

FEDERAL ELECTION COMMISSION

Nowling Circ Memos 12 Day Rpt

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):

84040461792

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

Signed W. Curry
date 6.13-84

FEC 9-21-77

Chase
6/14/84

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 1629

WTTW)

Chicago Sun-Times)

City Club of Chicago)

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 1629:

1. Find no reason to believe City Club of Chicago violated the Federal Election Campaign Act of 1971, as amended.
2. Find no reason to believe WTTW violated the Federal Election Campaign Act of 1971, as amended.
3. Find no reason to believe the Chicago Sun-Times violated the Federal Election Campaign Act of 1971, as amended.
4. Close the file.
5. Approve the letters as attached to the First General Counsel's Report dated May 10, 1984.

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

Attest:

May 15, 1984

Date

Judy C. Ransom

for Marjorie W. Emmons
Secretary of the Commission

84040461793



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Larry P. Horist
Executive Director
City Club of Chicago
345 Merchandise Mart
Chicago, Illinois 60654

RE: MUR 1629
City Club of Chicago

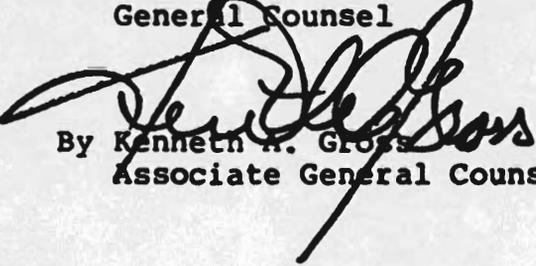
Dear Mr. Horist:

On February 23, 1984, the Commission notified you and 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 you, 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 H. Gross
Associate General Counsel

Enclosure

84040461794



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Katherine S. Lauderdale
General Counsel
WTTW - Channel 11
5400 North St. Louis Avenue
Chicago, Illinois 60625

RE: MUR 1629
WTTW Chicago

Dear Ms. Lauderdale:

On February 23, 1984, the Commission notified you and 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 you and 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

84040461795



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Gerald Rose
3740 W. Irving Park Road
Chicago, Illinois. 60618

Re: MUR 1629

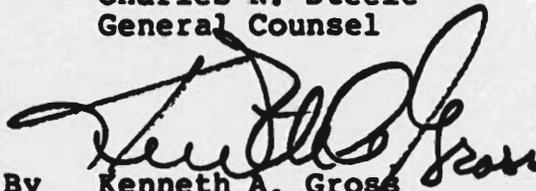
Dear Rose:

The Federal Election Commission has reviewed the allegations of your complaint dated February 16, 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"). 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

84040461796



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1984

Steven R. Gilford
Isham, Lincoln & Beale
Three First National Plaza
Chicago, Illinois 60602

RE: MUR 1629
Chicago Sun-Times

Dear Mr. Gilford:

On February 23, 1984, the Commission notified you and 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

84040461797

SENSITIVE

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

84 MAY 10 AIC: 40

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: **MUR 1629**
5/10/84 - 10:40 **DATE COMPLAINT RECEIVED BY OGC**
2-17-84
DATE OF NOTIFICATION TO RESPONDENT:
2-23-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Gerald Rose

RESPONDENTS' NAMES: WTTW, Chicago Sun-Times, City Club of Chicago

RELEVANT STATUTE: 2 U.S.C. §441b, 11 C.F.R. § 110.13(b) and 11 C.F.R. § 114.4(e)

INTERNAL REPORTS CHECKED: MURs 1167, 1168, 1170 and 1287

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On February 17, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (See Attachment 1, page 1 of the attachments) from Gerald Rose (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act"), by WTTW, Chicago Sun-Times and City Club of Chicago (hereinafter "Respondents").

Specifically, Complainant alleges that he was excluded from a debate sponsored by Respondents. 11 C.F.R. § 110.13(b) requires that candidate debates be "nonpartisan in that they do not promote or advance one candidate over another." Complainant contends that his exclusion from the debate violates the requirements of nonpartisanship.

8
4
0
4
0
4
1
6
1
7
9
8

Respondents were notified of the complaint in a letter dated February 23, 1984. Responses were received from City Club of Chicago on March 14, 1984. (Attachment 2, page 2 of the attachments), from WTTW on March 21, 1984 (Attachment 3, pages 3-8 of the attachments), and from Chicago Sun-Times on March 21, 1984 (Attachment 4, pages 9-16 of the attachments). An amendment to the response of Chicago Sun-Times was filed on March 26, 1984, (Attachment 5, page 17 of the attachments).

FACTUAL AND LEGAL ANALYSIS

Complainant, Gerald Rose, states that he is a legally qualified candidate in the state of Illinois for the 1984 Democratic nomination for U.S. Senate. Complainant also states that he and his four opponents Alex Smith, Phil Rock, Paul Simon and Roland Burriss have all qualified for the Democratic primary ballot.

Complainant states that Respondents staged a candidate debate in Chicago on February 20, 1984. All of complainant's opponents were invited to the debate, while he was not. Complainant claims that he was officially denied an invitation to the debate on February 15, 1984.

Complainant also states that Bruce Dumont of WTTW told him that he was excluded from the February 20, 1984, debate because he failed to achieve five percent in a Chicago poll conducted by Richard Day. Complainant claims that the Day poll specifically excluded his name while it included the names of his opponents.

84040461799

Consequently, complainant concludes that the Respondents by staging the debate violated 11 C.F.R. § 110.13(b) and further that the sponsors of the debate fall outside of the protection of 11 C.F.R. § 114.4(e). Therefore, complainant contends that all contributions from corporate and labor organizations are in violation of 2 U.S.C. § 441b.

Respondents, Chicago City Club, Chicago Sun-Times and WTTW, answer that they did co-sponsor a Democratic senatorial candidate debate on February 20, 1984, (See Attachment 3, page 5 and Attachment 4, page 13 of the attachments). The debate was held at the First Chicago Center in the First National Bank of Chicago (See Attachment 5, page 17 of the attachments). The debate was televised on WTTW and printed in the Chicago Sun-Times (See Attachment 4, page 13 of the attachments).

Respondents contend that 11 C.F.R. § 110.13(b) sets out only two limitations on staging debates, that there be at least two candidates and that one candidate not be promoted or advanced over any other candidate (See Attachment 3, page 5-6 and Attachment 4, pages 13-14 of the attachments). Further, Respondents state that once these requirements are fulfilled the actual structure of the debate is left up to the discretion of the staging organization (See Attachment 3, page 6 and Attachment 4, pages 13-15 of the attachments). Respondents assert that they have fulfilled the requirements of 11 C.F.R. § 110.13(b).

Respondents explain that they applied the same criteria for participation to all of the candidates in the debate. According

84040161800

to WTTW, the debate was among the major Democratic senatorial candidates in Illinois (See Attachment 3, page 5 of the attachments). The Chicago Sun-Times states that the debate involved "four candidates, each of whom had demonstrated substantial support in public opinion polls and by waging an active political campaign" (See Attachment 4, page 16 of the attachments). The City Club of Chicago states that "the standard for participation was the ability to demonstrate a minimum level of public support -- in this case at least five percent in accepted public opinion polls at the time of invitation" (See Attachment 2, page 2 of the attachments).

Further, Respondents state that the debate did not advocate the election of a particular candidate or that any candidate was given an advantage during the course of the debate (See Attachment 3, page 6 of the attachments). Respondents also state that the sole purpose of the debate was "to provide the public with meaningful access to information regarding the major Democratic senatorial candidates" (See Attachment 3, page 6 of the attachments).

The main issue raised by Complainant is whether or not his exclusion from the February 20 debate violates the requirement of nonpartisanship. This issue is pivotal to any determination of whether or not corporate contributions have been made in violation of 2 U.S.C. § 441b.

84040461801

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 promulgating 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 describing the educational purpose of nonpartisan debates the Explanation and Justification states that "[a] nonpartisan candidate debate staged by a qualified nonpartisan organization or by a news media organization provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734.

Respondents have complied with the Commission regulations. First, Rose did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became

84040461802

effective January 8, 1980, 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. 2 U.S.C. § 432(e). All political committees must register and report under the Act. 2 U.S.C. § 433 and § 434.

Complainant has not filed a statement of candidacy (FEC Form 2) designating a principal campaign committee. Nor has complainants' political committee, if one exists, registered with the Commission by filing a Statement of Organization (FEC Form 1). Furthermore, no reports have been filed indicating any financial activity by the Complainant and/or his committee.*/
8 4 0 4 0 4 6 1 8 0 3

The failure of Complainant to file a Statement of Candidacy designating a principal campaign committee, and the failure of his political committee to register and file reports indicates that the minimum requirements of candidacy have not been met.

Second, Respondents adopted criteria which were used in inviting candidates to participate in the debate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Rose's

*/ Complainant was sent a prior notice on February 13, 1984, which explained filing requirements for candidates.

candidacy did not meet the standards when evaluated by respondents. Respondents' evaluation was reasonable and fair.

In conclusion, Mr. Rose does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Respondents. Therefore, the exclusion of Mr. Rose from the Democratic senatorial candidate debate on February 20, 1984, does not violate 11 C.F.R. § 110.13(b). Consequently, corporate funds used to sponsor the debate are allowed pursuant to 11 C.F.R. § 114.4(e).

RECOMMENDATION

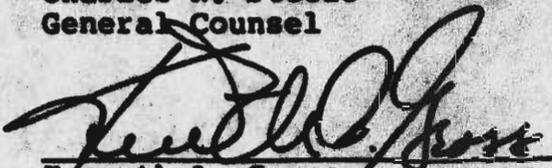
1. Find no reason to believe City Club of Chicago violated the Federal Election Campaign Act of 1971, as amended.
2. Find no reason to believe WTTW violated the Federal Election Campaign Act of 1971, as amended.
3. Find no reason to believe the Chicago Sun-Times violated the Federal Election Campaign Act of 1971, as amended.

84040461804

4. Close the file.
5. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date


By: Kenneth A. Gross
Associate General Counsel

Attachment

1. Complaint (page 1)
2. Response from City Club of Chicago (page 2)
3. Response of WTTW (pages 3-8)
4. Response of Chicago Sun-Times (pages 9-16)
5. Amendment to Response of Chicago Sun Times (page 17)
6. Letters to Respondents (pages 18-20)
7. Letter to Complainant (page 21)

84040461805

SENSITIVE

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

84 MAY 10 AIO: 40

DATE AND TIME OF TRANSMITTAL MUR 1629
BY OGC TO THE COMMISSION: 5/10/84 - 10:40
DATE COMPLAINT RECEIVED BY OGC 2-17-84
DATE OF NOTIFICATION TO RESPONDENT: 2-23-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Gerald Rose

RESPONDENTS' NAMES: WTTW, Chicago Sun-Times, City Club of Chicago

RELEVANT STATUTE: 2 U.S.C. §441b, 11 C.F.R. § 110.13(b) and 11 C.F.R. § 114.4(e)

INTERNAL REPORTS CHECKED: MURs 1167, 1168, 1170 and 1287

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On February 17, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (See Attachment 1, page 1 of the attachments) from Gerald Rose (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act"), by WTTW, Chicago Sun-Times and City Club of Chicago (hereinafter "Respondents").

Specifically, Complainant alleges that he was excluded from a debate sponsored by Respondents. 11 C.F.R. § 110.13(b) requires that candidate debates be "nonpartisan in that they do not promote or advance one candidate over another." Complainant contends that his exclusion from the debate violates the requirements of nonpartisanship.

84040461806

Respondents were notified of the complaint in a letter dated February 23, 1984. Responses were received from City Club of Chicago on March 14, 1984. (Attachment 2, page 2 of the attachments), from WTTW on March 21, 1984 (Attachment 3, pages 3-8 of the attachments), and from Chicago Sun-Times on March 21, 1984 (Attachment 4, pages 9-16 of the attachments). An amendment to the response of Chicago Sun-Times was filed on March 26, 1984, (Attachment 5, page 17 of the attachments).

FACTUAL AND LEGAL ANALYSIS

Complainant, Gerald Rose, states that he is a legally qualified candidate in the state of Illinois for the 1984 Democratic nomination for U.S. Senate. Complainant also states that he and his four opponents Alex Smith, Phil Rock, Paul Simon and Roland Burris have all qualified for the Democratic primary ballot.

Complainant states that Respondents staged a candidate debate in Chicago on February 20, 1984. All of complainant's opponents were invited to the debate, while he was not. Complainant claims that he was officially denied an invitation to the debate on February 15, 1984.

Complainant also states that Bruce Dumont of WTTW told him that he was excluded from the February 20, 1984, debate because he failed to achieve five percent in a Chicago poll conducted by Richard Day. Complainant claims that the Day poll specifically excluded his name while it included the names of his opponents.

84040461807

Consequently, complainant concludes that the Respondents by staging the debate violated 11 C.F.R. § 110.13(b) and further that the sponsors of the debate fall outside of the protection of 11 C.F.R. § 114.4(e). Therefore, complainant contends that all contributions from corporate and labor organizations are in violation of 2 U.S.C. § 441b.

Respondents, Chicago City Club, Chicago Sun-Times and WTTW, answer that they did co-sponsor a Democratic senatorial candidate debate on February 20, 1984, (See Attachment 3, page 5 and Attachment 4, page 13 of the attachments). The debate was held at the First Chicago Center in the First National Bank of Chicago (See Attachment 5, page 17 of the attachments). The debate was televised on WTTW and printed in the Chicago Sun-Times (See Attachment 4, page 13 of the attachments).

Respondents contend that 11 C.F.R. § 110.13(b) sets out only two limitations on staging debates, that there be at least two candidates and that one candidate not be promoted or advanced over any other candidate (See Attachment 3, page 5-6 and Attachment 4, pages 13-14 of the attachments). Further, Respondents state that once these requirements are fulfilled the actual structure of the debate is left up to the discretion of the staging organization (See Attachment 3, page 6 and Attachment 4, pages 13-15 of the attachments). Respondents assert that they have fulfilled the requirements of 11 C.F.R. § 110.13(b).

Respondents explain that they applied the same criteria for participation to all of the candidates in the debate. According

84040461808

to WTTW, the debate was among the major Democratic senatorial candidates in Illinois (See Attachment 3, page 5 of the attachments). The Chicago Sun-Times states that the debate involved "four candidates, each of whom had demonstrated substantial support in public opinion polls and by waging an active political campaign" (See Attachment 4, page 16 of the attachments). The City Club of Chicago states that "the standard for participation was the ability to demonstrate a minimum level of public support -- in this case at least five percent in accepted public opinion polls at the time of invitation" (See Attachment 2, page 2 of the attachments).

Further, Respondents state that the debate did not advocate the election of a particular candidate or that any candidate was given an advantage during the course of the debate (See Attachment 3, page 6 of the attachments). Respondents also state that the sole purpose of the debate was "to provide the public with meaningful access to information regarding the major Democratic senatorial candidates" (See Attachment 3, page 6 of the attachments).

The main issue raised by Complainant is whether or not his exclusion from the February 20 debate violates the requirement of nonpartisanship. This issue is pivotal to any determination of whether or not corporate contributions have been made in violation of 2 U.S.C. § 441b.

84040461809

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 promulgating 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 describing the educational purpose of nonpartisan debates the Explanation and Justification states that "[a] nonpartisan candidate debate staged by a qualified nonpartisan organization or by a news media organization provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734.

Respondents have complied with the Commission regulations. First, Rose did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became

84040461810

effective January 8, 1980, 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. 2 U.S.C. § 432(e). All political committees must register and report under the Act. 2 U.S.C. § 433 and § 434.

Complainant has not filed a statement of candidacy (FEC Form 2) designating a principal campaign committee. Nor has complainants' political committee, if one exists, registered with the Commission by filing a Statement of Organization (FEC Form 1). Furthermore, no reports have been filed indicating any financial activity by the Complainant and/or his committee.*

The failure of Complainant to file a Statement of Candidacy designating a principal campaign committee, and the failure of his political committee to register and file reports indicates that the minimum requirements of candidacy have not been met.

Second, Respondents adopted criteria which were used in inviting candidates to participate in the debate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Rose's

*/ Complainant was sent a prior notice on February 13, 1984, which explained filing requirements for candidates.

84040461811

candidacy did not meet the standards when evaluated by respondents. Respondents' evaluation was reasonable and fair.

In conclusion, Mr. Rose does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Respondents. Therefore, the exclusion of Mr. Rose from the Democratic senatorial candidate debate on February 20, 1984, does not violate 11 C.F.R. § 110.13(b). Consequently, corporate funds used to sponsor the debate are allowed pursuant to 11 C.F.R. § 114.4(e).

RECOMMENDATION

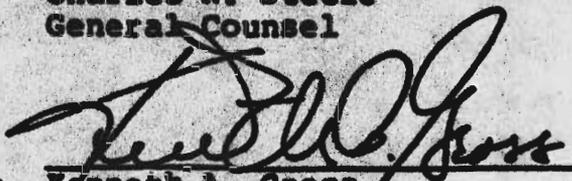
1. Find no reason to believe City Club of Chicago violated the Federal Election Campaign Act of 1971, as amended.
2. Find no reason to believe WTTW violated the Federal Election Campaign Act of 1971, as amended.
3. Find no reason to believe the Chicago Sun-Times violated the Federal Election Campaign Act of 1971, as amended.

R 4 0 4 0 4 6 1 8 1 2

- 4. Close the file.
- 5. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date


By: Kenneth A. Gross
Associate General Counsel

Attachment

- 1. Complaint (page 1)
- 2. Response from City Club of Chicago (page 2)
- 3. Response of WTTW (pages 3-8)
- 4. Response of Chicago Sun-Times (pages 9-16)
- 5. Amendment to Response of Chicago Sun Times (page 17)
- 6. Letters to Respondents (pages 18-20)
- 7. Letter to Complainant (page 21)

84040461813

SENSITIVE

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

84 MAY 10 A10:40

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: MUR 1629
5/10/84 - 10:40
DATE COMPLAINT RECEIVED BY OGC: 2-17-84
DATE OF NOTIFICATION TO RESPONDENT: 2-23-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Gerald Rose

RESPONDENTS' NAMES: WTTW, Chicago Sun-Times, City Club of Chicago

RELEVANT STATUTE: 2 U.S.C. §441b, 11 C.F.R. § 110.13(b) and 11 C.F.R. § 114.4(e)

INTERNAL REPORTS CHECKED: MURs 1167, 1168, 1170 and 1287

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On February 17, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (See Attachment 1, page 1 of the attachments) from Gerald Rose (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act"), by WTTW, Chicago Sun-Times and City Club of Chicago (hereinafter "Respondents").

Specifically, Complainant alleges that he was excluded from a debate sponsored by Respondents. 11 C.F.R. § 110.13(b) requires that candidate debates be "nonpartisan in that they do not promote or advance one candidate over another." Complainant contends that his exclusion from the debate violates the requirements of nonpartisanship.

84040461814

Respondents were notified of the complaint in a letter dated February 23, 1984. Responses were received from City Club of Chicago on March 14, 1984. (Attachment 2, page 2 of the attachments), from WTTW on March 21, 1984 (Attachment 3, pages 3-8 of the attachments), and from Chicago Sun-Times on March 21, 1984 (Attachment 4, pages 9-16 of the attachments). An amendment to the response of Chicago Sun-Times was filed on March 26, 1984, (Attachment 5, page 17 of the attachments).

FACTUAL AND LEGAL ANALYSIS

5
1
8
6
4
0
4
0
3
Complainant, Gerald Rose, states that he is a legally qualified candidate in the state of Illinois for the 1984 Democratic nomination for U.S. Senate. Complainant also states that he and his four opponents Alex Smith, Phil Rock, Paul Simon and Roland Burriss have all qualified for the Democratic primary ballot.

Complainant states that Respondents staged a candidate debate in Chicago on February 20, 1984. All of complainant's opponents were invited to the debate, while he was not. Complainant claims that he was officially denied an invitation to the debate on February 15, 1984.

Complainant also states that Bruce Dumont of WTTW told him that he was excluded from the February 20, 1984, debate because he failed to achieve five percent in a Chicago poll conducted by Richard Day. Complainant claims that the Day poll specifically excluded his name while it included the names of his opponents.

Consequently, complainant concludes that the Respondents by staging the debate violated 11 C.F.R. § 110.13(b) and further that the sponsors of the debate fall outside of the protection of 11 C.F.R. § 114.4(e). Therefore, complainant contends that all contributions from corporate and labor organizations are in violation of 2 U.S.C. § 441b.

Respondents, Chicago City Club, Chicago Sun-Times and WTTW, answer that they did co-sponsor a Democratic senatorial candidate debate on February 20, 1984, (See Attachment 3, page 5 and Attachment 4, page 13 of the attachments). The debate was held at the First Chicago Center in the First National Bank of Chicago (See Attachment 5, page 17 of the attachments). The debate was televised on WTTW and printed in the Chicago Sun-Times (See Attachment 4, page 13 of the attachments).

Respondents contend that 11 C.F.R. § 110.13(b) sets out only two limitations on staging debates, that there be at least two candidates and that one candidate not be promoted or advanced over any other candidate (See Attachment 3, page 5-6 and Attachment 4, pages 13-14 of the attachments). Further, Respondents state that once these requirements are fulfilled the actual structure of the debate is left up to the discretion of the staging organization (See Attachment 3, page 6 and Attachment 4, pages 13-15 of the attachments). Respondents assert that they have fulfilled the requirements of 11 C.F.R. § 110.13(b).

Respondents explain that they applied the same criteria for participation to all of the candidates in the debate. According

R 4 0 4 0 4 6 1 8 1 6

to WTTW, the debate was among the major Democratic senatorial candidates in Illinois (See Attachment 3, page 5 of the attachments). The Chicago Sun-Times states that the debate involved "four candidates, each of whom had demonstrated substantial support in public opinion polls and by waging an active political campaign" (See Attachment 4, page 16 of the attachments). The City Club of Chicago states that "the standard for participation was the ability to demonstrate a minimum level of public support -- in this case at least five percent in accepted public opinion polls at the time of invitation" (See Attachment 2, page 2 of the attachments).

Further, Respondents state that the debate did not advocate the election of a particular candidate or that any candidate was given an advantage during the course of the debate (See Attachment 3, page 6 of the attachments). Respondents also state that the sole purpose of the debate was "to provide the public with meaningful access to information regarding the major Democratic senatorial candidates" (See Attachment 3, page 6 of the attachments).

The main issue raised by Complainant is whether or not his exclusion from the February 20 debate violates the requirement of nonpartisanship. This issue is pivotal to any determination of whether or not corporate contributions have been made in violation of 2 U.S.C. § 441b.

84040461817

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 promulgating 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 describing the educational purpose of nonpartisan debates the Explanation and Justification states that "[a] nonpartisan candidate debate staged by a qualified nonpartisan organization or by a news media organization provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734.

Respondents have complied with the Commission regulations. First, Rose did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became

8
1
8
1
6
4
0
4
0
4
8

effective January 8, 1980, 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. 2 U.S.C. § 432(e). All political committees must register and report under the Act. 2 U.S.C. § 433 and § 434.

3 4 0 4 0 4 6 1 8 1 9
Complainant has not filed a statement of candidacy (FEC Form 2) designating a principal campaign committee. Nor has complainants' political committee, if one exists, registered with the Commission by filing a Statement of Organization (FEC Form 1). Furthermore, no reports have been filed indicating any financial activity by the Complainant and/or his committee.*

The failure of Complainant to file a Statement of Candidacy designating a principal campaign committee, and the failure of his political committee to register and file reports indicates that the minimum requirements of candidacy have not been met.

Second, Respondents adopted criteria which were used in inviting candidates to participate in the debate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Rose's

* / Complainant was sent a prior notice on February 13, 1984, which explained filing requirements for candidates.

candidacy did not meet the standards when evaluated by respondents. Respondents' evaluation was reasonable and fair.

In conclusion, Mr. Rose does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Respondents. Therefore, the exclusion of Mr. Rose from the Democratic senatorial candidate debate on February 20, 1984, does not violate 11 C.F.R. § 110.13(b). Consequently, corporate funds used to sponsor the debate are allowed pursuant to 11 C.F.R. § 114.4(e).

RECOMMENDATION

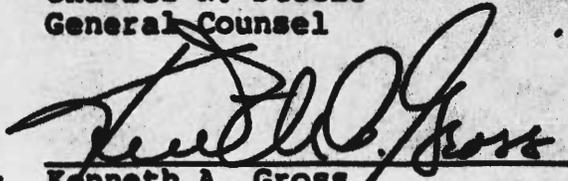
1. Find no reason to believe City Club of Chicago violated the Federal Election Campaign Act of 1971, as amended.
2. Find no reason to believe WTTW violated the Federal Election Campaign Act of 1971, as amended.
3. Find no reason to believe the Chicago Sun-Times violated the Federal Election Campaign Act of 1971, as amended.

84040461820

- 4. Close the file.
- 5. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date


By: Kenneth A. Gross
Associate General Counsel

Attachment

- 1. Complaint (page 1)
- 2. Response from City Club of Chicago (page 2)
- 3. Response of WTTW (pages 3-8)
- 4. Response of Chicago Sun-Times (pages 9-16)
- 5. Amendment to Response of Chicago Sun Times (page 17)
- 6. Letters to Respondents (pages 18-20)
- 7. Letter to Complainant (page 21)

84040461821



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Steven R. Gilford
Isham, Lincoln & Beale
Three First National Plaza
Chicago, Illinois 60602

D.L.

RE: MUR 1629
Chicago Sun-Times

Dear Mr. Gilford:

On February 23, 1984, the Commission notified you and 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

8 4 0 4 0 4 6 1 8 2 2



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Gerald Rose
3740 W. Irving Park Road
Chicago, Illinois 60618

Re: MUR 1629

Dear Rose:

The Federal Election Commission has reviewed the allegations of your complaint dated February 16, 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"). 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

84040461823



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Katherine S. Lauderdale
General Counsel
WTTW - Channel 11
5400 North St. Louis Avenue
Chicago, Illinois 60625

J.C.

RE: MUR 1629
WTTW Chicago

Dear Ms. Lauderdale:

On February 23, 1984, the Commission notified you and 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 you and 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

840404618224



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Larry P. Horist
Executive Director
City Club of Chicago
345 Merchandise Mart
Chicago, Illinois 60654

D.C.

RE: MUR 1629
City Club of Chicago

Dear Mr. Horist:

On February 23, 1984, the Commission notified you and 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 you, 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

84040461825

SENSITIVE

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

84 MAY 10 AIO: 40

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: MUR 1629
5/10/84 - 10:40
DATE COMPLAINT RECEIVED BY OGC: 2-17-84
DATE OF NOTIFICATION TO RESPONDENT: 2-23-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Gerald Rose

RESPONDENTS' NAMES: WTTW, Chicago Sun-Times, City Club of Chicago

RELEVANT STATUTE: 2 U.S.C. §441b, 11 C.F.R. § 110.13(b) and 11 C.F.R. § 114.4(e)

INTERNAL REPORTS CHECKED: MURs 1167, 1168, 1170 and 1287

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On February 17, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (See Attachment 1, page 1 of the attachments) from Gerald Rose (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act"), by WTTW, Chicago Sun-Times and City Club of Chicago (hereinafter "Respondents").

Specifically, Complainant alleges that he was excluded from a debate sponsored by Respondents. 11 C.F.R. § 110.13(b) requires that candidate debates be "nonpartisan in that they do not promote or advance one candidate over another." Complainant contends that his exclusion from the debate violates the requirements of nonpartisanship.

84040461826

Respondents were notified of the complaint in a letter dated February 23, 1984. Responses were received from City Club of Chicago on March 14, 1984. (Attachment 2, page 2 of the attachments), from WTTW on March 21, 1984 (Attachment 3, pages 3-8 of the attachments), and from Chicago Sun-Times on March 21, 1984 (Attachment 4, pages 9-16 of the attachments). An amendment to the response of Chicago Sun-Times was filed on March 26, 1984, (Attachment 5, page 17 of the attachments).

FACTUAL AND LEGAL ANALYSIS

Complainant, Gerald Rose, states that he is a legally qualified candidate in the state of Illinois for the 1984 Democratic nomination for U.S. Senate. Complainant also states that he and his four opponents Alex Smith, Phil Rock, Paul Simon and Roland Burris have all qualified for the Democratic primary ballot.

Complainant states that Respondents staged a candidate debate in Chicago on February 20, 1984. All of complainant's opponents were invited to the debate, while he was not. Complainant claims that he was officially denied an invitation to the debate on February 15, 1984.

Complainant also states that Bruce Dumont of WTTW told him that he was excluded from the February 20, 1984, debate because he failed to achieve five percent in a Chicago poll conducted by Richard Day. Complainant claims that the Day poll specifically excluded his name while it included the names of his opponents.

84040461827

Consequently, complainant concludes that the Respondents by staging the debate violated 11 C.F.R. § 110.13(b) and further that the sponsors of the debate fall outside of the protection of 11 C.F.R. § 114.4(e). Therefore, complainant contends that all contributions from corporate and labor organizations are in violation of 2 U.S.C. § 441b.

Respondents, Chicago City Club, Chicago Sun-Times and WTTW, answer that they did co-sponsor a Democratic senatorial candidate debate on February 20, 1984, (See Attachment 3, page 5 and Attachment 4, page 13 of the attachments). The debate was held at the First Chicago Center in the First National Bank of Chicago (See Attachment 5, page 17 of the attachments). The debate was televised on WTTW and printed in the Chicago Sun-Times (See Attachment 4, page 13 of the attachments).

Respondents contend that 11 C.F.R. § 110.13(b) sets out only two limitations on staging debates, that there be at least two candidates and that one candidate not be promoted or advanced over any other candidate (See Attachment 3, page 5-6 and Attachment 4, pages 13-14 of the attachments). Further, Respondents state that once these requirements are fulfilled the actual structure of the debate is left up to the discretion of the staging organization (See Attachment 3, page 6 and Attachment 4, pages 13-15 of the attachments). Respondents assert that they have fulfilled the requirements of 11 C.F.R. § 110.13(b).

Respondents explain that they applied the same criteria for participation to all of the candidates in the debate. According

8
4
0
4
0
4
0
4
6
1
8
2
8

to WTTW, the debate was among the major Democratic senatorial candidates in Illinois (See Attachment 3, page 5 of the attachments). The Chicago Sun-Times states that the debate involved "four candidates, each of whom had demonstrated substantial support in public opinion polls and by waging an active political campaign" (See Attachment 4, page 16 of the attachments). The City Club of Chicago states that "the standard for participation was the ability to demonstrate a minimum level of public support -- in this case at least five percent in accepted public opinion polls at the time of invitation" (See Attachment 2, page 2 of the attachments).

Further, Respondents state that the debate did not advocate the election of a particular candidate or that any candidate was given an advantage during the course of the debate (See Attachment 3, page 6 of the attachments). Respondents also state that the sole purpose of the debate was "to provide the public with meaningful access to information regarding the major Democratic senatorial candidates" (See Attachment 3, page 6 of the attachments).

The main issue raised by Complainant is whether or not his exclusion from the February 20 debate violates the requirement of nonpartisanship. This issue is pivotal to any determination of whether or not corporate contributions have been made in violation of 2 U.S.C. § 441b.

84040461829

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 promulgating 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 describing the educational purpose of nonpartisan debates the Explanation and Justification states that "[a] nonpartisan candidate debate staged by a qualified nonpartisan organization or by a news media organization provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734.

Respondents have complied with the Commission regulations. First, Rose did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became

84040461830

effective January 8, 1980, 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. 2 U.S.C. § 432(e). All political committees must register and report under the Act. 2 U.S.C. § 433 and § 434.

Complainant has not filed a statement of candidacy (FEC Form 2) designating a principal campaign committee. Nor has complainants' political committee, if one exists, registered with the Commission by filing a Statement of Organization (FEC Form 1). Furthermore, no reports have been filed indicating any financial activity by the Complainant and/or his committee.*

The failure of Complainant to file a Statement of Candidacy designating a principal campaign committee, and the failure of his political committee to register and file reports indicates that the minimum requirements of candidacy have not been met.

Second, Respondents adopted criteria which were used in inviting candidates to participate in the debate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Rose's

*/ Complainant was sent a prior notice on February 13, 1984, which explained filing requirements for candidates.

84040461831

candidacy did not meet the standards when evaluated by respondents. Respondents' evaluation was reasonable and fair.

In conclusion, Mr. Rose does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Respondents. Therefore, the exclusion of Mr. Rose from the Democratic senatorial candidate debate on February 20, 1984, does not violate 11 C.F.R. § 110.13(b). Consequently, corporate funds used to sponsor the debate are allowed pursuant to 11 C.F.R. § 114.4(e).

RECOMMENDATION

1. Find no reason to believe City Club of Chicago violated the Federal Election Campaign Act of 1971, as amended.
2. Find no reason to believe WTTW violated the Federal Election Campaign Act of 1971, as amended.
3. Find no reason to believe the Chicago Sun-Times violated the Federal Election Campaign Act of 1971, as amended.

84040461832

- 4. Close the file.
- 5. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

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

Attachment

- 1. Complaint (page 1)
- 2. Response from City Club of Chicago (page 2)
- 3. Response of WTTW (pages 3-8)
- 4. Response of Chicago Sun-Times (pages 9-16)
- 5. Amendment to Response of Chicago Sun Times (page 17)
- 6. Letters to Respondents (pages 18-20)
- 7. Letter to Complainant (page 21)

84040461833

SENSITIVE

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

84 MAY 10 AIO: 40

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: **MUR 1629**
5/10/84 - 10:40 **DATE COMPLAINT RECEIVED BY OGC**
2-17-84
DATE OF NOTIFICATION TO RESPONDENT:
2-23-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Gerald Rose

RESPONDENTS' NAMES: WTTW, Chicago Sun-Times, City Club of Chicago

RELEVANT STATUTE: 2 U.S.C. §441b, 11 C.F.R. § 110.13(b) and 11 C.F.R. § 114.4(e)

INTERNAL REPORTS CHECKED: MURs 1167, 1168, 1170 and 1287

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On February 17, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (See Attachment 1, page 1 of the attachments) from Gerald Rose (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act"), by WTTW, Chicago Sun-Times and City Club of Chicago (hereinafter "Respondents").

Specifically, Complainant alleges that he was excluded from a debate sponsored by Respondents. 11 C.F.R. § 110.13(b) requires that candidate debates be "nonpartisan in that they do not promote or advance one candidate over another." Complainant contends that his exclusion from the debate violates the requirements of nonpartisanship.

84040461834

Respondents were notified of the complaint in a letter dated February 23, 1984. Responses were received from City Club of Chicago on March 14, 1984. (Attachment 2, page 2 of the attachments), from WTTW on March 21, 1984 (Attachment 3, pages 3-8 of the attachments), and from Chicago Sun-Times on March 21, 1984 (Attachment 4, pages 9-16 of the attachments). An amendment to the response of Chicago Sun-Times was filed on March 26, 1984, (Attachment 5, page 17 of the attachments).

FACTUAL AND LEGAL ANALYSIS

Complainant, Gerald Rose, states that he is a legally qualified candidate in the state of Illinois for the 1984 Democratic nomination for U.S. Senate. Complainant also states that he and his four opponents Alex Smith, Phil Rock, Paul Simon and Roland Burriss have all qualified for the Democratic primary ballot.

Complainant states that Respondents staged a candidate debate in Chicago on February 20, 1984. All of complainant's opponents were invited to the debate, while he was not. Complainant claims that he was officially denied an invitation to the debate on February 15, 1984.

Complainant also states that Bruce Dumont of WTTW told him that he was excluded from the February 20, 1984, debate because he failed to achieve five percent in a Chicago poll conducted by Richard Day. Complainant claims that the Day poll specifically excluded his name while it included the names of his opponents.

84040461835

Consequently, complainant concludes that the Respondents by staging the debate violated 11 C.F.R. § 110.13(b) and further that the sponsors of the debate fall outside of the protection of 11 C.F.R. § 114.4(e). Therefore, complainant contends that all contributions from corporate and labor organizations are in violation of 2 U.S.C. § 441b.

Respondents, Chicago City Club, Chicago Sun-Times and WTTW, answer that they did co-sponsor a Democratic senatorial candidate debate on February 20, 1984, (See Attachment 3, page 5 and Attachment 4, page 13 of the attachments). The debate was held at the First Chicago Center in the First National Bank of Chicago (See Attachment 5, page 17 of the attachments). The debate was televised on WTTW and printed in the Chicago Sun-Times (See Attachment 4, page 13 of the attachments).

Respondents contend that 11 C.F.R. § 110.13(b) sets out only two limitations on staging debates, that there be at least two candidates and that one candidate not be promoted or advanced over any other candidate (See Attachment 3, page 5-6 and Attachment 4, pages 13-14 of the attachments). Further, Respondents state that once these requirements are fulfilled the actual structure of the debate is left up to the discretion of the staging organization (See Attachment 3, page 6 and Attachment 4, pages 13-15 of the attachments). Respondents assert that they have fulfilled the requirements of 11 C.F.R. § 110.13(b).

Respondents explain that they applied the same criteria for participation to all of the candidates in the debate. According

8
4
0
4
0
4
6
1
8
3
6

to WTTW, the debate was among the major Democratic senatorial candidates in Illinois (See Attachment 3, page 5 of the attachments). The Chicago Sun-Times states that the debate involved "four candidates, each of whom had demonstrated substantial support in public opinion polls and by waging an active political campaign" (See Attachment 4, page 16 of the attachments). The City Club of Chicago states that "the standard for participation was the ability to demonstrate a minimum level of public support -- in this case at least five percent in accepted public opinion polls at the time of invitation" (See Attachment 2, page 2 of the attachments).

Further, Respondents state that the debate did not advocate the election of a particular candidate or that any candidate was given an advantage during the course of the debate (See Attachment 3, page 6 of the attachments). Respondents also state that the sole purpose of the debate was "to provide the public with meaningful access to information regarding the major Democratic senatorial candidates" (See Attachment 3, page 6 of the attachments).

The main issue raised by Complainant is whether or not his exclusion from the February 20 debate violates the requirement of nonpartisanship. This issue is pivotal to any determination of whether or not corporate contributions have been made in violation of 2 U.S.C. § 441b.

84040161837

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 promulgating 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 describing the educational purpose of nonpartisan debates the Explanation and Justification states that "[a] nonpartisan candidate debate staged by a qualified nonpartisan organization or by a news media organization provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734.

Respondents have complied with the Commission regulations. First, Rose did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became

84040461838

effective January 8, 1980, 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. 2 U.S.C. § 432(e). All political committees must register and report under the Act. 2 U.S.C. § 433 and § 434.

Complainant has not filed a statement of candidacy (FEC Form 2) designating a principal campaign committee. Nor has complainants' political committee, if one exists, registered with the Commission by filing a Statement of Organization (FEC Form 1). Furthermore, no reports have been filed indicating any financial activity by the Complainant and/or his committee.*

The failure of Complainant to file a Statement of Candidacy designating a principal campaign committee, and the failure of his political committee to register and file reports indicates that the minimum requirements of candidacy have not been met.

Second, Respondents adopted criteria which were used in inviting candidates to participate in the debate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Rose's

*/ Complainant was sent a prior notice on February 13, 1984, which explained filing requirements for candidates.

α 4 0 4 0 4 6 1 8 3 9

candidacy did not meet the standards when evaluated by respondents. Respondents' evaluation was reasonable and fair.

In conclusion, Mr. Rose does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Respondents. Therefore, the exclusion of Mr. Rose from the Democratic senatorial candidate debate on February 20, 1984, does not violate 11 C.F.R. § 110.13(b). Consequently, corporate funds used to sponsor the debate are allowed pursuant to 11 C.F.R. § 114.4(e).

RECOMMENDATION

1. Find no reason to believe City Club of Chicago violated the Federal Election Campaign Act of 1971, as amended.
2. Find no reason to believe WTTW violated the Federal Election Campaign Act of 1971, as amended.
3. Find no reason to believe the Chicago Sun-Times violated the Federal Election Campaign Act of 1971, as amended.

84040461840

- 4. Close the file.
- 5. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

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

Attachment

- 1. Complaint (page 1)
- 2. Response from City Club of Chicago (page 2)
- 3. Response of WTTW (pages 3-8)
- 4. Response of Chicago Sun-Times (pages 9-16)
- 5. Amendment to Response of Chicago Sun Times (page 17)
- 6. Letters to Respondents (pages 18-20)
- 7. Letter to Complainant (page 21)

84040461841

RECEIVED THE FEC
GCC #1281
February 16, 1984 FEB 17 P4:28

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

ATTACHMENT I

①

Re: Formal Complaint of Gerald Rose against WTTW in Chicago, Illinois, Chicago Sun Times, and City Club of Chicago

Dear Mr. Steele:

I am a legally qualified candidate in the State of Illinois for the 1984 Democratic nomination for U.S. Senate. My four opponents in the race are Alex Seith, Phil Rock, Paul Simon, and Roland Burris. My four opponents and I have all qualified for the Democratic primary ballot.

On February 20, 1984, WTTW, the Chicago Sun Times, and the Chicago City Club are sponsoring a candidate debate in Chicago. The sponsors have invited by four opponents but have failed to invite me to participate in this debate. I have attempted to secure an invitation to this debate and was officially denied such an invitation yesterday, February 15.

According to Bruce Dumont of WTTW, the reason for my omission was by failure to achieve at least five percent in a poll conducted by Chicago pollster, Richard Day. The Day poll specifically excluded my name while it included the names of my four opponents.

I contend this debate does not conform to the specifications of 11 C.F.R. 110.13(b) which requires that candidate debates be "nonpartisan in that they do not promote or advance one candidate over another." According to the Federal Register, the primary question in determining nonpartisanship is the method of selecting candidates to participate in the debate. "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 Federal Register 76.735 (emphasis supplied). Clearly, the exclusion from the February 20 debate violates the requirement of nonpartisanship.

If the debate violates 110.13(b) it must fall outside the protection of 11 C.F.R. 114.4(e). Therefore, all contributions from corporate and labor organizations violate a federal statute, 2 U.S.C. 441(b).

Since the debate is scheduled for February 20, I request the Commission move expeditiously and enjoin the holding of said debate unless my participation is guaranteed.

Gerald Rose

Gerald Rose
3740 W. Irving Park Rd.
Chicago, Illinois 60618
(312) 463-5910

Sworn to before me this day of February 16, 1984.

Suzanne Rose
Notary Public

24040461842

Thomas F. Roeser
President



ATTACHMENT *Founded 1903*

CCC#1872

14 P12:11

II (2)

City Club of Chicago

Mur 1629
Curry

Citizens of Greater Chicago
345 Merchandise Mart • Chicago, Illinois 60654
312/475-4300

March 8, 1984

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

Re: MUR 1629

Dear Mr. Steele:

In a letter of complaint (dated February 16, 1984), Mr. Gerald Rose alleged that the City Club of Chicago, the Chicago Sun-Times and WTTW-TV (an affiliate of the Corporation for Public Broadcasting) acted outside the FEC's requirement for fairness in establishing a standard for participation in a debate among candidates for the Democratic nomination for United States Senate.

The standard for participation was the ability to demonstrate a minimum level of public support—in this case at least five percent in accepted public opinion polls at the time of invitation. This has been an accepted and legal practice in debates held by many organizations, including the League of Women Voters. Since this standard applied to all candidates, it is a fair and impartial determinant.

It is my understanding that the Chicago Sun-Times will provide a more detailed legal argument on this point. As a co-sponsor with that publication, the City Club sees no need to retain additional counsel at this juncture. Should the case warrant it in the future, we may consider counsel. At this point, however, the matter seems fairly routine.

Thank you for bring this matter to our attention, and if you require any additional information, please let me know.

Cordially,

Larry P. Horist
Executive Director

LPH/jk

84040461843

Channel 11
5400 North St. Louis Avenue
Chicago, Illinois 60625
312-563-5000

WTTW
CHICAGO

RECEIVED AT THE
84 MAR 21 9:23
Goff 1927

ATTACHMENT III

③

ALL: 01

FEDERAL EXPRESS

March 20, 1984

*Mur 1629
Curry*

Deborah Curry, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1629

Dear Ms. Curry:

Enclosed are the following documents:

1. Request For Leave To File Response To Complaint;
2. Response of WTTW/Chicago to Complaint of Gerald Rose; and
3. Statement of Designation of Counsel.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Katherine Lauderdale

Katherine S. Lauderdale
General Counsel

KSL/cnh
Enclosures

cc: Mr. Gerald Rose
Steven R. Gilford, Esq.
Mr. Larry P. Horist

R 4 0 4 0 4 6 1 8 4 4

84 MAR 21 9:23

4

FEDERAL EXPRESS

March 21, 1984

Deborah Curry, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Request For Leave To File Response
To Complaint

Dear Ms. Curry:

WTTW/Chicago received the Rose complaint on March 2, 1984 and its response was due on March 17, 1984.

Unfortunately, during the first two weeks of March, I was required to complete negotiations and draft contracts in connection with the sale of home video and foreign rights to three of the station's concert programs. Our failure to secure executed contracts in these matters by March 16, 1984 would have resulted in the loss of \$120,000.00 in revenues for the station.

The station's paralegal, Cathy N. Harrell, had two conversations with your office concerning our response. On Thursday, March 15, 1984, she verbally requested permission for extension of time to file. You advised us to file our response as quickly as possible.

WTTW respectfully requests that it be granted an extension of time to file and that the Office of General Counsel accept the enclosed response filed on behalf of WTTW/Chicago.

Very truly yours,

Katherine S. Lauderdale

Katherine S. Lauderdale
General Counsel

KSL/cnh
Enclosures

84040161845

5

In re)
Complaint of Gerald Rose) MUR 1629

Response of WTTW/Chicago
to Complaint of Gerald Rose

Chicago Educational Television Association d/b/a WTTW/Chicago ("WTTW") responds to that certain letter of complaint, dated February 16, 1984, and filed with the Federal Election Commission (the "Commission") by Gerald Rose, as follows:

Statement of Facts

1. On February 20, 1984, WTTW co-sponsored, with the Chicago SUN-TIMES and the City Club of Chicago, a debate among the major Democratic senatorial candidates in Illinois.

2. Notwithstanding the fact that Mr. Rose is not a major candidate for the Senate, WTTW broadcasted a one-half hour interview of Mr. Rose, on March 8, 1984, by the station's news/public affairs commentator John Callaway on the program, "John Callaway Interviews."

Response To Specific Allegations

Mr. Rose alleges in his complaint that "...[his] exclusion from the February 20 debate violates the requirement of nonpartisanship. If the debate violates 110.13(b) it must fall outside the protection of 11 C.F.R. 114.4(e). Therefore, all contributions for corporate and labor organizations violate a federal statute 2 U.S.C. 441(b)."

WTTW contends that Commission regulations do not require the inclusion of every legally qualified candidate in a particular race.

Under 11 C.F.R. §110.13(a)(2), "Broadcasters ...may stage nonpartisan candidate debates in accordance with 11 C.F.R. §110.13(b) and §114.4(e)." In addition, a bona fide

R 4 0 4 0 4 1 8 4 6

6

broadcaster, pursuant to 11 C.F.R. §114.4(e), may use its own funds to defray costs incurred in staging such debates held in accordance with 11 C.F.R. §110.13.

The actual structure of any such debate is left to the discretion of the staging organization. 11 C.F.R. §110.13(b) The regulations place only two limitations on that discretion i) that such debates "include at least two candidates" (emphasis added) and ii) that such debates are "nonpartisan in that they do not promote or advance one candidate over another."

According to the Commission's notice of transmittal of regulations to Congress, "[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. 76,5735 (Dec. 27, 1979). The relevant legislative history further provides that "...Nonpartisan debates are designed to educate and inform voters rather than to influence the nomination or election of a particular candidate. Hence...expenditures by news media corporations to stage debates are not considered contributions or expenditures under the Act." 44 Fed. Reg. 76,734 (Dec. 27, 1979).

The February 20, 1984 debate was clearly nonpartisan and meets the requisite elements of 11 C.F.R. §110.13(b)(2). The same standards for participation applied to all candidates equally. Each participating candidate was given an equal amount of time to speak. Finally, no candidate was advised in advance of the questions to be posed; nor was any candidate given any other advantage over his opponents prior to or during the course of the debate. The sole purpose of the debate was to provide the public with meaningful access to information regarding the major Democratic senatorial candidates.

The only other limitation placed on the staging organization's discretion in structuring a debate is that the debate include "at least two" candidates. 11 C.F.R. § 110.13(b)(1). The regulation could easily have provided that debates include "all" or "all legally qualified" candidates. It does not. Indeed, the legislative history of this regulation shows that the Commission itself looked to the news media to provide a forum for "significant" candidates to convey their ideas to the voters. The pertinent language reads:

A nonpartisan candidate debate staged by...a news media organization provides a forum for significant candidates to communicate their views to the public.... (emphasis added)

44 Fed. Reg. 76,734 (Dec. 27, 1979)

To adopt any other rule defeats the public education purpose of the regulations. According to the Public Records division of the Federal Election Commission, there are 175 legally qualified candidates for the office of President of the United States of America. If news media and other nonpartisan organization were required to include all legally qualified candidates for a particular office, the public interest would not be served. Either nonpartisan organizations would refrain from staging such debates or debates would become unnecessarily fragmented depriving the public of quality access to the "significant candidates" whose ideas the Commission has admonished us to communicate to the public.

The February 2, 1984 debate was not designed to advocate the election of any individual. It was, in fact, designed to educate and inform the voters of Illinois in a nonpartisan manner. It included "at least two" candidates for the office and complied in all ways with both the letter and the spirit of the Federal Election Commission Act and the regulations promulgated thereunder. As such, any expenditures made in connection with the staging of the debate should not be considered violative of 2 U.S.C. §441b.

Notwithstanding the fact that WTTW feels that it had no obligation, under statute or regulation, to include Mr. Rose in the February 20, 1984 debate, WTTW feels that the Commission should note that Mr. Rose's candidacy has been afforded air time during one of its regularly scheduled news/public affairs program.

Conclusion

WTTW respectfully requests i) that the Commission find no reason to believe that the Rose complaint sets forth any possible violation of the Federal Election Campaign Act, and (ii) that the Commission close the file on this matter.

Katherine Lauderdale
Katherine S. Lauderdale
General Counsel
Chicago Educational Television
Association d/b/a WTTW/Chicago

5400 North St. Louis Avenue
Chicago, Illinois 60625
(312) 583-5000

84040461848

STATEMENT OF DESIGNATION OF COUNSEL

8

NAME OF COUNSEL: Katherine S. Lauderdale

ADDRESS: WTTW/Chicago
5400 North St. Louis Avenue
Chicago, Illinois 60625

TELEPHONE: (312) 583-5000

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.

3-20-84
Date

Katherine Lauderdale
Signature
Katherine S. Lauderdale
General Counsel
WTTW/Chicago

NAME: Katherine S. Lauderdale
ADDRESS: 5400 North St. Louis Avenue
Chicago, Illinois 60625

HOME PHONE: (312) 383-7813

BUSINESS PHONE: (312) 583-5000

84040461849

6-11-1926

ATTACHMENT II

9

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

1220 CONNECTICUT AVENUE, N.W. - SUITE 240
WASHINGTON, D.C. 20004
202 555-9720

EDWARD S. ISHAM, 1973-1982
ROBERT T. LINCOLN, 1973-1980
WILLIAM G. BEALE, 1985-1983

CHICAGO OFFICE
THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 555-7000
TELEFAX 312 555-7000

March 21, 1984

BY MESSENGER

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: MUR 1629

Dear Ms. Curry:

As per our telephone conversation yesterday afternoon, enclosed please find the following:

- (1) Designation of Counsel Statement
- (2) Request for leave to file response to complaint
- (3) Response to complaint.

If you have any questions, please feel free to call.

Very truly yours,

Steven R. Gilford
Steven R. Gilford

SRG:tm

Encl.

cc: Mr. Gerald Rose (w/encl.)
Mr. Larry P. Horist (w/encl.)
Ms. Kathryn Lauderdale (w/encl.)

MUR 1629
Curry
All: 42

84040461850

STATEMENT OF DESIGNATION OF COUNSEL

10

NAME OF COUNSEL: Steven R. Gilford

ADDRESS: Isham, Lincoln & Beale
Three First National Plaza
Chicago, Illinois 60602

TELEPHONE: (312) 558-7429

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.

March 19, 1984
Date

Earl Moses
Earl Moses
Assistant Managing Editor
Administration
Chicago Sun-Times

NAME: Chicago Sun-Times

ADDRESS: 401 North Wabash Ave.
Chicago, Illinois

HOME PHONE:

BUSINESS PHONE: (312) 321-2506

84040461851

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

(11)

EDWARD S. ISHAM, 1972-1982
ROBERT T. LINCOLN, 1972-1980
WILLIAM G. BEALE, 1980-1983

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 585-7100
TELEX 1-6262

WASHINGTON OFFICE
1100 CONNECTICUT AVENUE, N.W.
SUITE 840
WASHINGTON, D.C. 20008
(202) 462-4700

March 20, 1984

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Request of Chicago Sun-Times
For Leave To File Response
To Complaint

Dear Ms. Curry:

As you may recall, I telephoned you on Tuesday, March 13, 1984 when I first received a copy of the complaint against my client, the Chicago Sun-Times, to discuss the appropriate method for obtaining an extension of time to file a response to Mr. Rose's complaint. After exchanging telephone messages, we were able to talk on Wednesday and you encouraged us to file a response as promptly as possible with an appropriate request for extension.

We were unable to respond to the Commission prior to this time because the Sun-Times did not receive the letters from Mr. Gross at the Commission until February 29, 1984 and the letter which was received at that time was directed to Burton Abrams, the newspaper's Director of Labor Relations who had no responsibility for the debate in question. Several days elapsed as Mr. Abrams directed the Commission's materials to the appropriate people and the materials were directed to our office. Our response was further delayed by a death in my family last week, and our representation of several candidates in hearings before the Chicago Board of Election Commissioners and in a federal civil rights action concerning the constitutionality of certain ballot access requirements in the Illinois Election Code. These election cases have been extremely time consuming in recent weeks as the Board of Elections and the

84040461852

Ms. Deborah Curry
March 20, 1984
Page Two

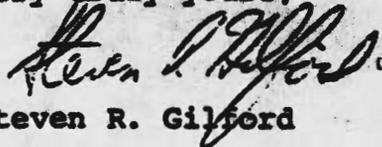
12

federal court attempted to resolve whether our clients would appear on the ballot in the March 20, 1984 Illinois primary.

Unfortunately, these circumstances precluded us from filing a response by March 15. We believe these difficulties constitute good cause under 11 C.F.R. §111.2 and respectfully request that the General Counsel extend the applicable deadline and accept the enclosed response on behalf of the Chicago Sun-Times.

Thank you for your cooperation.

Very truly yours,



Steven R. Gilford

SRG:tm
Encl.

8 4 0 4 0 4 6 1 8 5 3

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

13

EDWARD S. ISHAM, 1973-1982
ROBERT T. LINCOLN, 1972-1980
WILLIAM G. BEALE, 1966-1982

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 533-7000
TELEX 5-5285

WASHINGTON OFFICE
1100 CONNECTICUT AVENUE, N.W.
SUITE 840
WASHINGTON, D.C. 20004
202 638-4700

March 20, 1984

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Initial Response of
Chicago Sun-Times to Complaint

Dear Ms. Curry:

This is in response to Kenneth Gross' February 23, 1984 letter requesting the Chicago Sun-Times to respond to the complaint in MUR 1629.

As Mr. Rose explains in his complaint, WTTW, the Chicago Sun-Times and the City Club of Chicago sponsored a candidate debate on February 20, 1984. The debate was held at the City Club, televised on WTTW and printed in the Chicago Sun-Times. Mr. Rose's complaint does not question that the Sun-Times, WTTW and the City Club are bona fide staging organizations which can stage a nonpartisan candidate debate without making a political contribution.

The sole question raised by Mr. Rose's complaint is whether the failure of the Sun-Times and its co-sponsors to include Mr. Rose in the debate undercuts the nonpartisanship which is apparently required by 11 C.F.R. §110.13. A brief review of the applicable regulations demonstrates that the Federal Election Code does not purport to control who will be included in a nonpartisan candidate debate as long as the format of the debate does not promote one candidate over another. Section 110.13(b) emphasizes that the staging of candidate debates is within the discretion of the staging organization:

84040161854

(b) Debate Structure. The structure of debates staged in accordance with 11 CFR 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) they do not promote or advance one candidate over another.

The language of section 110.13, which requires only that a debate include "at least two candidates," as opposed to all candidates, clearly rebuts Mr. Rose's contention that all candidates for an office must be included in a debate for it to be nonpartisan. As the regulation states, "the structure of debates ... is left to the discretion of the staging organization" which may decide what candidates to include as long as the debate structure does not promote or advance one over another.

The history of section 110.13 is consistent with this interpretation. When the Commission first promulgated regulations concerning nonpartisan public candidate debates, it explicitly sought to govern debate structure by mandating who would be included in a debate. 44 Fed. Reg. 39348-51 (July 5, 1979). Its proposed regulations required a primary election debate to include all candidates qualified to appear on the primary ballot. Proposed §110.13(b)(2)(A), 44 Fed. Reg. at 39350. That and all similar regulations purporting to control debate structure were rejected by Congress in S. Res. 236 on September 18, 1979. The new regulations which ultimately went into effect eliminated any attempt to control who would be included in a debate as long as there were at least two candidates and the structure of the debate does not promote one candidate over another.* As the Commission explained in promulgating section 110.13:

*/ This is consistent with the approach of the Federal Communications Commission which does not require inclusion of all qualified candidates in a debate in order for the debate to fall within the bona fide news event exemption of the Federal Communications Act. See The Law of Political Broadcasts and Cablecasting, 60 FCC 2d 2209, 2258 (1978); American Independence Party and Eugene McCarthy, 62 FCC 2d 4, at ¶11 n. 3 (1976), aff'd sub. nom. McCarthy v. FCC, Case No. 76-1915 (D.C. Cir. Oct. 1976).

84040461855

[F]undamental principles of journalism, combined with the requirement that such debates be nonpartisan, provides [sic] sufficient safeguards as to nonpartisanship of debates staged by newspapers....

44 Fed. Reg. at 76735 (Dec. 17, 1979).

The basic premise of the exemption of debates from the definition of contribution under federal law is the Commission's recognition that the news media has an historic role in fostering public debate on political campaigns and issues of political concern. 44 Fed. Reg. at 76734, citing Mills v. Alabama, 384 U.S. 214 (1966), and New York Times v. Sullivan, 376 U.S. 254 (1964). The Chicago Sun-Times takes that role seriously and has co-sponsored debates with other organizations among political candidates for many years. In addition to public opinion polls such as that referred to in Mr. Rose's complaint, the Sun-Times and its co-sponsors determine who should participate in debates based on their experience in and coverage of political affairs in Illinois.

As the Commission and Congress recognized in promulgating section 110.13, any governmental attempt to dictate who may or may not appear in a debate could raise severe constitutional questions. The Commission has avoided that issue by leaving it to the discretion of the staging organization as long as there are two candidates and the structure of the debate does not promote one candidate over another.

Ultimately, it must be emphasized that the Federal Election Campaign Act is designed to govern contributions to candidates, not other aspects of political campaigns. The issue here is not the structure of a debate, but whether the Sun-Times has inadvertently violated 2 U.S.C. §441b by making a political contribution. As the Commission recognized in promulgating 11 C.F.R. §§110.13, 110.14, "courts have generally construed 2 U.S.C. §441b to prohibit only active electioneering on behalf of a candidate ... or conduct designed to influence the public for or against a particular candidate.... Unlike single candidate appearances which have the effect of promoting the nomination or election of one individual, a properly structured nonpartisan debate involving two or more candidates would not be construed to be

84040461856

Ms. Deborah Curry
March 20, 1984
Page Four

16

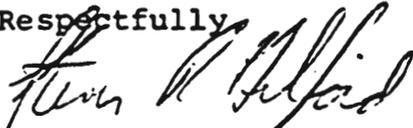
active electioneering to promote or influence the nomination or election of one particular candidate." 44 Fed. Reg. 76736. In short, defraying the expenses of a bona fide debate is not a contribution under the Act.

Commonsense similarly supports this view. If newspapers and other organizations were required to invite every candidate who might appear on the ballot to every debate, there would in all likelihood be no debates. The public would be deprived of the advantage of such events not only in presidential campaigns where there are frequently large numbers of candidates who may appear on the ballot, but also in delegate and congressional races where large numbers of candidates are frequently on the ballot in relatively small political subdivisions. Once too many candidates are involved, most debate formats become unworkable.

The Commission's regulations apply to all races for federal office. Requiring local clubs and other organizations to invite all candidates who will be on the ballot to any debate or to report a contribution will effectively eliminate debates at the local level. Moreover, it is difficult to determine who would be the recipient of such a "contribution" where multiple candidates appear at the debate.

Mr. Rose is complaining about a debate involving four candidates, each of whom had demonstrated substantial support in public opinion polls and by waging an active political campaign. It is impossible to construe any payment to defray the costs of such a debate as a contribution to any of the candidates or as advocacy that Mr. Rose should not be elected.

Under these circumstances, the Sun-Times and its co-sponsors cannot be found to have made a contribution that is prohibited by federal law. The Commission should find no reason to believe that Mr. Rose's complaint sets forth a possible violation of the Federal Election Campaign Act, and accordingly, the Commission should close its file on this matter.

Respectfully,


Steven R. Gilford
One of the attorneys for
the Chicago Sun-Times

SRG:tm

84040461857

RECEIVED AT THE FEC
Call 1983

84 MAR 26 09:46

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

ATTACHMENT Y

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60682
TELEPHONE 312 527-7400
TELEX 3-9888

(17)

WASHINGTON OFFICE
1200 CONNECTICUT AVENUE, N.W.
SUITE 900
WASHINGTON, D.C. 20004
202 525-5700

EDWARD S. ISHAM, 1973-1982
ROBERT T. LINCOLN, 1973-1980
WILLIAM G. BEALE, 1980-1983

MUR 1629
Curry

17
29
07

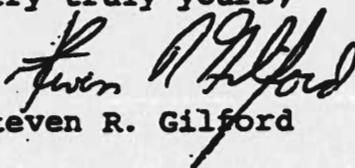
March 21, 1984

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Initial Response of
Chicago Sun-Times to Complaint

Dear Ms. Curry:

It has come to my attention that the Sun-Times' response to Mr. Rose's complaint, which we filed on March 21, 1984, incorrectly indicates that the debate at issue took place at the City Club of Chicago. In fact, it took place at First Chicago Center in the First National Bank of Chicago. While the location of the debate is irrelevant to the issues presented by Mr. Rose's complaint, I thought it appropriate to correct this detail.

Very truly yours,

Steven R. Gilford

SRG:tm
cc: Mr. Gerald Rose
Mr. Larry P. Horist
Ms. Kathryn Lauderdale

84040461858

18



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Larry P. Horist
Executive Director
City Club of Chicago
345 Merchandise Mart
Chicago, Illinois 60654

RE: MUR 1629
City Club of Chicago

Dear Mr. Horist:

On February 23, 1984, the Commission notified you and 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 you, 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

84040461859



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Steven R. Gilford
Isham, Lincoln & Beale
Three First National Plaza
Chicago, Illinois 60602

RE: MUR 1629
Chicago Sun-Times

Dear Mr. Gilford:

On February 23, 1984, the Commission notified you and 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

84040461860

20



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Katherine S. Lauderdale
General Counsel
WTTW - Channel 11
5400 North St. Louis Avenue
Chicago, Illinois 60625

RE: MUR 1629
WTTW Chicago

Dear Ms. Lauderdale:

On February 23, 1984, the Commission notified you and 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 you and 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

840461861



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Gerald Rose
3740 W. Irving Park Road
Chicago, Illinois 60618

Re: MUR 1629

Dear Rose:

The Federal Election Commission has reviewed the allegations of your complaint dated February 16, 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"). 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

84040461862



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAY 11 P4: 18

May 11, 1984

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

Kenneth A. Gross
Associate General Counsel

SENSITIVE

SUBJECT: Erratum - MUR 1629; First General Counsel's
Report in circulation with return date of
May 14, 1984, 4:00

Please substitute the attached page five to the First
General Counsel's Report in MUR 1629. The page five presently
in circulation was inadvertently included from a prior draft.

84040461863

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Katherine S. Lauderdale

ADDRESS: WTTW/Chicago
5400 North St. Louis Avenue
Chicago, Illinois 60625

TELEPHONE: (312) 583-5000

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.

3-20-84
Date

Katherine Lauderdale
Signature
Katherine S. Lauderdale
General Counsel
WTTW/Chicago

NAME: Katherine S. Lauderdale

ADDRESS: 5400 North St. Louis Avenue
Chicago, Illinois 60625

HOME PHONE: (312) 383-7813

BUSINESS PHONE: (312) 583-5000

84040461864

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Steven R. Gilford

ADDRESS: Isham, Lincoln & Beale
Three First National Plaza
Chicago, Illinois 60602

TELEPHONE: (312) 558-7429

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.

March 19, 1984

Date

Earl Moses

Earl Moses
Assistant Managing Editor
Administration
Chicago Sun-Times

NAME: Chicago Sun-Times

ADDRESS: 401 North Wabash Ave.
Chicago, Illinois

HOME PHONE:

BUSINESS PHONE: (312) 321-2506

84040461865

RECEIVED AT THE FEC
Call 1953
84 MAR 26 8:48

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 669-7900
TELEFAX 312 669-7900

WASHINGTON OFFICE
1100 CONNECTICUT AVENUE, N.W.
SUITE 900
WASHINGTON, D.C. 20005
202 692-0720

EDWARD S. ISHAM, 1973-1982
ROBERT T. LINCOLN, 1973-1982
WILLIAM G. BEALE, 1983-1983

OFFICE
GENERAL

24 MAR 28 11:07

*MUR 1629
Curry*

March 21, 1984

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Initial Response of
Chicago Sun-Times to Complaint

Dear Ms. Curry:

It has come to my attention that the Sun-Times' response to Mr. Rose's complaint, which we filed on March 21, 1984, incorrectly indicates that the debate at issue took place at the City Club of Chicago. In fact, it took place at First Chicago Center in the First National Bank of Chicago. While the location of the debate is irrelevant to the issues presented by Mr. Rose's complaint, I thought it appropriate to correct this detail.

Very truly yours,
Steven R. Gilford
Steven R. Gilford

SRG:tm
cc: Mr. Gerald Rose
Mr. Larry P. Horist
Ms. Kathryn Lauderdale

84040461866

7
SHAM, LINCOLN & BEALE
COUNSELORS AT LAW
THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602

84740461



Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

6-att 1924

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

180 CONNECTICUT AVENUE, N.W. - SUITE 800
WASHINGTON, D.C. 20006
202 638-9700

EDWARD S. ISHAM, 1872-1888
ROBERT T. LINCOLN, 1878-1889
WILLIAM G. BEALE, 1885-1898

CHICAGO OFFICE
THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 550-7000
TELEFAX 312 550-7000

March 21, 1984

BY MESSENGER

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

MUR 1629
Curry
AM: 42

Re: MUR 1629

Dear Ms. Curry:

As per our telephone conversation yesterday afternoon, enclosed please find the following:

- (1) Designation of Counsel Statement
- (2) Request for leave to file response to complaint
- (3) Response to complaint.

If you have any questions, please feel free to call.

Very truly yours,

Steven R. Gilford
Steven R. Gilford

SRG:tm

Encl.

cc: Mr. Gerald Rose (w/encl.)
Mr. Larry P. Horist (w/encl.)
Ms. Kathryn Lauderdale (w/encl.)

84040461868

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 552-7000
TELEFAX 312 552-7000

EDWARD S. ISHAM, 1978-1982
ROBERT T. LINCOLN, 1973-1982
WILLIAM G. BEALE, 1983-1983

WASHINGTON OFFICE
1180 CONNECTICUT AVENUE, N.W.
SUITE 600
WASHINGTON, D.C. 20002
202 552-0700

March 20, 1984

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Request of Chicago Sun-Times
For Leave To File Response
To Complaint

Dear Ms. Curry:

As you may recall, I telephoned you on Tuesday, March 13, 1984 when I first received a copy of the complaint against my client, the Chicago Sun-Times, to discuss the appropriate method for obtaining an extension of time to file a response to Mr. Rose's complaint. After exchanging telephone messages, we were able to talk on Wednesday and you encouraged us to file a response as promptly as possible with an appropriate request for extension.

We were unable to respond to the Commission prior to this time because the Sun-Times did not receive the letters from Mr. Gross at the Commission until February 29, 1984 and the letter which was received at that time was directed to Burton Abrams, the newspaper's Director of Labor Relations who had no responsibility for the debate in question. Several days elapsed as Mr. Abrams directed the Commission's materials to the appropriate people and the materials were directed to our office. Our response was further delayed by a death in my family last week, and our representation of several candidates in hearings before the Chicago Board of Election Commissioners and in a federal civil rights action concerning the constitutionality of certain ballot access requirements in the Illinois Election Code. These election cases have been extremely time consuming in recent weeks as the Board of Elections and the

840404618669

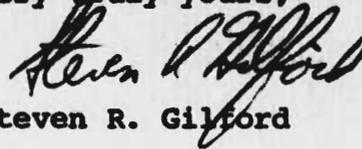
Ms. Deborah Curry
March 20, 1984
Page Two

federal court attempted to resolve whether our clients would appear on the ballot in the March 20, 1984 Illinois primary.

Unfortunately, these circumstances precluded us from filing a response by March 15. We believe these difficulties constitute good cause under 11 C.F.R. §111.2 and respectfully request that the General Counsel extend the applicable deadline and accept the enclosed response on behalf of the Chicago Sun-Times.

Thank you for your cooperation.

Very truly yours,



Steven R. Gilford

SRG:tm
Encl.

84040461870

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60601
TELEPHONE 312 555-7100
TELEK 2-5885

EDWARD S. ISHAM, 1978-1982
ROBERT T. LINCOLN, 1978-1983
WILLIAM G. BEALE, 1985-1983

WASHINGTON OFFICE
1100 CONNECTICUT AVENUE, N.W.
SUITE 600
WASHINGTON, D.C. 20005
202 638-8700

March 20, 1984

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Initial Response of
Chicago Sun-Times to Complaint

Dear Ms. Curry:

This is in response to Kenneth Gross' February 23, 1984 letter requesting the Chicago Sun-Times to respond to the complaint in MUR 1629.

As Mr. Rose explains in his complaint, WTTW, the Chicago Sun-Times and the City Club of Chicago sponsored a candidate debate on February 20, 1984. The debate was held at the City Club, televised on WTTW and printed in the Chicago Sun-Times. Mr. Rose's complaint does not question that the Sun-Times, WTTW and the City Club are bona fide staging organizations which can stage a nonpartisan candidate debate without making a political contribution.

The sole question raised by Mr. Rose's complaint is whether the failure of the Sun-Times and its co-sponsors to include Mr. Rose in the debate undercuts the nonpartisanship which is apparently required by 11 C.F.R. §110.13. A brief review of the applicable regulations demonstrates that the Federal Election Code does not purport to control who will be included in a nonpartisan candidate debate as long as the format of the debate does not promote one candidate over another. Section 110.13(b) emphasizes that the staging of candidate debates is within the discretion of the staging organization:

84040461871

Ms. Deborah Curry
March 20, 1984
Page Two

(b) Debate Structure. The structure of debates staged in accordance with 11 CFR 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) they do not promote or advance one candidate over another.

The language of section 110.13, which requires only that a debate include "at least two candidates," as opposed to all candidates, clearly rebuts Mr. Rose's contention that all candidates for an office must be included in a debate for it to be nonpartisan. As the regulation states, "the structure of debates ... is left to the discretion of the staging organization" which may decide what candidates to include as long as the debate structure does not promote or advance one over another.

The history of section 110.13 is consistent with this interpretation. When the Commission first promulgated regulations concerning nonpartisan public candidate debates, it explicitly sought to govern debate structure by mandating who would be included in a debate. 44 Fed. Reg. 39348-51 (July 5, 1979). Its proposed regulations required a primary election debate to include all candidates qualified to appear on the primary ballot. Proposed §110.13(b)(2)(A), 44 Fed. Reg. at 39350. That and all similar regulations purporting to control debate structure were rejected by Congress in S. Res. 236 on September 18, 1979. The new regulations which ultimately went into effect eliminated any attempt to control who would be included in a debate as long as there were at least two candidates and the structure of the debate does not promote one candidate over another.*⁹ As the Commission explained in promulgating section 110.13:

*/ This is consistent with the approach of the Federal Communications Commission which does not require inclusion of all qualified candidates in a debate in order for the debate to fall within the bona fide news event exemption of the Federal Communications Act. See The Law of Political Broadcasts and Cablecasting, 60 FCC 2d 2209, 2258 (1978); American Independence Party and Eugene McCarthy, 62 FCC 2d 4, at ¶11 n. 3 (1976), aff'd sub. nom. McCarthy v. FCC, Case No. 76-1915 (D.C. Cir. Oct. 1976).

34040461872

[F]undamental principles of journalism, combined with the requirement that such debates be nonpartisan, provides [sic] sufficient safeguards as to nonpartisanship of debates staged by newspapers....

44 Fed. Reg. at 76735 (Dec. 17, 1979).

The basic premise of the exemption of debates from the definition of contribution under federal law is the Commission's recognition that the news media has an historic role in fostering public debate on political campaigns and issues of political concern. 44 Fed. Reg. at 76734, citing Mills v. Alabama, 384 U.S. 214 (1966), and New York Times v. Sullivan, 376 U.S. 254 (1964). The Chicago Sun-Times takes that role seriously and has co-sponsored debates with other organizations among political candidates for many years. In addition to public opinion polls such as that referred to in Mr. Rose's complaint, the Sun-Times and its co-sponsors determine who should participate in debates based on their experience in and coverage of political affairs in Illinois.

As the Commission and Congress recognized in promulgating section 110.13, any governmental attempt to dictate who may or may not appear in a debate could raise severe constitutional questions. The Commission has avoided that issue by leaving it to the discretion of the staging organization as long as there are two candidates and the structure of the debate does not promote one candidate over another.

Ultimately, it must be emphasized that the Federal Election Campaign Act is designed to govern contributions to candidates, not other aspects of political campaigns. The issue here is not the structure of a debate, but whether the Sun-Times has inadvertently violated 2 U.S.C. §441b by making a political contribution. As the Commission recognized in promulgating 11 C.F.R. §§110.13, 110.14, "courts have generally construed 2 U.S.C. §441b to prohibit only active electioneering on behalf of a candidate ... or conduct designed to influence the public for or against a particular candidate.... Unlike single candidate appearances which have the effect of promoting the nomination or election of one individual, a properly structured nonpartisan debate involving two or more candidates would not be construed to be

8 4 0 4 0 4 6 1 8 7 3

Ms. Deborah Curry
March 20, 1984
Page Four

active electioneering to promote or influence the nomination or election of one particular candidate." 44 Fed. Reg. 76736. In short, defraying the expenses of a bona fide debate is not a contribution under the Act.

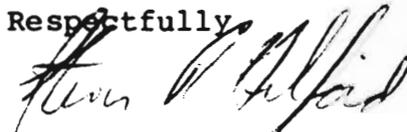
Commonsense similarly supports this view. If newspapers and other organizations were required to invite every candidate who might appear on the ballot to every debate, there would in all likelihood be no debates. The public would be deprived of the advantage of such events not only in presidential campaigns where there are frequently large numbers of candidates who may appear on the ballot, but also in delegate and congressional races where large numbers of candidates are frequently on the ballot in relatively small political subdivisions. Once too many candidates are involved, most debate formats become unworkable.

The Commission's regulations apply to all races for federal office. Requiring local clubs and other organizations to invite all candidates who will be on the ballot to any debate or to report a contribution will effectively eliminate debates at the local level. Moreover, it is difficult to determine who would be the recipient of such a "contribution" where multiple candidates appear at the debate.

Mr. Rose is complaining about a debate involving four candidates, each of whom had demonstrated substantial support in public opinion polls and by waging an active political campaign. It is impossible to construe any payment to defray the costs of such a debate as a contribution to any of the candidates or as advocacy that Mr. Rose should not be elected.

Under these circumstances, the Sun-Times and its co-sponsors cannot be found to have made a contribution that is prohibited by federal law. The Commission should find no reason to believe that Mr. Rose's complaint sets forth a possible violation of the Federal Election Campaign Act, and accordingly, the Commission should close its file on this matter.

Respectfully



Steven R. Gilford
One of the attorneys for
the Chicago Sun-Times

SRG:tm

84040161874

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Steven R. Gilford

ADDRESS: Isham, Lincoln & Beale
Three First National Plaza
Chicago, Illinois 60602

TELEPHONE: (312) 558-7429

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.

March 19, 1984

Date

Earl Moses

Earl Moses
Assistant Managing Editor
Administration
Chicago Sun-Times

NAME: Chicago Sun-Times

ADDRESS: 401 North Wabash Ave.
Chicago, Illinois

HOME PHONE:

BUSINESS PHONE: (312) 321-2506

84040461875

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 555-7500
TELEX 2-9890

EDWARD S. ISHAM. 1872-1882
ROBERT T. LINCOLN. 1872-1888
WILLIAM G. BEALE. 1888-1883

WASHINGTON OFFICE
1100 CONNECTICUT AVENUE, N.W.
SUITE 540
WASHINGTON, D.C. 20006
555 555-5730

March 20, 1984

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Request of Chicago Sun-Times
For Leave To File Response
To Complaint

Dear Ms. Curry:

As you may recall, I telephoned you on Tuesday, March 13, 1984 when I first received a copy of the complaint against my client, the Chicago Sun-Times, to discuss the appropriate method for obtaining an extension of time to file a response to Mr. Rose's complaint. After exchanging telephone messages, we were able to talk on Wednesday and you encouraged us to file a response as promptly as possible with an appropriate request for extension.

We were unable to respond to the Commission prior to this time because the Sun-Times did not receive the letters from Mr. Gross at the Commission until February 29, 1984 and the letter which was received at that time was directed to Burton Abrams, the newspaper's Director of Labor Relations who had no responsibility for the debate in question. Several days elapsed as Mr. Abrams directed the Commission's materials to the appropriate people and the materials were directed to our office. Our response was further delayed by a death in my family last week, and our representation of several candidates in hearings before the Chicago Board of Election Commissioners and in a federal civil rights action concerning the constitutionality of certain ballot access requirements in the Illinois Election Code. These election cases have been extremely time consuming in recent weeks as the Board of Elections and the

84040461876

Ms. Deborah Curry
March 20, 1984
Page Two

federal court attempted to resolve whether our clients would appear on the ballot in the March 20, 1984 Illinois primary.

Unfortunately, these circumstances precluded us from filing a response by March 15. We believe these difficulties constitute good cause under 11 C.F.R. §111.2 and respectfully request that the General Counsel extend the applicable deadline and accept the enclosed response on behalf of the Chicago Sun-Times.

Thank you for your cooperation.

Very truly yours,

Steven R. Gilford

SRG:tm
Encl.

84040461877

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 666-7500
TELEX: 2-8288

EDWARD S. ISHAM, 1972-1982
ROBERT T. LINCOLN, 1972-1980
WILLIAM G. BEALE, 1985-1983

WASHINGTON OFFICE
1120 CONNECTICUT AVENUE, N.W.
SUITE 640
WASHINGTON, D.C. 20036
202 668-0730

March 20, 1984

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Initial Response of
Chicago Sun-Times to Complaint

Dear Ms. Curry:

This is in response to Kenneth Gross' February 23, 1984 letter requesting the Chicago Sun-Times to respond to the complaint in MUR 1629.

As Mr. Rose explains in his complaint, WTTW, the Chicago Sun-Times and the City Club of Chicago sponsored a candidate debate on February 20, 1984. The debate was held at the City Club, televised on WTTW and printed in the Chicago Sun-Times. Mr. Rose's complaint does not question that the Sun-Times, WTTW and the City Club are bona fide staging organizations which can stage a nonpartisan candidate debate without making a political contribution.

The sole question raised by Mr. Rose's complaint is whether the failure of the Sun-Times and its co-sponsors to include Mr. Rose in the debate undercuts the nonpartisanship which is apparently required by 11 C.F.R. §110.13. A brief review of the applicable regulations demonstrates that the Federal Election Code does not purport to control who will be included in a nonpartisan candidate debate as long as the format of the debate does not promote one candidate over another. Section 110.13(b) emphasizes that the staging of candidate debates is within the discretion of the staging organization:

84040161878

(b) Debate Structure. The structure of debates staged in accordance with 11 CFR 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) they do not promote or advance one candidate over another.

The language of section 110.13, which requires only that a debate include "at least two candidates," as opposed to all candidates, clearly rebuts Mr. Rose's contention that all candidates for an office must be included in a debate for it to be nonpartisan. As the regulation states, "the structure of debates ... is left to the discretion of the staging organization" which may decide what candidates to include as long as the debate structure does not promote or advance one over another.

The history of section 110.13 is consistent with this interpretation. When the Commission first promulgated regulations concerning nonpartisan public candidate debates, it explicitly sought to govern debate structure by mandating who would be included in a debate. 44 Fed. Reg. 39348-51 (July 5, 1979). Its proposed regulations required a primary election debate to include all candidates qualified to appear on the primary ballot. Proposed §110.13(b)(2)(A), 44 Fed. Reg. at 39350. That and all similar regulations purporting to control debate structure were rejected by Congress in S. Res. 236 on September 18, 1979. The new regulations which ultimately went into effect eliminated any attempt to control who would be included in a debate as long as there were at least two candidates and the structure of the debate does not promote one candidate over another.*
As the Commission explained in promulgating section 110.13:

*/ This is consistent with the approach of the Federal Communications Commission which does not require inclusion of all qualified candidates in a debate in order for the debate to fall within the bona fide news event exemption of the Federal Communications Act. See The Law of Political Broadcasts and Cablecasting, 60 FCC 2d 2209, 2258 (1978); American Independence Party and Eugene McCarthy, 62 FCC 2d 4, at ¶11 n. 3 (1976), aff'd sub. nom. McCarthy v. FCC, Case No. 76-1915 (D.C. Cir. Oct. 1976).

84040461879

[F]undamental principles of journalism, combined with the requirement that such debates be nonpartisan, provides [sic] sufficient safeguards as to nonpartisanship of debates staged by newspapers....

44 Fed. Reg. at 76735 (Dec. 17, 1979).

The basic premise of the exemption of debates from the definition of contribution under federal law is the Commission's recognition that the news media has an historic role in fostering public debate on political campaigns and issues of political concern. 44 Fed. Reg. at 76734, citing Mills v. Alabama, 384 U.S. 214 (1966), and New York Times v. Sullivan, 376 U.S. 254 (1964). The Chicago Sun-Times takes that role seriously and has co-sponsored debates with other organizations among political candidates for many years. In addition to public opinion polls such as that referred to in Mr. Rose's complaint, the Sun-Times and its co-sponsors determine who should participate in debates based on their experience in and coverage of political affairs in Illinois.

As the Commission and Congress recognized in promulgating section 110.13, any governmental attempt to dictate who may or may not appear in a debate could raise severe constitutional questions. The Commission has avoided that issue by leaving it to the discretion of the staging organization as long as there are two candidates and the structure of the debate does not promote one candidate over another.

Ultimately, it must be emphasized that the Federal Election Campaign Act is designed to govern contributions to candidates, not other aspects of political campaigns. The issue here is not the structure of a debate, but whether the Sun-Times has inadvertently violated 2 U.S.C. §441b by making a political contribution. As the Commission recognized in promulgating 11 C.F.R. §§110.13, 110.14, "courts have generally construed 2 U.S.C. §441b to prohibit only active electioneering on behalf of a candidate ... or conduct designed to influence the public for or against a particular candidate.... Unlike single candidate appearances which have the effect of promoting the nomination or election of one individual, a properly structured nonpartisan debate involving two or more candidates would not be construed to be

84040461880

Ms. Deborah Curry
March 20, 1984
Page Four

active electioneering to promote or influence the nomination or election of one particular candidate." 44 Fed. Reg. 76736. In short, defraying the expenses of a bona fide debate is not a contribution under the Act.

Commonsense similarly supports this view. If newspapers and other organizations were required to invite every candidate who might appear on the ballot to every debate, there would in all likelihood be no debates. The public would be deprived of the advantage of such events not only in presidential campaigns where there are frequently large numbers of candidates who may appear on the ballot, but also in delegate and congressional races where large numbers of candidates are frequently on the ballot in relatively small political subdivisions. Once too many candidates are involved, most debate formats become unworkable.

The Commission's regulations apply to all races for federal office. Requiring local clubs and other organizations to invite all candidates who will be on the ballot to any debate or to report a contribution will effectively eliminate debates at the local level. Moreover, it is difficult to determine who would be the recipient of such a "contribution" where multiple candidates appear at the debate.

Mr. Rose is complaining about a debate involving four candidates, each of whom had demonstrated substantial support in public opinion polls and by waging an active political campaign. It is impossible to construe any payment to defray the costs of such a debate as a contribution to any of the candidates or as advocacy that Mr. Rose should not be elected.

Under these circumstances, the Sun-Times and its co-sponsors cannot be found to have made a contribution that is prohibited by federal law. The Commission should find no reason to believe that Mr. Rose's complaint sets forth a possible violation of the Federal Election Campaign Act, and accordingly, the Commission should close its file on this matter.

Respectfully,

Steven R. Gilford
One of the attorneys for
the Chicago Sun-Times

SRG:tm

84040461881

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Steven R. Gilford

ADDRESS: Isham, Lincoln & Beale
Three First National Plaza
Chicago, Illinois 60602

TELEPHONE: (312) 558-7429

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.

March 19, 1984
Date

Earl Moses
Earl Moses
Assistant Managing Editor
Administration
Chicago Sun-Times

NAME: Chicago Sun-Times

ADDRESS: 401 North Wabash Ave.
Chicago, Illinois

HOME PHONE:

BUSINESS PHONE: (312) 321-2506

84040461882

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Katherine S. Lauderdale

ADDRESS: WTTW/Chicago
5400 North St. Louis Avenue
Chicago, Illinois 60625

TELEPHONE: (312) 583-5000

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.

3-20-84
Date

Katherine Lauderdale
Signature
Katherine S. Lauderdale
General Counsel
WTTW/Chicago

NAME: Katherine S. Lauderdale

ADDRESS: 5400 North St. Louis Avenue
Chicago, Illinois 60625

HOME PHONE: (312) 383-7813

BUSINESS PHONE: (312) 583-5000

84040461883

Channel 11
5400 North St. Louis Avenue
Chicago, Illinois 60625
312/583-5000

WTTW
CHICAGO

TO: Deborah Curry
FROM: Katherine Lauderdale *K.L.*
RE: MUR 1629
DATE: March 20, 1984

Please have the attached copies
of our filings date-stamped for our
files. Thank you for your assistance.

K.L.

Attachments

84040461884

1120 CONNECTICUT AVENUE, N.W.
WASHINGTON, D. C. 20036 0 4 0 4 6 1 8 8 5

First Class Mail

Ms. Deborah Curry
Office of General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D.C. 20463

FIRST CLASS

FIRST CLASS

FIRST CLASS

FIRST CLASS

FIRST CLASS

Channel 11
5400 North St. Louis Avenue
Chicago, Illinois 60625
312/583-8000

WTTW
CHICAGO

RECEIVED AT THE FED
HAND DELIVERED
84 MAR 21 9:23
Guff 1922

2 MAR 21 10:01
GENERAL COUNSEL

FEDERAL EXPRESS

March 20, 1984

Mur 1629
Curry

Deborah Curry, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1629

Dear Ms. Curry:

Enclosed are the following documents:

1. Request For Leave To File Response To Complaint;
2. Response of WTTW/Chicago to Complaint of Gerald Rose; and
3. Statement of Designation of Counsel.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Katherine Lauderdale

Katherine S. Lauderdale
General Counsel

KSL/cnh
Enclosures

cc: Mr. Gerald Rose
Steven R. Gilford, Esq.
Mr. Larry P. Horist

84040461886

Channel 11

6400 North St. Louis Avenue
Chicago, Illinois 60625
312/683-6000

**WTTW
CHICAGO**

FEDERAL EXPRESS

March 21, 1984

Deborah Curry, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Request For Leave To File Response
To Complaint

Dear Ms. Curry:

WTTW/Chicago received the Rose complaint on March 2, 1984 and its response was due on March 17, 1984.

Unfortunately, during the first two weeks of March, I was required to complete negotiations and draft contracts in connection with the sale of home video and foreign rights to three of the station's concert programs. Our failure to secure executed contracts in these matters by March 16, 1984 would have resulted in the loss of \$120,000.00 in revenues for the station.

The station's paralegal, Cathy N. Harrell, had two conversations with your office concerning our response. On Thursday, March 15, 1984, she verbally requested permission for extension of time to file. You advised us to file our response as quickly as possible.

WTTW respectfully requests that it be granted an extension of time to file and that the Office of General Counsel accept the enclosed response filed on behalf of WTTW/Chicago.

Very truly yours,

Katherine S. Lauderdale

Katherine S. Lauderdale
General Counsel

KSL/cnh
Enclosures

84040461887

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

In re)
Complaint of Gerald Rose) MUR 1629

Response of WTTW/Chicago
to Complaint of Gerald Rose

Chicago Educational Television Association d/b/a WTTW/Chicago ("WTTW") responds to that certain letter of complaint, dated February 16, 1984, and filed with the Federal Election Commission (the "Commission") by Gerald Rose, as follows:

Statement of Facts

1. On February 20, 1984, WTTW co-sponsored, with the Chicago SUN-TIMES and the City Club of Chicago, a debate among the major Democratic senatorial candidates in Illinois.

2. Notwithstanding the fact that Mr. Rose is not a major candidate for the Senate, WTTW broadcasted a one-half hour interview of Mr. Rose, on March 8, 1984, by the station's news/public affairs commentator John Callaway on the program, "John Callaway Interviews."

Response To Specific Allegations

Mr. Rose alleges in his complaint that "...[his] exclusion from the February 20 debate violates the requirement of nonpartisanship. If the debate violates 110.13(b) it must fall outside the protection of 11 C.F.R. 114.4(e). Therefore, all contributions for corporate and labor organizations violate a federal statute 2 U.S.C. 441(b)."

WTTW contends that Commission regulations do not require the inclusion of every legally qualified candidate in a particular race.

Under 11 C.F.R. §110.13(a)(2), "Broadcasters ...may stage nonpartisan candidate debates in accordance with 11 C.F.R. §110.13(b) and §114.4(e)." In addition, a bona fide

8
4
0
4
0
4
6
1
8
9
8

broadcaster, pursuant to 11 C.F.R. §114.4(e), may use its own funds to defray costs incurred in staging such debates held in accordance with 11 C.F.R. §110.13.

The actual structure of any such debate is left to the discretion of the staging organization. 11 C.F.R. §110.13(b) The regulations place only two limitations on that discretion i) that such debates "include at least two candidates" (emphasis added) and ii) that such debates are "nonpartisan in that they do not promote or advance one candidate over another."

According to the Commission's notice of transmittal of regulations to Congress, "[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. 76,5735 (Dec. 27, 1979). The relevant legislative history further provides that "...Nonpartisan debates are designed to educate and inform voters rather than to influence the nomination or election of a particular candidate. Hence...expenditures by news media corporations to stage debates are not considered contributions or expenditures under the Act." 44 Fed. Reg. 76,734 (Dec. 27, 1979).

The February 20, 1984 debate was clearly nonpartisan and meets the requisite elements of 11 C.F.R. §110.13(b)(2). The same standards for participation applied to all candidates equally. Each participating candidate was given an equal amount of time to speak. Finally, no candidate was advised in advance of the questions to be posed; nor was any candidate given any other advantage over his opponents prior to or during the course of the debate. The sole purpose of the debate was to provide the public with meaningful access to information regarding the major Democratic senatorial candidates.

The only other limitation placed on the staging organization's discretion in structuring a debate is that the debate include "at least two" candidates. 11 C.F.R. § 110.13(b)(1). The regulation could easily have provided that debates include "all" or "all legally qualified" candidates. It does not. Indeed, the legislative history of this regulation shows that the Commission itself looked to the news media to provide a forum for "significant" candidates to convey their ideas to the voters. The pertinent language reads:

A nonpartisan candidate debate staged by...a news media organization provides a forum for significant candidates to communicate their views to the public.... (emphasis added)

44 Fed. Reg. 76,734 (Dec. 27, 1979)

84040461889

To adopt any other rule defeats the public education purpose of the regulations. According to the Public Records division of the Federal Election Commission, there are 175 legally qualified candidates for the office of President of the United States of America. If news media and other nonpartisan organization were required to include all legally qualified candidates for a particular office, the public interest would not be served. Either nonpartisan organizations would refrain from staging such debates or debates would become unnecessarily fragmented depriving the public of quality access to the "significant candidates" whose ideas the Commission has admonished us to communicate to the public.

The February 2, 1984 debate was not designed to advocate the election of any individual. It was, in fact, designed to educate and inform the voters of Illinois in a nonpartisan manner. It included "at least two" candidates for the office and complied in all ways with both the letter and the spirit of the Federal Election Commission Act and the regulations promulgated thereunder. As such, any expenditures made in connection with the staging of the debate should not be considered violative of 2 U.S.C. §441b.

Notwithstanding the fact that WTTW feels that it had no obligation, under statute or regulation, to include Mr. Rose in the February 20, 1984 debate, WTTW feels that the Commission should note that Mr. Rose's candidacy has been afforded air time during one of its regularly scheduled news/public affairs program.

Conclusion

WTTW respectfully requests i) that the Commission find no reason to believe that the Rose complaint sets forth any possible violation of the Federal Election Campaign Act, and (ii) that the Commission close the file on this matter.

Katherine Lauderdale

Katherine S. Lauderdale
General Counsel
Chicago Educational Television
Association d/b/a WTTW/Chicago

5400 North St. Louis Avenue
Chicago, Illinois 60625
(312) 583-5000

84040461890

FEDERAL EXPRESS

March 21, 1984

Deborah Curry, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1629
Request For Leave To File Response
To Complaint

Dear Ms. Curry:

WTTW/Chicago received the Rose complaint on March 2, 1984 and its response was due on March 17, 1984.

Unfortunately, during the first two weeks of March, I was required to complete negotiations and draft contracts in connection with the sale of home video and foreign rights to three of the station's concert programs. Our failure to secure executed contracts in these matters by March 16, 1984 would have resulted in the loss of \$120,000.00 in revenues for the station.

The station's paralegal, Cathy N. Harrell, had two conversations with your office concerning our response. On Thursday, March 15, 1984, she verbally requested permission for extension of time to file. You advised us to file our response as quickly as possible.

WTTW respectfully requests that it be granted an extension of time to file and that the Office of General Counsel accept the enclosed response filed on behalf of WTTW/Chicago.

Very truly yours,

Katherine Lauderdale

Katherine S. Lauderdale
General Counsel

KSL/cnh
Enclosures

84040461891

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

In re)
Complaint of Gerald Rose) MUR 1629

Response of WTTW/Chicago
to Complaint of Gerald Rose

Chicago Educational Television Association d/b/a WTTW/Chicago ("WTTW") responds to that certain letter of complaint, dated February 16, 1984, and filed with the Federal Election Commission (the "Commission") by Gerald Rose, as follows:

Statement of Facts

1. On February 20, 1984, WTTW co-sponsored, with the Chicago SUN-TIMES and the City Club of Chicago, a debate among the major Democratic senatorial candidates in Illinois.

2. Notwithstanding the fact that Mr. Rose is not a major candidate for the Senate, WTTW broadcasted a one-half hour interview of Mr. Rose, on March 8, 1984, by the station's news/public affairs commentator John Callaway on the program, "John Callaway Interviews."

Response To Specific Allegations

Mr. Rose alleges in his complaint that "...[his] exclusion from the February 20 debate violates the requirement of nonpartisanship. If the debate violates 110.13(b) it must fall outside the protection of 11 C.F.R. 114.4(e). Therefore, all contributions for corporate and labor organizations violate a federal statute 2 U.S.C. 441(b)."

WTTW contends that Commission regulations do not require the inclusion of every legally qualified candidate in a particular race.

Under 11 C.F.R. §110.13(a)(2), "Broadcasters ...may stage nonpartisan candidate debates in accordance with 11 C.F.R. §110.13(b) and §114.4(e)." In addition, a bona fide

8
4
0
4
0
4
6
1
8
9
2

broadcaster, pursuant to 11 C.F.R. §114.4(e), may use its own funds to defray costs incurred in staging such debates held in accordance with 11 C.F.R. §110.13.

The actual structure of any such debate is left to the discretion of the staging organization. 11 C.F.R. §110.13(b) The regulations place only two limitations on that discretion i) that such debates "include at least two candidates" (emphasis added) and ii) that such debates are "nonpartisan in that they do not promote or advance one candidate over another."

According to the Commission's notice of transmittal of regulations to Congress, "[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. 76,5735 (Dec. 27, 1979). The relevant legislative history further provides that "...Nonpartisan debates are designed to educate and inform voters rather than to influence the nomination or election of a particular candidate. Hence...expenditures by news media corporations to stage debates are not considered contributions or expenditures under the Act." 44 Fed. Reg. 76,734 (Dec. 27, 1979).

The February 20, 1984 debate was clearly nonpartisan and meets the requisite elements of 11 C.F.R. §110.13(b)(2). The same standards for participation applied to all candidates equally. Each participating candidate was given an equal amount of time to speak. Finally, no candidate was advised in advance of the questions to be posed; nor was any candidate given any other advantage over his opponents prior to or during the course of the debate. The sole purpose of the debate was to provide the public with meaningful access to information regarding the major Democratic senatorial candidates.

The only other limitation placed on the staging organization's discretion in structuring a debate is that the debate include "at least two" candidates. 11 C.F.R. § 110.13(b)(1). The regulation could easily have provided that debates include "all" or "all legally qualified" candidates. It does not. Indeed, the legislative history of this regulation shows that the Commission itself looked to the news media to provide a forum for "significant" candidates to convey their ideas to the voters. The pertinent language reads:

A nonpartisan candidate debate staged by...a news media organization provides a forum for significant candidates to communicate their views to the public.... (emphasis added)

44 Fed. Reg. 76,734 (Dec. 27, 1979)

To adopt any other rule defeats the public education purpose of the regulations. According to the Public Records division of the Federal Election Commission, there are 175 legally qualified candidates for the office of President of the United States of America. If news media and other nonpartisan organization were required to include all legally qualified candidates for a particular office, the public interest would not be served. Either nonpartisan organizations would refrain from staging such debates or debates would become unnecessarily fragmented depriving the public of quality access to the "significant candidates" whose ideas the Commission has admonished us to communicate to the public.

The February 2, 1984 debate was not designed to advocate the election of any individual. It was, in fact, designed to educate and inform the voters of Illinois in a nonpartisan manner. It included "at least two" candidates for the office and complied in all ways with both the letter and the spirit of the Federal Election Commission Act and the regulations promulgated thereunder. As such, any expenditures made in connection with the staging of the debate should not be considered violative of 2 U.S.C. §441b.

Notwithstanding the fact that WTTW feels that it had no obligation, under statute or regulation, to include Mr. Rose in the February 20, 1984 debate, WTTW feels that the Commission should note that Mr. Rose's candidacy has been afforded air time during one of its regularly scheduled news/public affairs program.

Conclusion

WTTW respectfully requests i) that the Commission find no reason to believe that the Rose complaint sets forth any possible violation of the Federal Election Campaign Act, and (ii) that the Commission close the file on this matter.

Katherine S. Lauderdale

Katherine S. Lauderdale
General Counsel
Chicago Educational Television
Association d/b/a WTTW/Chicago

5400 North St. Louis Avenue
Chicago, Illinois 60625
(312) 583-5000

84040161894

CCC#1872

Thomas F. Roeser
President



RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Founded 1903

14 MAR 14 P12:11

City Club of Chicago

Mur 1629
Curry

Citizens of Greater Chicago
345 Merchandise Mart • Chicago, Illinois 60654
312/475-4300

March 8, 1984

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

Re: MUR 1629

Dear Mr. Steele:

In a letter of complaint (dated February 16, 1984), Mr. Gerald Rose alleged that the City Club of Chicago, the Chicago Sun-Times and WTTW-TV (an affiliate of the Corporation for Public Broadcasting) acted outside the FEC's requirement for fairness in establishing a standard for participation in a debate among candidates for the Democratic nomination for United States Senate.

The standard for participation was the ability to demonstrate a minimum level of public support—in this case at least five percent in accepted public opinion polls at the time of invitation. This has been an accepted and legal practice in debates held by many organizations, including the League of Women Voters. Since this standard applied to all candidates, it is a fair and impartial determinant.

It is my understanding that the Chicago Sun-Times will provide a more detailed legal argument on this point. As a co-sponsor with that publication, the City Club sees no need to retain additional counsel at this juncture. Should the case warrant it in the future, we may consider counsel. At this point, however, the matter seems fairly routine.

Thank you for bring this matter to our attention, and if you require any additional information, please let me know.

Cordially,

Larry P. Horist
Executive Director

LPH/jk

94040161895

8 4 0 4 0 4 6 1 8 9 6

HAND DELIVERED
6/10/68

Channel 11

5400 North St. Louis Avenue
Chicago, Illinois 60625
312/583-5000

**WTTW
CHICAGO**

BY FEDERAL EXPRESS

Deborah Curry, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

8404046187



City Club of Chicago

Citizens of Greater Chicago

345 Merchandise Mart • Chicago, Illinois 60654

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



RECEIVED BY THE FEC

84 MAR 14 - AIO: 44



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 23, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Burton Abrams
Chicago Sun Times
401 North Wabash, Room 235
Chicago, Illinois 60611

Re: MUR 1629

Dear Mr. Abrams:

This is to notify you that on February 17, 1984 the Federal Election Commission received a complaint which alleges that the Chicago Sun Times 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 1629. 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 the Chicago Sun Times 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.

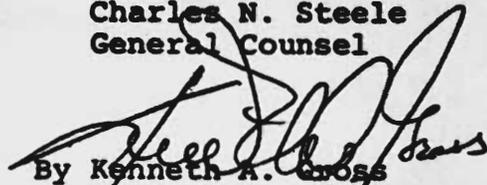
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

8
4
0
4
0
4
6
1
8
9
8

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. Cross
Associate General Counsel

84040461899

Enclosures

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

2001 Apr 11 10:05 AM EST

* SERVICE: Complete items 1, 2, 3, and 4. Add your address in the "RETURN TO" space on reverse.	
(GENERALLY RESTRICTED FOR POST)	
1. The following service is requested (check one): <input type="checkbox"/> Show to whom and date delivered _____ <input checked="" type="checkbox"/> Show to whom, date, and address of delivery _____	
2. <input type="checkbox"/> RESTRICTED DELIVERY (The restricted delivery fee is charged in addition to the other receipt fee.)	
TOTAL \$ _____	
3. ARTICLE ADDRESS TO: Mr. Burton Abrams Chicago Sun Times 401 North Wabash, Rm 235 Chicago, Illinois 60611	
4. TYPE OF SERVICE: <input checked="" type="checkbox"/> REGISTERED <input checked="" type="checkbox"/> CERTIFIED <input type="checkbox"/> EXPRESS MAIL	ARTICLE NUMBER 943010
(Always obtain signature of addressee or agent)	
I have received the article described above. SIGNATURE <input checked="" type="checkbox"/> Addressee <input type="checkbox"/> Authorized agent <i>K. H.</i>	
5. DATE OF DELIVERY	POSTMARK (May be pre-cancelled)
6. ADDRESSEE'S ADDRESS (only if requested)	CHICAGO FEB 29 1994
7. UNABLE TO DELIVER BECAUSE:	8. EMPLOYEE'S INITIALS

Mail 1629 - Curry 1 2/5



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 23, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Legal Department
c/o Cathy Harrell
WTTW
5400 North St. Louis Avenue
Chicago, Illinois 60625

Re: MUR 1629

Dear Ms. Harrell:

This is to notify you that on February 17, 1984 the Federal Election Commission received a complaint which alleges that WTTW 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 1629. 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 WTTW 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.

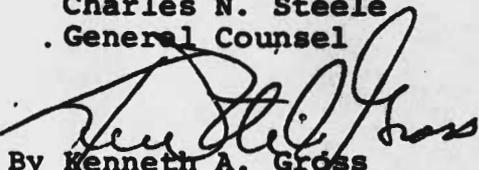
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

84040461900

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 Statemen

84040461901

2025 Any 1. USE MAIL TO

• COMPLETE COMPLETE FORMS 1, 2, 3, and 4. Put your address in the "RETURN TO" space on reverse.

(POSTAGE GUARANTEED FOR PERM)

1. The following service is requested (check one):

None to whom and time delivered _____

None to whom, date, and address of delivery _____

2. RESTRICTED DELIVERY _____
(The restricted delivery fee is charged in addition to the other except fee.)

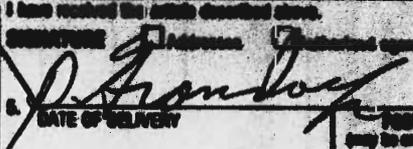
3. **ADDRESSEE'S ADDRESS TO:** Legal Department
c/o Cathy Rabrell
5255 North St. Louis Avenue
Chicago, Illinois 60630

4. TYPE OF SERVICE: REGISTERED REGISTERED MAIL
 AIRMAIL AIRMAIL
 EXPRESS MAIL EXPRESS MAIL

5. AIRMAIL NUMBER: 943011

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE:  ADDRESS: _____ RESTRICTED COPY: _____

6. DATE OF DELIVERY: _____ POSTMARK (may be on reverse side)

7. UNABLE TO DELIVER BECAUSE: _____ 7b. EMPLOYER'S INITIALS: _____

RETURN RECEIPT

MUR 1629-Curry 2/23/84



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 23, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas F. Roesser, President
City Club of Chicago
Quaker Oats
345 Merchandise Mart
Chicago, Illinois 60654

Re: MUR 1629

Dear Mr. Roesser:

This is to notify you that on February 17, 1984 the Federal Election Commission received a complaint which alleges that the City Club of Chicago 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 1629. 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 the City Club of Chicago 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.

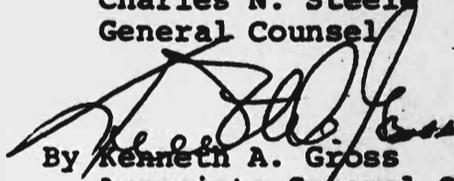
84040461902

Page -2-
Letter to Thomas F. Roesser, President
City Club of Chicago

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

84040461903

Enclosures

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

PS Form 3811, July 1980

• Complete blocks 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
- RESTRICTED DELIVERY (The restricted delivery fee is charged in addition to the other receipt fee.)

TOTAL \$ _____

2. ARTICLE ADDRESSED TO: Thomas F. Roesser, Pres.
City Club of Chicago - Quaker City
345 Merchandise Mart
Chicago Illinois 60654

4. TYPE OF SERVICE:

- REGISTERED
- INSURED
- CERTIFIED
- COD
- EXPRESS MAIL

ARTICLE NUMBER: 943009

SIGNATURE: _____
DATE OF DELIVERY: _____

6. ADDRESSEE'S ADDRESS (only if registered): _____

7. UNABLE TO DELIVER BECAUSE: _____

RETURN RECEIPT

FEB 27 1984

1000 1000 0700

Mar 16 29 - Curry (2/83)



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: THE FILE
FROM: Cheryl Thomas *CT*
SUBJECT: MUR 1629 - Complaint
DATE: February 21, 1984

The complaint for MUR 1629 was received in OGC at 5:06 p.m. on Friday, February 17, 1984.

At approximately 4:20 on Friday, I received a telephone call from Mr. Gerald Rose, the complainant in MUR 1629, inquiring as to whether or not we had received his complaint which he had forwarded on Thursday via Federal Express. I informed him that we had not received the complaint and asked him to hold while I contacted our Mail Room to verify that it had not arrived. I spoke with the Mail Room and they indicated they had not received any other deliveries from Federal Express (we had received two envelopes early in the day from Federal Express, neither of which were the complaint). I informed Mr. Rose of this and suggested he check with Federal Express in Chicago for further information -- perhaps they could check the status on his end. He stated that "the earliest anyone will see the Complaint is Monday, then" and I informed him that Monday was a Federal Holiday and it would, therefore, be reviewed Tuesday, depending on when it was received.

Immediately following our telephone call, the complaint was brought up from the Mail Room. I telephoned Mr. Rose and indicated that the complaint had just been received. He asked if I could call the respondents and inform them that a complaint had been received at the FEC. I told him this was not a determination which I could make and that the individual involved (referring to Ken Gross) was gone from the office and would not return until Tuesday. He indicated that he was glad to hear we had received the Complaint and, even if the debate did not take place, he had decided to go forward with the complaint to guarantee that this did not happen again. He indicated that, perhaps, if the respondents knew that a complaint had been filed, they would not go forward with the debate fearing a penalty to be paid. He did indicate, its best to go forward in the hopes this does not happen to others.

cc: Ken Gross
Larry Noble

84040461904

RECEIVED BY THE FEC
ECC#1681

February 16, 1984 FEB 17 P 4: 28

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

Re: Formal Complaint of Gerald Rose against WTTW in Chicago, Illinois, Chicago Sun Times, and City Club of Chicago

Dear Mr. Steele:

I am a legally qualified candidate in the State of Illinois for the 1984 Democratic nomination for U.S. Senate. My four opponents in the race are Alex Seith, Phil Rock, Paul Simon, and Roland Burris. My four opponents and I have all qualified for the Democratic primary ballot.

On February 20, 1984, WTTW, the Chicago Sun Times, and the Chicago City Club are sponsoring a candidate debate in Chicago. The sponsors have invited by four opponents but have failed to invite me to participate in this debate. I have attempted to secure an invitation to this debate and was officially denied such an invitation yesterday, February 15.

According to Bruce Dumont of WTTW, the reason for my omission was by failure to achieve at least five percent in a poll conducted by Chicago pollster, Richard Day. The Day poll specifically excluded my name while it included the names of my four opponents.

I contend this debate does not conform to the specifications of 11 C.F.R. 110.13(b) which requires that candidate debates be "nonpartisan in that they do not promote or advance one candidate over another." According to the Federal Register, the primary question in determining nonpartisanship is the method of selecting candidates to participate in the debate. "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 Federal Register 76.735 (emphasis supplied). Clearly, the exclusion from the February 20 debate violates the requirement of nonpartisanship.

If the debate violates 110.13(b) it must fall outside the protection of 11 C.F.R. 114.4(e). Therefore, all contributions from corporate and labor organizations violate a federal statute, 2 U.S.C. 441(b).

Since the debate is scheduled for February 20, I request the Commission move expeditiously and enjoin the holding of said debate unless my participation is guaranteed.

Gerald Rose

Gerald Rose
3740 W. Irving Park Rd.
Chicago, Illinois 60618
(312) 463-5910

Sworn to before me this day of February 16, 1984.

Suzanne Rose
Notary Public

84040461905

RECEIVED BY THE FEC
ECC#1681



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 21, 1984

Gerald Rose
3740 W. Irving Park Road
Chicago, Illinois 60618

Dear Mr. Rose:

This letter is to acknowledge receipt of your complaint which we received on February 17, 1984, against WTTW in Chicago, the Chicago Sun Times and the Chicago City Club, 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

84040461906

Gerald Rose
3740 West Irving Park Road
Chicago, Illinois 60618

RECEIVED AT THE FEC

84 FEB 17 P 4: 28

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

4040461907

February 16, 1984 FEB 17 P 4: 28

Rec'd 1629

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

Re: Formal Complaint of Gerald Rose against WTTW in Chicago, Illinois, Chicago Sun Times, and City Club of Chicago

ATTORNEY
GENERAL COUNSEL

Dear Mr. Steele:

I am a legally qualified candidate in the State of Illinois for the 1984 Democratic nomination for U.S. Senate. My four opponents in the race are Alex Seith, Phil Rock, Paul Simon, and Roland Burris. My four opponents and I have all qualified for the Democratic primary ballot.

On February 20, 1984, WTTW, the Chicago Sun Times, and the Chicago City Club are sponsoring a candidate debate in Chicago. The sponsors have invited by four opponents but have failed to invite me to participate in this debate, I have attempted to secure an invitation to this debate and was officially denied such an invitation yesterday, February 15.

According to Bruce Dumont of WTTW, the reason for my omission was by failure to achieve at least five percent in a poll conducted by Chicago pollster, Richard Day. The Day poll specifically excluded my name while it included the names of my four opponents.

I contend this debate does not conform to the specifications of 11 C.F.R. 110.13(b) which requires that candidate debates be "nonpartisan in that they do not promote or advance one candidate over another." According to the Federal Register, the primary question in determining nonpartisanship is the method of selecting candidates to participate in the debate. "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 Federal Register 76.735 (emphasis supplied). Clearly, the exclusion from the February 20 debate violates the requirement of nonpartisanship.

If the debate violates 110.13(b) it must fall outside the protection of 11 C.F.R. 114.4(e). Therefore, all contributions from corporate and labor organizations violate a federal statute, 2 U.S.C. 441(b).

Since the debate is scheduled for February 20, I request the Commission move expeditiously and enjoin the holding of said debate unless my participation is guaranteed.

Gerald Rose

Gerald Rose
3740 W. Irving Park Rd.
Chicago, Illinois 60618
(312) 463-5910

Sworn to before me this day of February 16, 1984.

Supone Rose
Notary Public

84040461908

