says he has hired a Washington communications lawyer to work on the case at the FCC. Milton Gross, chief of the FCC's fairness and political programming branch, says the Donahue decision could be reconsidered but that the FCC ruled against him in 1980 partly because political guests are featured only occasionally, not regularly, on the show.

For the moment, tomorrow's debate is uppermost in Donahue's mind. "The biggest part of the challenge is to keep the thing moving," he says. "I hope I feel I'm in a familiar place. Three is a crowd in this kind of situation. Eight is a *mob*."

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KOCZAK FOR PRESIDENT COMMITTEE

(Comments by 3 pages)

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-4750

January 9, 1984

David T. McLaughlin,
President, Dartmouth College,
Hanover, New Hampshire, 03755

Dear President McLaughlin:

I am writing both as a matter of principle and as a principal with interest in the New Hampshire presidential primaries for which the filing closed on January 3, 1984.

On December 28, 1983, I telephoned your office to obtain a place on the presidential candidate debate program scheduled for January 15 and was informed that this was being coordinated by the Nelson A. Rockefeller Center for the Social Sciences.

On telephoning that Center, I was informed that the entire arrangements were being handled by a Mr. Michael Timmeny in Representative Charles Shumer's office.

When reached, Mr. Timmeny rejected my request for participation in this debate on the grounds that access was limited to aspirants who met certain so-called "national" standards, such as qualification for Federal Matching Funds, the possession of a nationwide campaign organization, or benefit of a significant national media attention or significant national poll rating.

I filed with the Federal Election Commission on December 19, 1983 and, obviously, have not been able, as yet, to report to the Commission the results of my trip to the states of Illinois, Oregon, Washington, California, Iowa, Nebraska, Massachusetts, New Hampshire or Florida, all completed within three weeks. In fact, because of the Christmas and New Year Holidays, few of the clippings of the many news reports and columns about my trip are available to me even now.

Nevertheless, I have been admitted to the New Hampshire primary and I am filing a suit to be admitted to the Florida primary.

My suit against the Florida authorities is generated by their flagrant violation of my rights under the First and Fourteenth Amendments. It is based on the precedent of the successful suit filed by Senator Eugene McCarthy in his complaints against the State of Texas (McCarthy versus Briscoe) as well as his later successful suit against the State of Florida regarding the general elections. You will find a full account of the Constitutional issues and the decision of Supreme Court Justice Powell in the American Bar Association Journal, August, 1977, pages 1108 and following.

The access issue in the case of Senator Eugene McCarthy is identical with that in my case both in Florida and in the debate sponsored by Dartmouth College--denial of a right to me to present, in a forum afforded to others, and a concurrent denial of a right to voters to receive from me, in that forum, alternative proposals for an electoral platform which they might prefer over those proffered by my rivals.

Unfortunately, as in the historic case of Dartmouth College itself, when in 1816 it had to resort to the courts to protect its Constitutional rights, I must now expend in lawsuits and protests my time and financial resources, time and resources which I should have available exclusively to address the voters. This impediment is itself a violation of my civil and

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political rights, an impediment difficult ever to redress given the pressures of Democrat National Chairman Charles Manatt.

Even more unfortunately and reprehensibly, the House Democratic Caucus, while claiming to wish as open a debate as possible, is in alliance with the Chairman Charles Manatt to stifle debate and to foreclose any presentation of new ideas.

Allegedly, the main motive of Chairman Manatt and the House Caucus is to compress the primary campaign out of a fear President Reagan will benefit from a full debate among Democrats. This itself is an undemocratic attitude, devised from the propaganda perspectives of paid political commercials, instead of a rational debate.

You are undoubtedly aware of the justified resistance in the matter of primary dates of the aroused citizens of Iowa and New Hampshire to Mr. Manatt's arbitrary and obstinate decisions, reminiscent of the behavior of King George III toward the "colonists". Nevertheless, with your appparent, even if only tacit consent to this debate format, you are permitting, however unwittingly, the electorate in New Hampshire and in the nation, to be misled to believe that there are only certain very limited valid platforms and only eight viable candidates from whom to choose, all incidentally friends and associates of Mr. Manatt or of prominent members of the House Democratic Caucus.

I believe that, as the president of a college founded to spread knowledge originally even in the wilderness and to the unlettered, of a college which fought for its own Constitutional rights, you should sympathize with my insistence that the democratic principles of access to the people is paramount in the present circumstances.

You will understand, as I am sure the faculty and students at Dartmouth will understand, that I cannot accept this attempt to foreclose debate and to manipulate by this insidious propagandistic media device the presentation of options to the people of New Hampshire.

Even more insidious is the circumstance that the debate will be transmitted live through all the public broadcast facilities, whose funding comes at least partially from monies provided by Congress, including members of the House Democratic Caucus which controls authorizations and appropriations in that body. This is a serious abuse of the rules of impartiality which should govern such events and raises a question as to the possible ulterior funding motives of the PBS authorities who are permitting this telecast in this forma.

In fact, in this program it is as much the rights of all citizens and taxpayers as of my own which are being infringed, and Dartmouth College should in no measure be a party to this dismal role of the oligarchs on Capitol Hill and of party boss Manatt to manipulate access to the electorate.

I pray you will not permit this planned infringement of open debate on your campus, a campus still dedicated to the free circulation of knowledge and the profession of the liberal arts and sciences.

Let us face honestly the moral and civil issue involved here. This is a primary election campaign and it is manifest and incontrovertible that the purpose of a presidential primary election is not the same as that of a general election. Its principal purpose is not even to select the party's nominee. It is to afford an opportunity for alternative party platforms to be discussed, so that the delegates to the nominating and platform

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convention can bring the wisdom and the will of the citizens to formulating rational and relevant proposals, following a full display by rival aspirants of different options.

I therefore call upon you either to withdraw from the sponsorship of this debate if access to it continues to be arbitrary or to arrange for another debate with equivalent time and facilities afforded to me, and to others similarly situated, so that we too are given the same democratic rights as are enjoyed by those aspirants favored by the national Democratic Party leadership.

Because I have been detained to file my suit against the authorities in Florida, I am now mailing this request to you from Washington, D. C., with copies to the other parties concerned. Within the next few days, however, I shall be arriving in Hanover where I hope to have the honor of receiving a favorable reply from you personally.

I am enclosing as examples of the partiality and prejudice of the press two December 29, 1983 reports, one from The Washington Post the other from the Manchester Union Leader. The contrast is overwhelming. The prejudice of the Washington Post is even more evident in the letter written to me by Benjamin C. Bradlee, Executive Editor of The Washington Post, dated December 15, 1983. As you will note, the Washington Post delayed any report on my candidacy for two full weeks.

I also enclose photocopies of ostensibly the same Associated Press report carried by the Miami Herald and the Fort Myers News-Press on January 4, 1984. You will note that the Miami Herald omitted completely the Associated Press paragraphs regarding me.

Yet, under the widely proclaimed, so-called "fair" rules used by the various Secretaries of State to determine whether any candidate has a national following or is pursuing a national campaign, The Washington Post and the Miami Herald are the only papers "clipped" for the District of Columbia and for Florida.

Thus does our politically prejudiced press manipulate the election processs.

I hope that, as the President of Dartmouth College, you will not assist this vicious and prejudiced suppression of the truth and that you will join me in seeking genuine liberty of expression.

In that hope and expectation, I close with the request that you receive me at Dartmouth when I arrive.

Sincerely,

Stephen A. Koczak

Enclosures: As reported in text

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SUMMONS IN A CIVIL ACTION

(6)

United States District Court

FOR THE

District of Columbia

Concerning 8 28 pages

84-2146

CIVIL ACTION FILE NO. _____

Lupe C. Kovak, Candidate

Plaintiff

v.

Dartmouth McLaughlin, President Dartmouth College et al

Hanover, New Hampshire
New York, New York
Washington DC

Defendant

SUMMONS

To the above named Defendant : Judy Newman, Public Broadcasting Service
New York, New York & Washington DC

You are hereby summoned and required to serve upon

Lupe C. Kovak, pro se plaintiff's attorney, whose address 2932 Macomb Street NW, Washington DC 20008

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JAMES F. DAVEY

Clerk of Court

Date:

(Seal of Court)

NOTE—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure

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United States District Court
For the District of Columbia
Office of the Clerk
3rd and Constitution Avenue, N.E.
Washington, D. C. 20001

James F. Davey
Clerk

NOTICE OF RIGHT TO CONSENT TO TRIAL BEFORE A UNITED STATES MAGISTRATE

In accordance with the provisions of Title 28, U.S.C. §636(c), you are hereby notified that the United States Magistrates of this District Court, in addition to their other duties, upon the consent of all parties in a civil case, may conduct any or all proceedings in a civil case, including a jury or nonjury trial, and order the entry of a final judgment.

You should be aware that your decision to consent, or not to consent, to the referral of your case to a United States Magistrate must be entirely voluntary. Only if all the parties to the case consent to the reference to a Magistrate will either the Judge or the Magistrate to whom the case has been assigned be informed of your decision.

An appeal from a judgment entered by a Magistrate may be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a District Court. Alternatively, upon consent of all parties, an appeal from a judgment entered by a Magistrate may be taken directly to a District Judge. Cases in which an appeal is taken to a District Judge may be reviewed by the United States Court of Appeals for this judicial circuit only by way of petition for leave to appeal.

James F. Davey

JAMES F. DAVEY
Clerk of the Court

CO-942A
Rev. 7/83

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Stephen A. Kocsak, Candidate for President of the United States for the Democratic Party Nomination
2922 Macomb Street NW, Washington DC 20008
Plaintiff

v

David T. McLaughlin, President of Dartmouth College
Judy Newman, of Public Broadcasting Service
Michael Timmeny, Aide to Congressman Charles Shumer
The Democratic House Caucus
Public Broadcasting Service
Dartmouth College

FILED
JAN 14 1984
JAMES F. DAVEY, Clerk

84- 0146

Civil Action No._____

FILED
JAN 13 1984
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Motion for temporary restraining order heard, and DENIED. Norma Holloway Johnson
Judge
January 14, 1984

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COMPLAINT-PETITION TO OBTAIN RESTRAINING ORDER

Plaintiff, Stephen A. Kocsak, a candidate for the office of President of complaining of defendants herein, applies to, petitions and moves this Court for an order restraining the telecast and the holding of the so-called Dartmouth College Debate, scheduled to be presented this Sunday, January 15, 1984 at Dartmouth College, In havoer New Hampshire and respectully alleges:

1. This Court has jurisdiction to issue this restraining order because the action involves participation in a Federal Election governed by Article II of the Constitution concerning the election of the President of the United States

2. Plaintiff is a fuly qualified candidate for that office, having certified with the Federal Election Commission on December 13, 1983 of his intention to seek that office and having filed successfully with the Secretary of State for New Hampshire on December 28, 1983 and been admitted to the New Hampshire primary to be held on February 28, 1984.

3. Defendants, individually and on behalf of their organizations have sought to deny Plaintiff participation in a debate to be held on Sunday, January 15, 1984 at Dartmouth College and, in so doing, have seriously impaired his opportunity to seek the offie of President, thus violating the provisions of the First and Fourteenth Amendments to the Constitution of the United States.

4.

4. Defendants are all officers of Public institutions or educational organizations benefitting from tax revenues or deductions from taxes for contributions thereto, under Acts of Congress and the code published by the Internal Revenue Service. Moreover, Michael Timmeny is an employee of Representative Charles Shumer and receives income from authorizations and appropriations of the Congress of the United States.

5. Defendants, by evasions and circumventions, have obstructed access of the Plaintiff to the Dartmouth College Debate. The Public Broadcasting Service, which receives funding in part from the Congress, is in a "confict of interest" situation by dealing ex parte and exclusively with a paid employee of the Congress who has sought to deny access of a Presidential candidate to the Dartmouth College Debate.

6. As Plaintiff's affidavit clearly states, the Federal Election Commission, though notified of the other likely violations of law, including the contribution of services and assets to the benefit solely of candidates favored by the Democratic Caucus, nevertheless finds itself unable to act to provide relief to the Plaintiff.

7. Thus, because of the imprimatur given to the "eight" candidates admitted to the Caucus by such prestigious bodies as Dartmouth College, the House Democratic Caucus and Public Broadcasting Service, Plaintiff is irreparably harmed by his exclusion from the broadcast. This harm applies not only in New Hampshire but also in the other states, whose Secretaries of State rely on reputation and media notoriety in determing which candidates should be admitted automatically to the primary ballots and which candidates must expend funds in order to obtain petitions at great cost and effort.

8. Plaintiff, not having access to an attorney to represent his case, and having been disadvantaged by deliberate delays and evasions by defendants McLaughlin and Timmeny, is forced to plead this case per se and petitions the court to accept his affidavit as part of this petition for an injunction requiring a stay of the debate unless he is admitted as a participant.

Stephen A. Koczak, Plaintiff

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United States District Court
for the District of Columbia

Stephen A. Koczak, Candidate for President of the United States for the Democratic Party Nomination 2932 Macomb Street NW, Washington DC 20008 Plaintiff	84- 0146
v	Civil Action No._____
David T. McLaughlin, President of Dartmouth College Udy Newman of Public Broadcasting Service Michael Timmeny, Aide to Congressman Charles Schumer The Democratic House Caucus Public Broadcasting Service Dartmouth College Defendants	FILED JAN 1 [illegible] CLERK, U.S. DISTRICT COURT DISTRICT OF COLUMBIA

Points and Authorities
in support of
Plaintiff's Motion for Preliminary Injunction and
Other Emergency Relief

Plaintiff, Stephen A. Koczak, petitions the court to accept his affidavit as part of his points and authorities, particularly the reference to the suits brought by Presidential Candidate Eugene McCarthy against the states of Florida and Texas. The text and the outcome of these suits can be found in the American Bar Association Journal, August, 1977, pages 1108 and following. Supreme Court Justice Powell wrote the opinion in the case of Eugene McCarthy on behalf of the Court.

Plaintiff also cites Title 11 of the Federal Code regarding the holding of Federal elections, calling special attention to Paragraph 114.4 (2) (b) (ii) which reads as follows:

> "If a Presidential candidate is permitted on the premises, all candidates for that office who request to appear must be given the same opportunity to appear".

Because of the absence of time and attorney, Plaintiff cannot cite speficially violations of Federal statutes prohibiting the use of Federal government funds, such as is the case with Mr. Michael Timmeny, to influence

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a Federal election. However, there are general provisions regarding the separation of these funds and prohibiting their use for partisan purposes, in this case, an ex parte arrangement with the Public Broadcasting Service to hold a debate and to televise it without permitting equal access to other Presidential aspirants.

As to the format of the debate, Plaintiff cites Title 11 of the Federal Code, Paragraph 110.13 regarding Debate Structure, which states that such debates "do not promote or advance one candidate over another". This debate structure places candiate Koczak, the Plaintiff, at a disadvantage and promotes or advances other candidates at his expense.

Stephen A. Koczak

Stephen A. Koczak
Plaintiff
pro se

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JAN 1 [illegible]

CLERK [illegible] DISTRICT [illegible]

CERTIFICATE OF SERVICE

This is to certify that copies of this complaint-petition [illegible] restraining Order, of the Points and Authorities and of the proposed Order have been duly served by first class mail or delivered by hand to defendants David T. McLaughlin, Judy Newman, Michael Timmany, The Democratic House Caucus, Public Broadcasting Service, and Dartmouth College this 13th day of January, 1984. Further, in light of the urgency of the pleading and request for the Order, the defendants have been notified also telephonically.

Stephen L. Kozak
Plaintiff
pro se

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DISTRICT OF COLUMBIA

A F F I D A V I T

I, Stephen A. Kossak, a native citizen of the United States, born November 13, 1917, in Trenton, New Jersey and now resident at 2915 Macomb Street, N.W., Washington, D. C. do state and swear that the following are correct in substance and in detail to the best of my knowledge.

1. I am a candidate for the office of President of the United States as a member of the Democrat Party and the Secretary of State of New Hampshire accepted my application on December 28, 1983 and has published that my name is enrolled in the Presidential Primary to be held in New Hampshire on February 28, 1984. (Attachment 1)

2. I have dutifully, consistently and actively traveled widely throughout the United States to have my name similarly enrolled in the Presidential Primaries of other states.

3. On December 27, 1983 I wrote to the Secretary of State of Florida asking that my name be placed on the ballot for the Presidentil Primary in that State (Attachment 2) and on January 3, 1984 I met with the Deputy Secretary of State, Dr. Dorothy Glisson, reaffirming my candidacy and requesting my admission as a candidate to the Florida primary election. (Attachments 3 and 4)

4. My request was denied by the Florida Secretary of State and only the "list of eight" officially fostered by the Democratic National Committee and by the House of Representatives Democratic Caucus was transmitted by the Florida Secretary of State to, and approved by, the Florida Election Commission. (Attachment 5)

5. From my conversations with Dr. Glisson, it was apparent that the

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Secretary of State and the Election Commission, comprised of the leading Democratic Party officials in Florida (and their Republican counterparts) were unduly influenced by the actions of the Democratic National Committee and by the House of Representatives Democratic Caucus in excluding my name from the ballot.

6. The House Democratic Caucus, together with the authorities of Dartmouth College, the Nelson A. Rockefeller Center for the Social Sciences, an official program of Dartmouth College, and the Public Broadcasting Service, which receives funds authorized and appropriated by Congress, are now proceeding to act further in a way to influence not only the electorate in New Hampshire, where I am a candidate for the office of President, but the electorate in other states and the Secretaries of State of other states in a manner adversely affecting and seriously and irremediably harming my own rights under the First and Fourteenth Amendments to the U. S. Constitution as a candidate.

7. On December 28, 1983, I telephoned the office of President David T. McLaughlin asking that I be included in the "Dartmouth College Debate" and was informed that I should turn to the Nelson A. Rockefeller Center for the Social Sciences which was coordinating the debate. The Center denied it was coordinating the debate and stated the entire program was besing handled by Mr. Michael Timmany, an aide to Representative Charles Shumer. (Subsequently, I was given to understand that Representative Shumer was acting as chairman of a subcommittee of the House Democratic Caucus and that he had assigned Mr. Timmeny, his aide paid out of U.S. government funds and using U.S. government facilities, to coordinate the "Dartmouth Debate".

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8. Mr. Timmeny rejected out of hand my request for admission to the debate and stated categorically he would not receive me or discuss further my possible participation in the debate.

9. After the rejection of my request to be placed on the Florida ballot and learning of the manner in which the House Democratic Caucus was improperly intervening in the primary campaigns and seeking to deny admission to the primary ballot of candidates other than those approved by it, I wrote to President David T. McLaughlin on January 9, 1984, asking that Dartmouth College withdraw its co-sponsorhip of this telecast and the provision of its facilities because, given my exclusion, these actions were improperly prejudicial to my own candidacy. Alternatively, I asked that Dartmouth College "arrange for another debate with equivalent time and facilities afforded to me, and to others similarly situated." (Attachment 6)

10. Failing to hear from President McLaughlin I telephoned him, on January 11, 1984, "person to person" but was told he was in conference. Subsequently, an aide and, I was later told, his legal counsel, Mr. Cary Clark telephoned me saying that President McLaughlin was answering my letter by telegram with confirmation letter copy to follow.

11. During the course of our conversation, I asked Mr. Cary Clark to include in the telegram an estimate of the monetary value of the services being provided by Dartmouth College to the House Congressional Caucus and to the Public Broadcasting Service. I hoped, and expected, that similar services, equivalent in monetary value, would be provided to me and the other candidates in connection with an equivalent future debate. (Attachments 7 and 8, being photocopies of correspondence with Mary Jane Gallagher of the MacNeil/Lehrer News Hour carried on the Public

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Broadcasting Service network, refer in part to this conversation with Mr Clark.)

12. Not having received from President McLaughlin either the promised telegram or letter copy, I telephoned both President McLaughlin and Mr. Gary Clark "person to person" several times on January 13, 1984. I was repeatedly told both were either in conference, at lunch or out of town.

13. Finally, a lady identifying herself as "Ms Clark" claimed to know that a letter had been sent to me, "regular mail", on January 11, 1984 and said she would read its text to me. (The text was evasive and avoided answering any of my questions and concerns.) I remonstrated that Mr. Clark had promised to send me a telegram and that, as Mr. Clark knew, I wanted a written text in hand to pursue this matter with the Public Broadcasting Service, with the House Democratic Caucus and with the Federal Election Commission. Therefore I considered the omission of a telegram a witting circumvention of a commitment by President McLaughlin and Mr. Clark, intended to frustrate my timely action to resolve the issue of the "Dartmouth College Debate" before it became moot. I asked that she urgently communicate this message to President McLaughlin and Mr. Clark.

14. I immediately telephoned Chairman Lee Ann Elliott of the Federal Election Commission, recounting my understanding of the arrangements made for the Dartmouth College Debate and my belief that, because of the denial of access to me and other candidates to the Debate, these services constituted contributions to the election campaigns of the "eight". I also raised the queston whether Representative Charles Shumer and Mr. Michael Timmeny were not in violation of the law in using government funds and facilities to arrange and influence a debate excluding some candidates.

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15. I added that, by subsidizing the selective participation of only some candidates, Dartmouth College, PBS and the House Democratic Caucus were circumventing and subverting the limitation on expenditures in the New Hampshire primary by the "eight", all of whom were receiving Federal Matching Funds. Thus, both as contribution and as expenditure, the Dartmouth Debate was a violation of law.

16. Chairman Elliott replied that my argument that, under the circumtances of my exclusion, the monetary value of the services provided by Dartmouth College, Public Broadcasting Services, Mr. Timmeny and Mr. Koppel as moderator, did appear to be contributions to the campaigns of the invited "eight". However, since the Federal Election Commission could not act without a sworn complaint from me, I should submit such a sworn statement and inlude in it, if at all possible, a report of the approximate value of the services given by Dartmouth, the Rockefeller Center, Public Broadcasting Service, Mr. Timmeny and Mr. Koppel and others involved.

17. As to the violation of my rights and the issue of the legality of Mr. Timmeny's role, the Federal Election Commission had no jurisdiction over those matters. Nor did the Commission have any power to assure that my rights under the First and Fourteenth Amendments were protected. I would need to turn to the Federal Courts to upheld those rights.

18. As to relief prior to the Dartmouth Debate, or even subsequently, Chairman Elliott said that the Federal Election Commission had no means to intervene prior to the Dartmouth Debate and would need to await a filing, or failure to file, of a report of contributions by Dartmouth and the other parties, including the "eight".

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19. Seeking to obtain the information Chairman Elliot requested regarding monetary value, I telephoned "Nightline". A Ms "Fleischer" who answered confirmed that Mr. Koppel was the moderator of the Dartmouth Debate. When I asked whether he was contributing his services or paid, she told me to inquire with Mr. Michael Timmeny in Representative Charles Shumer's office for the information. She said "Nightline" had no part in the Dartmouth Debate--Mr.Timmeny was in charge of all arrangments with all the participants. Mr. Timmeny would know whether Mr. Koppel was being paid or whether he had been asked to contribute his services. I asked whether "Nightline" had Mr. Timmeny's telephone number. She gave me the number I had been given earlier by the Rockefeller Center of Dartmouth College. a telephone in Mr. Shumer's Congressional office--225-6616.

20. I telephoned Mr.Timmeny's office but was told he was unavailable. A secretary working for Representative Shumer took my message that I was requesting from him official information to supply to the Federal Election Commission and asked that she note the time and content of my telephone call in the event a subpoena was issued for confirmation of my call.

21. On January 12, I also telephoned Public Broadcasting Service in New York and was informed that Ms. Judy Newman was coordinating the Dartmouth Debate for PBS. She was in Boston, 617-492-2777.

22. On January 13, Ms. Newman returned my call from Boston.I informed her of the contents of this affidavit and that I felt that PBS was also in a conflict of interest" situation by dealing exclusively and ex parte with the House Democratic Caucus, which holds part of the power of purse over PBS. I understood that PBS had arranged with Mr. Timmeny, a person paid out of government funds and claiming to act for, and on behalf of the majority

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of Congressional Representatives organized as the House Democratic Caucus, to sponsor a discriminatory and prejudicial telecast of three and a half hours, with tape made available to other broadcasters for repetition and publication.

23. I emphasized that I was requesting participation in the Dartmouth Debate or timely equivalent facilities from PBS. Under present arrangements my candidacy would be irremediably harmed not only in New Hampshire but with the Secretaries of State of the various states holding primaries who would be improperly persuaded, as the Florida Secretary of State appears to have been persuaded, that there are only "eight" legitimate Democratic Party candidates. Unless I had assurances of participation in the Dartmouth Debate or, alternatively of timely, equivalent facilities from PBS, I planned to be in Federal Court to seek an injunction staying the Debate. Since she was named as coordinator for PBS, I would be asking that she and other employees be enjoined from participation in, or transmitting, the debate by television or radio or other media. She said she would transmit my requests for participation in the Dartmouth Debate, or alternatively timely equivalent facilities, to the PBS attorneys.

24. Having exhausted all other remedies, to avoid irreparable damage, my only recourse is an injunction to stay the Debate.

Stephen A. Koczak
January 13, 1984
pro se

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KOCZAK FOR PRESIDENT COMMITTEE

(1)

P.O. BOX 11656
WASHINGTON, D.C. 20008

TELEPHONE 202 363-4750

FILED

December 28, 1983 1984

CLERK, DISTRICT COURT
DISTRICT OF COLUMBIA

Declaration of Candidacy Deposited with the Secretary of State, New Hampshire.

I, Stephen A. Koczak, declare that I am domiciled in 2932 Macomb Street, N.W., in the city of Washington, D. C., in the District of Columbia and meet the qualifications for the office for which I am a candidate; that I am a registered member of the Democratic Party; that I am a candidate for nomination for the office of President of the United States to be made at the primary election to be held on the 28th day of February, 1984; and I hereby request that my name be printed on the official primary ballot of said Democratic party as a candidate for such nomination.

Stephen A. Koczak

840046145 0

THE RIGGS NATIONAL BANK OF WASHINGTON D.C.

CASHIER'S CHECK

No. 657218

23 December 1983

Pay to the order of *****Secretary of State, New Hampshire********** $1,000.00*****

Dollars

(For Stephen A. Koczak)

⑈657218⑈ ⑆054000030⑆ 06⑈09220704⑈

STATEMENT OF CANDIDACY

(see reverse side for instructions)

83 DEC 13 P 3:53

RECEIVED AND FILED
in the office of the Secretary of State
of the state of California
DEC 19 1983
MARCH FONG EU, Secretary of State
H. D. - SACTO.

1. (a) Name of Candidate (in Full)

STEPHEN A. KOCZAK (A. for Andrew)

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

2. Identification No.

3. Party Affiliation

Democrat

4. Office Sought

President

5. District & State of Candidate

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1984 (Year of Election) election(s).

NOTE: This designation must be filed with the appropriate office listed below.

(a) Name of Committee (in Full)

KOCZAK FOR PRESIDENT COMMITTEE

(b) Address (Number and Street)

2932 Macomb Street, N.W.

(c) City, State and ZIP Code

Washington, D. C. 20008

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in Full)

(b) Address (Number and Street)

(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Stephen A. Koczak
(Signature of Candidate)

December 13, 1983
(Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

CANDIDATES FOR —

President mail to:
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

U.S. Senate mail to:
Secretary of the Senate
119 D Street, N.E.
Washington, D.C. 20510

U.S. House of Representatives mail to:
Clerk of the House
1036 Longworth Office Bldg.
Washington, D.C. 20515

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

FEC FORM 2 (3/80)

B40046145I

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11636
WASHINGTON, D.C. 20036

TELEPHONE 202 [illegible]

December 27, 1983

JAN 1 [illegible]

The Honorable George Firestone,
Secretary of State, Florida,
The Capitol,
Tallahassee, Florida, 32304

Dear Secretary Firestone:

Please accept this communication as the official notification of my candidacy for the office of President of the United States as a member of the Democratic Party.

I filed with the Federal Election Commission on December 13, 1983.

Beginning on December 14, 1983, in order to organize my campaign nationwide, I traveled to Chicago, Illinois; to Portland, Salem, and Eugene, Oregon; to Seattle, Washington; to San Jose and Sacramento, California; to Des Moines, Iowa; to Omaha, Nebraska; and to Boston, Massachusetts.

In those states I notified the respective Secretaries of State, or other competent authorities, of my candidacy.

I shall be filing with the Secretary of State, New Hampshire, tomorrow, December 28, 1983, and proceeding to Florida on December 29, 1983. I shall visit West Palm Beach, Fort Lauderdale, Tampa/St. Petersburg and Miami before traveling to Tallahassee, where I should like to meet with you on January 3, 1984. Thereafter, I shall go to Boston, Massachusetts to file with the Secretary of the Commonwealth there.

I appreciate the likely dilemma which this late communication poses for you respecting my candidacy since, obviously, neither the clipping services nor national periodicals will have reached you regarding the merits of my person or platform.

Permit me to inform you that to date, in the brief two weeks since I filed, the following newspapers carried articles about my candidacy:

December 14: The Washington (D.C.) Times;
December 17: Eugene (Oregon) Register-Guard
December 19: San Jose (California) Mercury-News
December 20: Sacramento (California) Bee
December 26: The Trenton (New Jersey) Times

The circulation of these newspapers includes the capitals of their respective states and the most important universities whose faculties, graduates and current student bodies I am already organizing for my primary campaigns. These include Princeton; Stanford; Santa Clara, Oregon; Oregon State; and San Jose University and the other institutions of the three major California college and university systems throughout that state.

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A graduate of [illegible] College, Class [illegible], 1942, [illegible] active duty, career in the military and diplomatic services including duty of [illegible] intense crisis posts abroad, I shall be relying on my college and foreign service associates for assistance. These persons are located throughout the United States.

As an example of the kinds of articles which have appeared within the brief two weeks since I announced my candidacy, I enclose a photocopy of The Trenton Times of December 20, 1983. I also include a somewhat longer press release with more details than the press has carried, as well as a photocopy of my filing with the Federal Election Commission and a brief biography. These are to complete whatever files you may be maintaining on candidates.

In my primary campaigns, I shall support completely the efforts of Claude Pepper to elect as many elderly delegates as possible to the Convention. My purposes go beyond even his——our elderly population has the longest and most profound memories of the domestic problems and foreign wars which our nation has experienced. Because of their wisdom and judgment, I look to them as one of the main constituencies of my primary campaigns.

I recognize the uncertainty and difficulty confronting you in deciding to include my name in the list of Democratic candidates. Perhaps I should have announced earlier. Nevertheless, as my travels and actions since December 15, 1983 indicate, I intend to run in every primary and hope to persuade you of the relevance and importance of my campaign and platform.

With your kind permission, I hope to meet with you and your staff personally on January 3, 1984. In the interval, please accept my very best wishes for a continuing happy Holiday season now and for the fastest recovery of the citrus groves during 1984.

Sincerely,

Stephen A. Kocsak

Enclosures: Four as indicated.

Carbon Copies: Deputy Secretary of Elections, Dorothy Gleason
Chairman, Election Commission, Robert Hart Jr.

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CLERK, U.S. DISTRICT COURT
MIDDLE DIST. OF FLORIDA

Reagan, 8 Democrats on Florida's ballot

TALLAHASSEE (AP) — Florida's 1984 political season opened Tuesday as President Ronald Reagan, former Gov. Reubin Askew and seven other Democrats earned a spot on the March 13 presidential primary ballot.

Secretary of State George Firestone Tuesday presented a list of eight Democrats and the Republican president to party leaders for final approval.

The three Democrats and three Republicans that comprise the voting members of the Presidential Selection Committee are expected to rubber-stamp the names presented by Firestone, Democratic and GOP state party aides said Tuesday.

Firestone's staff reads newspaper clippings on presidential hopefuls and then determines which candidates have received significant news coverage nationally or within Florida.

Although Tuesday's proceedings are a formality, Florida's 1984 presidential primary is a key race to some presidential campaigns.

The Florida primary, with 143 delegates to the national Democratic convention, is considered crucial for Askew's longshot bid.

Askew has promised to campaign vigorously in Florida, where he was governor from 1971-79. But his favorite-son campaign has been hurt by the fact his name hasn't appeared on the Florida ballot since 1974.

A newspaper-sponsored poll of Florida Democrats showed Askew trailed Mondale among partisan voters in Florida. The former vice president under Jimmy Carter had 32 percent of the Florida vote in the poll while Askew had 25 percent. Ohio Sen. John Glenn was third with 19 percent.

Mondale will stop in Florida, with visits scheduled Friday in Jacksonville and Jan. 13 in Tallahassee.

A modified winner-take-all primary system has been adopted in Florida, allowing the winner of each of the 19 congressional districts to take all the delegates from that district. The move was seen as helpful to Askew's campaign.

But the Democratic contenders in Florida likely will have a hard battle with President Reagan, who is officially a candidate for re-election but has not said whether he will seek a second term in the Nov. 6 general election. Reagan carried Florida in 1980.

The other Democratic candidates on the Florida primary ballot, pending final approval, are: California Sen. Alan Cranston, Colorado Sen. Gary Hart, South Carolina Sen. Ernest Hollings, Rev. Jesse Jackson of Chicago and former South Dakota Sen. George McGovern.

Meanwhile, a man billing himself as a "Jeffersonian populist" sought Tuesday to have his name added to the official presidential primary list.

Stephen A. Kocsak, 66, who was in Fort Myers Monday, wrote a letter last week to state elections chief Dot Glisson asking for a spot on the Florida ballot and also asked to meet Tuesday with Firestone and Glisson.

No decision on his request had been made by Tuesday morning, but Glisson said she told Kocsak she would talk it over with him if he came to Tallahassee.

Note: Original AP wire report omitted the critical omitted in The Miami Herald

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Fort Myers News-Press, Tuesday, January 3, 1984

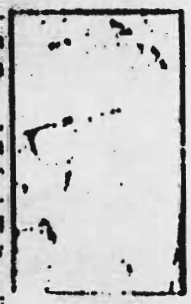
Populist enters race for U.S. presidency

By TYWANA GREENE
News-Press Staff Writer

Motivated by the "banality" of Democratic presidential hopefuls, Stephen A. Koczak says he's running for the nation's highest public office on a Jeffersonian Populist.

"I want to emphasize the citizen's role, as distinguished from the role of special interest," in government, Koczak says.

A 43-year old Washington, D.C., resident, Koczak is one of a group of candidates whose name appears on the Democratic ballot in the first presidential preference primary in New Hampshire.


KOCZAK

Koczak was in the Fort Myers area Monday visiting a cousin. He said he would meet today in Tallahassee with Secretary of State George Firestone in an effort to get his name placed on the Florida ballot.

"Let's face it. I probably won't get the nomination in '84. But I'm going to try to run in all the primaries."

Koczak insists he's a legitimate contender, not to be considered another Pat Paulsen (comedian who claimed to be running for president)

"By the time this is over, you'll see I'm a serious contender," Koczak said.

He is in the initial stages of his fund raising.

A retired Department of State foreign service officer, Koczak asserts that Walter Mondale is "a Democratic Tom Dewey," that John Glenn "just has no expertise in foreign policy," and that Alan Cranston "just doesn't perceive how bad a conventional war could be."

He also said his policies greatly differ from Ronald Reagan's.

A native of Trenton, N.J., Koczak says this is his first bid for elective office. Since retiring from the foreign service in 19[illegible], Koczak has worked as a research director for the American Federation of Government Employees and as a community organizer in the Cleveland Park section of Washington, D.C.

He says he decided to run for president in early December after he failed to get specific solutions to the nation's problems from announced Democratic candidates.

Leaving the other men would "come themselves into office by generalities, to generalities," Koczak faxed his hat into the presidential ring. He says, "I decided I would have specific proposals."

Koczak says, "My platform will be the Declaration of Independence as drafted by the Continental Congress.

"The quickest way to restore the people's liberties is to cut taxes even more, to cut the deficit sharply and to disengage from the foreign entanglements which have led our nation into increasingly dangerous wars," Koczak declares.

Koczak promises to cut the federal deficit by $100 billion in his first year in office by trimming military spending and changing federal contract procedures.

He would "ask that all housewives be added to the Social Security rolls at once and that their pensions be computed as if they had earned $10,000 annually."

Koczak would also raise the personal income tax allowances to $4,000 and triple the number of federal judges "to speed up criminal and federal litigation," he said.

In foreign policy, the former U.S. intelligence agent would demand the Soviet Union withdraw its troops from its satellite nations and "insist that the South African government in Pretoria extend full voting rights to all its residents, irrespective of race."

He also feels the United States government should reorganize the Palestinian Liberation Organization.

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Listed below are the names of candidates for Florida's Presidential Preference Primary election March 13, 1984, prepared by Secretary of State, George Firestone (Section 103.101(2), Florida Statutes):

Democrat	Republican
Reubin Askew	Ronald Reagan
Alan Cranston	
John Glenn	
Gary Hart	
Ernest Hollings	
Jesse Jackson	
George McGovern	
Walter Mondale	

This list will be presented to the Presidential Candidate Selection Committee on Tuesday, January 3, 1984, at 2 p.m.

Questions may be directed to

Dorothy W. Glisson
Deputy Secretary for Elections
1801 Capitol, Tallahassee
(904) 488-7690

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KOCZAK FOR PRESIDENT COMMITTEE

PO BOX 11656
WASHINGTON, D.C. 20008

2932 Macomb Street, N.W.
Washington, D.C. 20008

TELEPHONE 202 363-4730
also (202) 686-09

January 11, 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Ms Mary Jane Gallagher
c/o MacNeil/Lehrer News Hour
Box 2626,
Washington, D. C. 20013

Dear Ms. Gallagher:

I thank you for sending the messenger to obtain the packet of material which we discussed.

I tried to reach President McLaughlin several times today unsuccessfully to arrange a meeting with him in Hanover. I shall try the rest of the day and tomorrow morning before flying to Boston and driving to Hanover.

In the meantime, The Uptown Citizen, January 12, 1984 and The Washington Inquirer, January 13, 1984 carried items about my candidacy.

The Uptown Citizen reported, inter alia, that I have drafted model legislation to resolve the increasingly tortuous problem of "confessional schools".

The Inquirer has raised the subject of my being "blacked out" by the media because of my views. You will recall that the Miami Herald omitted the AP wire report referring to me.

Even more interesting in the Florida situation is the "error" which exists on the Federal Election Commission's own listing of filing dates. I enclose a copy of the "latest" list which shows the "filing date" for Florida, meaning the last date, to be "1/16". In fact, it was January 3, 1984. I just finished speaking with Mr. Richard Thomas of the Federal Election Commission (202) 523-4055 and he was "appalled" by this circumstance, since all the candidates rely on the list compiled by the Federal Election Commission. He said that the FEC date, as it appears on the list I have photocopied and enclosed, clearly was constructed from material supplied by Dr. Glission, whose signature appears on the response to the circular request sent to her by the Federal Election Commission.

Naturally, at some point, I hope to appear on the MacNeil/Lehrer News Hour to have these problems, arising from Mr. Manatt's pressuring the Secretaries of State, reviewed. In the meantime, I am rushing up to Hanover on January 12 to see what I can achieve with President McLaughlin.

Sincerely,

Stephen A. Koczak

Enclosures: News items, Uptown Citizen, Washington Inquirer, photocopy of election date list distributed by FEC, effective 12/1/83 (revision of earlier list 10/26/83.

94046457

THE UPTOWN CITIZEN Thursday, January 12, 1984

Kozak In N Hampshire Primary-Sues Florida

Stephen A. Koczak, the only D.C. resident seeking Presidential nomination, gained access to the New Hampshire presidential primary on December 28, 1983, by filing as a Democrat with the Secretary of State in Concord.

The Manchester Union-Leader, the dominant paper in New Hampshire, reported his candidacy the next day on its front page and carried an extensive account of his platform.

On January 3, 1984, in Tallahassee, Florida, Koczak met with Dr. Dorothy Glisson, the Deputy Secretary of State for Elections in order to have his name placed on the Florida primary ballot. The meeting was reported on the front pages of most of the Florida newspapers and, following denial of his access to the Florida primary, Koczak announced that he was suing the Florida authorities on the grounds that his Constitutional rights under the First and Fourteenth Amendments had been violated.

The widespread press publicity generated in Florida by his meetings and his decision to sue has led, according to Koczak, to his being considered in Florida as the "ninth Democrat", the only other aspirant likely to sustain a challenge to the established well-publicized "recognized official eight".

On returning to Washington, Koczak immediately followed the Flor-

(Continued on page 25)

Kozak In N. Hampshire Primary - Sues Florida

(Continued from page 1)

ida development by requesting the House Democratic Congressional Caucus, which is managing the Dartmouth College democratic party debate on January 15, 1984 to admit him to the program now limited to the "recognized official eight". The Caucus refused, whereupon Koczak wrote to Dartmouth College asking that the College either withdraw its sponsorship of the debate or provide a similar televised debate to him as the "ninth" Democrat. Koczak has not as yet had a response from Dartmouth College to his request.

At the Cleveland Park Citizens Association meeting on January 7, 1984 Koczak announced that he was preparing legislation to be offered to Nebraska and other states to resolve the dispute over "confessional schools". He said that, on the basis of the Supreme Court decisions in the Texas and Minnesota cases regarding the provision and funding of "public" education, it was clear that misconceptions in existing state laws regarding "so-called public" and "so-called private and confessional" schools were caused by erroneous legal semantics. Koczak explained that these errors could be remedied easily by due regard for the explicit passages in the First and Fourteenth Amendments to the benefit of the funding and the functioning of both systems. All that was needed were prudent laws enacted by the state legislatures. He would provide the lawmakers with model texts, he said.

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Washington Inquirer

Conservative Democrat Blacked Out by Media

As the fateful year 1984 drew near, Stephen A. Koczak, age 66, native of New Jersey, honor graduate of Harvard and long-time resident in the nation's capital, filed as a candidate in the 1984 New Hampshire Presidential Preference Primary.

Koczak had made his formal announcement in Washington, D.C. before a representative citizen's group mixed as to partisanship, ethnicity and financial background. In his prepared announcement statement Presidential Candidate Koczak said he would enter all the open primaries.

Candidate Koczak (pronounced: coke-sock) states frankly that he became involved in presidential politics ". . . because of the banality of the major candidates." He says that he hopes to emphasize "the citizens' role as distinguished from the role of special interests."

Yet he admits candidly that he has had difficulty in getting the power brokers to take his campaign seriously. After asserting to skeptics that he expects to be the candidate nominated in San Francisco, he recalls elfishly that former Democratic National Committee Chairman Robert Strauss predicted that the one who's going to win the New Hampshire race is the one who spends the least money. "That's me!" exclaims the candidate with a twinkle in his eye.

The twinkle disappears when he recalls his contact with Ben Bradlee, Executive Editor of the left-wing *Washington Post*, to whom he had turned in an effort to break the total boycott of any news concerning his candidacy. "I can't believe that you consider yourself a serious candidate," Benjamin Bradlee wrote in a seven sentence letter to Koczak. Bradlee promised to "take another look" and Stephen Koczak personally provided the power broker of the Washington Big Brain with all necessary information.

Finally, Editor Bradlee's paper, official organ of the radical chic establishment liberals in Washington disgorged a malicious announcement so terse—it was fully two sentences shorter than the abbreviated Bradlee letter promising to look into the matter—that it shocked even Stephen Koczak who had become hardened to this *Post* syndrome, over the years. To add insult to injury, the five-sentence announcement claimed that the "candidate was not available for comment," when the exact opposite was true. Campaigner Koczak who has received considerable publicity from newspapers who have received his materials has written off such elements of the establishment press as the *New York Times* and the *Washington Post*, but he is considering a lawsuit against the *Post* and editor Bradlee to drive home the point that even a large newspaper has the responsibility to show minimal integrity when reporting on presidential candidates.

Observers believe that the conservative thrust of Koczak's views is the primary reason that the Democratic establishment seeks to freeze him out and exclude him from the primaries. Mr. Koczak already has announced his plans to enter the Florida primary, but this has been resisted by the Florida Secretary of State, George Firestone. The Koczak campaign plans to meet such "stonewalling" with a lawsuit to force the Koczak candidacy onto the Florida primary ballot. Characteristically candid and determined, candidate Koczak views such legal actions as part of the entire proceedings necessary to open up the primary process.

Stephen Koczak, is determined not be labeled as some kind of a "nut" or Don Quixote. "I'm going to confront these guys . . . Mondale is going to find he will have to confront me," he asserts. Mondale, according to Koczak is "a Democratic Tom Dewey," John Glen "just has no expertise in foreign policy," and Alan Cranston "just doesn't perceive how bad a conventional war could be."

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Presidential and Congressional Primary Dates and Candidate Filing Deadlines

12/1/83 ~~10/26/83~~

STATE	PRESIDENTIAL	FD	CONGRESSIONAL		FD	RO	IND. FD
AL	3/13	1/14	9/4	S	7/6	9/25	7/6
AK	3/13	12/28/83	8/28	S	6/1		
AZ			9/11		6/28		9/21
AR			5/29	S	4/3	6/12	4/3
CA	6/5	3/23	6/5		3/9		8/10
CO			9/11	S	7/28		9/4
CT	3/27	2/20	9/11				9/12
DE			9/6	S	7/27		9/3
FL	3/13	1/16	9/4		7/20	10/2	7/20
GA	3/13	2/20	8/14	S	6/13	9/4	7/11
HI			9/22		7/24		7/24
ID	5/22	4/23	5/22	S	4/6		6/24
IL	3/20	12/30/83	3/20	S	12/19/83		3/6
IN	5/8	3/9	5/8		3/9		3/9
IA			6/5	S	3/30		8/31
KS			8/7	S	6/11		6/11
KY			8/28	S	5/30		
LA	4/7	3/2	9/29	S	7/20	11/6	7/20
ME			6/12	S	4/1		4/1
MD	5/8	2/27	5/8		2/27		6/6
MA	3/13	1/6	9/18	S	6/5		6/5
MI			8/7	S	6/5		6/7
MN			9/11	S	7/17		7/17
MS			6/5	S	4/6	6/26	9/7
MO			8/7		3/27		8/6
MT	6/5	3/17	6/5	S	4/16		8/8
NE	5/15	3/16	5/15	S	3/16		8/28
NV			9/4		7/3		6/8
NH	2/28	1/3	9/11	S	6/20		6/20
NJ	6/5	4/26	6/5	S	4/26		4/26
NM	6/5	3/16	6/5	S	2/28		7/10
NY	4/3	2/16	9/11		7/26		8/16
NC	5/8	2/7	5/8	S	2/6	6/5	6/29
ND	6/12	4/18	6/12		4/18		4/18
OH	5/8	2/23	5/8		2/23		2/23
OK			8/23	S	7/11	9/18	7/15
OR	5/15	3/6	5/15	S	3/6		8/28
PA	4/10	1/31	4/10		1/31		4/20
RI	3/13	1/6	9/11	S	6/10		6/10
SC			6/12	S	4/30	6/26	9/13
SD	6/5	4/3	6/5	S	4/3		8/7
TN	5/1	3/6	8/2	S	6/7		6/7
TX	(R) 5/5	2/6	5/5	S	2/6	6/2	2/6
UT			8/21		4/15		5/10

KEY:

FD - Candidate Filing Deadline
RO - Run Off Election
IND-FD - Independent Candidate Filing Deadline
S -- Senate

8 4 0 4 0 4 6 1 4 6 0

Second Letter of January 11, 1984

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

2932 Macomb Street, N.W.
Washington, D. C. 20008

TELEPHONE 202 363-4750
(202) 686-0953

January 11, 1984

Ms Mary Jane Gallagher
c/o MacNeil/Lehrer News Hour
Box 2626,
Washington, D. C. 20013

Dear Ms. Gallagher:

About a quarter hour after I mailed my earlier letter to you, I received a telephone call from a Mr. Cary Clark, assistant to President McLaughlin.

He said the President was sending me a response by telegram, copy by mail, and wanted my address. He replied, when I asked whether I could see President McLaughlin, that this was impossible because the President was "fully scheduled" for the rest of the week through Sunday.

He said that Dartmouth had nothing to do with the arrangements and that he was informing me of that for the President. All the arrangements had been made by the Rockefeller Center. In any case, various student bodies had already invited individual candidates who had already appeared.

I replied that my point was that the Rockefeller Center was an official program of the College and that I hoped, really expected, an invitation from that Center with the same facilities and arrangements as it had made with the Congressional Caucus. Cary Clark said he believed that President McLaughlin would be making that point to the Center. In any case, he undertook to report my views to President McLaughlin.

I asked whether President McLaughlin would see me after the telecast some time next week so that we could discuss this issue together with the officers of the Center. He said he did not know but would ask President McLaughlin to consider this request.

I find no point of going to Hanover under these circumstances and shall plan to call on President McLaughlin after the telecast. I expect PBS and the Rockefeller Center to be as fair with the other candidates as it was with the powerfully connected "eight".

In any case, after I receive the telegram, I shall send you a photocopy. In the meantime, I shall be pursuing my suit against the Florida authorities. If the Washington Post continues its tendentious reports about me, especially its falsehood that I was not available, I shall file a suit against the Post on the grounds its reporting is intentionally malicious.

Sincerely,

Stephen A. Koczak

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The Washington Times

PAGE 4A / MONDAY, JANUARY 16, 1984

Washington resident is balked in bid to join Democratic debate

BY A WASHINGTON TIMES STAFF WRITER

Barred from yesterday's nationally televised Dartmouth College debate for Democratic presidential candidates was District resident Stephen A. Koczak, a conservative Democrat who has filed as a candidate with the Federal Election Commission and qualified for the New Hampshire presidential primary ballot on Feb. 28.

Mr. Koczak, a former career foreign service officer for 20 years, lost a last-ditch federal court effort Saturday to force the House Democratic Caucus, sponsor of the debate, to include him on the three-hour program, which was broadcast by the federally funded Public Broadcasting System.

U.S. District Judge Norma Holloway Johnson ruled that she lacked jurisdiction in the case and denied Mr. Koczak's petition for a temporary restraining order to halt the program unless he was included as a participant.

Mr. Koczak's appeal of Judge Johnson's ruling was promptly rejected by Judges Abner J. Mikva and Malcolm R. Wilkey of the U.S. Court of Appeals for the District of Columbia.

Mr. Koczak, 66, of Macomb Street NW, is not an attorney and represented himself in the hour-long court proceeding.

He argued before the court that the decision to block him from appearing in the partisan debate violated his constitutional rights and federal campaign rules and "seriously impaired his opportunity to seek the office of president."

He said election officials in Florida, California, Illinois, Oregon and Washington had so far denied him a place on Democratic presidential primary ballots.

— George Archibald

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FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1617

Date Filmed 6/19/84 Camera No. --- 1

Cameraman JRL

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE PUBLIC FILE OF CLOSED MUR 1617.

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FEDERAL ELECTION COMMISSION

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

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THIS IS THE END OF MUR # Add. Material 1617

Date Filmed 8/3/84 Camera No. --- 2

Cameraman JBL

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 3, 1984

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1617

Stephen A. Koczak submitted the attached letter to the Office of General Counsel on July 27, 1984. The attached letter has been sent to Mr. Koczak in response. Both Mr. Koczak's letter and the response have been placed on the public record. The letters are being circulated to the Commission for its information.

Attachments
1. Letter from Koczak
2. Letters to Koczak

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RECEIVED AT THE FEC
84 JUL 27 P12:10

KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

July 24, 1984

TELEPHONE 202 363-4790

Attachment 1

GCC #4123

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Dear Mr. Gross:

RE: MUR 1617

I refer to my letter of June 12, 1984 in which I raised several matters which gave me great concern about the Report of the General Counsel in the matter of my Compliance Complaint and Petition.

I have not received any response from your office and I would very much appreciate learning the status of any action which you are taking in response to my comments.

For ready reference, I am enclosing a copy of that letter and I am sending this to you directly by Certified Mail.

Sincerely,

Stephen A. Koczak

Stephen A. Koczak

Enclosure: Photocopy of June 12, 1984 letter.

CERTIFIED LETTER
RETURN RECEIPT REQUESTED

84040471737

84 JUL 27 P1:24

KOCZAK FOR PRESIDENT COMMITTEE

(2)

P.O. BOX 11656
WASHINGTON, D.C. 20008

June 12, 1984

TELEPHONE 202 361-4750

Kenneth A. Gross.
Associate General Counsel
Federal Election Commission
1325 K Street. N.W.
Washington, D. C., 20463

Dear Mr. Gross:

Re: MUR 1617

I thank you for your letter of May 21, 1984 transmitting some of the documents which I requested during my telephone conversation with Ms Deborah Curry of your office.

In addition to the material which you sent, I had asked her for copies of the letters the Federal Election Commission had addressed to the respondents eliciting replies to my complaint. These were not included among the documents you sent me.

I had raised four other points with Ms Curry. First, why the "National-House Democratic Caucus" was omitted by the Federal Election Commission as a respondent to my complaint? Second, why none of the respondents had answered under oath, since my complaint was filed under oath? Third, since some of the respondents appeared to contradict their own statements given elsewhere (statements whose texts were included in my complaint), whether there was any "cross-examination" to clarify or remove these apparent contradictions? Fourth, whether the General Counsel's Report had been approved by the Federal Election Commission and, if so, by what vote?

I received no answer whatsoever to my first question. I was told that no requirement was levied on any of the respondents to reply by affidavit or oath. I was informed there had been no cross examination. I was assured that the General Counsel's Report had been approved by the Federal Election Commission but that the vote was confidential and could not be disclosed.

I am commenting herein on some of the information Ms Curry gave me now that I have also reviewed the materials you transmitted to me under cover of your letters of May 16, 1984 and May 21, 1984. I have noted particularly your comment that, "Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. §437g(a) (1) and 11 C.F.R. §111.4".

Whereas I appreciate your comment and invitation, my concerns deal with the obvious derelictions of the Federal Election Commission in this investigation of the information I had already provided and I herewith petition that these derelictions be corrected in a timely fashion.

The first dereliction is the total omission of any inquiry addressed to the "National-House Democratic Caucus", a body separate from the "House Democratic Caucus". Many of its members are not members of Congress but include such prominent partisan political leaders and "Private Members" as Robert S. Strauss, Charles T. Manatt and Pamela Harriman. Consequently, the response of Steven R. Ross, General Counsel to the Clerk, U. S. House of Representatives, does NOT apply to the "National-House Democratic Caucus", which I contended should have registered as a "political committee."

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Your report is, and will continue to be, incomplete until a response has been received from the "National-House Democratic Caucus."

This is particularly true because such respondents as Carl R. Ramey, attorney for Ted Koppel, contended they would withhold comment as to costs and contractual arrangements until a violation of law by some other party required them to be a witness.

For ready reference to my complaint, I enclose a copy of my January 23, 1984 Amendment and Supplement to Compliance Complaint and Petition, which appears to have been ignored entirely by the Federal Election Commission.

As to the response by Ms Deborah Curry that none of the respondents were required to answer by affidavit or oath and that no "cross-examination" had taken place, I request that the statement by Douglas M. Steenland, Counsel for the Trustees of Dartmouth College be repeated under oath and that the records of the Trustees of Dartmouth College and the Nelson A. Rockefeller Center for the Social Sciences be subpoenaed to determine the dates, the meetings, and the persons who participated in the decision in which "it was determined that Mr. Koczak was not eligible to participate in the Dartmouth debate."

I request this because at no time, prior to receiving this Report of the General Counsel, and its attachments, have I heard or received any such written claim made by any trustee, officer, employee, or agent of Dartmouth College. In fact, I received no correspondence or communication whatsoever in this regard nor was I asked by any person associated with Dartmouth College to supply any information which could have been the basis either for qualifying or disqualifying me for the debate.

It may be contended, hypothetically, by the honorable counsel for the Trustees that that would have been their decision had they in fact considered my request. However, all the evidence which I have available is that that did not happen and the response on behalf of the Trustees of Dartmouth College appears to be, to the best of my knowledge and belief, a retroactive invention and fabrication and not a conscientious recitation of fact.

If the Federal Election Commission is to maintain the high standards of accepting only material which narrates facts and which does not permit the retroactive invention of fictions, no matter how plausible, it cannot refuse to require in this cases under oath, accompanied by a subpoena of records, information as to the dates, meetings, minutes and files showing the persons who acted deliberately and conscientiously for the Trustees when "it was determined that Mr. Koczak was not eligible to participate in the Dartmouth debate."

The Federal Election Commission is empowered under C.F.R.# 111.11 and C.F.R.# 111.12 to issue orders for sworn statements and to subpoena records and documents and I invoke those regulations herewith to have it determined as objectively as possible what in fact transpired in the matter of the Dartmouth College Debate.

Sincerely,

Stephen A. Koczak

Stephen A. Koczak

Enclosure: Photocopy of January 23, 1984
Amendment and Supplement to Compliance Complaint and Petition

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KOCZAK FOR PRESIDENT COMMITTEE

P.O. BOX 11656
WASHINGTON, D.C. 20008

January 23, 1984

TELEPHONE 202 363-4790

(4)

General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20043

Dear General Counsel.

AMENDMENT AND SUPPLEMENT TO COMPLIANCE COMPLAINT AND PETITION

I refer to my communication, dated January 17, 1984, delivered by hand to your offices on January 18 1984, a compliance complaint and petition regarding the House Democratic Caucus and others under Title 11, Code of Federal Regulations, Paragraph 111.4, Complaints, 2 U.S.C. 437 g (a) (1) and other pertitnent statutes, regulations and rules.

Today, under 43 FR 32795, July 28, 1978, as amended at 43 FR 45856, Oct 4, 19778; 43 FR 55769, Nov 29, 1978; BC Docket No. 82:-564, Report and Order, adopted Nov 8, released Nov 16, 1983; and Title 11, Supplement A, Par 73.1940 (h), I filed a complaint with the Federal Communication Commission.

In that FCC complaint, I identified an additional party, the National-House Democratic Caucus whom I herewith request the Federal Election Commission to make a respondent to my earlier complaint.

I request, inter alia, that pursuant to Title 11, CFR, Paragraph 100.5 (a) and 2 U.S.C. 431 (c), the National-House Democratic Caucus be required to file as a "political committee" and that whereever the term "House Democratic Caucus" or variantly "Congressional Democratic Caucus" apppears in my original complaint, there be substituted the phrase, "House Democratic Caucus and/or National-House Democratic Caucus, as appropriate".

I enclose a photocopy of the Letterhead and membership list of the National-House Democratic Caucus which shows Rrepresentative Gillis W. Long and Robert S. Strauss (not a Member of Congress) as Co-Chairman and which identifies Charles T. Manatt (Chairman of the Democratic National Committee) as an Honorary Co-Chairman. In addition to several Members of Congress, there are named approximately eighty "Private Members" of its Board of Advisors and its Staff lists, intermingled, paid employees of the House Democratic Caucus and persons not paid from legislative funds.

As a second Annex, I enclose a photocopy of my complaint filed with the Federal Communication Commission and draw attention that within it there is a photocopy of the Letterhead and the list of members of the National-House Democratic Caucus containing the names of many persons who are not Members nor employees of Congress, but who regularly use government facilities and intermingle functions and operations with Members and employees of the House of Representatives paid from Federal government funds.

It should be noted that in addition to Democratic National Party Chairman Charles Manatt and former Chairman Robert Strauss, Representative Charles Schumer is a member of this overlapping body. Representative Schumer's aide, Michael Timmeny, has been identified by many parties as

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having a central role in organizing the so-called Dartmouth College Debate.

I request the Commission to determine the extent of the participation of the members of the the National-House Democratic Caucus in organizing, publicizing or influencing any person or organization in connection with the so-called Dartmouth College Debate. To this end, I request that the appropriate Congressional and Private Members of its Board of Advisors and of its senior staff also be interviewed as respondents by the Federal Election Commission pursuant to my complaint as herewith amended.

(NOTE: Since the FEC already has copies of my complaint filed with it, its renewed submission would be redundant. Consequently, I have not enclosed it hereunder as part of the annex to the FCC Complaint. I have enclosed photocopies only of the Letterhead and membership list of the National-House Democratic Caucus, my complaint to the Federal Communication Commission and, as an enclosure thereto, my letter to Mr. Al Hotaling.)

—O A T H—

I swear that to my knowledge and belief, based on reliable sources, the foregoing is correct.

Sincerely,

Stephen A. Kozak

Stephen A. Kozak
2932 Macomb Street, N.W.
Washington, D. C. 20008

Subscribed and sworn to before me this 24th day of January, 1984.

Lucy J. Holt
Notary Public DC

My commission expires April 14, 1988

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NATIONAL HOUSE DEMOCRATIC CAUCUS

Co-Chairmen
Gillis W. Long Robert S. Strauss

Honorary Co-Chairmen
Thomas P. O'Neill, Jr.
Charles T. Manatt
Tony Coelho

Senior Advisor: S. Lee Kling

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MEMBERS OF CONGRESS

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Elliott Levitas (Georgia)
Stan Lundine (New York)
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Buddy MacKay (Florida)
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Jim Moody (Wisconsin)
Bruce Morrison (Connecticut)
Mary Rose Oakar (Ohio)
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Alan Wheat (Missouri)
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Howard Wolpe (Michigan)
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 3, 1984

Stephen A. Koczak
Koczak for President Committee
P.O. Box 11656
Washington, D.C. 20008

Re: MUR 1617

Dear Mr. Koczak:

On July 27, 1984, the Office of General Counsel received your letter dated July 24, 1984. Submitted with that letter was a photocopy of another letter written by you, dated June 12, 1984, and addressed to the Federal Election Commission. However, we do not have any record of ever having received the above mentioned letter.

As you know, the Commission made a final determination of no reason to believe and closed its file in this matter. As indicated before, 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).

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 3, 1984

Stephen A. Koczak
Koczak for President Committee
P.O. Box 11656
Washington, D.C. 20008

Re: MUR 1617

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Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # ADD. Material 1617

Date Filmed 8/8/84 Camera No. --- 2

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