



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1813

Date Filmed 1/17/85 Camera No. --- 2

Cameraman AS

85040511115

routing slips - assignment slips

copies of letters

docket address request

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

- | | |
|---|---|
| <input type="checkbox"/> (1) Classified Information | <input type="checkbox"/> (6) Personal privacy |
| <input 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 checked="" type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input type="checkbox"/> (5) Internal Documents | |

Signed

[Signature]

date

1/15/85

FEC 9-21-77

[Handwritten initials and date]

3504051116



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 20, 1984

John T. Dolan
National Conservative Political
Action Committee
1001 Prince Street
Alexandria, Virginia 22314

RE: MUR 1813
The Environmental Task Force

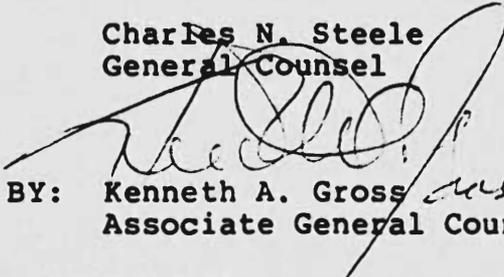
Dear Mr. Dolan:

The Federal Election Commission has reviewed the allegations of your complaint received October 9, 1984 and determined that on the basis of the information provided in your complaint and information provided by the respondent there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

3504051117



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 20, 1984

Mr. Gilbert Sperling
Kaye, Scholer, Fierman, Hays
and Handler
1575 Eye Street, N.W.
Washington, D.C. 20005

RE: MUR 1813
The Environmental Task Force

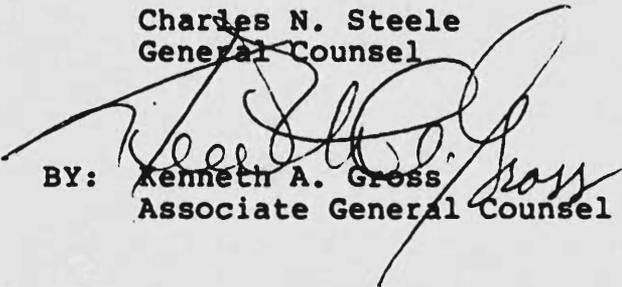
Dear Mr. Sperling:

On October 12, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on December 18, 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

Enclosure
General Counsel's Report

350405118

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
The Environmental Task Force) MUR 1813

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 18, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1813:

1. Find no reason to believe the Environmental Task Force violated 2 U.S.C. 441b or 2 U.S.C. 441d, provisions of the Federal Election Campaign Act, as amended.
2. Approve the letters attached to the First General Counsel's Report signed December 13, 1984.
3. Close the file.

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

Attest:

12-19-84
Date

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

Received in Office of Commission Secretary: 12-13-84, 3:17
Circulated on 48 hour tally basis: 12-14-84, 2:00

35040511117



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *CW*
DATE: December 13, 1984
SUBJECT: MUR 1813 - First General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS

48 Hour Tally Vote [X]
Sensitive [X]
Non-Sensitive []
24 Hour No Objection []
Sensitive []
Non-Sensitive []
Information []
Sensitive []
Non-Sensitive []

Other []

DISTRIBUTION

Compliance [X]
Audit Matters []
Litigation []
Closed MUR Letters []
Status Sheets []
Advisory Opinions []
Other (see distribution below) []

35040511120

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

RECEIVED
THE FEC
SECRETARY

FIRST GENERAL COUNSEL'S REPORT P 3:17
84 DEC 13

DATE AND TIME OF TRANSMITTAL, MUR 1813
BY OGC TO THE COMMISSION: 12/13/84 DATE COMPLAINT RECEIVED
3:15 BY OGC: October 9, 1984
DATE OF NOTIFICATION TO
RESPONDENTS: October 12, 1984
STAFF MEMBER: MATT GERSON

COMPLAINANT'S NAME: National Conservative Political Action
Committee
John 'Terry' Dolan

RESPONDENT'S NAME: The Environmental Task Force

SENSITIVE

RELEVANT STATUTES: 2 U.S.C. § 431(8)A(i)
2 U.S.C. § 441b
2 U.S.C. § 441d
11 C.F.R. § 110.11(a)(1)
11 C.F.R. § 114.3(a)(1)
AO 1984-14
AO 1984-17

RELEVANT CASES: Miller v. American Telephone and Telegraph
Company, 507 F.2d. 758 (3d. Cir. 1974).
United States v. United Automobile Workers,
352 U.S. 567 (1957)

INTERNAL REPORTS CHECKED: NONE

FEDERAL AGENCIES CHECKED: NONE

SUMMARY OF ALLEGATIONS

On October 9, 1984, the Federal Election Commission received from the National Conservative Political Action Committee (hereinafter "NCPAC") a complaint alleging that the Environmental Task Force (hereinafter "ETF") violated 2 U.S.C. § 441d by not including a disclaimer statement on direct mailings that allegedly advocated Ronald Reagan's defeat. By its reference to AO 1984-14, NCPAC has raised the question of whether

35040511121

ETF has violated 2 U.S.C. 441b by making expenditures in connection with a federal election and distributing partisan material beyond the class of people that a corporation may contact lawfully.

ETF responded through counsel on November 1, 1984. See Attachment 1.

II. FACTUAL AND LEGAL ANALYSIS

The Environmental Task Force is an organization formed to provide citizens with information about environmental problems confronting America. ETF maintains an Information, Resource and Referral Center that shares case studies with other environmental groups.

NCPAC alleges that ETF's direct mailer known as the 1983 National Environmental Survey should have contained a disclaimer statement. 2 U.S.C. § 441d requires that

whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any ... direct mailing ...

the communication must indicate who paid for it, and where required, who authorized such communication. The Commission's regulations promulgated pursuant to 2 U.S.C. § 441d(a) specify that a sponsor's identification ("disclaimer") must

be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of the persons who paid for ... the communication. 11 C.F.R. § 110.11(a)(1).

Thus, the issues under 2 U.S.C. 441d and 11 C.F.R. § 110.11(a)(1)

35040511122

are: (1) whether the communication expressly advocated Ronald Reagan's defeat, or (2) whether the communication solicited contributions for the purpose of influencing a federal election. 2 U.S.C. § 431(8)A(i). The answers to both these questions rely on the Commission's interpretation of the language ETF used in its direct mailing.

It appears that the challenged letter has not been used since 1983. The letter criticizes the President and the Administration's record on environmental issues and concludes that a new cooperative effort is needed. The survey states that with support, ETF will increase its efforts to challenge environmentally unsound proposals, provide data about environmental problems to concerned groups, organize leadership conferences and coordinate a nationwide communication network.

One paragraph states:

As the Administration intentionally neglects enforcement of our environmental laws, it has cut 600 million dollars from urgently needed energy programs, withdrawn its protection of critical wilderness areas now threatened by corporate development, and abandoned many essential environmental safeguards that protect you and me from harm. In short, President Reagan is pro-business and soft on polluters!

The letter also states that, "(Former Interior Secretary) James Watt is systematically destroying every significant environmental gain of the past 20 years." The letter notes that the Environmental Protection Agency's "new" administrator, William Ruckelshaus, indicated his support for both Reagan and Watt's environmental policies -- "policies that seriously threaten our natural resources and endanger our health and safety."

3 5 0 4 0 5 1 1 2 3

It is of primary importance that there is no express advocacy in the direct mailer. In Buckley, the Supreme Court held that in order for communications to be considered express advocacy they must be unambiguously related to the campaign of a particular federal candidate and must expressly advocate one's election or defeat with terms such as "vote for," "elect," "vote against" and "defeat." In the instant case, the solicitation's timing, lack of reference to Reagan's candidacy and lack of a message expressly advocating Reagan's defeat places the solicitation outside the strictures of 2 U.S.C. § 441d in that regard.

In addition, because the General Counsel is of the opinion that the communication did not solicit contributions for the purpose of influencing a federal election, it is not governed by 2 U.S.C. § 441d on that basis. The purpose was to generate funds to sustain ETF's effort at sharing its views with the public. All the factors noted in AO 1984-17 indicating a "non-influencing purpose" are also present here:

- ETF's material is issue-oriented and not election or candidate-oriented
- no one is referred to as a candidate in any federal election
- no information is given regarding elections
- no one is urged to vote on the basis of the letter or to take the information it conveys into account in voting
- there is no suggestion of a relationship between the issues and the election. See AO 1984-17 addressing a corporation's lawful distribution of congressional voting records to the general public.

35040511124

3 5 9 4 0 5 1 1 2 5

NCPAC has raised the possibility of a 2 U.S.C. § 441b violation through its reference to AO 1984-14.^{1/} ETF is a District of Columbia Not-for-Profit corporation that may not make an expenditure in connection with a federal election nor make partisan communications to non-members. It is the General Counsel's view that ETF's expenditures were not in connection with the President's reelection campaign since there is no nexus between the mailings and a federal election. See Miller v. American Telephone and Telegraph Company, 507 F.2d 758 (1974). ETF makes no reference to a federal campaign in its 1983 mailing. Instead, it emphasizes its disapproval of the President's environmental policies. There is no "active electioneering" but only a recitation of ETF's perception of the administration's record. See United States v. United Automobile Workers, 352 U.S. 567 (1957). Finally, because the mailer contains only legislative and issue advocacy, it is not partisan material and may be distributed beyond the statutorily restricted class.

^{1/} In AO 1984-14 the Commission ruled that a Not-for-Profit membership organization could distribute to the general public a voter guide compiling voting records of candidates and advocating positions on issues, so long as it did not favor one candidate or political party over another. The compilation was lawful because the language did not evince, "an election-influencing purpose," i.e. noting that a certain candidate is easier to convince when he's looking for votes than after he's safely in office.

III. RECOMMENDATIONS

1. Find no reason to believe the Environmental Task Force violated 2 U.S.C. 441b or 2 U.S.C. 441d, provisions of the Federal Election Campaign Act, as amended.
2. Approve the attached letters.
3. Close the file.

Charles N. Steele
General Counsel

December 13, 1984
Date

BY: Kenneth A. Gross
Associate General Counsel

Attachments

1. ETF's response
2. Letter to respondent
3. Letter to complainant

35040511126

OCC # 5447 Hand Delivered

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

1575 EYE STREET, N.W.
WASHINGTON, D.C. 20005

(202) 783-1200

November 1, 1984

CABLE ADDRESSES
RAVENACLER WASHINGTON
RAVENACLER NEW YORK

TELEX NUMBERS
WASHINGTON 897488
NEW YORK DOMESTIC 128821
NEW YORK INTL 234888
HONG KONG 8888
LAF HI

NEW YORK OFFICE
425 PARK AVENUE
NEW YORK, N.Y. 10022
(212) 407-8000

FLORIDA OFFICE
125 WORTH AVENUE
PALM BEACH, FLA. 33480
(305) 833-5151

HONG KONG OFFICE
EDINBURGH TOWER
40TH FLOOR
15 QUEEN'S ROAD CENTRAL
HONG KONG
8-285791

24 NOV 1 P 5: 26

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

Re: MUR 1813

Dear Mr. Steele:

This letter represents the response of the Environmental Task Force ("ETF"), to the complaint filed by the National Conservative Political Action Committee ("NCPAC"). The complaint is without merit and should be dismissed under the procedures specified in 11 C.F.R. § 111.7.

The complaint alleges that the 1983 National Environmental Survey (the "1983 Survey") violates the disclaimer requirements of the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 441d. This provision requires persons who make expenditures "for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate" to state in the communication that, among other things, the communication has not been authorized by any candidate or candidate's committee. 2 U.S.C. § 441d (emphasis added). Thus, by its terms this provision does not apply to a communication which does not in express and direct terms advocate the election or defeat of a clearly identified candidate.

The courts have confirmed that 2 U.S.C. § 441d is limited to terms of express advocacy. The United States Court of Appeals for the Second Circuit has specifically ruled that section 441d does not apply to communications which do not include such words as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat" or "reject." Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 52 (2d Cir. 1980), quoting Buckley v. Va- leo, 425 U.S. 1, 44 n.52 (1976). The United States District Court for the District of Columbia has interpreted a virtually identical FECA provision to require the same words of express advocacy. Federal Election Commission v. American Federation of

3504051127

Mr. Charles N. Steele

- 2 -

November 1, 1984

State, County and Municipal Employees, 471-F. Supp. 315, 316-317 (D.D.C. 1979) (construing 2 U.S.C. § 431(f)(4)(c)).

ETF's 1983 Survey does not expressly advocate the election or defeat of a clearly identified candidate. The 1983 Survey is part of ETF's overall program which supports grassroots responses to specific environmental problems, such as neighborhood toxic waste dumps. The 1983 Survey suggests that concerned individuals can be more effective in responding to environmental problems by sharing information, participating in leadership conferences and by joining together with other individuals at the local level to "battle" environmental threats. To encourage these grassroots efforts, the 1983 Survey highlights the Reagan Administration's record on environmental issues and concludes that a new cooperative effort is needed. Nowhere does the 1983 Survey include the words "election," "candidate," "vote for," "vote against," "take action at the polls," or any other words of express advocacy aimed at the electoral process.

Therefore, it is clear that the 1983 Survey is not subject to the disclaimer requirements of 2 U.S.C. § 441d and that the complaint, must be dismissed. NCPAC's complaint ignores the plain terms of FECA, and the unanimous judicial construction of the statute. We cannot comprehend how anyone who had read the 1983 Survey could reasonably have filed this complaint in good faith.

ETF must, in addition, express its deep concern about what seems to be a serious abuse of FECA's enforcement provisions by NCPAC. It is difficult for us to believe that NCPAC's complaint against ETF is an isolated incident. We believe that this complaint is just one of a series that may have been filed against other organizations like ours who do not share NCPAC's philosophy, and who have exercised their constitutional right to fairly criticize government officials and policies affecting their programmatic commitments. American democracy depends on the ability of individuals and organizations, large and small, to speak out freely on important public issues, to tell the public, our own members, and other groups what we think, to inquire freely about what they think, and to reach out to like-minded groups and individuals for support. We do not believe that our rights can be diminished because the people we may wish to criticize hold government office, or because these officeholders seek reelection.

3504051123

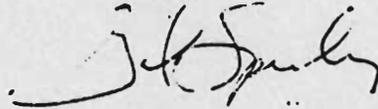
Mr. Charles N. Steele

- 3 -

November 1, 1984

ETF can ill afford the cost or the disruption to its small staff to respond to frivolous complaints. Other organizations doubtless have the same problem. Abuses of FECA, such as that we have seen here, can only serve to discourage all of us from speaking out, from fairly criticizing government officials, from naming names. We don't believe that freedom of speech is a part-time thing, to be modulated whenever an election is approaching. We urge the Federal Election Commission to act decisively to prevent FECA from being used by NCPAC or anybody else to harrass their opponent or to deter them from continuing to express their views on issues of public concern.

Sincerely,



Gilbert P. Sperling

GPS/sm

85040511129



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. Gilbert Sperling
Kaye, Scholer, Fierman, Hays
and Handler
1575 Eye Street, N.W.
Washington, D.C. 20005

RE: MUR 1813
The Environmental Task Force

Dear Mr. Sperling:

On October 12, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 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

Enclosure
General Counsel's Report

3504051130



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John T. Dolan
National Conservative Political
Action Committee
1001 Prince Street
Alexandria, Virginia 22314

RE: MUR 1813
The Environmental Task Force

Dear Mr. Dolan:

3 5 0 4 0 5 1 1 1 3 1
The Federal Election Commission has reviewed the allegations of your complaint received October 9, 1984 and determined that on the basis of the information provided in your complaint and information provided by the respondent there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

OGC # 5447
J Levin

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

1575 EYE STREET, N.W.
WASHINGTON, D.C. 20005

(202) 783-1200

November 1, 1984

CABLE ADDRESSES
KAYEMACLER WASHINGTON
KAYEMACLER NEW YORK

TELEX NUMBERS
WASHINGTON 897458
NEW YORK DOMESTIC 126821
NEW YORK INTL 234860
HONG KONG 82816
KAY MX

NEW YORK OFFICE
425 PARK AVENUE
NEW YORK, N.Y. 10022
(212) 407-8000

FLORIDA OFFICE
125 WORTH AVENUE
PALM BEACH, FLA. 33480
(308) 833-8181

HONG KONG OFFICE
EDINBURGH TOWER
40TH FLOOR
15 QUEEN'S ROAD CENTRAL
HONG KONG
8-285781

24 NOV 1 1984
P 5:26

COMMUNICATIONS SECTION

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

Re: MUR 1813

Dear Mr. Steele:

This letter represents the response of the Environmental Task Force ("ETF"), to the complaint filed by the National Conservative Political Action Committee ("NCPAC"). The complaint is without merit and should be dismissed under the procedures specified in 11 C.F.R. § 111.7.

The complaint alleges that the 1983 National Environmental Survey (the "1983 Survey") violates the disclaimer requirements of the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 441d. This provision requires persons who make expenditures "for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate" to state in the communication that, among other things, the communication has not been authorized by any candidate or candidate's committee. 2 U.S.C. § 441d (emphasis added). Thus, by its terms this provision does not apply to a communication which does not in express and direct terms advocate the election or defeat of a clearly identified candidate.

The courts have confirmed that 2 U.S.C. § 441d is limited to terms of express advocacy. The United States Court of Appeals for the Second Circuit has specifically ruled that section 441d does not apply to communications which do not include such words as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat" or "reject." Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 52 (2d Cir. 1980), quoting Buckley v. Valeo, 425 U.S. 1, 44 n.52 (1976). The United States District Court for the District of Columbia has interpreted a virtually identical FECA provision to require the same words of express advocacy. Federal Election Commission v. American Federation of

3 5 0 4 0 5 1 1 3 2

Mr. Charles N. Steele

- 2 -

November 1, 1984

State, County and Municipal Employees, 471 F. Supp. 315, 316-317 (D.D.C. 1979)(construing 2 U.S.C. § 431(f)(4)(c)).

ETF's 1983 Survey does not expressly advocate the election or defeat of a clearly identified candidate. The 1983 Survey is part of ETF's overall program which supports grassroots responses to specific environmental problems, such as neighborhood toxic waste dumps. The 1983 Survey suggests that concerned individuals can be more effective in responding to environmental problems by sharing information, participating in leadership conferences and by joining together with other individuals at the local level to "battle" environmental threats. To encourage these grassroots efforts, the 1983 Survey highlights the Reagan Administration's record on environmental issues and concludes that a new cooperative effort is needed. Nowhere does the 1983 Survey include the words "election," "candidate," "vote for," "vote against," "take action at the polls," or any other words of express advocacy aimed at the electoral process.

Therefore, it is clear that the 1983 Survey is not subject to the disclaimer requirements of 2 U.S.C. § 44ld and that the complaint, must be dismissed. NCPAC's complaint ignores the plain terms of FECA, and the unanimous judicial construction of the statute. We cannot comprehend how anyone who had read the 1983 Survey could reasonably have filed this complaint in good faith.

ETF must, in addition, express its deep concern about what seems to be a serious abuse of FECA's enforcement provisions by NCPAC. It is difficult for us to believe that NCPAC's complaint against ETF is an isolated incident. We believe that this complaint is just one of a series that may have been filed against other organizations like ours who do not share NCPAC's philosophy, and who have exercised their constitutional right to fairly criticize government officials and policies affecting their programmatic commitments. American democracy depends on the ability of individuals and organizations, large and small, to speak out freely on important public issues, to tell the public, our own members, and other groups what we think, to inquire freely about what they think, and to reach out to like-minded groups and individuals for support. We do not believe that our rights can be diminished because the people we may wish to criticize hold government office, or because these officeholders seek reelection.

3504051133

Mr. Charles N. Steele

- 3 -

November 1, 1984

ETF can ill afford the cost or the disruption to its small staff to respond to frivolous complaints. Other organizations doubtless have the same problem. Abuses of FECA, such as that we have seen here, can only serve to discourage all of us from speaking out, from fairly criticizing government officials, from naming names. We don't believe that freedom of speech is a part time thing, to be modulated whenever an election is approaching. We urge the Federal Election Commission to act decisively to prevent FECA from being used by NCPAC or anybody else to harrass their opponent or to deter them from continuing to express their views on issues of public concern.

Sincerely,



Gilbert P. Sperling

GPS/sm

35040511134

LAYE, SCHOLER, FIERMAN, HAYS & HANDLER

1575 EYE STREET, N.W.
WASHINGTON, D.C. 20005

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

Att: Matt Gerson

NOV 1 11 35
P 5: 25

OFFICE
GENERAL COUNSEL

3 5 0 4 0 5 1 1 3 5

GCC#S383

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

1575 EYE STREET, N.W.
WASHINGTON, D. C. 20005

(202) 783-1200

October 29, 1984

NEW YORK OFFICE
425 PARK AVENUE
NEW YORK, N. Y. 10022
(212) 407-8000

FLORIDA OFFICE
125 WORTH AVENUE
PALM BEACH, FLA 33480
(305) 833-5151

HONG KONG OFFICE
EDINBURGH TOWER
40TH FLOOR
15 QUEEN'S ROAD CENTRAL
HONG KONG
5-265791

CABLE ADDRESSES
KAYEMACLER WASHINGTON
KAYEMACLER NEW YORK

TELEX NUMBERS
WASHINGTON 897458
NEW YORK DOMESTIC 126921
NEW YORK INTL 234860
HONG KONG 82818
KAY HK

14 OCT 29 1984
P 4: 46

COMMUNICATIONS

Mr. Matt Gerson
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: MUR 1813

Dear Mr. Gerson:

As I indicated to you in our telephone conversation, this firm is counsel to the Environmental Task Force ("ETF") concerning the complaint filed by the National Conservative Political Action Committee with the Federal Election Commission ("FEC"). ETF firmly believes that the complaint is entirely without merit and that it should be dismissed by the FEC.

This firm has prepared a more detailed response to the complaint which will be reviewed by ETF on Tuesday or Wednesday. If ETF decides to respond further to the complaint, I will have the response hand delivered to you no later than Wednesday afternoon, October 31, 1984.

Sincerely,

Gilbert P. Sperling

GPS:sm

6504051136

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

1575 EYE STREET, N.W.

WASHINGTON, D.C. 20005

Mr. Matt Gerson
Federal Election Commission
7th Floor
1325 K Street, N.W.
Washington, D.C.

35040511137



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *CT*
DATE: October 19, 1984
SUBJECT: MUR 1813 - Memorandum to The Commission

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[]	Compliance	[X]
Sensitive	[]	Audit Matters	[]
Non-Sensitive	[]	Litigation	[]
24 Hour No Objection	[]	Closed MUR Letters	[]
Sensitive	[]	Status Sheets	[]
Non-Sensitive	[]	Advisory Opinions	[]
Information	[]	Other (see distribution below)	[]
Sensitive	[]		
Non-Sensitive	[]		
Other	[X]		

SENSITIVE - EXPEDITE
CIRCULATE ON PINK PAPER
INFORMATIONAL

3504051138



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

84 OCT 19 P 2: 35

October 19, 1984

SENSITIVE

MEMORANDUM TO: The Commission
FROM: Charles N. Steele
By: Kenneth A. Gross
Associate General Counsel *KAG*
SUBJECT: MUR 1813 - Environmental Task Force

The National Conservative Political Action Committee alleges that the Environmental Task Force violated 2 U.S.C. § 441d. That statute requires that:

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate or solicits any contribution... through general public political advertising...

the Communication must indicate who paid for it, and where required, who authorized such communication.

The issues presented are whether the communication expressly advocated Ronald Reagan's defeat and whether the communication solicited contributions for the purpose of influencing a federal election. 2 U.S.C. § 431(8)(A)(i). While the respondent's communication criticized the Reagan administration, it did not expressly advocate Reagan's defeat. However, while the Environmental Task Force definitely solicited contributions in order to advocate positions contrary to those of the Administration, it is uncertain whether the language utilized fell within the statute's purview. It will, therefore, be necessary for the Commission to review the communication's pertinent language before rendering a reason to believe determination.

In addition, we are unable to discern the respondent organization's corporate structure at this time. Because § 441b violations may be involved, we will wait until the fifteen day response period expires before providing the Commission with a complete analysis of this allegation.

35040511139



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 12, 1984

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

James H. Cohen
President
Environmental Task Force
1346 Connecticut Avenue, N.W.
Suite 918
Washington, D.C. 20036

RE: MUR 1813

Dear Mr. Cohen:

This letter is to notify you that on October 9, 1984, the Federal Election Commission received a complaint which alleges that you and the Environmental Task Force 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 1813. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing, that no action should be taken against you and the Environmental Task Force in connection with this matter. You may respond to the allegations made against you within 15 days of receipt of this letter. The complaint may be dismissed by the Commission prior to receipt of the response if the alleged violations are not under the jurisdiction of the Commission or if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you and the Environmental Task Force will be notified by mailgram. If no response is filed within the 15 day statutory requirement, the Commission may take further action based on available information.

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

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

35040511140

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

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

If you have any questions, please contact Stephen Levin, the staff person assigned to this matter at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: *Kenneth A. Gross (287)*
Kenneth A. Gross
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope

35040511141



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 12, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John T. Dolan
National Chairman
National Conservative
Political Action Committee
1001 Prince Street
Alexandria, Virginia 22314

Dear Mr. Dolan: "

This letter is to acknowledge receipt of your complaint which we received on October 9, 1984, against James H. Cohen and Environmental Task Force which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent(s) will be notified of this complaint within 24 hours. You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this Office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Please be advised that this matter shall remain confidential in accordance with 2 U.S.C. § 437g(a)(B) and § 437g(a)(12)(A) unless the respondent notifies the Commission in writing that they wish the matter to be made public.

Sincerely,

Charles N. Steele
General Counsel

By: *Kenneth A. Gross (KAG)*
Kenneth A. Gross
Associate General Counsel

Enclosure

35740511142

*National Conservative
Political Action Committee*

*1001 Prince Street
Alexandria, Virginia 22314*

RECEIVED AT THE FEC
GCC #5017
84 OCT 8 AM: 43

*John T. Dolan
National Chairman*

September 28, 1984

(703) 684-1800

MUR
1813

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

Dear Sir:

This letter constitutes a complaint filed pursuant to 2 U.S.C. 437g by the National Conservative Political Action Committee ("NCPAC"), a registered independent political action committee, against Environmental Task Force ("ETF"), which has apparently violated the provisions of 2 U.S.C. 441d in making expenditures for the purpose of financing communications which expressly advocate the defeat of Ronald Reagan.

Attached hereto and made a part of this complaint is a copy of a direct mailing produced by ETF which violates 2 U.S.C. 441d. The name and address of the recipient of the mailing have been excised; no other alterations to the mailing have been made.

NCPAC has reason to believe that this communication was mailed to the general public.

NCPAC has reviewed the records of the Commission and ascertained that ETF is not a registered political action committee.

The lack of an outright admonition to vote against President Reagan in the upcoming Presidential election does not defeat the clear intent and purpose of ETF in advocating the defeat of President Reagan as set forth in the enclosed direct mailing.

NCPAC notes that by AO 1984-14, the Commission ruled that a membership organization which compiled voter guides may not distribute such material to the general public if they imply

3 0 9 0 5 1 1 4 3

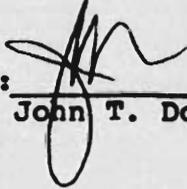
84 OCT 8 AM: 03
GENERAL COUNSEL

Federal Election Commission
September 28, 1984
Page Two

a right or wrong answer or a weak record. In that same advisory opinion it was noted that favoring one candidate over the other in the context of an election indicates an election-influencing purpose.

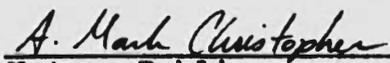
Very truly yours,

NATIONAL CONSERVATIVE POLITICAL
ACTION COMMITTEE

By: 
John T. Dolan, Chairman

COMMONWEALTH OF VIRGINIA)
CITY OF ALEXANDRIA) to-wit:

Sworn to before me this 1st day of ~~September~~ ^{October}, 1984,
by JOHN T. DOLAN, as Chairman of National Conservative Political
Action Committee, under the penalty of perjury and subject to the
provisions of section 1001 of Title 118 of the United States
Code.


Notary Public

My Commission Expires: 11/21/86

11141
5040511141

1983 National Environmental Survey

The Environmental Task Force

Dear Friend,

Please take a few minutes to complete and return the 1983 National Environmental Survey I've enclosed for you.

These survey issues involve the personal health, safety and well-being of you and your family.

Only a small group of specially selected Americans is being asked to participate in this nationwide survey. That's why your opinion on these critical issues is so important.

By telling me which key issues concern you most, you will help us identify trends and priorities that require immediate action.

This valuable information will be shared with environmental leaders and decision makers across the country. That way we can be more effective in solving important local and national environmental issues.

Even as I write this letter, toxic chemicals are contaminating our water supplies, industrial pollutants are making our air unsafe, and valuable natural resources are being depleted at alarming rates. At the same time, the threat of nuclear catastrophe is increasing.

These are not scare tactics...tragically, these are true facts occurring daily in every state across the country.

In the past we have been able to look to the Federal Government for help. But now, with drastic budget and agency cutbacks, the Government won't help us. Even basic enforcement of our anti-pollution laws has virtually ground to a halt.

As the Administration intentionally neglects enforcement of our environmental laws, it has cut 600 million dollars from urgently needed energy programs, withdrawn its protection of critical wilderness areas now threatened by corporate development, and abandoned many essential environmental safeguards that protect you and me from harm. In short, President Reagan is pro-business and soft on polluters!

And James Watt, Secretary of the Interior, is systematically destroying every significant environmental gain of the past 20 years. Daily our newspapers tell of the severe threats to local environments that Secretary Watt's actions have unleashed. It is clear he favors unlimited commercial exploitation without sensible environmental and wildlife protection.

But this is not all. Look at what's happened to the Environmental Protection Agency. Our once strong and non-partisan EPA has lost the public trust it needs to operate effectively. As a result of scandals involving sweetheart deals with polluters, delays in enforcement actions for political profiteering, and refusals to turn over critical information about cleaning up deadly toxic waste dumps...key EPA officials have been cited for contempt of Congress and nearly two dozen driven from office.

3504051145

And how hopeful should we feel about William Ruckelshaus as EPA's new Administrator? Although he had a positive reputation as EPA's first Administrator, over the last 10 years he has attacked many environmental laws as "extreme," and even urged Congress to weaken the Clean Air Act because he felt it had only "marginal benefits." This is the same Act most Americans want strengthened. Worse yet, Ruckelshaus has already indicated his support for both Reagan's and Watt's environmental policies--policies that seriously threaten our natural resources and endanger our health and safety.

Despite the fact that every poll shows that the overwhelming majority of Americans wants stronger environmental protection, we are losing ground fast. And we must be alarmed. Right now the efforts of many grass-roots environmental groups around the country are too fragmented and uncoordinated to successfully battle the mounting anti-environmental opposition. If we are going to preserve the gains achieved so far, and win further protection of our environment, we must strengthen and unify our approach immediately.

What's needed? A new cooperation of effort, new and more effective techniques, and, of course, the renewed dedication and support of all of us concerned about human and animal survival.

By working together in unison and eliminating needless duplication of effort, we will avoid wasted time and money, and achieve so much more. What's needed is a common link among all environmental organizations.

That's where the Environmental Task Force comes in.

ETF was formed specifically to meet these challenges by providing small and large organizations and citizens with the vital information and assistance needed to solve crucial environmental problems that affect you.

Using ETF's Information, Resource and Referral Center, individuals and groups from all across the country have access to valuable "case studies" about environmental problems similar to those they are facing. Now, you can find out where to go for help, what your rights are, and answers to other important questions.

ETF also organizes regular leadership conferences where top leaders and key staff from citizen and environmental groups share valuable information and strategies. Its nationally acclaimed environmental newspaper, RE:SOURCES, provides an effective communication link among thousands of citizen groups in every single state. And ETF's national legal defense fund, Community Environmental Legal Services (CELS) acts as a central coordinating source of legal information and assistance for local citizen efforts, large and small, all over the nation.

These vital ETF programs further strengthen the badly needed common link among organizations.

Battles to save our environment from destruction are being waged increasingly on state and local levels. Frequently, groups of citizens join together for the sole purpose of fighting a single neighborhood threat. Unfortunately those efforts often fail simply because citizens

(next page, please)

3 5 0 4 0 5 1 1 4 6

don't have any help, or don't know how to combat the well-financed developer or polluter.

Just imagine for a moment how you and your neighbors would react if a deadly toxic dump site was threatening your water supply. Think of Love Canal, Times Beach and now Newark. The threats of sickness, miscarriages and birth defects, even death--would be real. You would want to do something fast to stop it: but what would you do? Who would you complain to? Who is responsible? Who has the authority to do something? How can a coordinated and responsible effort be developed to respond effectively to the crisis? Wouldn't you like to just pick up the phone to get the answers?

ETF can provide the answers to these and other vital questions such as: How have other communities solved this problem? And how do you get the legal, professional or technical assistance you need?

In short, ETF is keeping you and citizen groups around the country from "reinventing the wheel" each time a critical issue or problem arises. And by supporting ETF you help hundreds of grass-roots environmental organizations who look to ETF to get the information and assistance needed to work effectively.

Issues involving toxic contamination, foul air and hazardous wastes are urgent and real. They call for quick, strong action and expertise--just the type of assistance ETF provides communities like Newark, New Jersey, where deadly dioxin has been found in the heart of the city!

With your support ETF will increase its efforts to:

- Challenge environmentally unsound proposals that harm our natural resources or have devastating effects on your health and safety.
- Provide ready access to valuable "case studies" and data about environmental problems vital for any person or group facing a similar crisis.
- Organize leadership conferences where representatives from citizen and environmental groups share important information and develop common strategies on critical issues.
- Coordinate a nationwide communication network that puts individuals and citizens' groups in touch with each other, so they can work together effectively and efficiently--without duplication of effort or wasted time and money.

In just three years ETF has earned the encouragement and cooperation of leaders from environmental organizations across the country.

* Here's what former Secretary of the Interior Stewart Udall said in a recent letter to environmental leaders:

"Of the numerous efforts I have seen over the years, I can think of none which has offered more creative and practical ways of strengthening environmental organizations at every level than ETF."

(over, please)

35040511147

But we need to do much more. We must reach out immediately to link up the efforts of diverse grass-roots groups across the country. Only then can we together guarantee a healthier and safer environment for our children and grandchildren...before it's too late.

Quite frankly, ETF simply doesn't have the funds to continue this important work without your help. Our money must come from your donations, because we receive no Government funds or sustaining foundation support.

The need is great...and we urgently need your help!

So please, act now and:

- 1) Send the largest tax-deductible contribution you can to ETF today. Your donation will help hundreds of grass-roots groups and individuals across the country. Please make a contribution of \$25, \$35 or \$50, more if you possibly can.
- 2) Return your completed survey with your contribution today to let me know where you stand on these key environmental issues. Your answers will help ETF and decision makers across the country to focus their efforts on the issues most important to you.
- 3) Tell others about the work of ETF and about the need to get involved at the state, local, or community level. During the 1980's this is where the battles for our environment will be fought and won... and that's where ETF can help you most.

It's important that you do all you can to help now...it can mean the difference between success and failure; between economic progress with environmental protection, or without it!

What's at stake? Literally our quality of life itself.

Sincerely,

James H. Cohen

James H. Cohen
President

P.S. When you return your survey, I will keep your individual answers confidential. Only total results will be released. Please mail in time to meet the deadline on the front of your envelope. And join the more than 35,000 concerned citizens who have already supported ETF's efforts. Send the largest possible contribution you can today. Anything you send will help in the fight for a safer and healthier environment for us all.

In advance, thanks for your help.

3504051148

1983 NATIONAL ENVIRONMENTAL SURVEY

Conducted by **The Environmental Task Force**

Your opinions and financial support are urgently needed to help solve critical environmental problems. Please help by answering the Survey questions below and return this form with your tax-deductible contribution today. Thanks for your support.

This National Survey is registered for the exclusive use of:

Please respond within 25 days.

Please Do Not Write in This Space

Date Received: _____

Survey #: _____

Tabulated By: _____

Instructions: Please mark your answers to the following questions by placing a check (✓) in the appropriate box. Please return your completed survey as soon as possible. All answers will remain confidential and only total results will be released.

1. Your answers are essential to establish environmental priorities. Listed below are some of the most crucial issues facing our Nation today. Which do you consider *most important*? Please check (✓) the 3 that concern you most.

- | | | |
|--|--|---|
| <input type="checkbox"/> air pollution | <input type="checkbox"/> water pollution | <input type="checkbox"/> toxic and hazardous substances |
| <input type="checkbox"/> energy conservation | <input type="checkbox"/> acid rain | <input type="checkbox"/> wildlife and wilderness |
| <input type="checkbox"/> public lands protection | <input type="checkbox"/> population | <input type="checkbox"/> other |
| <input type="checkbox"/> nuclear power | <input type="checkbox"/> farmland preservation | |

- | | | | |
|--|------------------------------|-----------------------------|------------------------------------|
| 2. Do you believe our public parks, wildlife refuges and wilderness areas should be protected from exploitation by private oil, gas, and mineral interests? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Undecided |
| 3. Do you think President Reagan and his political appointees care more about protecting firms that are violating the anti-pollution laws than they do about enforcing those laws? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Undecided |
| 4. Do you believe that Secretary of the Interior James Watt is responsive to the need for environmental and wildlife protection? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Undecided |
| 5. Do you believe that action should be taken to ensure the independence of the Environmental Protection Agency, so that its policies cannot be politically manipulated? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Undecided |
| 6. Do you believe that stronger conservation measures and increased use of renewable sources of energy such as solar power will help our country deal more effectively with diminishing energy supplies? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Undecided |
| 7. Do you feel that sufficient safeguards are being used in the storage, transportation and disposal of toxic and nuclear wastes? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Undecided |
| 8. Do you feel that the environmental movement should coordinate and unify its efforts in response to critical environmental issues? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Undecided |
| 9. Do you consider toxic, air and water pollution as potential threats to you and your family's health? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Undecided |

Yes, I want to help. Enclosed is my tax-deductible contribution to meet the challenge of these critical issues in 1983, along with my survey for tabulation.

Other \$ _____ \$100 \$50 \$35* \$25 \$15

* Please send \$35 or more if you possibly can. We need many donations like this for 1983. Thanks so much.

Please make your check payable to ETF.
Thank you for your support.

Please sign to validate this survey

signature

Environmental Task Force 1346 Connecticut Avenue, N.W. Suite 918 Washington, D.C. 20036

From the desk of:

STEWART L. UDALL

Dear Friend:

If you have decided not to contribute to the Environmental Task Force at this time, I strongly urge you to reconsider.

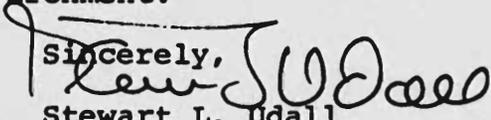
As former Secretary of the Interior, I know first hand about the dangerous direction our country is headed in. This Administration's actions and policies threaten to wipe out critical environmental gains of the last 20 years.

Only with a strengthened, unified approach can we battle this anti-environmental opposition. ETF is doing just that with its crucial programs to link up efforts of environmental groups across the country.

I believe in what ETF is doing to make our environment healthy and safe. And I think it deserves your financial support.

I have sent my personal contribution to help. So, I sincerely hope you will reconsider and do the same today. Your donation will be a sound investment in the protection of our environment.

Sincerely,


Stewart L. Udall

Former Secretary of the Interior

35040511150

35040511151

Do NOT OPEN
UNLESS YOU'VE DECIDED
NOT TO CONTRIBUTE TO ETF
AT THIS TIME!

3 5 0 4 0 5 1 1 1 5 2

THANKS ALSO
FOR
PAYING THE
POSTAGE

Environmental Task Force
1346 Connecticut Avenue, N.W., Suite 918
Washington, D.C. 20036

3 5 0 4 0 5 1 1 1 5 3

Environmental Task Force
1346 Connecticut Avenue, N.W.
Washington, D.C. 20036



1983 NATIONAL ENVIRONMENTAL SURVEY



IMPORTANT: Please
complete and return
within 25 days.

nal Conservative
cal Action Committee
Princy Street
doia, Virginia 22314

54
VA

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

3 5 0 4 0 5 1 1 1

84 OCT 9 9:49



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1813

Date Filmed 1/17/85 Camera No. --- 2

Cameraman AS

35040511155