



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

THIS IS THE BEGINNING OF MUR # 2255
DATE FILMED 1/13/88 CAMERA NO. 3
CAMERAMAN AS

88040571491

PUBLIC RECORD INDEX - MUR 2255
(merged with MUR 2181)

A. MUR 2181

1. Complaint, dtd 30 May 86, filed by John Houston (Ruff Political Action Cmte) against Republican Media Group/Republican Ticket; Michael Mercier; Tim Corey; Pacific Ad Mail; Rep. Ed Zschau.
2. Memo, 5 Jan 86, Marjorie W. Emmons/Arnita D. Hession to the Commission, Subj: MUR 2181 - Complaint.
3. Acknowledgement ltr, 5 Jun 86, Lawrence M. Noble (Deputy General Counsel) to John Houston (Ruff PAC).
4. Notification ltrs, 9 Jun 86, L.M. Noble to a) Michael Mercier, b) Republic Media Group, c) Pacific Ad Mail, d) Ed Zschau, e) Jim Corey.
5. Response ltr, 19 Jun 86, Samuel D. Hinkle IV (Attorney for Rep. Ed Zschau) to FEC.
6. Memo, 23 Jun 86, Lee Garrity (Reports Analysis Division) to General Counsel, w/atch (Proposed Request for Additional Information "FRAI" to Ed Zschau for U.S. Senate Cmte).
7. Ltr, 23 Jun 86, Joseph Remcho to FEC, subj: Request for continuance w/atch (J. Remcho and Kathleen Purcell designated as Counsel for Republic Media Group, Inc., Jim Corey, Pacific Ad Mail).
8. Ltr, 24 Jun 86, Pamela Hitchcock (Secretary to J. Remcho) to FEC.
9. Ltr, 27 Jun 86, L.M. Noble to J. Remcho, subj: extension of time granted.
10. Ltr, 27 Jun 86, Linda Fall to FEC w/atch (Designating J. Remcho and K. Purcell as Counsel for Michael Mercier).
11. Ltr, 14 Jul 86, Kathleen J. Purcell to C.N. Steele, w/atch (Response of J. Corey, M. Mercier and Pacific Ad Mail).
12. Ltr, 14 Jul 86, K.J. Purcell to FEC, w/atch (Response of Republic Media).
13. First General Counsel's Report, 24 Jul 86.
14. Memo, 28 Jul 86, M.W. Emmons/C.A. Fleming to C.N. Steele.
15. Memo, 26 Aug 86, O.A. Anderson to C. Steele.

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B. MUR 2255

16. Ltr, 23 Sep 86, Charles H. Bell, Jr. to FEC, w/atch (complaint against M. Mercier; J. Corey; Republic Media; Mercier-Kukurin; Pacific Ad Mail).
17. Acknowledgement ltr, 3 Oct 86, L.M. Noble to C.H. Bell, Jr.
18. Notification ltr, 3 Oct 86, L.M. Noble to a) Michael Mercier, b) James Corey, c) Michael Mercier (Treasurer, Republic Media Group), d) Mercier-Kukurin, e) Pacific Ad Mail.
19. Ltr, 19 Oct 86, K.J. Purcell to FEC, w/atch (Designation of Counsel).
20. Ltr, 16 Oct 86, L.M. Noble to K.J. Purcell, subj: Extension of time granted.
21. Ltr, 6 Nov 86, K.J. Purcell to C.N. Steele, subj: MUR 2255 - Response of Republic Media Group; M. Mercier; J. Corey; Pacific Ad Mail; and Mercier-Kukurin.
22. Memo, 10 Nov 86, O.A. Anderson to C. Steele, w/atch (Proposed RFAI).
23. Memo, 26 Nov 86, O.A. Anderson to C. Steele, w/atch (Proposed RFAI).
24. First General Counsel's Report, 26 Nov 86, (MUR 2255).
25. Memo, 1 Dec 86, M.W. Emmons/C.A. Fleming to C.N. Steele.
26. Memo, undtd, re: Merging of MURs 2181 and 2255.
27. Memo, 3 Dec 86, O.A. Anderson to C. Steele, w/atch (Proposed RFAI).
28. Memo, 5 Dec 86, O.A. Anderson to C. Steele, w/atch (Proposed RFAI).
29. Memo, 19 FEB 87, O.A. Anderson to C. Steele, w/atch (Proposed RFAI).
30. Memo, 2 Mar 87, O.A. Anderson to C. Steele, w/atch (Proposed RFAI).
31. General Counsel's Report, 11 Mar 87.
32. Memo, 17 Mar 87, M.W. Emmons/J. McFadden to L.M. Noble.

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33. Memo, 18 Mar 87, M.W. Emmon/J. McFadden to L.M. Noble.
34. Certification of Commission Action, 1 Apr 87.
35. Ltr, 28 Apr 87, L.M. Noble to K.J. Purcell, re: J.G. Corey; M. Mercier (individually); Pacific Ad Mail; and Mercier-Kukurin (no RTB).
36. Ltr, 28 Apr 87, L.M. Noble to Samuel D. Hinkle IV, re: Rep. Ed Zschau (no RTB).
37. Ltr, 1 May 87, Scott E. Thomas to K.J. Purcell (RTB re: Republic Media Group and M. Mercier as treasurer).
38. Ltr, 12 May 87, Lowell Finley (Attorney for Republic Media and M. Mercier, Treas) to FEC.
39. General Counsel Report, 1 Jun 87.
40. Memo, 4 Jun 87, M.W. Emmons/J. McFadden to L.M. Noble, w/atch.
41. Memo, 4 Jun 87, M.W. Emmons/J. McFadden to L.M. Noble.
42. Certification of Commission Action, 10 Jun 87.
43. Ltr, 12 Jun 87, L.M. Noble to K.J. Purcell.
44. General Counsel's Report, 29 Jul 87.
45. Memo, 3 Aug 87, M.W. Emmons/J. McFadden to L.M. Noble.
46. Certification of Commission Action, 12 Aug 87.
47. Ltr, 14 Aug 87, L.M. Noble to L. Finky.
48. General Counsel's Report, 13 Oct 87.
49. Certification of Commission Action, 16 Oct 87.
50. Closing ltrs, 21 Oct 87, L.M. Noble to a) Charles H. Bell, Jr., b) John Houston, c) Kathleen J. Purcell, d) Samuel D. Hinkle, IV.
51. Ltr, 21 Oct 87, L.M. Noble to L. Finley, w/atch (**executed** conciliation agreement).

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52. Ltrs, 3 Nov 87, L.M. Noble to a) John Houston and b)
Charles H. Bell, Jr., w/atck (Statement of Reasons).

-END-

NOTE: In preparing its file for the public record, O.G.C.
routinely removes those documents in which it perceives
little or no public interest, and those documents, or
portions thereof, which are exempt from disclosure under
the Freedom of Information Act.

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MUR2181

GCC# 614

RUFFPAC

HOWARD J. RUFF, Chairman

(202) 547-2122

May 30, 1986

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GENERAL

The General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Steele:

Enclosed is a Complaint filed by the Ruff Political Action Committee, 214 Massachusetts Avenue, N.E., Suite 516, Washington, D.C., 20002, alleging that Republic Media Group/ Republican Ticket, Michael Mercier, Tim Corey, and Pacific Ad Mail, and candidates for federal office who paid for portions of the mailing, such as Rep. Ed Zschau, engaged in violations of Federal Election Law in the course of distributing a campaign mailing.

Sincerely yours,

John Houston
John Houston

Enclosure

JH:mbb

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214 Massachusetts Ave., N.E. Suite 560 Washington, D.C. 20002

RUFFPAC

BEFORE THE
FEDERAL ELECTION COMMISSION

COMPLAINT

RUFF POLITICAL ACTION COMMITTEE,)
)
Petitioner,)
)
v.) MUR No.
)
REPUBLIC MEDIA GROUP/REPUBLICAN)
TICKET--AN UNOFFICIAL POLITICAL)
GROUP; MICHAEL MERCIER; JIM)
COREY; PACIFIC AD MAIL; AND)
REP. ED ZSCHAU)
)
Respondents.)

I. INTRODUCTION

Ruff Political Action Committee ("RuffPAC") files this complaint pursuant to § 437g(a)(1) of the Federal Election Campaign Act of 1971, as amended ("Act"), alleging violations of the Act by Republic Media Group/Republican Ticket--An Unofficial Political Group, and/or Michael Mercier, James Corey, Pacific Ad Mail and Ed Zschau.

RuffPAC alleges that the Respondents, either collectively or separately, made an illegal campaign contribution to one or more federal candidates by including their names as endorsed candidates on a slate mailing produced by the respondents despite the fact that the federal candidates did not pay for any portion of the cost of the mailing. Further, RuffPAC alleges that Respondents may have violated the Act by charging federal candidates who did make

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a payment towards the cost of the mailing "less than the normal and usual charge for advertising and mail services." FEC Advisory Opinion 1984-62, Fed. Election Camp. Fin Guide ¶ 5813 (1985). Finally, RuffPAC alleges that Rep. Ed Zschau, as a candidate for federal office who willingly participated in the mailer and paid for a portion of the costs, may have violated the federal election laws on the same grounds.

II. THE FACTS

More than two million campaign mailers ^{1/} have been sent to California households urging voters in the state's Republican primary on June 3, 1986, to "Vote Your Republican Team '86," and featuring a ballot-like "ticket" of endorsed candidates and votes on ballot propositions. ^{2/} A number of the names on the slate are accompanied by Asterisks, which the mailer states indicates that they "have paid towards the production of this guide." ^{3/}

The mailer includes the names of both state and federal candidates, as well as recommending votes on three ballot propositions. The mailer, which was sent U.S. Mail Bulk

1/ See "GOP disavows use of names in anti-Prop. 51 flier," Orange County Register, May 30, 1986, at B3 (attachment B) ("Register article") and "Anti-Prop. 51 Mailer Touches Off GOP Uproar," Los Angeles Times, May 30, 1986, at 3 (attachment C) ("Times article").

2/ See Slate Mailer (attachment A).

3/ Id.

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Rate, bears at the base of the first page the statement "The Republican ticket is a Republic Media Group production," although press accounts assert that "Michael Mercier" of that same organization, ^{4/} "Pacific Ad Mail" ^{5/} and "Jim Corey" ^{6/} all bear responsibility as well.

III. LEGAL ANALYSIS

The Federal Election Commission has held that the endorsement of federal candidates by a mailing organization, and the use of those candidate's names in a slate mailing, "would be a gift of something of value to them" if the candidates did not pay the "normal and usual charge for advertising and mailing services." FEC Advisory Opinion 1984-62, Fed. Election Camp. Fin. Guide (CCH) ¶ 5813 (1985).

In Advisory Opinion 1984-62, the Commission was asked to approve a slate mailing program virtually identical to the one used in the Respondent's mailing. The requester ^{7/} stated that paying candidates would be identified with asterisks,

^{4/} See Times article at 3.

^{5/} Register article

^{6/} Id.

^{7/} The requester in AO 1984-62 was B.A.D. Campaigns, Inc., whose principals were Michael Berman and Carl D'Agostino. The Times article notes that the Respondent's mailer at issue here uses language developed by those same principals, and that those principals were responsible for developing a television campaign for one of the principal sponsors of Respondent's mailer. Times article at 3.

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and that non-paying candidates would be endorsed and included "for business reasons." The Commission refused to approve this endorsement and advertising process for non-paying federal candidates.

Instead, the Commission held that "the inclusion of such non-paying federal candidates will constitute a prohibited contribution or expenditure." Further, the Commission held that a prohibited contribution would occur even with regard to those candidates who did make a payment to be included in the mailer, if the mailer provided "advertising services at less than the usual and normal charge." See also 11 CFR 100.7(a)(1)(iii)(B) and 100.8(a)(1)(iv)(B).

In the present case, the Respondent's slate mailer contains an endorsement of and advertising for at least one federal candidate who is not identified as having "paid towards the production" of the guide. ^{8/} This is a clear violation of the law as defined by the Commission in AO 1984-62.

Further, the allocation between the various paying candidates and ballot issue sponsors or opponents is unclear. Press reports refer to the entire mailing as having been

^{8/} The slate mailer attached to this complaint contains the name of William E. (Bill) Dannemeyer, a candidate for Congress. See Attachment A. The press accounts state that other federal candidates were included on other versions of the mailer (such as Congressman Robert Badham) and claim that several different versions of the mailer were produced. See Times article at 3 and Register article (Attachments B&C)

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"financed largely by foes of Proposition 51," ^{9/} although a variety of other figures are mentioned for various candidates. Accordingly, some participants may have paid a disproportionate share of the expenses of the mailer, resulting in their making a contribution to candidates charged a disproportionately light share of the expenses. Although Rep. Ed Zschau, as a willing participant in the mailing, bears general responsibility for the alleged violations of federal election law, he may also after investigation be found to have paid less than his pro-rata share of the costs. Advisory Opinion 1984-62 makes it clear that such an unequal allocation would be illegal if it resulted in a candidate paying less than the usual and normal charge for advertising and mail services. ^{10/}

9/ Times article at 3.

10/ Although Advisory Opinion 1984-62 dealt specifically with a corporate contribution, which would be per se illegal under the Act, the same principles would apply if an individual made an excessive in-kind contribution. It is unclear which of the respondents are corporations, and, which individuals, but it is clear that the printing and postal charges for a mailing to 2,000,000 California households would be far more than \$1,000 per endorsed candidate.

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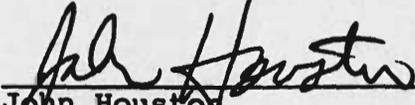
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IV. CONCLUSION

On the basis of the foregoing, RuffPAC requests that the
FEC:

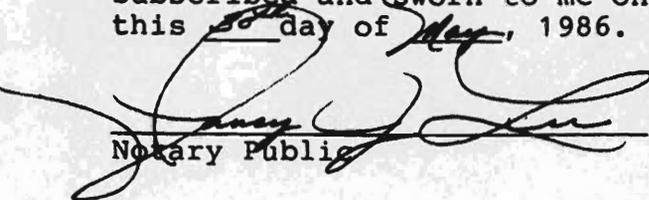
1. Conduct a prompt and immediate investigation of the facts and legal conclusions stated in this complaint;
2. Enter into a prompt conciliation with Respondents to remedy the violations alleged in this complaint; and
3. Impose any and all appropriate penalties grounded in violations alleged in this Complaint.

Respectfully submitted,



 John Houston
 Ruff Political Action Committee

Subscribed and sworn to me on
this 30 day of May, 1986.



 Notary Public

98040671502

ORANGE REPUBLICAN TICKET



MIKE CURB



ED ZSCHAU



BRUCE NESTANDE



WILLIAM CAMPBELL

Bulk Rate
U.S. Postage
PAID
Permit No. 549
Los Angeles, CA
Carrier RL Sort

** CR09

Support President Reagan by
ending the best Republican Team
Washington and Sacramento...

TUESDAY, JUNE 3RD 1986
YOU VOTE AT:

VOTE YOUR REPUBLICAN TEAM '86
TAKE THIS CARD TO THE POLLS

Precinct No 0002044
Ashley Residence
5261 Fairley Ct

X	Governor GEORGE "DUKE" DEUKMEJIAN	X	North Orange Municipal Court-Office #2 BETTY L. ELIAS *
X	Lt. Governor MIKE CURB *	X	North Orange Municipal Court-Office #3 ROBERT A. VON ESCH, JR. *
X	Secretary of State BRUCE NESTANDE	X	Board of Supervisors DON R. ROTH *
X	Controller WILLIAM CAMPBELL *	X	Orange County Assessor BRADLEY L. JACOBS *
X	Attorney General BRUCE GLEASON *	X	District Attorney CECIL HICKS *
X	Member State Board of Equalization ED KELLY *	X	Recorder LEE A. BRANCH *
X	United States Senator ED ZSCHAU *	X	Sheriff-Coroner BRAD GATES *
X	Representative In Congress WILLIAM E. (BILL) DANNEMEYER	X	State Proposition 44 YES ON PROPOSITION 44 *
X	Member of The Assembly ROSS JOHNSON	X	State Proposition 46 YES ON PROPOSITION 46 *
X	Judge of The Superior Court Office #5 WILLIAM W. BEDSWORTH *	X	State Proposition 51 NO ON PROPOSITION 51 *
X	Judge of The Superior Court Office #15 DAVID H. BRICKNER *		
X	Judge of The Superior Court Office #17 WILLIAM F. MCDONALD *		

Be sure to vote. Polls are normally open from 7:00 a.m. to 8:00 p.m. All offices and ballot issues following Member of the Assembly are non-partisan. All candidates and ballot issues with an (*) asterisk by their name have paid towards the production of this guide. Candidates or ballot issues appearing on this voter guide may have endorsed other candidates or ballot issues also appearing on this guide, however, their appearance on this guide by itself, does not constitute specific endorsement of any other candidate or ballot issue. The Republican ticket is a REPUBLIC MEDIA GROUP production, 16862 Burke Lane, Huntington Beach, CA 92647

REPUBLIC MEDIA GROUP/REPUBLICAN TICKET - AN UNOFFICIAL POLITICAL GROUP



VOTE YOUR REPUBLICAN TEAM '86



8 3 0 4 0 6 7 1 5 0 4
**"Great State . . .
 Great Governor . . .
 Great Republicans"**

Lt. Governor MIKE CURB

MIKE CURB is well prepared to work alongside Governor George Deukmejian to meet all of California's challenges. Governor Deukmejian needs a Lt. Governor who shares the same goals for California's future.



MIKE CURB is experienced, energetic and effective. He's just the kind of Lt. Governor California needs for the future.

**MIKE CURB . . .
 Dynamic and Effective
 Leadership for
 California**

United States Senate ED ZSCHAU U.S. Congressman



- ★ Co-Sponsor *Balanced Budget Amendment.*
- ★ "Golden Bulldog Award" from *Watchdogs of the Treasury Inc.* for stopping wasteful government spending.
- ★ "Taxpayers Best Friend" from *National Taxpayers Union.*
- ★ Member of the pro-defense *Coalition For Peace Through Strength.*
- ★ Strong advocate for preservation of environment.
- ★ The ONLY Senate Candidate endorsed by statewide Republican organizations including:
 - Northern California Lincoln Club
 - California Young Republicans
 - California Republican League

Secretary of State BRUCE NESTANDE Orange County Supervisor



Bruce Nestande is a Reagan Republican.

★ Reagan's choice as a delegate to three Republican National conventions.

★ Asked by President Reagan to chair his last national campaign kick-off rally in 1984.

★ As three term Assemblyman, held leadership positions and assisted George Deukmejian in getting his Death Penalty bill into law.

★ In 1980 gave up a safe Assembly seat to challenge a former Brown appointee for a seat on the Orange County Board of Supervisors. Won that election and became the first candidate to defeat a Fonda-Hayden incumbent.

*Bruce Nestande gets things done.
 Bruce Nestande is a partner
 George Deukmejian can trust.*

Controller WILLIAM CAMPBELL



Senator Bill Campbell's nearly 20 years as a State Legislator has given him the experience to serve as a strong State Controller. He is a fiscal conservative committed to less government intrusion in our lives. As State Controller, he will: Speed-up payments to victims of violent crimes; halt the salaries of judges who refuse to issue decisions within legal time limits; and streamline the financial reporting process, so that government begins to operate in a more business-like manner.

Senator Bill Campbell will remember that it's your money that's being spent each day, not the government's.

Attention All Republicans!



3 Reasons to Vote NO on Prop 51:

- #1 Republicans are fed up with liberals letting the guilty off the hook. Just like murderers and rapists, toxic polluters who cause cancer MUST be held fully accountable and strictly punished.
- #2 Prop 51 will cost you money. More people will go on welfare and there will be more, not fewer, lawsuits.
- #3 Republicans oppose 51 because we believe that individuals must take responsibility for their actions — not blame others for what they've done wrong.

**Vote Your Republican Team '86
 Polls Will Be Open
 7 A.M. - 8 P.M.**

Take This To The Polls With You!

**DON'T LET THE GUILTY OFF THE HOOK
 VOTE NO ON 51**



Anti-Prop. 51 Mailer Touches Off GOP Uproar

By KENNETH REICH and TED VOLLMER,
Times Staff Writers

A slate mailer financed largely by foes of Proposition 51, the "deep-pockets" initiative, to 2 million Republican households roused a furor in GOP circles Thursday, with Gov. George Deukmejian's campaign director charging that its authors "lack ethics, lack character and have illustrated an absolute contempt" for Republican voters.

Larry Thomas, the campaign director, said the use of Deukmejian's name in the mailer "represents the very, very worst example of abuse of facts and the grossest misrepresentation" in light of the fact that the governor is an ardent supporter of the initiative.

The initiative, to be decided in Tuesday's election, if passed would limit liability for non-economic damages such as "pain and suffering" to a defendant's degree of blame in lawsuits involving more than one defendant.

Thomas said that Michael Mercier of the Huntington Beach-based Republic Media Group—who put togeth-

■ Atty. Gen. John Van de Kamp's opposition to Prop. 51 stirs dissent in office. Part 1, Page 16.

er the mailer using anti-Proposition 51 language supplied by the main campaign firm working against the initiative—had assured him in unequivocal language in a mailgram May 22 that Deukmejian's name would not be used in any way.

The second sentence of Mercier's mailgram to Thomas said, "My company is not using Gov. Deukmejian's name in connection with any of our activities."

Mercier's attorney, Joe Remcho, confirmed to The Times that this language had been used. But Remcho said that after the mailgram he informed Deukmejian's attorney, Steve Churchwell, on Mercier's behalf that Deukmejian's name would be used.

Churchwell said that Remcho had told him nothing of the sort. And Thomas said that Remcho's attempts Thursday to explain why his clients had wiggled out of

the commitment simply were another example of how deceiving the slate mailers were meant to be. (A slate mailer is a mailer in which voters are urged to cast ballots for a group of candidates and propositions.)

When the mailers appeared Thursday, Deukmejian's name did appear on the slate, along with several other Republican candidates who had paid to have their names included, apparently in hopes of gaining exposure with Republican voters.

The mailer uses language against Proposition 51 that has been developed in a television blitz by the traditionally Democratic Michael Berman-Carl D'Agostino campaign organization, the main firm coordinating the anti-51 campaign, but it gives it a distinctly Republican and anti-liberal twist.

"Attention all Republicans!" the mailer says. "3 Reasons to Vote NO on Prop 51: #1 Republicans are fed up with liberals letting the guilty off the hook. Just like murderers and rapists, toxic polluters who cause cancer MUST be held fully accountable and strictly

Please see MAILER, Page 21

EX. B

Ex. B

MAILER: GOP Furor

Continued from Page 8

punished. #2 Prop. 51 will cost you money. More people will go on welfare and there will be more, not fewer, lawsuits. #3 Republicans oppose 51 because we believe that individuals must take responsibility for their actions—not blame others for what they've done wrong. Don't let the guilty off the hook. Vote No on 51."

Besides Deukmejian, the other Republicans on what is described in the mailer as the "Republican Team '86" include candidates Mike Curb, running for lieutenant governor; Orange County Supervisor Bruce Nestande, running for secretary of state; state Sen. William Campbell, running for state controller; Bruce Gleason, running for attorney general, and Rep. Ed Zschau, running for the U.S. Senate. With the exception of Deukmejian, all the candidates are opposed in Tuesday's primary.

The slate mailer hit households throughout Orange County on Thursday and sparked outrage among a number of county officials whose names were included, from Dist. Atty. Cecil Hicks to members of the Board of Supervisors and the state and federal legislative delegations—nearly all of whom support Proposition 51.

Moreover, conservative Orange County Republicans who have endorsed television commentator Bruce Herschensohn in the U.S. Senate primary were irked that their names appeared on a slate in apparent support of moderate Republican Zschau.

Rep. Robert E. Badham (R-Newport Beach), proclaiming that he was "shocked" by the mailer, demanded that the Orange County Republican Party's ethics committee censure distributors of the pamphlet and said that he would seek a court order halting further

distribution sometime today.

"For the record, I strongly support passage of Proposition 51 and will be voting on June 3 for Bruce Herschensohn in the Senate primary," Badham said in a statement that reflected those of nearly a dozen other county politicians, including Republican Assemblyman Ross Johnson of La Habra, state Sen. Edward R. Royce (R-Anaheim), county Supervisor Harriett Wieder, U.S. Rep. William E. Dannemeyer (R-Fullerton) and Assemblyman Gil Ferguson (R-Newport Beach).

Johnson, Royce, Dannemeyer and Ferguson, among others, said promoters of the mailer never contacted them. In fact, their names appear without the asterisk that identifies those that helped pay for the document, but Johnson called it "a very unfair and deceptive kind of campaign tactic."

"The intent is to create an impression that this is the way all of us are going, and nothing could be further from the truth," Johnson said. "Certainly, no one from this operation ever contacted me in any way, either offering to sell me a spot on their slate or volunteering the good news that they were going to put me on for free."

But even those who did pay for a spot on the mailers—which varied slightly in various regions of the county—said they never knew that their names would appear next to those of Zschau and "No on 51."

Hicks said his campaign consultant, Eileen Padberg, advised him to participate. "She said it was a good thing because it got my name in the homes of however many thousands of voters were there, but at the time I agreed to it I certainly did not know that Proposition 51 was going to be on there as a no," Hicks said.

Wieder said she assumed that it
Please see MAILER, Page 24

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MAILER: Use of Deukmejian's Name Creates Furor in GOP

Continued from Page 31

was going to be a routine endorsement package from the California Republican Assembly, an official party affiliate that makes endorsements in primary elections. Her campaign consultant, Harvey Englander, told her that there was no mention of Proposition 51 on the mailer he approved, she said.

Badham aide Bill Schreiber said one of the congressman's campaign directors agreed to pay \$2,000 to include Badham's name, with the understanding that it was going to be a general mailing featuring the county's Republican congressional delegation and the governor.

"We are demanding that the organization [that distributed the mailer] state very clearly that not

only have we not given them a dime, we signed no contract, and in fact were seriously misled," Schreiber said.

Little That Can Be Done

Greg Haskin, executive director of the Orange County Republican Party, said there is little that the party's ethics committee can do. "It's clearly a sleazy distortion, and I think it's really an insult to Republican voters, but the most we can do is denounce it," he said. "I'm sure there's no real opportunity for a restraining order because I'm next to certain that they're all mailed."

Mercier said, and Jack McDowell of the pro-51 campaign firm of Woodward and McDowell con-

firmed, that Mercier had offered to let the pro-51 campaign buy its way onto the mailer but that they had refused. McDowell said the price offered was \$110,000.

Thomas, the Deukmejian campaign director, said that despite a disclaimer indicating that Deukmejian had not paid to be named in the mailer and was not necessarily allied with ballot proposition endorsements, "the very existence of the governor's name on this slate . . . suggests that the governor is supporting these candidates and taking this position on the initiative and . . . those suggestions are absolutely false."

Mercier said his mailer was within the law, adding, "I don't characterize using the governor in any

way. Our intention was to carry a full ballot and contribute to this year's election, and that's all it is." He said he did not understand why Thomas was making such a fuss.

Once Deukmejian actually sees the mailer, Mercier said, "He may not admit it, but he may like it. This is a very positive thing for him." He said that some Republicans assume that all Republicans are for Proposition 51, but that this is not the case.

Thomas said, "We hear a lot these days about tactics that are employed in political campaigns that are slightly over the line or are in the gray area." But, he said, this is not in the gray area, it is "the very, very worst."

EX. B

GOP disavows use of names in anti-Prop. 51 flier

By Larry Peterson
The Register

Orange County Republican leaders on Thursday denounced the use of their names — without their permission — in a mailer opposing the Proposition 51 "deep-pockets" initiative.

More than 2 million of the mailers were sent to GOP voters throughout the state urging them to "vote your Republican team '85" in the Tuesday election and endorsing various candidates, including some Democratic candidates seeking non-partisan offices.

"Our phones have been jammed all day," said Greg Haskin, executive director of the Orange County Republican Central Committee. Haskin said hundreds of people called to ask if the mailing was an official GOP message.

"It definitely isn't, but it is sleazy and deceptive and an insult to the voters," Haskin said.

Almost identical language was used by Larry Thomas, campaign press secretary for Republican Gov. George Deukmejian, who tried unsuccessfully last week to prevent his name from being used in the mailer.

Deukmejian, like most of the officials whose names were used without permission, supports Prop. 51, which would limit the amount of damages that could be awarded for pain and suffering. The state Republican Party also supports the measure.

The mailer was produced by Pacific Ad Mail of Huntington Beach, operated by longtime Democratic campaign professionals Mike Mercier and Jim Corey, who could not be reached for comment.

Several versions — among the dozens used statewide — were sent to Orange County households, bearing the headline "Orange Republican Ticket." The names of local officials, congressman, state legislators and judicial candidates were used only in their respective areas of the state.

Some candidates, such as Rep. Ed Zachau of Los Altos, seeking the GOP's U.S. Senate nomination, bought space and are identified in the mailer as having done so. Zachau paid \$20,000, and Orange County Supervisor Harriett Wieder, \$2,000, according to their campaign spokesmen.

But the names of dozens of GOP officials who say they never were contacted or refused to pay also were used in the mailer.

Among the local Republicans are U.S. Reps. Robert Badham and William Dannemeyer; state Sen. Ed Royce and Assembly members Ross Johnson, Gil Ferguson, Nolan Frizzelle, Doris Allen and John Lewis, and Orange County Supervisor Bruce Nestands, who is seeking the GOP nomination for secretary of state.

All support Prop. 51. They objected that the mailer implied they were opposed to it and that they back Zachau, the only U.S. Senate candidate included in the mailer. Most either have endorsed or are informally supporting former television commentator Bruce Hers-

Badham sues his opponent over mailer

The Register

Opponents in the Republican primary for the 40th Congressional District engaged in last-minute legal dueling Thursday in Orange County Superior Court over election material.

The incumbent, Rep. Robert Badham, R-Newport Beach, sued opponent Nathan Rosenberg, contending that Rosenberg's campaigners were circulating "door-hanger" material that violated election laws with its wording.

But Orange County Court Commissioner Ronald L. Bauer concluded that the congressman had brought his complaint too late in the election. Bauer refused to issue an immediate order barring Rosenberg from using the material.

Instead, Bauer set a hearing on the dispute for Monday, on the eve of election.

Badham contends that the wording in the material is illegal because, he said, it implies that Rosenberg is the incumbent. One of the fliers contains Rosenberg's name and the next line states, "U.S. Representative."

Meanwhile, a hearing scheduled for today on a similar lawsuit brought by a Rosenberg supporter against Badham was taken off the court calendar Thursday after Badham agreed not to send out letters that allegedly suggest he has the endorsement of the Republican Party.

chensohn.

Badham, whom the mailer says paid to have his name included, said he refused to pay the \$6,500 fee he was asked for and he didn't want his name used under any circumstances because he thought the mailer was misleading. He has asked local GOP Central Committee to censure the mailer.

Jack McDowell, a spokesman for the Prop. 51 campaign, said Pacific Ad Mail offered to change the mailer from anti- to pro-Prop. 51 for \$110,000.

"That's extortion," McDowell said. "We told them where to put it."

But spokesmen for Zachau and Wieder denied that the mailer is misleading.

"It doesn't say anyone on the slate is endorsing anyone else or anything else," said Harvey Englander, Wieder's campaign consultant. "And I think the average voter understands that."

Spokesmen for the No on 51 campaign could not be reached for comment Thursday.

89040371508



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Baer
Baer
SENSITIVE
Kleinfield

MEMORANDUM TO: THE COMMISSION
FROM: MARJORIE W. EMMONS/ ARNITA D. HESSION ^{A.D.H.}
DATE: JUNE 5, 1986
SUBJECT: MUR 2181 - COMPLAINT

The attached has been circulated for your information.

8 8 0 4 0 6 7 1 5 0 9

Attachment

88040671510

Attachments to Memo,
dtg 5 Jun 86

have been removed from this position in the Public Record File either because they duplicate documents located elsewhere in this file, or because they reflect exempt information.

For Attachment _____ see _____

<u>complaint</u>	<u>1</u>
_____	_____
_____	_____
_____	_____



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 5, 1986

John Houston
Ruff Political Action Committee
214 Massachusetts Avenue N.E.
Suite 516
Washington, D.C. 20002

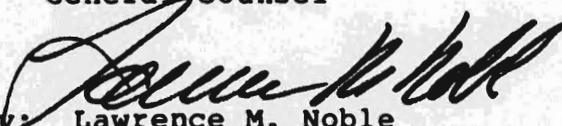
Dear Mr. Houston:

This letter will acknowledge receipt of a complaint filed by you which we received on June 2, 1986, which alleges possible violations of the Federal Election Campaign Act of 1971, as amended, (the "Act"), by the Republic Media Group, Pacific Ad Mail, Michael Mercier, and Jim Corey and Rep. Ed Zschau. 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 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 procedures for handling complaints. We have numbered this matter under review MUR 2181. Please refer to this number in all future correspondence. If you have any questions, please contact Lorraine F. Ramos at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

Enclosure

88740571511



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 9, 1986

Michael Mercier
16582 Burke La.
Huntington Beach, CA 92647

Re: MUR 2181

Dear Mr. Mercier:

This letter is to notify you that the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2181. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in 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.

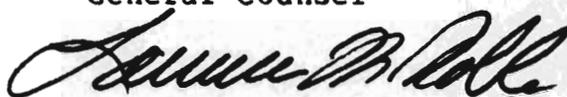
89040671512

4a

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

83040571513

4a



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 9, 1986

Republic Media Group
16582 Burke La.
Huntington Beach, CA 92647

Re: MUR 2181

Dear Sir:

This letter is to notify you that the Federal Election Commission received a complaint which alleges that the Republic Media Group 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 2181. 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 your organization in 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.

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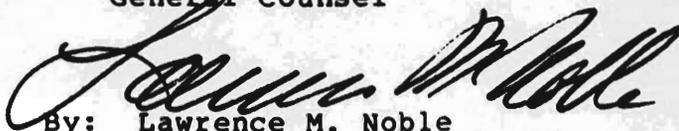
46

-2-

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

830405/1515

46



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 9, 1986

Pacific Ad Mail
16582 Burke La.
Huntington Beach, CA 92647

Re: MUR 2181

Dear Sir:

This letter is to notify you that the Federal Election Commission received a complaint which alleges that Pacific Ad Mail 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 2181. 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 your organization in 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.

83040571516

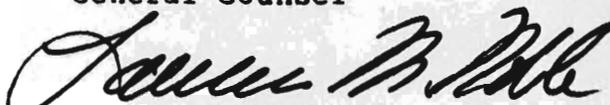
4c

-2-

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

88040371517

4c



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 9, 1986

The Honorable Ed Zschau
429 Cannon House Office Building
Washington, D.C. 20515

Re: MUR 2181

Dear Mr. Zschau:

This letter is to notify you that the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2181. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in 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.

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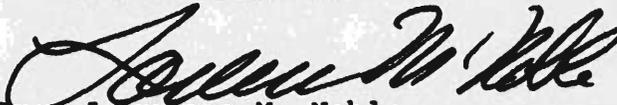
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-2-

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

cc: Ed Zschau for U.S. Senate Committee

88040371519

42



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 9, 1986

Jim Corey
16582 Burke La.
Huntington Beach, CA 92647

Re: MUR 2181

Dear Mr. Corey:

This letter is to notify you that the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2181. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in 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.

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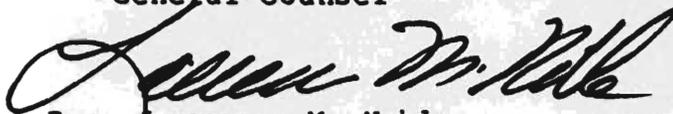
42

-2-

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

88040671521

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MCCUTCHEN, DOYLE, BROWN & ENERSEN

COUNSELORS AT LAW

THREE EMBARCADERO CENTER

SAN FRANCISCO, CALIFORNIA 94111

TELEPHONE (415) 383-2000

June 19, 1986

SAN JOSE
WALNUT CREEK
WASHINGTON, D.C.
SHANGHAI

SAN FRANCISCO OFFICE
TELEX 34-0817
FACSIMILE 01, 11 AND 111
(415) 989-0426
CABLE ADDRESS MACPAG

VIA FEDERAL EXPRESS

Charles N. Steele, Esq., General Counsel
Lawrence M. Noble, Esq., Deputy General Counsel
Eric Kleinfeld, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

MUR 2181

86 JUN 23 13:07

RECEIVED
GENERAL COUNSEL

Gentlemen:

Your letter of June 9, 1986 was received by Congressman Ed Zschau's office on June 13, 1986. Mr. Zschau has asked us to respond to it and to the Complaint enclosed with it.

We have carefully reviewed the allegations of the Complaint filed by the Ruff Political Action Committee and the authority cited in support. We note first that certain of the charging allegations against Mr. Zschau are carefully hedged by qualifiers such as "may have" or "may". (See Complaint, p. 5, lines 3 and 9.) We also note that AO 1984-62, which is the only advisory opinion cited in the Complaint, deals with the activities of a corporation. The advisory opinion has no applicability to an individual, such as Mr. Zschau.

Mr. Zschau has advised us that he was in no way involved in the organization or operation of the persons who distributed the "mailer" described in the Complaint. He made no payment from his personal funds for the costs of the mailer. His only knowledge of the mailer is that the Ed Zschau for U.S. Senate Committee (the "Committee"), a non-profit corporation which is Mr. Zschau's authorized campaign committee, purchased an advertisement in the mailer. The Committee is in no way affiliated with the mailer or the persons responsible for it. It is Mr. Zschau's understanding that the charge for the advertisement was negotiated at arm's length and was the usual and normal charge.

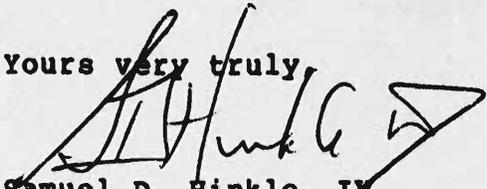
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Charles N. Steele, Esq.
Lawrence M. Noble, Esq.
June 19, 1986
Page 2

In light of these facts, and the fact that the Complaint refers only to Mr. Zschau personally, we respectfully request that the Complaint be dismissed as to Mr. Zschau immediately.

Yours very truly,


Samuel D. Hinkle, IX

cc: The Honorable Edwin Zschau

83040671523



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 23, 1986

MEMORANDUM

1985

TO: CHARLES N. STEELE
GENERAL COUNSEL

ATTENTION:

FROM: LEE GARRITY
COMPLIANCE ANALYST
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MUR 2181

Please review the attached Request for Additional Information which is to be sent to the Ed Zschau for U.S. Senate for the 1986 12 Day Pre-Primary Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have should be forwarded to RAD by 12.30 p.m. on Wednesday, June 25, 1986. Thank you.

COMMENTS:

Attachment

88040671524



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

W. G. Van Auken, Treasurer
Ed Zschau for U.S. Senate Committee
30 Glen Alpine
Danville, CA 94526

Identification Number: C00197087

Reference: 12 Day Pre-Primary Report (4/1/86-5/14/86)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report (pertinent portion attached) discloses contributions which appear to exceed the limits set forth in the Act. No political committee other than a multicandidate committee may make contributions to a candidate for Federal office in excess of \$1,000 per election. The Genetech, Inc. Political Action Committee did not meet the requirements for multicandidate status as of the date the contribution(s) was made to your committee. If you have received a contribution which exceeds the limits, the Commission recommends that you refund to the donor the amount in excess of \$1,000. The Commission should be notified in writing if a refund is necessary. In addition, any refund should appear on Line 20 of the Detailed Summary Page and Schedule B of your next report. (2 U.S.C. §§441a(a) and (f))

The term "contribution" includes any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

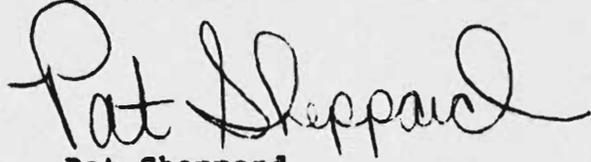
If the contributions in question were incompletely or incorrectly reported, you may wish to submit documentation for the public record. Please amend your report with the clarifying information.

Although the Commission may take further steps concerning the acceptance of excessive contributions, prompt action by you to refund the excessive amounts will be taken into consideration.

83040571525

An amendment to your original report(s) correcting the above problem(s) should be filed with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,



Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

R 9 0 4 0 6 7 1 5 2 6

SCHEDULE A

ITEMIZED RECEIPTS

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

Name of Committee (in Full)

Ed Zschau for U.S. Senate Committee

A. Full Name, Mailing Address and ZIP Code
 First Interstate Bank of CA PAC
 707 Wilshire Blvd., #w15-3
 Los Angeles, CA 90017

Name of Employer

Date (month, day, year)

Amount of Each Receipt this Period

5/14/86

\$1,000.00

Occupation

Receipt For: Primary General
 Other (specify):

Aggregate Year-to-Date-\$ 1,000.00

B. Full Name, Mailing Address and ZIP Code
 Genentech Inc. PAC
 460 Point San Bruno Blvd.
 South San Francisco, CA 94080

Name of Employer

Date (month, day, year)

Amount of Each Receipt This Period

5/2/86

\$2,000.00

5/2/86

\$1,000.00

Occupation

Receipt For: Primary General
 Other (specify):

Aggregate Year-to-Date-\$ 3,000.00

C. Full Name, Mailing Address and ZIP Code
 General Tire & Rubber PAC
 1 General St.
 Akron, OH 44329

Name of Employer

Date (month, day, year)

Amount of Each Receipt This Period

4/25/86

\$500.00

Occupation

Receipt For: Primary General
 Other (specify):

Aggregate Year-to-Date-\$ 500.00

D. Full Name, Mailing Address and ZIP Code
 Kaiser Cement PAC
 300 Lakeside Drive, #2434
 Oakland, CA 94612

Name of Employer

Date (month, day, year)

Amount of Each Receipt This Period

5/9/86

\$1,000.00

Occupation

Receipt For: Primary General
 Other (specify):

Aggregate Year-to-Date-\$ 1,000.00

E. Full Name, Mailing Address and ZIP Code
 Litton Employees PAC
 360 North Crescent Drive
 Beverly Hills, CA 90210

Name of Employer

Date (month, day, year)

Amount of Each Receipt This Period

4/30/86

\$400.00

Occupation

Receipt For: Primary General
 Other (specify):

Aggregate Year-to-Date-\$ 400.00

F. Full Name, Mailing Address and ZIP Code
 Lockheed PAC
 P.O. Box 551
 Burbank, CA 91520

Name of Employer

Date (month, day, year)

Amount of Each Receipt This Period

4/30/86

\$500.00

Occupation

Receipt For: Primary General
 Other (specify):

Aggregate Year-to-Date-\$ 500.00

G. Full Name, Mailing Address and ZIP Code
 McCormick & Co. PAC
 11350 McCormick Road
 Hunt Valley, Maryland 21031

Name of Employer

Date (month, day, year)

Amount of Each Receipt This Period

4/25/86

\$200.00

Occupation

Receipt For: Primary General
 Other (specify):

Aggregate Year-to-Date-\$ 200.00

SUBTOTAL of Receipts This Page (optional).....

6600.00

TOTAL This Period (last page this line number only)

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2181

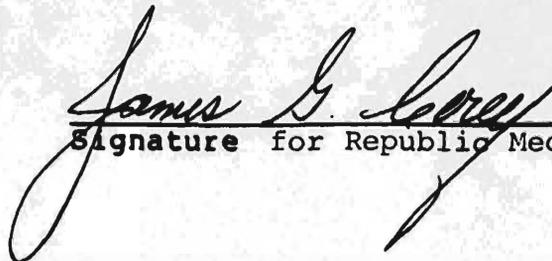
NAME OF COUNSEL: Joseph Remcho/Kathleen J. Purcell

ADDRESS: REMCHO, JOHANSEN & PURCELL
220 Montgomery Street, Suite 800
San Francisco, CA 94104

TELEPHONE: 415/398-6230

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.

June 23, 1986
Date


Signature for Republic Media Group, Inc.

RESPONDENT'S NAME: Republic Media Group, Inc.

ADDRESS: 16582 Burke Lane
Huntington Beach, CA 92647

HOME PHONE: _____

BUSINESS PHONE: 714/842-4993

83040571529

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

RECEIVED AT THE FEC
G00A795
86 JUN 25 All: 27

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415 / 398-6230

June 23, 1986

Eric Kleinfeld, Esq.
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: Republic Media Group, et al.
MUR No. 2181

Dear Mr. Kleinfeld:

This is to confirm that the due date for a response to the complaint is June 27th and that you have advised me that a request for additional time to respond should be made in writing.

Our office represents each of the respondents. I enclose signed designations of counsel for all respondents except for Mr. Mercier. We will forward his as soon as we receive it. Republic Media had registered with the Commission. Its number is C00206664. Mr. Corey and Mr. Mercier are the principals in Republic Media. Pacific Admail is simply a vendor which was paid by Republic Media Group.

On behalf of all of the respondents I request a continuance of approximately two weeks, to and including July 15, 1986. As I said on the telephone, we plan to file the appropriate report on the due date of July 15th. It would be helpful to us to work on the response at the same time as the report. In any event, we need more time to prepare a response due to the complexity of the issues and in part to the fact that our offices are some distance from the respondents. Holiday and vacation schedules will also interfere. I also believe that it will be helpful to you and the Commission to have the full report along with our response.

Thank you for your help.

Sincerely,


Joseph Remcho

JR:ph
Enclosures
cc: Jim Corey
Mike Mercier

86 JUN 25 P 4: 10

88040671528

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2181

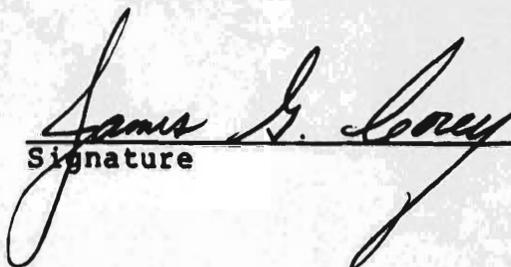
NAME OF COUNSEL: Joseph Remcho/Kathleen J. Purcell

ADDRESS: REMCHO, JOHANSEN & PURCELL
220 Montgomery Street, Suite 800
San Francisco, CA 94104

TELEPHONE: 415/398-6230

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.

June 23, 1986
Date


Signature

RESPONDENT'S NAME: Jim Corey

ADDRESS: 16582 Burke Lane
Huntington Beach, CA 92647

HOME PHONE: _____

BUSINESS PHONE: 714/842-4993

880405/1530

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2181

NAME OF COUNSEL: Joseph Remcho/Kathleen J. Purcell

ADDRESS: REMCHO, JOHANSEN & PURCELL
220 Montgomery Street, Suite 800
San Francisco, CA 94104

TELEPHONE: 415/398-6230

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.

June 23, 1986
Date

James B. Lacey, President
Signature

RESPONDENT'S NAME: Pacific Admail

ADDRESS: 16582 Burke Lane
Huntington Beach, CA 92647

HOME PHONE: _____

BUSINESS PHONE: 714/842-4993

R 3 0 4 0 5 7 1 5 3 1

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415 / 398-6230

RECEIVED BY THE FEC
BCC#794
86 JUN 25 411:23

June 24, 1986

EXPRESS MAIL

Eric Kleinfeld, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: Republic Media Group, et al.
MUR No. 2181

86 JUN 25 P 4: 10

RECEIVED
GENERAL COUNSEL
FEDERAL ELECTION COMMISSION

Dear Mr. Kleinfeld:

I sent the enclosed letter to you yesterday by regular mail. I should have sent it Express Mail. Enclosed are copies of the Designations of Counsel. You should receive the originals shortly.

I apologize for any inconvenience this may cause.

Sincerely,

Pamela Hitchcock

Pamela Hitchcock
Secretary to Joseph Remcho

ph
Enclosures

7 2 5 1 7 9 0 4 0 8 8



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 27, 1986

Joseph Rencho, Esquire
Rencho, Johansen & Purcell
220 Montgomery Street
Suite 800
San Francisco, California 94104

RE: MJR 2181
Republic Media Group, Inc.,
Pacific Ad Mail
James Corey

Dear Mr. Rencho:

This is in reference to your letter dated June 24, 1986, requesting an extension until July 15, 1986 to respond to the complaint in the above-captioned matter. After considering the circumstances presented in your letter, the Commission has determined to grant you your requested extension. Accordingly, your response will be due on July 15, 1986.

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

83040571533

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

June 27, 1986

Re: Republic Media Group

Dear Mr. Kleinfeld:

Per your request,
enclosed is an additional
copy of the Statement
of Designation of Counsel.

Sincerely,
Linda Tall

88040371534

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED BY THE FEC
CCC#848
86 JUL 1 8:38

MUR 2181

NAME OF COUNSEL: Joseph Remcho/Kathleen J. Furcell

ADDRESS: REMCHO, JOHANSEK & FURCELL
220 Montgomery Street, Suite 800
San Francisco, CA 94104

TELEPHONE: 415/398-6230

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.

6-26-86
Date

Michael Mercier
Signature

86 JUL 1 A10:37

RECEIVED
GENERAL COUNSEL

RESPONDENT'S NAME: Michael Mercier
ADDRESS: 9701 Wilshire Blvd., Suite 800
Beverly Hills, CA 90212

HOME PHONE: _____
BUSINESS PHONE: 213/859-1233

88040571535

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415 / 398-6230

July 14, 1986

FEDERAL EXPRESS

Charles N. Steele
General Counsel
Federal Election Commission
999 E Street N.W.
Washington D.C. 20463

Re: MUR 2181

Dear Mr. Steele:

I write this letter on behalf of Jim Corey, Michael Mercier and Pacific Ad Mail, each of whom has been informed by your office that a complaint has been filed alleging violations of the Federal Election Campaign Act of 1971.

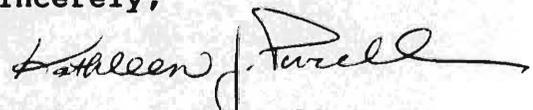
The slate mailer referred to in the complaint was produced and distributed by Republic Media Group, a partnership formed by Jim Corey and Michael Mercier. Pacific Ad Mail is a separate organization which does not have any ownership interest in Republic Media Group and was not responsible for the mailer.

It appears to me that the only proper respondent to the complaint is Republic Media Group and that no complaint is properly stated against any of the others. However, the response and declaration submitted on behalf of Republic Media Group would apply as well to the individuals and Pacific Ad Mail, if necessary.

If in your view there is any authority under the Federal Election Campaign Act for drawing Jim Corey, Michael Mercier or Pacific Ad Mail into a complaint for activity by Republic Media Group, I would like to know the basis for such a claim so that I may respond specifically on that question.

Thank you for your attention to and consideration in this matter.

Sincerely,



Kathleen J. Purcell

KJP:ph

880440671536

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

RECEIVED AT THE FEC
Acc # 963
86 JUL 17 11:21

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415 / 398-6230

July 14, 1986

36 JUL 17 3:50

Eric Kleinfeld, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Republic Media Group, et al.
MUR No. 2181

Dear Mr. Kleinfeld:

I am working with my partner, Joe Remcho, on the above-referenced case.

Enclosed is a Designation of Counsel from Michael Mercier. I believe that you now have designations from each of the respondents naming us to represent them.

Please let me know if there is anything else that you need.

Thanks for your assistance.

Sincerely,



Kathleen J. Purcell

KJP:ph
Enclosure

8 8 0 4 0 6 7 1 5 3 7

STATEMENT OF DESIGNATION OF COUNSEL

NUR 2181

NAME OF COUNSEL: Joseph Remcho/Kathleen J. Furcell

ADDRESS: REMCHO, JCHANSEN & PURCELL
220 Montgomery Street, Suite 800
San Francisco, CA 94104

TELEPHONE: 415/398-6230

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.

6-26-86
Date

Michael Mercier
Signature

RESPONDENT'S NAME: Michael Mercier

ADDRESS: 9701 Wilshire Blvd., Suite 800
Beverly Hills, CA 90212

HOME PHONE: _____

BUSINESS PHONE: 213/859-1233

89040571538

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

RECEIVED AT THE FEC
HAND DELIVERED
86 JUL 15 12:56
'GCC#945

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415 / 398-6230

July 14, 1986

FEDERAL EXPRESS

Charles N. Steele
General Counsel
Federal Election Commission
999 E Street N.W.
Washington D.C. 20463

Re: MUR 2181

86 JUL 16 9:25

GENERAL
MAIL

Dear Mr. Steele:

I write on behalf of Republic Media Group in reply to the request from your office for a response to a complaint that has been filed alleging that Republic Media Group may have violated the Federal Election Campaign Act of 1971.

This complaint appears to be part of an on-going campaign to attack, injure and ultimately silence Republic Media Group. The claims are entirely unfounded.

These attacks began when Republic Media Group designed and distributed a slate mailer for the 1986 primary election in California. That mailer endorsed a slate of Republican candidates as well as positions on certain statewide ballot issues. Details regarding the structure of Republic Media Group and the circumstances surrounding the production and distribution of the slate mailer are set forth in the accompanying declaration of James Corey. Briefly, however, the relevant facts are these:

Republic Media Group is a partnership. It is not a corporation.

Republic Media Group financed the slate mailer in question by entering into agreements with certain political campaigns whereby the campaign paid a specified amount in order to have the candidate or proposition included on the mailer. These purchases were made at arm's length and the amounts paid constituted fair, usual and adequate consideration.

Inclusion of a candidate or ballot issue on the mailer did not constitute an endorsement by that candidate or campaign of others whose names were also included.

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Charles N. Steele
General Counsel
Federal Elections Commission
July 14, 1986
Page 2

Indeed the mailer expressly stated: "Candidates or ballot issues appearing on this voter guide may have endorsed other candidates or ballot issues also appearing on this guide, however, their appearance on this guide by itself, does not constitute specific endorsement of any other candidate or ballot issue."

As is generally the case, the mailer set forth endorsements for a full ballot of candidates, including some candidates who did not pay. The candidates and issues campaigns that purchased positions on the mailer were informed that a full ballot for partisan offices would be listed. The mailer indicated on its face which candidates and issues paid towards production. There was no consultation or coordination with candidates whose names were listed without payment.

Republic Media Group has filed a Statement of Organization with the Federal Election Commission and will be submitting a Report of Receipts and Disbursements.

The complaint by RuffPAC alleges that Republic Media Group "made an illegal campaign contribution to one or more federal candidates by including their names as endorsed candidates on a slate mailing . . . despite the fact that the federal candidates did not pay for any portion of the cost of the mailing."¹

The complainant relies on FEC Advisory Opinion 1984-62 for this proposition. However, that advisory opinion does not support this proposition, and to the extent that it might, it has been superseded by the decision of the Federal District Court in FEC v. Californians for Democratic Representation, No. CV 85-2086 JMI (C.D. Cal., Judgment entered 1-1-86).

FEC Advisory Opinion 1984-62 suggests that for a corporation to endorse a nonpaying federal candidate in a slate mailing would constitute a prohibited contribution or expenditure under 2 U.S.C. Sec. 441b and 11 CFR 114.2(b). Section 441b and regulation 114.1(b) govern contributions or expenditures by national banks, corporations, or labor organizations. Republic Media is none of these.

¹The complaint also states that Republic Media Group "may

880405/1540

Charles N. Steele
General Counsel
Federal Elections Commission
July 14, 1986
Page 3

Moreover, in FEC v. Californians for Democratic Representation, the court found -- and the FEC appears to have argued -- only that inclusion of nonpaying federal candidates constituted expenditures, not contributions. The making of expenditures merely triggers registration and reporting requirements, which Republic Media Group has met.

We contend that Republic Media Group did not make any "expenditures" at all under the FECA in connection with this slate mailer. What was involved here was a fair exchange for adequate consideration between Republic Media Group and the paying candidates and issues campaigns; the inclusion of a full ballot listing enhanced the slate mailer's value for those that purchased advertising. Non-paying candidates were listed to make the ballot complete for the benefit of those who did pay.

The California Fair Political Practices Commission takes this view with respect to its enforcement of similar requirements. We have been advised by them that the inclusion of the names of nonpaying candidates on the mailer does not constitute an "expenditure" under the Fair Political Practices Act and the FPPC regulations and is therefore not reportable.

Nonetheless, after consultation with both this law firm and Professor Daniel Lowenstein of UCLA, Republic Media decided to compute a reasonable value for nonpaying candidates and report it to the Federal Election Commission. It does so without conceding that any reporting is required, but in order to conform to FEC v. Californians for Democratic Representation.

Finally, even if "expenditures" were made, they were at most independent expenditures, for there was no consultation or coordination with the nonpaying federal candidates. Nonpaying candidates did not exercise any control

have violated the Act by charging federal candidates who did make a payment towards the cost of the mailing 'less than the normal and usual charge for advertising and mail services.'" However, as discussed above, the charges paid by these candidates were set in arm's length business dealings according to normal and customary business practice. Therefore, this allegation is obviously unfounded and need not be discussed further.

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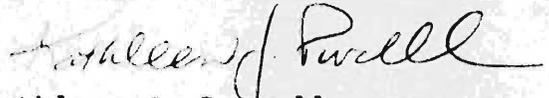
Charles N. Steele
General Counsel
Federal Elections Commission
July 14, 1986
Page 4

whatsoever over the mailing. The making of such expenditures does not violate any provision of the FECA or FEC regulations.

Given the obvious lack of merit to the RuffPAC complaint, it does not seem necessary to elucidate the First Amendment concerns that would arise were this sort of activity deemed illegal. I assume you are well aware of the constitutional problems that would arise from government efforts to limit independent endorsement of candidates.

If you have any questions that are not addressed in the materials we have submitted, please feel free to contact me.

Sincerely,



Kathleen J. Purcell

KJP:ph
Enclosure

89040671542



ORANGE REPUBLICAN TICKET



MIKE CURB



ED ZSCHAU



BRUCE NESTANDE



WILLIAM CAMPBELL

Bulk Rate
U.S. Postage
PAID
Permit No. 212
Santa Ana, CA
Carrier RT Srt

** CR01

Support President Reagan by
sending the best Republican Team
to Washington and Sacramento...

TUESDAY, JUNE 3RD 1986
YOU VOTE AT:

VOTE YOUR REPUBLICAN TEAM '86 TAKE THIS CARD TO THE POLLS

Precinct No 0059030
Los Naranjos School
1 Smoketree

Governor
X **GEORGE "DUKE" DEUKMEJIAN**

Lt. Governor
X **MIKE CURB ***

Secretary of State
X **BRUCE NESTANDE**

Controller
X **WILLIAM CAMPBELL ***

Attorney General
X **BRUCE GLEASON ***

Member State Board of Equalization
X **ED KELLY ***

United States Senator
X **ED ZSCHAU ***

Representative In Congress
X **ROBERT E. BADHAM ***

Member of The Assembly
X **NOLAN FRIZZELLE**

Judge of The Superior Court Office #5
X **WILLIAM W. BEDSWORTH ***

Judge of The Superior Court Office #15
X **DAVID H. BRICKNER ***

Judge of The Superior Court Office #17
X **WILLIAM F. MCDONALD ***

Orange Harbor Municipal Court-Office #1
X **BRIAN R. CARTER ***

Board of Supervisors
X **TOM RILEY**

Orange County Assessor
X **BRADLEY L. JACOBS ***

District Attorney
X **CECIL HICKS ***

Recorder
X **LEE A. BRANCH ***

Sheriff-Coroner
X **BRAD GATES ***

Irvine, Member of The City Council
X **HAL MALONEY ***

Irvine, Member of The City Council
X **TOM JONES ***

State Proposition 44
X **YES ON PROPOSITION 44 ***

State Proposition 46
X **YES ON PROPOSITION 46 ***

State Proposition 51
X **NO ON PROPOSITION 51 ***

Be sure to vote. Polls are normally open from 7:00 a.m. to 8:00 p.m. All offices and ballot issues following Member of the Assembly are non-partisan. All candidates and ballot issues with an (*) asterisk by their name have paid towards the production of this guide. Candidates or ballot issues appearing on this voter guide may have endorsed other candidates or ballot issues also appearing on this guide; however, their appearance on this guide by itself, does not constitute specific endorsement of any other candidate or ballot issue. The Republican Ticket is a REPUBLIC MEDIA GROUP production, 18582 Burke Lane, Huntington Beach, CA 92647.

REPUBLIC MEDIA GROUP REPUBLICAN TICKET - AN UNOFFICIAL POLITICAL GROUP

VOE YOUR REPUBLICAN TEAM '86



"Great State . . .
Great Governor . . .
Great Republicans"

Lt. Governor MIKE CURB

MIKE CURB is well prepared to work alongside Governor George Deukmejian to meet all of California's challenges. Governor Deukmejian needs a Lt. Governor who shares the same goals for California's future.



MIKE CURB is experienced, energetic and effective. He's just the kind of Lt. Governor California needs for the future.

*MIKE CURB . . .
Dynamic and Effective
Leadership for
California*

United States Senate ED ZSCHAU U.S. Congressman



- ★ Co-Sponsor *Balanced Budget Amendment.*
- ★ "Golden Bulldog Award" from *Watchdogs of the Treasury Inc.* for stopping wasteful government spending.
- ★ "Taxpayers Best Friend" from *National Taxpayers Union.*
- ★ Member of the pro-defense *Coalition For Peace Through Strength.*
- ★ Strong advocate for preservation of our environment.
- ★ The ONLY Senate Candidate endorsed by statewide Republican organizations including:
 - Northern California Lincoln Club
 - California Young Republicans
 - California Republican League

Secretary of State BRUCE NESTANDE Orange County Supervisor



Bruce Nestande is a Reagan Republican.

★ Reagan's choice as a delegate to three Republican National conventions.

★ Asked by President Reagan to chair his last national campaign kick-off rally in 1984.

★ As three term Assemblyman, held leadership positions and assisted George Deukmejian in getting his Death Penalty bill into law.

★ In 1980 gave up a safe Assembly seat to challenge a former Brown appointee for a seat on the Orange County Board of Supervisors. Won that election and became the first candidate to defeat a Fonda-Hayden incumbent.

*Bruce Nestande gets things done.
Bruce Nestande is a partner
George Deukmejian can trust.*

Controller WILLIAM CAMPBELL

Senator Bill Campbell's nearly 20 years as a State Legislator has given him the experience to serve as a strong State Controller. He is a fiscal conservative committed to less government intrusion in our lives. As State Controller, he will: Speed-up payments to victims of violent crimes; halt the salaries of judges who refuse to issue decisions within legal time limits, and streamline the financial reporting process, so that government begins to operate in a more business-like manner.



*Senator Bill Campbell
will remember that it's
your money that's being
spent each day, not
the government's.*

Attention All Republicans!



3 Reasons to Vote NO on Prop 51:

- #1 Republicans are fed up with liberals letting the guilty off the hook. Just like murderers and rapists, toxic polluters who cause cancer MUST be held fully accountable and strictly punished.
- #2 Prop 51 will cost you money. More people will go on welfare and there will be more, not fewer, lawsuits.
- #3 Republicans oppose 51 because we believe that individuals must take responsibility for their actions — not blame others for what they've done wrong.

**Vote Your Republican Team '86
Polls Will Be Open
7 A.M. - 8 P.M.**

Take This To The Polls With You!

DON'T LET THE GUILTY OFF THE HOOK

VOTE NO ON 51

12

DECLARATION OF JAMES COREY

James Corey hereby declares as follows:

1. I am one of the principals in Republic Media Group. Michael Mercier is also a principal in Republic Media Group. No other individual, organization or entity has any interest in or control over Republic Media Group.

2. I am familiar with the facts surrounding the slate mailing issued by Republic Media Group in connection with the primary elections held in California in June, 1986. A true copy of the slate mailer is attached hereto. The mailer consisted of a single two-sided cardboard document.

3. All revenues of Republic Media Group came in payments for advertising in the slate mailer. Fees paid by a candidate or campaign were set on the basis of an estimate as to the number of pieces of mail expected to be distributed with that candidate or ballot issue included, the extent of coverage provided for the particular candidate or ballot issue on the slate, and other costs associated with special requests such as last minute expansion of coverage. Republic Media Group set the fees according to usual and customary rates for such mailings. Agreements with candidates and campaigns were the product of arms length dealings.

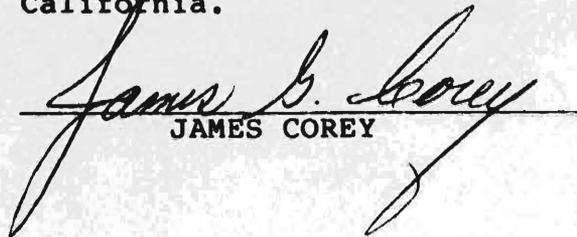
4. Candidates who purchased positions on the slate were provided a brief description of the slate and informed that the slate would list a full ballot for all of the partisan offices and that these names would be listed in official ballot order as

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designated by the Secretary of State.

5. There were some candidates listed on the Republic Media Group slate who did not purchase advertising. Neither I nor any other representative of Republic Media Group acted in cooperation or consultation with any such candidate or his or her authorized committee or agent. We did not publish the slate or list these candidates in concert with or at the request or suggestion of the candidates or any authorized committee or agent of the candidates.

I declare under penalty of perjury that the foregoing is true and correct of my own personal knowledge and if called upon to do so, I could and would so testify. Executed this 11th day of July at HUNTINGTON BEACH, California.


JAMES COREY

88040371540

**Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463**

First General Counsel's Report

Date and Time of Transmittal By
OGC to the Commission _____

MUR 2181
Date Complaint Received
By OGC June 2, 1986
Date of Notification to
Respondent June 5, 1986
Staff Eric Kleinfelder

CC 101 24

Complainant's Name: RUFF Political Action Committee

Respondents' Names: Republic Media Group
Michael Mercier, treasurer
Michael Mercier
James G. Corey
Pacific Ad Mail
Ed Zschau

Relevant Statutes: 2 U.S.C. § 431, § 441a(a)(1)(A), & 441d
11 C.F.R. § 100.7(a)(1)(iii)(A)

Internal Reports Checked: Advisory Opinion 1984-62
MUR 1461

Federal Agencies Checked: None

Summary of Allegations

On June 2, 1986, the Office of General Counsel received a signed, sworn and notarized complaint from the RUFF Political Action Committee ("RUFFPAC") alleging violations of the Federal Election Campaign Act of 1971, as amended, ("Act") by the Republic Media Group, Michael Mercier, James G. Corey, Pacific Ad Mail and Congressman Ed Zschau. Specifically, RUFFPAC alleges that the Respondents made an illegal campaign contribution to one or more federal candidates by listing the candidates on a slate mailing, despite the fact that the candidates did not pay for any portion of the mailing. Further, RUFFPAC alleges that Respondents may have violated the Act by charging federal

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candidates who did make a payment towards the cost of the mailing "less than the normal and usual charge for advertising and mail services." Finally RuffPAC alleges that Ed Zschau, as a candidate for federal office who willingly participated in the mailer and paid for a portion of the costs, may have violated the federal election laws on the same grounds.

Factual and Legal Analysis

The allegations of RUFFPAC's complaint center upon a slate mailer featuring a ballot-like ticket of endorsed candidates and ballot propositions. According to the complaint, over two million of these mailers were distributed in the state of California prior to its June 3, 1986 primary, urging voters to "Vote Your Republican Team '86.!" The mailer, a copy of which was attached to the complaint, contains the names of both federal and state candidates plus recommendations on three ballot propositions. The candidates who "paid towards the production of this guide" have an asterisk accompanying their names, while the names of those who did not pay, are unaccompanied by asterisks. Complainant, citing Advisory Opinion 1984-62, alleges that the mailer's producers made prohibited contributions to or expenditures for those non-paying federal candidates listed on the slate and also made prohibited contributions to those paying federal candidates who were listed, if the latter were charged less than the usual or normal charge for such listings.

The slate mailer at issue was designed and distributed by the Republic Media Group, which responded to the complaint on

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July 15, 1986, after having received a twenty day extension of time. Republic Media Group is an unincorporated partnership which registered with the Commission as a political committee on May 19, 1986. Respondent Michael Mercier is a partner in and treasurer of Republic Media Group. Respondent James G. Corey is the Group's second partner. Respondent Pacific Ad Mail is apparently a vendor used by Republic Media Group.

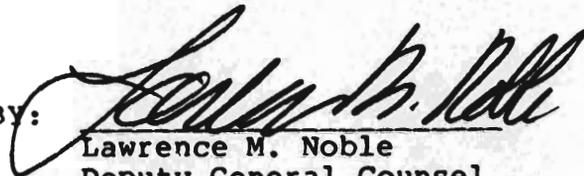
Also on July 15, 1986, Republic Media filed its 1986 July Quarterly report of receipts and disbursements. Due to the extensive nature of this filing plus the complex issues raised by the complaint in light of the recent decision of the Federal District Court in FEC v. Californians for Democratic Representation, No. CV 85-2086 JMI (C.D. Cal., Judgment entered 1- 1-86), the Office of General Counsel is undertaking a review of the complaint and responses and will, upon its completion, make a further report to the Commission.

Charles N. Steele
General Counsel

Date

7/24/86

BY:


Lawrence M. Noble
Deputy General Counsel

83040571549



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: *MW* MARJORIE W. EMMONS/CHERYL A. FLEMING *CF*

DATE: JULY 28, 1986

SUBJECT: MUR 2181 - FIRST GENERAL COUNSEL'S REPORT
SIGNED JULY 24, 1986

The above-captioned document was received in the Office of the Secretary of the Commission Thursday, July 24, 1986 at 5:12 P.M. and circulated to the Commission on a 24 hour no-objection basis at 2:00 P.M., Friday, July 25, 1986.

There were no objections received in the Office of the Secretary of the Commission to the First General Counsel's Report at the time of the deadline.

88040571550



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 26, 1986

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

ATTENTION: ERIC KLEINFELD

FROM: OSCELYN A. ANDERSON
COMPLIANCE CLERK
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MUR 2181

Please review the attached Request for Additional Information which is to be sent to the Ed Zschau for Senate Committee for the July Quarterly Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have must be forwarded to RAD in writing by 1:00 p.m. on Thursday, August 28, 1986.

If comments are not received in writing by the above date and time, the RFAI notice will be sent.

If you have any questions, please contact Oscelyn A. Anderson at 376-2490. Thank you.

COMMENTS:

Attachment

15

83040671551

LAW OFFICES OF
NIELSEN, HODGSON, PARRINELLO & MUELLER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1030 FIFTEENTH STREET, SUITE 250

SACRAMENTO, CALIFORNIA 95814

TELEPHONE (916) 446-6752

SAN FRANCISCO

650 CALIFORNIA STREET, SUITE 2650
SAN FRANCISCO, CALIFORNIA 94108
TELEPHONE (415) 989-6800

600#1628
A8:27

FILE NUMBER

September 23, 1986

5363.10

Mr. Lawrence M. Noble
Deputy General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: Formal Complaint (2 U.S.C. § 437g)

Dear Mr. Noble:

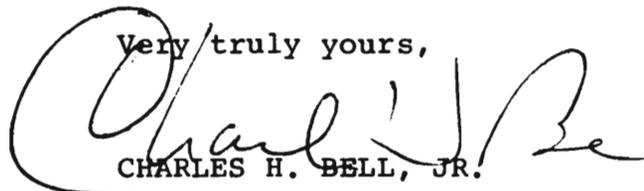
I am in receipt of your letter dated September 11, 1986, in which you indicate that the formal complaint filed by the undersigned with your office does not meet certain specific requirements of the Federal Election Campaign Act of 1971 and/or Commission regulations.

Because I believe that the matters complained of demand the immediate attention of the Commission, I have enclosed another copy of the complaint with a new declaration and proper notarization. I also have attached additional supporting documentation in the form of pleadings in a civil action brought by the California Republican Party against the respondents identified in this complaint.

Thank you for your consideration of this matter.

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

Very truly yours,


CHARLES H. BELL, JR.

Encl.
CHB:ss

93040371552

16 SEP 26 P 2: 34

RECEIVED

LAW OFFICES OF
NIELSEN, HODGSON, PARRINELLO & MUELLER
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

06 SEP 26 11:27 AM

SAN FRANCISCO

650 CALIFORNIA STREET, SUITE 2650
SAN FRANCISCO, CALIFORNIA 94108
TELEPHONE (415) 989-6800

1030 FIFTEENTH STREET, SUITE 250

SACRAMENTO, CALIFORNIA 95814

TELEPHONE (916) 446-6752

FILE NUMBER

September 23, 1986

5363.01

Mr. Charles Steele
General Counsel
Federal Election Commission
999 E Street, N.W., Room 657
Washington, D.C. 20563

06 SEP 26 P 2: 36

Re: Formal Complaint Pursuant to 2 U.S.C. §§
435, 434, 4413, 434(b) (4) (c)

Dear Mr. Steele:

The undersigned complainant complains of the following persons and committees that complainant has reason to believe have violated the Federal Election Campaign Act, as amended, and requests an expedited review of the matters complained of which affected the 1986 Primary Election for candidates for federal office in the State of California.

A. Persons Complained of:

- (1) Michael Mercier
9701 Wilshire Boulevard, Suite 800
Beverly Hills, California 90212
- (2) James Corey
16582 Burke Lane
Huntington Beach, California 92647
- (3) Republic Media Group
12582 Burke Lane
Huntington Beach, California 92647
- (4) Mercier-Kukurin
9701 Wilshire Boulevard, Suite 800
Beverly Hills, California 90212
- (5) Pacific Ad Mail
16582 Burke Lane
Huntington Beach, California 92647

B. Alleged Violations

1. The persons complained of violated 2 USC § 433 by failing to file a Statement of

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Organization with the Commission within 10 days of becoming a political committee.

2. The persons complained of violated 2 USC § 434 by failing to comply with the reporting requirements of that section. Complainant alleges on information and belief that the costs of the mailings throughout the state were in excess of \$300,000.00, of which approximately 20% were for expenditures or contributions in support of candidates for federal office.
3. The persons complained of violated 2 USC § 441d by failing to specify whether their mailings were authorized or paid for by federal candidates; and C.F.R. 102.5(a)(1) and (2) by financing political activity in connection with federal and non-federal elections, but failing to either establish a separate federal account or to limit its receipt of contributions to those subject to the prohibitions and limitations of the Act.
5. Complainant alleges on information and belief that many of the Federal candidates endorsed on the mailers did not pay at all and therefore received a non monetary contribution or an independent expenditure that should have been reported pursuant to 2 USC § 434(b)(4)(c) and 11 C.F.R. § 109.1(c). Exactly how each transaction is to be characterized remains to be determined from actual facts.

Defendants endorsed numerous Republican candidates for nomination in the June, 1986 primary Congressional candidates in the following areas:

- a. Sacramento/Yolo: Lowell Landowski (CD-3)
Jack Hite (CD-4)
- b. Los Angeles: Carlos Moorhead (CD-22)
George Wolverton
(CD-23)
Robert E. Badham
(CD-40)
- c. Orange: William Dannemeyer
(CD-39)
- d. San Francisco: Mike Garza (CD-5)
- e. Marin: Tony Sampson (CD-6)
- f. Monterey: Louis Darrigo (CD-16)
- g. Santa Clara: Bob Nash (CD-13)
- h. San Mateo: Laddie W. Hughes

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- (CD-12)
- G.M. Quraishi (CD-11)
- i. San Diego: Ron Packard (CD-43)
Bill Lowery (CD-41)
Duncan Hunter (CD-45)
Gene Pierson (CD-44)
- j. Riverside: Al McCandless (CD-37)
Gary R. Arnold (CD-)
- k. Ventura: Elton Gallegly (CD-21)
- l. Contra Costa: Steve Eigenberg (CD-7)

6. Complainant alleges on information and behalf that the persons complained of also failed to file with the California Secretary of State or the Federal Election Commission required campaign statements for the non-federal accounts; hence, any information on the sources of actual payments, if any, is private information not currently available publicly.

C. Facts:

Michael Mercier, Jim Corey, Republic Media Group, Pacific Ad Mail and Mercier-Kukurin conspired in the 1986 California primary campaign to solicit payment for and to prepare, print and circulate in at least 12 California counties and to approximate 3 million slate mailers. The mailer was calculated to mislead those voters into the belief that the Republican Party had endorsed a "Republican Team '86" for the June 3, 1986 primary election. Michael Mercier, James Corey, Republic Media Group, Mercier-Kakurin and Pacific Ad Mail solicited and received over \$1,000 in donations in the 1986 calendar year in connection with federal elections. Each of them then failed to register as a "political committee" pursuant to 2 USC § 431(4) and §433. These payments constitute expenditures pursuant to 2 USC 431(9)(19)(A)(i), because were for the purpose of influencing a federal election. The allocable amounts of those expenditures should have been reported pursuant to 2 USC § 434(b)(4)(c).

Copies of the endorsement mailings available to complainant are attached. It should be noted that the mailers note by an asterisk (*) that certain federal candidates paid for their inclusion in the mailing. Congressman Ed Zschau apparently paid a sum of money for inclusion in the slate mailer; however, complainant understands that numerous federal and non-federal candidates endorsed on the mailers (and indicated with an asterisk) have denied that they paid any amounts to Mercier, Corey, Republic Media Group, Mercier-Kukurin or Pacific Ad Mail for inclusion on the slates.

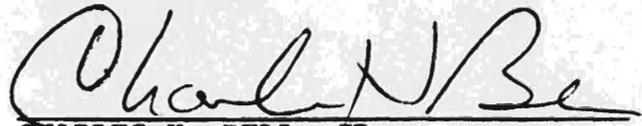
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Mr. Charles Stee
September 23, 1986
Page 4

It should be noted that this case is identical to the Federal Election Commission v. Californians For Democratic Representation case (U.S. District Court, Central District of California, Civil No. 85-2086) in which the Federal Election Commission obtained a judgment for \$15,000 against defendants therein for violation of the same provisions of the Federal Election Campaign Act in 1982.

The foregoing is of my personal knowledge, excepting those matters alleged on information and belief, and if called as a witness I could competently testify thereto.

Executed under penalty of perjury this 22nd day of September 1986 at Sacramento, California.


CHARLES H. BELL, JR.

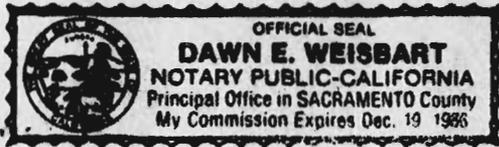
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STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

On this 22nd day of September, in the year nineteen hundred and eighty-s

Dawn E. Weisbart, before me, a Notary Public, State of California, duly commissioned and sworn, personally appeared Charles H. Bell, Jr.



personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is

subscribed to this instrument, and acknowledged that he executed it.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the said County of Sacramento on the date set forth above in this certificate.

[Signature]
Notary Public, State of California

My commission expires December 19, 1986

This document is only a general form which may be proper for use in simple transactions and in no way acts, or is intended to act, as a substitute for the advice of an attorney. The printer does not make any warranty, either express or implied as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Cowdery's Form No. 32 - Acknowledgement to Notary Public - Individuals - (C.C. Sec. 1180) - (Rev. 1/83)

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OTE YOUR REPUBLICAN TEAM '86



**"Great State . . .
Great Governor . . .
Great Republicans"**

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Lt. Governor MIKE CURB

MIKE CURB is well prepared to work alongside Governor George Deukmejian to meet all of California's challenges. Governor Deukmejian needs a Lt. Governor who shares the same goals for California's future.



MIKE CURB is experienced, energetic and effective. He's just the kind of Lt. Governor California needs for the future.

**MIKE CURB . . .
Dynamic and Effective
Leadership for
California**

United States Senate ED ZSCHAU U.S. Congressman

- ★ Co-Sponsor *Balanced Budget Amendment.*
- ★ "Golden Bulldog Award" from *Watchdogs of the Treasury Inc.* for stopping wasteful government spending.
- ★ "Taxpayers Best Friend" from *National Taxpayers Union.*
- ★ Member of the pro-defense *Coalition For Peace Through Strength.*
- ★ Strong advocate for preservation of environment.
- ★ The **ONLY** Senate Candidate endorsed by statewide Republican organizations including:
 - Northern California Lincoln Club
 - California Young Republican
 - California Republican League



Secretary of State BRUCE NESTANDE Orange County Supervisor



Bruce Nestande is a Reagan Republican.

★ Reagan's choice as a delegate to three Republican National conventions.

★ Asked by President Reagan to chair his last national campaign kick-off rally in 1984.

★ As three term Assemblyman, held leadership positions and assisted George Deukmejian in getting his Death Penalty bill into law.

★ In 1980 gave up a safe Assembly seat to challenge a former Brown appointee for a seat on the Orange County Board of Supervisors. Won that election and became the first candidate to defeat a Fonda-Hayden incumbent.

*Bruce Nestande gets things done.
Bruce Nestande is a partner
George Deukmejian can trust.*

Controller WILLIAM CAMPBELL

Senator Bill Campbell's nearly 20 years as a State Legislator has given him the experience to serve as a strong State Controller. He is a fiscal conservative committed to less government intrusion in our lives. As State Controller, he will: Speed-up payments to victims of violent crimes; halt the salaries of judges who refuse to issue decisions within legal time limits, and streamline the financial reporting process, so that government begins to operate in a more business-like manner.



Senator Bill Campbell will remember that it's your money that's being spent each day, not the government's.

Attention All Republicans!



3 Reasons to Vote NO on Prop 51:

- #1 Republicans are fed up with liberals letting the guilty off the hook. Just like murderers and rapists, toxic polluters who cause cancer **MUST** be held fully accountable and strictly punished.
- #2 Prop 51 will cost you money. More people will go on welfare and there will be more, not fewer, lawsuits.
- #3 Republicans oppose 51 because we believe that individuals must take responsibility for their actions — not blame others for what they've done wrong.

**Vote Your Republican Team '86
Polls Will Be Open
7 A.M. - 8 P.M.**

Take This To The Polls With You!

**DON'T LET THE GUILTY OFF THE HOOK
VOTE NO ON 51** 16



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**NOTE: COPIES OF NINETEEN ADDITIONAL FLIERS
ATTACHED TO SEPTEMBER 23, 1986, COMPLAINT
HAVE BEEN DELETED FROM PUBLIC RECORD FILE**

88040671560

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT: (Aviso a Acusado)

MICHAEL MERCIER, JIM COREY and REPUBLIC MEDIA GROUP, and DOES 1 through 100, inclusive

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**YOU ARE BEING SUED BY PLAINTIFF:
(A Ud. le está demandando)**

CALIFORNIA REPUBLICAN PARTY, a Political Party and JOHN A. SLEZAK,

You have **30 CALENDAR DAYS** after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de **30 DÍAS CALENDARIOS** para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

89040671561

The name and address of the court is: (El nombre y dirección de la corte es)
LOS ANGELES COUNTY SUPERIOR COURT
 111 North Hill Street
 Los Angeles, California 90012

CASE NUMBER: (Número del Caso)

C602253

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
 (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado es)

John A. Slezak
 Iverson, Yoakum, Pabiano & Hatch
 611 West Sixth Street, Suite 1900
 Los Angeles, California 90017
 (213) 687-0711

Charles H. Bell, Jr./ (916) 446-6752
 Nielsen, Hodgson, Parrinello
 & Mueller
 1030 Fifteenth Street Suite 250
 Sacramento, California 95814

DATE: **JUN 2 - 1986**
 (Fecha)

FRANK S. ZOLIN

JEFFORD

Clerk, by _____ Deputy
 (Actuario) (Ayudante)

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
 under: CCP 416.10 (corporation) CCP 416.80 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (individual)
 other:
4. by personal delivery on (date):

1 JOHN A. SLEZAK
2 IVERSON, YOAKUM, PAPIANO & HATCH
3 611 West Sixth Street, Suite 1900
4 Los Angeles, California 90017
5 (213) 687-0711

6 CHARLES H. BELL, JR.
7 NIELSEN, HODGSON, PARRINELLO & MUELLER
8 1030 Fifteenth Street, Suite 250
9 Sacramento, California 95814
10 (916) 446-6752

11 Attorneys for Plaintiffs

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES

14 CALIFORNIA REPUBLICAN PARTY,
15 a Political Party, and JOHN
16 A. SLEZAK,

17 Plaintiffs,

18 vs.

19 MICHAEL MERCIER, JIM COREY
20 and REPUBLIC MEDIA GROUP, and
21 DOES 1 through 100, inclusive

22 Defendants.

23) CASE NO.
24)
25) VERIFIED COMPLAINT FOR,
26) INJUNCTIVE AND
27) DECLARATORY RELIEF TO
28) ENJOIN VIOLATIONS OF TRUTH
IN ENDORSEMENTS LAW
(Elections Code §§11700,
11701, 11703, 11706)

Plaintiffs allege:

1. Plaintiff John Slezak resides at 1649 Santa Maria, in the City of Glendale, County of Los Angeles, State of California, and is a duly registered Republican voter in the County of Los Angeles, State of California. Plaintiff CALIFORNIA REPUBLICAN PARTY is the official Republican Party in the State of California, as provided by statute (Article 2 of Chapter 5 of Division 6, commencing with Section 6430 of the California Elections Code.

///

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IVERSON, YOAKUM, PAPIANO & HATCH
LAWYERS
611 WEST SIXTH STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017-3192
TELEPHONE (213) 687-0711

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IVERSON, YOAKUM, PAPIANO & HATCH
LAWYERS
611 WEST SIXTH STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017-3192
TELEPHONE (213) 687-0711

1 2. I am informed and believe that defendants MICHAEL
2 MERCIER and JIM COREY are officers, principals and agents of
3 defendant REPUBLIC MEDIA GROUP, an unincorporated association
4 doing business in the County of Los Angeles at 9701 Wilshire
5 Boulevard, Suite 800, Beverly Hills, California, 90212.

6 3. I am informed and believe that defendant Republic
7 Media Group together with its agents, employees, and
8 representatives have violated the Truth in Endorsements Law,
9 more particularly, Section 11703 of the Elections Code of the
10 State of California, in the following manner: by producing and
11 distributing throughout the State of California to
12 approximately 3.3 million households or voters, variations of
13 the "slate mailings" copies of which are attached hereto as
14 Exhibits "A" and "B", and incorporated by this reference herein.

15 4. The "slate mailings" in question use the word
16 "Republican" in numerous, obvious locations, and the purport of
17 the mailing is to impress on voters that the mailing is a
18 Republican slate mailing, using such language as "Los Angeles
19 Republican Ticket," "Republican Team '86." Although the "slate
20 mailing" disclaimer notes in fine print that "Republic Media
21 Group/Republican Ticket" is "an unofficial political group,"
22 nowhere on the mailing is there contained the notice required
23 by Elections Code §11703 of the "Truth in Endorsements Law," to

24 wit:
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IVERSON, YOAKUM, PAPIANO & HATCH
LAWYERS
811 WEST SIXTH STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017-3192
TELEPHONE (213) 687-0711

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NOTICE TO VOTERS
(Required by Law)

The endorsement hereon is by an unofficial political group. Official organizations of the (name) Party are prohibited by law from endorsing candidates in primary elections.

5. I am informed and believe that the mailer in question is a deliberate effort to deceive voters to believe it is an official Republican Party endorsement, because the defendants were put on notice by Plaintiff California Republican Party of the legal requirements. (See Exhibits "C" and "D", which I am informed and believe are true copies of letters to defendant Michael Mercier from Charles H. Bell, legal counsel for California Republican Party and from Vigo G. Nielsen, Jr., counsel for the Deukmejian Campaign Committee, which were sent to and received by said defendant.)

6. Plaintiffs have no adequate remedy at law and will suffer irreparable damage unless the aforementioned violations are enjoined by this court in that mailings purporting to be official Republican mailers will distribute to the voters.

WHEREFORE, plaintiff prays:

1. That defendants, its agents, employees, and representatives be permanently enjoined from mailing the slate mailers typified by Exhibits "A" and "B", or any other slate

///

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IVERSON, YOAKUM, PAPIANO & HATCH
LAWYERS
611 WEST SIXTH STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017-3192
TELEPHONE (213) 697-0711

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mailers which do not contain the notice required by Elections Code §11703, to any registered voters;

2. That during the pendency of this action, a temporary restraining order and preliminary injunction issue to enjoin and restrain defendants, its agents, employees and representatives, from the acts and conduct as set forth above and from mailing the slate mailers typified by Exhibits "A" and "B", or any other slate mailers which do not contain the notice required by Elections Code Section 11703, to registered California voters;

3. That the Court immediately issue an order declaring that the slate mailers typified by Exhibits "A" and "B" to the complaint are misleading and in violation of the Truth in Endorsements Law, Elections Code Section 11703, in that the notice required by that Section was not given, and the California Republican Party is in favor of Proposition 51 and has not endorsed any of the candidates identified on the mailer;

4. For costs of suit;

5. For attorney's fees pursuant to Code of Civil Procedure §1021.5; and

6. For such further relief as the court may deem just and equitable.

IVERSON, YOAKUM, PAPIANO & HATCH

By John A. Slezak
John A. Slezak
Attorneys for Plaintiff
California Republican
Party

LOS ANGELES REPUBLICAN TICKET



MIKE CURB



ED ZSCHAU



BRUCE NESTANDE



WILLIAM CAMPBELL

Bulk Rate
U.S. Postage
PAID
Permit No. 549
Los Angeles, CA
Carrier RL Sort

** CR32
Nancy E Desmond Armitage
8253 Santa Ynez St
San Gabriel CA 91775

TUESDAY JUNE 3RD 1986
YOU VOTE AT:

Support President Reagan by
sending the best Republican Team
to Washington and Sacramento...

VOTE YOUR REPUBLICAN TEAM '86 TAKE THIS CARD TO THE POLLS

Precinct No 5800045A
Garage Room
5814 N Walnut Grove Av

<input checked="" type="checkbox"/>	Governor GEORGE "DUKE" DEUKMEJIAN	<input checked="" type="checkbox"/>	Sheriff SHERMAN BLOCK
<input checked="" type="checkbox"/>	Lt. Governor MIKE CURB *	<input checked="" type="checkbox"/>	State Proposition 44 YES ON PROPOSITION 44 *
<input checked="" type="checkbox"/>	Secretary of State BRUCE NESTANDE	<input checked="" type="checkbox"/>	State Proposition 48 YES ON PROPOSITION 48 *
<input checked="" type="checkbox"/>	Controller WILLIAM CAMPBELL *	<input checked="" type="checkbox"/>	State Proposition 51 NO ON PROPOSITION 51 *
<input checked="" type="checkbox"/>	Attorney General BRUCE GLEASON *		
<input checked="" type="checkbox"/>	United States Senator ED ZSCHAU *		
<input checked="" type="checkbox"/>	Representative In Congress JOHN W. ALMQUIST		
<input checked="" type="checkbox"/>	Member of The Assembly RICHARD L. MOUNTJOY		
<input checked="" type="checkbox"/>	Judge of Superior Court Office #1 LEON S. KAPLAN *		
<input checked="" type="checkbox"/>	Judge of Superior Court Office #2 WILLIAM R. PARDEE *		
<input checked="" type="checkbox"/>	Judge of Superior Court Office #12 MAXINE F. THOMAS *		
<input checked="" type="checkbox"/>	Assessor JIM KEYSOR *		

EXHIBIT "A"

Be sure to vote. Polls are normally open from 7:00 a.m. to 8:00 p.m. All offices and ballot issues following Member of the Assembly are non-partisan. All candidates and ballot issues with an (*) asterisk by their name have paid towards the production of this guide. Candidates or ballot issues appearing on this voter guide may have endorsed other candidates or ballot issues also appearing on this guide, however, their appearance on this guide by itself, does not constitute specific endorsement of any other candidate or ballot issue. The Republican ticket is a REPUBLIC MEDIA GROUP production, 18662 Burke Lane, Huntington Beach, CA 92647.

REPUBLIC MEDIA GROUP: REPUBLICAN TICKET - AN UNOFFICIAL POLITICAL GROUP

★ VOTE YOUR REPUBLICAN TEAM '86



**"Great State . . .
Great Governor . . .
Great Republicans"**

Lt. Governor **MIKE CURB**

MIKE CURB is well prepared to work alongside Governor George Deukmejian to meet all of California's challenges. Governor Deukmejian needs a Lt. Governor who shares the same goals for California's future.



MIKE CURB is experienced, energetic and effective. He's just the kind of Lt. Governor California needs for the future.

**MIKE CURB . . .
Dynamic and Effective
Leadership for
California**

United States Senate **ED ZSCHAU** U.S. Congressman



- ★ Co-Sponsor *Balanced Budget Amendment.*
- ★ "Golden Bulldog Award" from *Watchdogs of the Treasury Inc.* for stopping wasteful government spending.
- ★ "Taxpayers Best Friend" from *National Taxpayers Union.*
- ★ Member of the pro-defense *Coalition For Peace Through Strength.*
- ★ Strong advocate for preservation of our environment.
- ★ The ONLY Senate Candidate endorsed by statewide Republican organizations including:
 - Northern California Lincoln Club
 - California Young Republicans
 - California Republican League

Secretary of State

BRUCE NESTANDE Orange County Supervisor



Bruce Nestande is a Reagan Republican.

★ Reagan's choice as a delegate to three Republican National conventions.

★ Asked by President Reagan to chair his last national campaign kick-off rally in 1984.

★ As three term Assemblyman, held leadership positions and assisted George Deukmejian in getting his Death Penalty bill into law.

★ In 1980 gave up a safe Assembly seat to challenge a former Brown appointee for a seat on the Orange County Board of Supervisors. Won that election and became the first candidate to defeat a Fonda-Hayden incumbent.

*Bruce Nestande gets things done.
Bruce Nestande is a partner
George Deukmejian can trust.*

Controllor

WILLIAM CAMPBELL



Senator Bill Campbell's nearly 20 years as a State Legislator has given him the experience to serve as a strong State Controllor. He is a fiscal conservative committed to less government intrusion in our lives. As State Controllor, he will: Speed-up payments to victims of violent crimes; halt the salaries of judges who refuse to issue decisions within legal time limits; and streamline the financial reporting process, so that government begins to operate in a more business-like manner.

Senator Bill Campbell will remember that it's your money that's being spent each day, not the government's.

Attention All Republicans!



3 Reasons to Vote NO on Prop 51:

- #1** Republicans are fed up with liberals letting the guilty off the hook. Just like murderers and rapists, toxic polluters who cause cancer MUST be held fully accountable and strictly punished.
- #2** Prop 51 will cost you money. More people will go on welfare and there will be more, not fewer, lawsuits.
- #3** Republicans oppose 51 because we believe that individuals must take responsibility for their actions — not blame others for what they've done wrong.

Republicans Support . . .

JUDGE MAXINE F. THOMAS Los Angeles Superior Court Judge, Office 12

Republicans only support law and order Judges who are not afraid to enforce the law and send criminals to jail or death row.

As Presiding Judge of the nation's largest Municipal Court, MAXINE F. THOMAS has instituted programs that have increased Court Efficiency and SAVED THE TAXPAYERS MONEY!

As a Superior Court Judge, MAXINE F. THOMAS will be no friend of criminals and will enforce the DEATH PENALTY.

VOTE FOR: JUDGE MAXINE F. THOMAS, PRESIDING MUNICIPAL JUDGE
NON-PARTISAN CANDIDATES EVALUATED INDEPENDENTLY BY REPUBLIC MEDIA GROUP

**DON'T LET THE GUILTY OFF THE HOOK
VOTE NO ON 51**

EXHIBIT "B"

16

LAW OFFICES OF
NIELSEN, HOBBSON, PARRINELLO & MUELLER
A CALIFORNIA LIMITED LIABILITY CORPORATION

THE WASHINGTON BUILDING

600 CALIFORNIA STREET SUITE 1000

SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE (415) 398-8800

ADDRESS

610 MARKET STREET SUITE 200
SALMONS (CALIFORNIA) BANK
SAN FRANCISCO 94111

P. O. NUMBER

May 20, 1986

FEDERAL EXPRESS

Mr. Michael Mercier
Mercier-Kukurin
4701 Wilshire Boulevard, Suite 800
Beverly Hills, CA 90212

Dear Mr. Mercier:

We are advised that you have prepared and printed a slate mailer that makes use of Governor George Deukmejian's name. As legal counsel to the Deukmejian Campaign Committee, be advised Mercier-Kukurin does not have permission to use the Governor's name or photograph in any fashion.

You are advised to immediately take all steps necessary to halt the distribution of any mailer that includes the Governor's name, picture or other association with the mailing. Unauthorized use of the Governor's name could subject you to civil and/or criminal penalties under Division 9 of the California Elections Code. I will hold you personally liable for any improper use of the Governor's name or likeness caused by the distribution of the above-described slate mailer.

Please contact me immediately regarding this matter.

Sincerely,

Vigo G. Nielsen Jr.

VIGO G. NIELSEN, JR.

VGN:ss

cc: Governor George Deukmejian

R 8 0 4 0 6 7 1 5 6 9

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF TO ENJOIN VIOLATIONS OF TRUTH IN ENDORSEMENTS LAW and know its contents.

CHECK APPLICABLE PARAGRAPH

- I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true. I am an Officer a partner of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

- I am one of the attorneys for the California Republican Party a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on May 31, 1986, at Los Angeles California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

John A. Slezak

Type or Print Name

John A Slezak

Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT (other than summons and complaint)

Received copy of document described as

on 19

Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of State of California. I am over the age of 18 and not a party to the within action; my business address is:

On 19, I served the foregoing document described as on in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

- (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at California. Executed on 19, at California. (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee. Executed on 19, at California. (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

88040371570

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____ and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner _____ a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for _____ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____, 19____, at _____ California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT
(other than summons and complaint)

Received copy of document described as _____

on _____ 19____.

Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 611 West Sixth Street, Suite 1900, Los Angeles, California 90017

On June 2 1986, I served the foregoing document described as Verified Complaint, Ex Parte Application, Declaration of John A. Slezak and Order for Preliminary Injunction and Temporary Restraining Order on interested parties

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Joseph Remcho
111 N. Hill St.
Los Angeles, CA

(BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at _____, California.

Executed on _____, 19____, at _____, California.

(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on June 2, 1986, at Los Angeles, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

89040571571

83040571572

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF TO ENJOIN VIOLATIONS OF TRUTH IN ENDORSEMENTS LAW and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for the California Republican Party

a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on August, 19 86, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

John A. Slezak

Type or Print Name

John A Slezak

Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT

(other than summons and complaint)

Received copy of document described as

on 19

Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of, State of California.

I am over the age of 18 and not a party to the within action; my business address is:

On 19, I served the foregoing document described as

on

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

(BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at, California.

Executed on, 19, at, California.

(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on, 19, at, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

88040671573

1 JOSEPH REMCHO
KATHLEEN J. PURCELL
2 REMCHO, JOHANSEN & PURCELL
220 Montgomery Street, Suite 800
3 San Francisco, California 94104
Telephone: 415/398-6230
4
5 Attorneys for Defendants

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 CALIFORNIA REPUBLICAN PARTY,)
a Political Party, and JOHN) NO. C602253
12 A. SLEZAK,)
13 Plaintiffs,) CONSENT TO ENTRY
) OF JUDGMENT
14 vs.)
)
15 MICHAEL MERCIER, JIM COREY,)
and REPUBLIC MEDIA GROUP, and)
16 DOES 1 through 100, inclusive,)
)
17 Defendants.)
18

19 Defendants MICHAEL MERCIER, JIM COREY and REPUBLIC MEDIA
20 GROUP and their attorneys of record hereby consent to the entry
21 of judgment without further notice as follows:

- 22 1. That defendants, their agents, employees, and repre-
23 sentatives be permanently enjoined from mailing the slate mailers
24 typified by Exhibits "A" and "B" to plaintiffs' Verified
25 Complaint for Injunctive and Declaratory Relief, or any other
26 slate mailers which come within the terms of Elections Code §11703

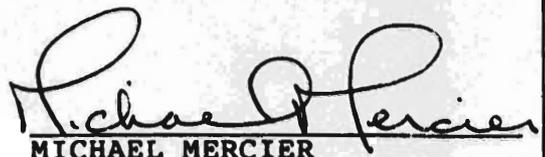
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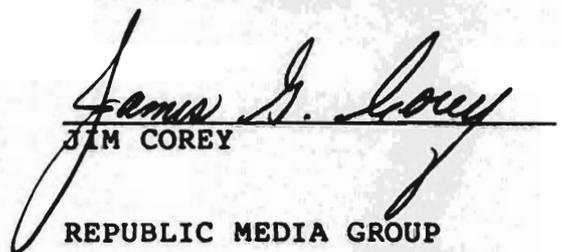
and) do not contain the notice set forth in that section.

2. That the Court declares that the slate mailers ^{misleading and} typified by Exhibits "A" and "B" to the complaint are in violation of Elections Code §11703, in that the notice required by that section was not given, and the California Republican Party is in favor of Proposition 51 and has not endorsed any of the candidates identified on the mailer.

DATED: 7-23-86


MICHAEL MERCIER

DATED: 7-23-86


JIM COREY
REPUBLIC MEDIA GROUP

DATED: 7-23-86

BY 
REMCHO, JOHANSEN & PURCELL

DATED: July 22, 1986

BY 
KATHLEEN J. PURCELL

88040571575

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CERTIFICATE OF SERVICE

I, the undersigned, certify and declare that I am a citizen of the United States, over the age of 18 years, employed in the County of Orange, California, and not a party to the within action. My business address is 17692 Cowan ST Irvine, Cal.

On July 23, 1986 I served a true copy of the attached CONSENT TO ENTRY OF JUDGMENT on the plaintiffs in said action by placing a true copy thereof enclosed in a sealed envelope and causing the envelope to be hand delivered to the offices of

JOHN SLEZAK, ESQ.
Iverson, Yoakum, Papiano & Hatch
611 W. Sixth Street, Suite 1900
Los Angeles, CA 90017

I declare under penalty of perjury that the foregoing is true and correct. Executed this 23rd day of July 1986 at Los Angeles, California.

George D. Irvine

plm



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1986

Charles H. Bell, Jr., Esquire
Nielsen, Hodgson, Parrinello & Mueller
1030 Fifteenth St., Suite 150
Sacramento, CA 95814

Dear Mr. Bell:

This letter will acknowledge receipt of a complaint filed by you which we received on September 26, 1986, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Mr. Michael Mercier, Mr. James Corey, Republic Media Group and Michael Mercier as treasurer, Mercier-Kukurin, and Pacific Ad Mail. 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 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 the original complaint. For your information, we have attached a brief description of the Commission's procedures for handling complaints. We have numbered this matter under review MUR 2255. Please refer to this number in all future correspondence. If you have any questions, please contact Retha Dixon at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (RM)

By: Lawrence M. Noble
Deputy General Counsel

Enclosure

83040671576

plm



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1986

Mr. Michael Mercier
9701 Wilshire Blvd., Suite 800
Beverly Hills, CA 90212

Re: MUR 2255

Dear Mr. Mercier:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2255. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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18a

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5698. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (RNZ)

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

88040371578

per



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1986

Mr. James Corey
16582 Burke Lane
Huntington Beach, CA 92647

Re: MUR 2255

Dear Mr. Corey:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2255. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in 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.

88040571579

184

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (RM)

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

89040571590

186

plm



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1986

Michael Mercier, Treasurer
Republic Media Group
12582 Burke Lane
Huntington Beach, CA 92647

Re: MUR 2255

Dear Mr. Mercier:

The Federal Election Commission received a complaint which alleges that Republic Media Group and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2255. 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 Republic Media Group in this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (L.M.N.)

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

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mlm



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1986

Mercier-Kukurin
9701 Wilshire Blvd., Suite 800
Beverly Hills, CA 90212

Re: MUR 2255

Gentlemen:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2255. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in 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.

88040571585

18d

If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (RMZ)

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

88040571584

182

JLM



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1986

Pacific Ad Mail
16582 Burke Lane
Huntington Beach, CA 92647

Re: MUR 2255

Gentlemen:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2255. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(4)(B) and §437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (FNF)

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

88040571586

182

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415 / 398-6230

RECEIVED AT THE FEC
REC# 1746
86 OCT 15 11:26

October 14, 1986

VIA FEDERAL EXPRESS

Eric Kleinfeld, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2255

Dear Mr. Kleinfeld:

As I mentioned when we spoke by telephone today, due to delays in the mail between Los Angeles and San Francisco, I have just received a copy of the above-referenced complaint from my client, Michael Mercier.

We request additional time, namely until November 7, 1986, to respond to the complaint. As I understand it, this extension should not be a problem.

I believe that Mr. Mercier has sent his designation of counsel directly to you; however, I enclose an additional copy for your information.

Thank you for your consideration and cooperation.

Sincerely,

Kathleen J. Purcell

KJP:lmf

Enclosure

cc: Michael Mercier

86 OCT 15 3:54

RECEIVED

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STATEMENT OF RESIGNATION OF COUNSEL

FILED THE FEC
GCC#1744

06 OCT 14 09:35

NO. 2255

NAME OF COUNSEL: Remcho, Johansen & Purcell

ADDRESS: 220 Montgomery St #800
SAN FRANCISCO, CA 94104

TELEPHONE: *Joe Remcho - Kathy Purcell
(415) 398-6230

RECEIVED
OCT 15 03:55

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.

10/7/86
Date

Michael Mercier
Signature

RESPONDENT'S NAME: MICHAEL MERCIER

ADDRESS: 9701 WILSHIRE BLVD #800
BEVERLY HILLS, CA 90212

HOME PHONE: _____

BUSINESS PHONE: (714) 848-3545 or (213) 859-1233

88040571588

plm



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 16, 1986

Kathleen J. Purcell, Esquire
Remcho, Johansen & Purcell
220 Montgomery Street
Suite 800
San Francisco, California 94104

Re: MUR 2255
Michael Mercier

Dear Ms. Purcell:

This is in response to your letter dated October 14, 1986, in which you request an extension of time until November 7, 1986 to respond to the allegations against your client.

I have reviewed your request and agree to the requested extension. Accordingly, your response will be due no later than November 7, 1986. If you have any questions, please contact Eric Kleinfeld, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble
By: Lawrence M. Noble
Deputy General Counsel

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REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415 / 398-6230

CCC#1953
RECEIVED THE FEC
HAND DELIVERED
86 NOV 7 P12:05

November 6, 1986

36 NOV 7 P 3: 24

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Charles N. Steele
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Eric Kleinfeld, Esq.

Re: MUR 2255

Dear Mr. Steele:

I write on behalf of Republic Media Group, Michael Mercier, Jim Corey, Pacific AdMail and Mercier-Kukurin in response to the above-referenced complaint. I incorporate by reference our response to MUR 2181.

This complaint is frivolous. It is one more effort by Mr. Bell, his associates and clients to harass, intimidate and oppress Republic Media Group and its principals. The allegations in the complaint are contradicted by the public record and by the face of the mailer complained of.

What follows is a listing of Mr. Bell's specific claims and our responses:

1. Mr. Bell asserts that no Statement of Organization was filed. He is wrong. Republic Media Group's Statement of Organization was filed on or about May 11, 1986. As a result of this filing, Republic Media Group was assigned FEC Identification Number C0020664.

2. Mr. Bell asserts that required reports were not filed. He is wrong. On or about July 15, 1986, Republic Media Group filed a Report of Receipts and Disbursements, FEC Form 3X, with the Commission.

3. Mr. Bell asserts that the mailing did not specify whether it was paid for by federal candidates. He is wrong. The mailing on its face indicates which of the listed candidates and campaigns paid towards production. Each such candidate has an asterisk by his name, and the

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Charles N. Steele
General Counsel
Federal Election Commission
November 6, 1986
Page 2

mailer thereafter states: "All candidates and ballot issues with an (*) asterisk by their name have paid towards the production of this guide." This approach was adopted with consultation and approval from the California Fair Political Practices Commission and an outside consultant on FEC requirements. Mr. Bell's "understanding" that some of the indicated candidates did not pay and his implication that some of the non-paying candidates were consulted and authorized the mailer are incorrect. See our response in MUR 2181.

4. Mr. Bell asserts a violation of law for failure to establish a separate federal account or limit receipt of contributions to those subject to the prohibitions and the limits of the Act. He is wrong. The United States District Court in FEC v. Californians for Democratic Representation, Civil No. 85-2086 JMI (C.D. Cal., Judgment entered 1-1-86), entered summary judgment in defendant's favor on an identical claim.¹ Mr. Bell cites this case but either has not read it or is attempting to mislead the Commission.

5. Mr. Bell asserts that there was an unlawful failure to report independent expenditures for federal candidates who did not pay for the mailer. He is wrong. As noted above, the required report has been filed. It expressly lists the independent expenditures on line 22 and in Schedule E.

6. Finally, Mr. Bell asserts that required campaign statements have not been filed with the California Secretary of State. Even if this were so -- and it is not -- the Federal Elections Commission has no jurisdiction over the matter. This is apparently Mr. Bell's effort to vent his dissatisfaction with advice issued by the California Fair Political Practices Commission regarding reporting requirements for mailings such as this. Bringing the issue

¹The violations found in FEC v. Californians for Democratic Representation were failure to file a Statement of Organization, failure to file a report of receipts and disbursements and failure to indentify candidates who paid for the mailings. As noted in the text, none of these deficiencies are present here.

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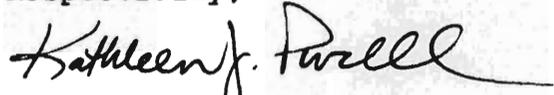
Charles N. Steele
General Counsel
Federal Election Commission
November 6, 1986
Page 3

to the Federal Election Commission is an imposition on this body, on the parties, and, indeed, on the California Fair Political Practices Commission which is not a party here and apparently has not been informed of Mr. Bell's efforts to have this federal Commission override its interpretation of California law.

This is not the first time that Mr. Bell has made utterly unfounded claims and attempted to mislead a public agency entrusted with enforcement of election laws. If there is any agency action available to address this abuse, we hereby request that it be taken. If you need any additional information to support this request, we are prepared to supply it.

Thank you for your attention to this matter. If you have any questions or need further information, please let me know.

Respectfully,



Kathleen J. Purcell

KJP:ph

cc: Jim Corey
Michael Mercier
Charles H. Bell, Jr.

88040671592



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 10, 1986

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

ATTENTION: ERIC KLEINFELD

FROM: OSCELYN A. ANDERSON *aa*
COMPLIANCE CLERK
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MURs 2181 and 2191

Please review the attached Request for Additional Information which is to be sent to RUFF PAC for the October Quarterly Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have must be forwarded to RAD in writing by 8:00 a.m. on Wednesday, November 12, 1986.

If comments are not received in writing by the above date and time, the RFAI notice will be sent.

If you have any questions, please contact Oscelyn A. Anderson at 376-2490. Thank you.

COMMENTS:

Attachment

88040571593

22



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

William T. Jacobs, Treasurer
RUFF Political Action Committee (RUFF-PAC)
11244 Waples Mill Road, Suite J
Fairfax, VA 22033

Identification Number: C00124040

Reference: October Quarterly Report (7/1/86-9/30/86)

Dear Mr. Jacobs:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Your calculations for Lines 6(b) through 8 appear to be incorrect. FEC calculations disclose this amount to be \$91,735.28. Please provide the corrected total(s) on the Summary Page.

-Schedule D discloses that the debts owed to The Viguerie Company, UARCO, Inc. and AMLC have been settled. 11 CFR 114.10 requires the committee and/or creditor to file a statement of settlement with the Commission. Please provide the following information, in order for the Commission to review the settlement:

- the initial terms of credit;
- the steps taken by your committee to satisfy the debts; and
- the remedies pursued by the creditors.

Until you have been notified by the Commission, the debts must continue to be disclosed on Schedule D of your committee's reports.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Anthony Raymond
Senior Reports Analyst
Reports Analysis Division

22

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 26, 1986

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

ATTENTION: ERIC KLEINFELD

FROM: OSCELYN A. ANDERSON *Oa*
COMPLIANCE CLERK
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MUR 2181

Please review the attached Request for Additional Information which is to be sent to Ed Zschau for U.S. Senate for the 12 Day Pre-General Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have must be forwarded to RAD in writing by 4:00 p.m. on Tuesday, December 2, 1986.

If comments are not received in writing by the above date and time, the RFAI notice will be sent.

If you have any questions, please contact Oscelyn A. Anderson at 376-2490. Thank you.

COMMENTS:

Attachment

88040371595

23



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-5

W. G. Van Auken, Treasurer
Ed Zachau for U.S. Senate Committee
30 Glen Alpine
Danville, CA 94526

Identification Number: C00197087

Reference: 12 Day Pre-General Report (10/1/86-10/15/86)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Debt payments for this period (Schedule D) are greater than the payments itemized on Schedule B. Each expenditure to a person which in the aggregate is greater than \$200 for the year must be reported on Schedule B. "Person" includes an individual, partnership, corporation, association, or public or private organization, other than an agency of the United States Government. Please explain the discrepancies in the payments made to Mullan Realty. (11 CFR 104.3(b)(4)(i)(A) and 100.10)

Any amendment or clarification should be filed with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

8 3 0 4 0 6 / 1 5 9 9

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

05 NOV 26

First General Counsel's Report

Date and Time of Transmittal By
OGC to the Commission _____

MUR 2255
Date Complaint Received
By OGC September 26, 1986
Date of Notification to
Respondent October 3, 1986
Staff Eric Kleinfeld

Complainant's Name: Charles H. Bell
Respondents' Names: Republic Media Group
Michael Mercier, treasurer
Michael Mercier
James G. Corey
Pacific Ad Mail
Mercier-Kukurin

Relevant Statutes: 2 U.S.C. § 431, § 441a(a)(1)(A), & 441d
11 C.F.R. § 100.7(a)(1)(iii)(A)

Internal Reports Checked: Advisory Opinion 1984-62
MUR 1461

Federal Agencies Checked: None

Summary of Allegations

On September 26, 1986, the Office of General Counsel received a signed, sworn and notarized complaint from Charles H. Bell alleging violations of the Federal Election Campaign Act of 1971, as amended, ("Act") by the Republic Media Group, Michael Mercier, James G. Corey, Pacific Ad Mail and Mercier-Kukurin.

Complainant makes several specific allegations. First, complainant alleges that respondents solicited and received over \$1000 in connection with a federal election, yet failed to register as a political committee within 10 days of qualifying as such, in violation of 2 U.S.C. § 433. Second, respondents

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allegedly failed to comply with the reporting requirements of 2 U.S.C. § 434, by failing to report expenditures or contributions on behalf of federal candidates. Third, complainant claims that respondents violated 2 U.S.C. § 441d, by failing to specify whether their mailings were authorized or paid for by federal candidates. Finally, respondents allegedly violated 11 C.F.R. § 102.5 by financing political activity in connection with federal and non-federal elections, but failing either to establish a separate federal account or to limit receipt of contributions to those subject to the prohibitions and limitations of the Act.

Factual and Legal Analysis

The allegations of RUFFPAC's complaint center upon a slate mailer featuring a ballot-like ticket of endorsed candidates and ballot propositions. According to the complaint, over two million of these mailers were distributed in the state of California prior to its June 3, 1986 primary, urging voters to "Vote Your Republican Team '86." The mailer, a copy of which was attached to the complaint, contains the names of both federal and state candidates plus recommendations on three ballot propositions. The candidates who "paid towards the production of this guide" have an asterisk accompanying their names, while the names of those who did not pay, are unaccompanied by asterisks.

The slate mailer at issue was designed and distributed by the Republic Media Group, which requested an extension of time to respond to the complaint until November 7, 1986.

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Republic Media Group is an unincorporated partnership which registered with the Commission as a political committee on May 19, 1986. Respondent Michael Mercier is a partner in and treasurer of Republic Media Group. Respondent James G. Corey is the Group's second partner. Respondent Pacific Ad Mail is apparently a vendor used by Republic Media Group.

On November 7, 1986, Republic Media filed its response. Due to the complex issues raised by the complaint in light of the recent decision of the Federal District Court in FEC v. Californians for Democratic Representation, No. CV 85-2086 JMI (C.D. Cal., Judgment entered 1-1-86), as well as the similarity with ongoing MURs 2181 and 2216, the Office of General Counsel is undertaking a review of the complaint and response and will, upon its completion, make a further report to the Commission.

Charles N. Steele
General Counsel

Date 11/24/86

BY:

Lois Lerner
Lois Lerner
Associate General Counsel

88040571599



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: *MWE* MARJORIE W. EMMONS/CHERYL A. FLEMING *CAF*

DATE: DECEMBER 1, 1986

SUBJECT: MUR 2255 - FIRST GENERAL COUNSEL'S REPORT
SIGNED NOVEMBER 24, 1986

980405 / 1600

The above-captioned matter was received in the Office of the Secretary of the Commission Wednesday, November 26, 1986 at 10L07 A.M. and circulated to the Commission on a 24-hour no-objections basis Wednesday, November 26, 1986 at 4:00 P.M.

There were no objections received in the Office of the Secretary of the Commission to the First General Counsel's Report at the time of the deadline.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

To: Memo to the File
Fr: Docket *W*
Re: MUR 2255

The following MURs have been merged within the permanent files-

-MUR 2181 merged with MUR 2255

-note merged within back-up files

8 9 0 4 0 5 7 1 6 0 1



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 3, 1986

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

ATTENTION: ERIC KLEINFELD

FROM: OSCELYN A. ANDERSON *OAA*
COMPLIANCE CLERK
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MUR 2181

Please review the attached Request for Additional Information which is to be sent to Ed Zachau for U.S. Senate for the October Quarterly Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have must be forwarded to RAD in writing by 12:00 noon on Friday, December 5, 1986.

If comments are not received in writing by the above date and time, the RFAI notice will be sent.

If you have any questions, please contact Oscelyn A. Anderson at 376-2490. Thank you.

COMMENTS:

Attachment

83040571602



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

W. G. Van Auken, Treasurer
Ed Zschau for U.S. Senate Committee
30 Glen Alpine
Danville, CA 94526

Identification Number: C00197087

Reference: October Quarterly Report (7/1/86-9/30/86)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report (pertinent portion attached) discloses contributions which appear to exceed the limits set forth in the Act. No political committee other than a multicandidate committee may make contributions to a candidate for Federal office in excess of \$1,000 per election. Additionally, the Golden Eagle Club of San Diego County, Japanese American Republicans and Western Growers PAC did not meet the requirements for multicandidate status as of the date the contribution(s) was made to your committee. If you have received a contribution which exceeds the limits, the Commission recommends that you refund to the donor the amount in excess of \$1,000. The Commission should be notified in writing if a refund is necessary. In addition, any refund should appear on Line 20 of the Detailed Summary Page and Schedule B of your next report. (2 U.S.C. §§441a(a) and (f))

The term "contribution" includes any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

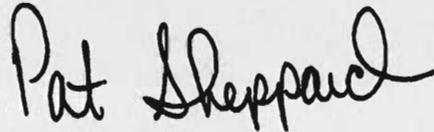
If the contributions in question were incompletely or incorrectly reported, you may wish to submit documentation for the public record. Please amend your report with the clarifying information.

3 3 0 4 0 3 / 1 6 0 3

Although the Commission may take further steps concerning the acceptance of excessive contributions, prompt action by you to refund the excessive amounts will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,



Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

8 3 0 4 0 5 7 1 6 0 4

SCHEDULE A

ITEMIZED RECEIPTS

Page 24 of 45
 LINE NUMBER 11c.)
 (Use separate sheet for each category of the Detailed Summary Page)

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

Name of Committee (in Full)

Ed Zschau for U.S. Senate Committee

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Leslie Salt PAC 30 Glen Alpine Danville, CA --		--	\$2000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date-\$	\$2000.00
B. Full Name, Mailing Address and ZIP Code Louisiana Energy National PAC P.O. Box 6276 Metairie, LA 70009		8/28/86	\$2000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date-\$	\$2000.00
C. Full Name, Mailing Address and ZIP Code Litton Employees PAC 1360 No. Crescent Dr. Beverly Hills, CA 90210		7/22/86	\$3500.00
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date-\$	\$8900.00
D. Full Name, Mailing Address and ZIP Code Lincoln Club of Orange County P.O. Box 2437 COSTA MESA, CA 92628		7/18/86	\$5,000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date-\$	\$5,000.00
E. Full Name, Mailing Address and ZIP Code Lincoln Club of Los Angeles County 1045 Bryant St. Los Angeles, CA 90015		8/27/86	\$1,000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date-\$	\$1,000.00
F. Full Name, Mailing Address and ZIP Code Lindsay Olive Growers PAC P.O. Box 278 Lindsay, CA 93247		9/30/86	\$50.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date-\$	\$50.00
3. Full Name, Mailing Address and ZIP Code Lockheed Employees' PAC 4500 Park Granada Blvd. Calabasas, CA 91302		8/13/86	\$4500.00
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date-\$	\$4500.00

TOTAL of Receipts This Page (optional) 10,050

TOTAL This Period (last page this line number only)

SCHEDULE A

ITEMIZED RECEIPTS

P. 16 of 45 (or
LINE NUMBER 11c.)
(Use separate schedule for each
category of the Detailed
Summary Page)

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

Name of Committee (in Full)

Ed Zschau for U.S. Senate Committee

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Gates PAC P.O. Box 5887 T.A. Denver, CO 80217		9/17/86	\$500.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date-\$ 500.00			
B. Full Name, Mailing Address and ZIP Code GenCorp PAC One General Street Akron, Ohio 44329		7/18/86 9/17/86	\$1000.00 \$1000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date-\$ 2000.00			
C. Full Name, Mailing Address and ZIP Code Genentech Inc. PAC 468 Point San Bruno Blvd. So. San Francisco, CA 94080		9/05/86	\$1000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date-\$ 2000.00			
D. Full Name, Mailing Address and ZIP Code General Motors PAC 3044 West Grand Blvd. Detroit, MI 48202		9/04/86	\$2000.00
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date-\$ 2,000.00			
E. Full Name, Mailing Address and ZIP Code Georgia-Pacific PAC 1875 Eye Street NW Washington, D.C. 20006		8/14/86 9/10/86	\$1000.00 \$1000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date-\$ 2000.00			
F. Full Name, Mailing Address and ZIP Code Golden Eagle Club of San Diego County 1200 3rd Avenue #700 San Diego, CA 92101		9/3/86	\$5,000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation CO0177766		
Aggregate Year-to-Date-\$ 5,000.00			
G. Full Name, Mailing Address and ZIP Code Gerald Ford PAC 40365 Sand Dune Road Rancho Mirage, CA 92270		8/12/86	\$750.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
Aggregate Year-to-Date-\$ 1750.00			
SUBTOTAL of Receipts This Page (optional)			13250
TOTAL This Period (last page this line number only)			

SCHEDULE A

ITEMIZED RECEIPTS

Page 22 of 45 for
 LINE NUMBER 11c.
 (Use separate schedule for each
 category of the Detailed
 Summary Page)

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

Name of Committee (in Full)

Ed Zschau for U.S. Senate Committee

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Japanese American Republicans 724 Micheltorena St. Los Angeles, CA 90026		9/17/86	\$5,000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation 000195701		
	Aggregate Year-to-Date-\$	5,000.00	
B. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
	Aggregate Year-to-Date-\$		
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Jacobs Engineering Group, Inc. PAC 251 So. Lake Ave. Pasadena, CA 91101		8/19/86	\$1000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
	Aggregate Year-to-Date-\$	1000.00	
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Jerrico PAC c: 101 Jerrico Dr. Lexington, KY 40511		9/17/86	\$1000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
	Aggregate Year-to-Date-\$	1000.00	
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Jitney Jungle PAC 6 453 North Mill 8 Jackson, Mississippi 39207		8/20/86	\$100.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
	Aggregate Year-to-Date-\$	100.00	
F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Johnson & Johnson PAC One Johnson & Johnson Plaza New Brunswick, NJ 08933		9/29/86	\$1000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
	Aggregate Year-to-Date-\$	1000.00	
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Jones, Day, Reavis & Pogue PAC 1700 Huntington Bldg. Cleveland, Ohio 4115		7/25/86	\$5000.00
Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation		
	Aggregate Year-to-Date-\$	5000.00	

SUBTOTAL of Receipts This Page (optional) 13,100

TOTAL This Period (last page this line number only)

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SCHEDULE A

ITEMIZED RECEIPTS

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

Name of Committee (in Full)

Ed Zachau for U.S. Senate Committee

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Wholesaler-Distributor PAC 1725 K Street NW Washington, D.C. 20006 Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	_____ Occupation _____	9/10/86 Aggregate Year-to-Date-\$ \$1000.00	\$1000.00
Wells Fargo & Company PAC 420 Montgomery Street San Francisco, CA 94104 Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	_____ Occupation _____	8/06/86 Aggregate Year-to-Date-\$ \$5000.00	\$5000.00
<input checked="" type="checkbox"/> Full Name, Mailing Address and ZIP Code Western Dow PAC P.O. Box 1398 Pittsburg, CA 94565 Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	_____ Occupation _____	7/25/86 Aggregate Year-to-Date-\$ \$2000.00	\$2000.00
<input type="checkbox"/> Full Name, Mailing Address and ZIP Code Western Egg & Poultry PAC 9000 S. Sepulveda Blvd. #618 Los Angeles, CA 90045 Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	_____ Occupation _____	8/14/86 Aggregate Year-to-Date-\$ \$250.00	\$250.00
<input checked="" type="checkbox"/> Full Name, Mailing Address and ZIP Code Western Growers PAC P.O. Box 2130 Newport Beach, CA 92658 Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	_____ Occupation _____	9/05/86 Aggregate Year-to-Date-\$ \$5000.00	\$5000.00
F. Full Name, Mailing Address and ZIP Code White Castle PAC 555 West Goodale Street Columbus, Ohio 43215 Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	_____ Occupation _____	7/28/86 Aggregate Year-to-Date-\$ \$1000.00	\$1000.00
G. Full Name, Mailing Address and ZIP Code Whitaker PAC 10880 Wilshire Blvd. Los Angeles, CA 90024 Receipt For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (specify):	_____ Occupation _____	8/28/86 Aggregate Year-to-Date-\$ \$1000.00	\$1000.00
SUBTOTAL of Receipts This Page (optional)			15,250
TOTAL This Period (last page this line number only)			



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 5, 1986

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

ATTENTION: ERIC KLEINFELD

FROM: OSCELYN A. ANDERSON *oa*
COMPLIANCE CLERK
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MURs 2181 and 2255

Please review the attached Request for Additional Information which is to be sent to the Republic Media Group for the October Quarterly Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have must be forwarded to RAD in writing by 10:00 a.m. on Tuesday, December 9, 1986.

If comments are not received in writing by the above date and time, the RFAI notice will be sent.

If you have any questions, please contact Oscelyn A. Anderson at 376-2490. Thank you.

COMMENTS:

Attachment

88040371609



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

Michael Mercier, Treasurer
Republic Media Group
16582 Burke Lane
Huntington Beach, CA 92647

Identification Number: C00206664

Reference: October Quarterly Report (6/30/86-9/30/86)

Dear Mr. Mercier:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Please provide a Schedule C or D, as appropriate, to support the entry of \$51,614 reported on Line 9 of the Summary Page. Loans and debts must be continuously reported until they are either repaid or settled. 11 CFR 104.3(d).

-Your report discloses limited payments for administrative expenses. Administrative expenses are payments made for the purpose of operating a political committee including, but not limited to, rent, utilities, telephone service, office equipment and supplies. Any such payments to a person aggregating in excess of \$200 in a calendar year must be disclosed on Schedule B, supporting Line 19 of the Detailed Summary Page. (2 U.S.C. §434(b)(5)) In addition, if expenses have been incurred but not paid in a reporting period, the activity should be disclosed as a debt on Schedule D, if the obligation is \$500 or more, or outstanding for sixty (60) days or more. 11 CFR 104.11.

If these expenses are being paid by a connected organization, your Statement of Organization must be amended to reflect this relationship. 2 U.S.C. §433(b)(2).

Any goods or services provided to your committee by a person, except volunteer activity (i.e., a person's time), would be considered an in-kind contribution from that person, and would be subject to the disclosure

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requirements of 2 U.S.C. §434(b)(3) and 11 CFR 104.13, and the limitations and prohibitions of 2 U.S.C. §§441a and 441b.

Please provide clarification regarding administrative expenses incurred by your committee and/or amend your report to disclose such expenses according to the referenced provisions of the Act and Commission regulations.

-Your previous report, the 1986 July Quarterly Report, disclosed a debt owed to Mercier/Kukurin for \$1,100. This report, however, disclosed a disbursement for \$1,077 to Mercier/Kukurin. Please amend your report to clarify this apparent discrepancy.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,



Tammy Rollins
Reports Analyst
Reports Analysis Division

88040371611



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 19, 1987

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

ATTENTION: ERIC KLEINFELD

FROM: OSCELYN A. ANDERSON *aa*
COMPLIANCE CLERK
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MURs 2181 and 2255
CHW

Please review the attached Request for Additional Information which is to be sent to Republic Media Group for the Termination Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have must be forwarded to RAD in writing by 3:00 p.m. on Monday, February 23, 1987.

If comments are not received in writing by the above date and time, the RFAI notice will be sent.

If you have any questions, please contact Oscelyn A. Anderson at 376-2490. Thank you.

COMMENTS:

Attachment

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

Michael Mercier, Treasurer
Republic Media Group
16582 Burke Lane
Huntington Beach, CA 92647

Identification Number: C00206664

Reference: 1986 Termination Report (9/30/86-1/31/87)

Dear Mr. Mercier:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-All reports filed by unauthorized political committees must be on FEC Form 3X. State or non-FEC forms are not acceptable. Your filing will not be considered complete until a report is submitted on FEC Form 3X. 11 CFR 104.5. Please amend your report to include the proper Schedules A and D.

-Line 11a of the Detailed Summary Page discloses a figure for the total amount of contributions from individuals/persons other than political committees. In addition, the memo entry portion of the Detailed Summary Page is blank, and insufficient supporting schedules have been provided. Please amend your report by itemizing all contributions from individuals/persons, which aggregate greater than \$200 in the calendar year, and/or provide a figure for the total amount of unitemized contributions from individuals/persons, which have been received during the reporting period. 11 CFR 104.3(a)(2).

-Your previous filing, the 1986 October Quarterly Report, disclosed a debt owed to your committee from William Campbell for \$10,000. This report, however, does not include a Schedule D to disclose the status of the debt, nor are there any debt repayments on Schedule B. Please provide a Schedule D to show the status of the debt and/or a Schedule B to show debt repayments.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission

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within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,



Tammy Rollins
Reports Analyst
Reports Analysis Division

88040571614



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 19, 1987

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

ATTENTION: ERIC KLEINFELD

FROM: OSCELYN A. ANDERSON *caa*
COMPLIANCE CLERK
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MURs 2181 and 2255

Please review the attached Request for Additional Information which is to be sent to Republic Media Group for the Termination Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have must be forwarded to RAD in writing by 3:00 p.m. on Monday, February 23, 1987.

If comments are not received in writing by the above date and time, the RFAI notice will be sent.

If you have any questions, please contact Oscelyn A. Anderson at 376-2490. Thank you.

COMMENTS:

Do not let this ~~the~~ committee terminate until MURs are closed.

Attachment

33040571615



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 2, 1987

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

ATTENTION: Eric Kleinfeld

FROM: OSCELYN A. ANDERSON *Ora*
COMPLIANCE CLERK
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

SUBJECT: MURs 2181 and 2255

Please review the attached Request for Additional Information which is to be sent to the Republic Media Group for the 30 Day Post-General Report. If no response or an inadequate response is received, a Second Notice will be sent.

Any comments which you may have must be forwarded to RAD in writing by 12:00 p.m. on Wednesday, March 4, 1987.

If comments are not received in writing by the above date and time, the RFAI notice will be sent.

If you have any questions, please contact Oscelyn A. Anderson at 376-2490. Thank you.

COMMENTS:

Attachment

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

Michael Mercier, Treasurer
Republic Media Group
16582 Burke Lane
Huntington Beach, CA 92647

Identification Number: C00206664

Reference: 30 Day Post-General Report (10/13/86-12/4/86)

Dear Mr. Mercier:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Line 11a of the Detailed Summary Page discloses a figure for the total amount of contributions from individuals/persons other than political committees. In addition, the memo entry portion of the Detailed Summary Page is blank, and insufficient supporting schedules have been provided. Please amend your report by itemizing all contributions from individuals/persons, which aggregate greater than \$200 in the calendar year, and/or provide a figure for the total amount of unitemized contributions from individuals/persons, which have been received during the reporting period. 11 CFR 104.3(a)(2).

-All reports filed by unauthorized political committees must be on FEC Form 3X. State or non-FEC forms are not acceptable. Your filing will not be considered complete until a report is submitted on FEC Form 3X. 11 CFR 104.5. Please amend your report to include the proper Schedules A and D.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Tammy Rollins
Reports Analyst
Reports Analysis Division

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SENSITIVE

Before the Federal Election Commission

In the Matter of)	
)	
Republic Media Group)	
Michael Mercier, treasurer)	MURs 2181
James G. Corey)	2255
Pacific Ad Mail)	
Mercier-Kukurin)	
Ed Zschau)	

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General Counsel's Report

I. Introduction

On June 2, 1986, the Office of General Counsel received a signed, sworn and notarized complaint from the RUFF Political Action Committee ("RUFFPAC") alleging violations of the Federal Election Campaign Act of 1971, as amended, ("Act") by the Republic Media Group, Michael Mercier, James G. Corey, Pacific Ad Mail and former-Congressman Ed Zschau. Specifically, RUFFPAC alleges that the Respondents made an illegal campaign contribution to one or more Federal candidates by listing the candidates on a slate mailing, despite the fact that the candidates did not pay for any portion of the mailing. Further, RUFFPAC alleges that these Respondents may have violated the Act by charging Federal candidates who did make a payment towards the cost of the mailing "less than the normal and usual charge for advertising and mail services." Finally RuffPAC alleges that Ed Zschau, as a candidate for Federal office who willingly participated in the mailer and paid for a portion of the costs, may have violated the Federal election laws on the same grounds.

On September 26, 1986, the Office of General Counsel received a second signed, sworn and notarized complaint

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concerning the same factual situation. Complainant is Charles H. Bell. Named as respondents are Republic Media Group, Michael Mercier, James B. Corey, Pacific Ad Mail and Mercier-Kukurin. Complainant Bell makes several specific allegations. First, complainant alleges that respondents solicited and received over \$1000 in connection with a federal election, yet failed to register as a political committee within 10 days of qualifying as such, in violation of 2 U.S.C. § 433. Second, respondents allegedly failed to comply with the reporting requirements of 2 U.S.C. § 434, by failing to report expenditures or contributions on behalf of federal candidates. Third, complainant claims that respondents violated 2 U.S.C. § 441d, by failing to specify whether their mailings were authorized or paid for by federal candidates. Finally, respondents allegedly violated 11 C.F.R. § 102.5 by financing political activity in connection with federal and non-federal elections, but failing to establish a separate federal account or to limit receipt of contributions to those subject to the prohibitions and limitations of the Act.

II. Factual and Legal Analysis

The allegations in MURs 2181 and 2255 center upon a slate mailer featuring a ballot-like ticket of endorsed candidates and ballot propositions. According to the complaints, two to three

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million of these mailers were distributed in the state of California prior to its June 3, 1986 primary, urging voters to "Vote Your Republican Team '86." The mailer, copies of which were attached to both complaints, contains the names of both Federal and state candidates plus recommendations on three ballot propositions. The candidates who "paid towards the production of this guide" have an asterisk accompanying their names, while the names of those who did not pay, are unaccompanied by asterisks.

The slate mailer at issue was designed and distributed by the Republic Media Group, which responded to the complaint on July 15, 1986, after having received a twenty day extension of time. Republic Media Group is an unincorporated partnership which registered with the Commission as a political committee on May 19, 1986. Respondent Michael Mercier is a partner in and treasurer of Republic Media Group. Respondent James G. Corey is the Group's second partner. Respondent Pacific Ad Mail is apparently a vendor used by Republic Media Group. Republic Media Group states that it financed the slate mailer by entering into agreements with certain political campaigns whereby the campaign paid a specified amount in order to have the candidate or proposition included in the mailer. Fees were purportedly based in part on an estimate as to the number of pieces of mail expected to be distributed with that candidate or ballot proposition included and the extent of coverage provided for the particular candidate or ballot issue on the slate.

Republic Media Group makes several arguments in its responses. First, Republic Media argues that it is engaged in "a fair exchange for adequate consideration between Republic Media

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Group and the paying candidates and issues campaigns." Republic Media Group claims that its fees are set according to the customary and usual rates for such mailings. As a result, contends respondent, no expenditures under the Act were made in connection with this slate mailer. However, respondent states that in order to conform to the recent court decision in FEC v. Californians for Democratic Representation, No. CV 85-2086 JMI (C.D. Cal., Judgment entered 1-9-86), Republic Media Group registered with the Commission and reported its political activity. The amounts received from paying candidates for listing on the slate card were reported as contributions. Republic Media Group allocated a portion of the value of the entire mailer to non-participating (non-paying) candidates and reported these amounts as independent expenditures on behalf of those candidates. Respondent states that there was no consultation or coordination with non-paying Federal candidates, and such candidates did not exercise any control over the mailer. Respondent concludes that the making of these expenditures does not violate the Act or its accompanying regulations.

In conjunction with its response in this matter, respondent also filed on July 15, 1986, its 1986 July Quarterly report of receipts and disbursements. Respondent disclosed in excess of \$460,000 in receipts on Schedule A for this reporting period, the bulk of which were payments by candidates participating in the slate mailer. As noted above, respondent also reported a pro-rata share of the slate mailer's cost on Schedule E, as independent expenditures made on behalf of each non-paying candidate listed on the slate. Schedule E was accompanied by the

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following statement:

The candidates listed on Schedule E were endorsed on, but did not participate in the slate mailer published and distributed by this Committee.

In the opinion of this committee, each of the campaigns listed on Schedule A received advertising services equal in value to the amounts they paid. However, the FEC requires that a portion of the value of these services be allocated to the non-participating candidates. This allocation is reflected in Schedule E and on the detailed summary pages based on the assumption that 2.7% of the value of the entire slate mailer accrued to the nonparticipating Federal candidates.

Counsel for former Representative Zschau responded separately by letter on June 23, 1986. This letter states that Mr. Zschau individually was not involved with the slate card. However, Ed Zschau for U.S. Senate Committee did purchase "an advertisement in the mailer." Mr. Zschau believed that the charge for the advertisement was negotiated at arm's length and was the usual and normal charge.

Several aspects of the Act are implicated by the complaint in this matter. Pursuant to 2 U.S.C. § 431(8)(A)(i), a "contribution" is defined as any gift, subscription, loan, advance, or deposit of money or anything of value, made by any person for the purpose of influencing any election for Federal office. A political committee is included within the meaning of "person," pursuant to 2 U.S.C. § 431(11). "Anything of value" includes all in-kind contributions, pursuant to 11 C.F.R. § 100.7(a)(1)(iii)(A), whether goods or services. Additionally,

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the provision of goods or services without charge or at a charge which is less than the usual or normal charge for such goods or services is a contribution. 11 C.F.R. § 100.7(a)(1)(iii)(A).

Pursuant to 2 U.S.C. § 431(17), an "independent expenditure" is defined as

an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate and which is not in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

An expenditure not qualifying as an independent expenditure is considered an expenditure by the candidate, unless otherwise exempted. 11 C.F.R. § 109.1(c). The Act does provide an exception to the definition of contribution and expenditure for the costs of preparing and mailing printed slate cards or sample ballots. However, this exception is limited to "a state or local committee of a political party." See 2 U.S.C. § 431(8)(B)(v) and (9)(B)(iv). Since Republic Media Group is a partnership and political committee, but not a political party committee, this exception does not apply here.

Advisory Opinion 1984-62 dealt with a situation nearly identical to that which is covered by the complaint. In that AO, a corporation, engaged primarily in the business of managing campaigns, sought to prepare and mail a slate card which, like the one at issue here, included a full slate of candidates, some

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of which were paying Federal candidates (i.e., paid to be listed) and some of which were non-paying Federal candidates. With regard to those Federal candidates who paid to be listed in the slate mailer, the Commission concluded that a prohibited corporate contribution or expenditure would result where a paying Federal candidate pays less than the normal and usual charge for the services. With regard to non-paying Federal candidates, the Commission concluded that their inclusion on the slate would constitute campaign advertising and a gift to them. Therefore, the inclusion of such non-paying Federal candidates would constitute a prohibited contribution or expenditure.

A similar matter was also the subject of recent litigation in FEC v. Citizens for Democratic Representation, supra. Citizens for Democratic Representation ("CDR") prepared and mailed a slate card under the same format as the one which is the subject of the complaint, that is, a full slate of candidates was listed, however only those candidates who paid for the listing were "featured." Other non-paying candidates were merely "listed." With regard to the paying Federal candidates, the District Court for the Central District of California concluded that the payments by the candidates for featuring in the slate did not constitute contributions to CDR, nor did the featuring constitute in-kind contributions from CDR to the paying candidates. However, the court did determine that the featuring of paying Federal candidates did constitute "an expenditure by

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CDR to" the candidates, pursuant to 2 U.S.C. § 431(9). With regard to the non-paying Federal candidates, the court concluded that the inclusion of these candidates constituted "expenditures by CDR to the named [non-paying] Federal candidates as defined by 2 U.S.C. § 431(9)."

Resolution of this matter ultimately turns on the characterization of respondent Republic Media Group's activities and corresponding treatment of the paying and non-paying Federal candidates.

Two aspects of the slate card transaction need to be examined. The first aspect of the transaction is the service flowing from respondent Republic Media Group to all of the candidates included in the slate. This involves the preparation and mailing of the slate, i.e., the provision of the service. The second aspect of the transaction is that flowing in the "opposite" direction, from the candidates to Republic Media Group. With regard to the Federal candidates involved, this consists of either payment for inclusion in the slate or non-payment.

First, concerning the preparation and mailing of the slate card by Republic Media Group, because both paying and non-paying candidates were included, the latter distinction will not alter the analysis. For both sets of candidates, Republic Media Group was providing a service for the purpose of influencing an election for Federal office. The service was the slate card; the

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elections to be influenced were those of the Federal candidates included on the slate. This service is a "thing of value," and as such, is an expenditure under the Act. The classification of Republic Media Group's activities as expenditures is consistent with the court's holding in FEC v Citizens for Democratic Representation, supra, which found both the listing of non-paying Federal candidates and the featuring of paying Federal candidates to be "expenditures" on their behalf.

The determination that Republic Media Group's activities on behalf of Federal candidates are expenditures has two legal consequences. The provision of services by Republic Media Group may be either a coordinated expenditure or an independent expenditure for the recipient candidate, depending on whether the recipient paid for the services.

For those Federal candidates who did not pay to be included on the slate, the expenditure by Republic Media Group was an independent expenditure in that it an expenditure by a person for a communication expressly advocating the election of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of the non-paying Federal candidates. See 2 U.S.C. § 431(17); 11 C.F.R. § 109.1(a). Here, Republic Media Group satisfies the meaning of "person" which includes any partnership. 11 C.F.R. § 109.1(b)(1). Express advocacy is present in that the slate urges voters to "Vote Your Republican

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Team '86." Candidates are clearly identified by virtue of their names appearing on the slate. Finally, the participation of non-paying Federal candidates was solicited by respondent Republic Media Group, and they refused to participate by not paying for the listing. Their names were included anyway. There is no evidence to indicate, nor does complainant allege, that the non-paying Federal candidates cooperated or consulted with Republic Media Group as to the subsequent inclusion of their names, or that they requested or suggested that their names be included despite the fact they were not paying for their inclusion. There is no evidence of any further communication between Republic Media Group and the non-paying Federal candidates subsequent to the original solicitation for their participation. James G. Corey, a principal of Republic Media Group, states in an affidavit submitted to the Commission:

There were some candidates listed on the Republic Media Group slate who did not purchase advertising. Neither I nor any other representative of Republic Media Group acted in cooperation or consultation with any such candidate or his or her authorized committee or agent. We did not publish the slate or list these candidates in concert with or at the request or suggestion of the candidates or any authorized committee or agent of the candidates.

Thus, under the Act, the expenditures made by Republic Media Group on behalf of non-paying Federal candidates should be considered independent expenditures. On Schedule E of its July Quarterly report, Republic Media Group did report independent

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expenditures on behalf of non-participating Federal candidates. Republic Media Group allocated 2.7% of the value of the entire slate mailer to the non-participating Federal candidates, with the resulting pro-rata share of expenditures varying from \$81 to \$636.

A different result is reached with regard to paying or participating Federal candidates. The expenditures made by Republic Media Group on their behalf will not qualify as independent under 2 U.S.C. § 431(17) or 11 C.F.R. § 109.1. By virtue of the participating Federal candidates' payment for inclusion, the expenditure becomes one "made with the cooperation or with the prior consent of, or in consultation with" the candidates. Any arrangement by a candidate or his agent prior to publication is sufficient for an expenditure not to qualify as independent. See 11 C.F.R. § 109.1(b)(4)(i). Furthermore, an expenditure which is made by any person who receives compensation from the candidate, the candidate's committee or agent is presumed to be made with the cooperation or consent of the candidate. See 11 C.F.R. § 109.1(b)(4)(i)(B). Here, Republic Media Group is receiving compensation from the participating Federal candidates for inclusion on the slate. Thus, the expenditures made by Republic Media Group on their behalf are not independent expenditures, because they are not considered made without cooperation, consent or consultation.

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Any expenditure not qualifying as an independent expenditure under 11 C.F.R. § 109.1 is a coordinated expenditure on behalf of the candidate. This is consistent with the court's holding in CDR, which was litigated in the same circuit as occurred the activity of these MURs. Under this analysis, Republic Media Group would be required to report such amounts as disbursements on Schedule B.

The second aspect of the transaction in which Republic Media Group is engaged involves the participating candidates and their payment for the services provided by Republic Media Group, that is, their payment to be listed on the slate card.

The amounts transmitted by the participating Federal candidates should be considered expenditures by the candidates and receipts by Republic Media Group, in that they are payments for services made for the candidates' own elections. Under the Act and regulations, certain funds received by a political committee are in the category of receipts, rather than contributions. For example, in 11 C.F.R. § 104.3(a)(2), all unauthorized political committees are required to report "the total amount of receipts received." This includes seven categories of receipts:

- (i) Contributions from persons other than any committees;
- (ii) Contributions from political party committees;
- (iii) Contributions from political committees;
- (iv) Transfers from affiliated committees or party committees;

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- (v) Loans;
- (vi) Offsets to operating expenditures;
- (vii) Other receipts.

Thus, the regulations contemplate other receipts which are not contributions. Republic Media Group would still be required to report amounts received from participating candidates as receipts on Schedule A, without such amounts being contributions.

Additionally, the intent of the participating candidates appears to be more consistent with the making of an expenditure to benefit their own campaigns, rather than with the making of a contribution to Republic Media Group or any other candidate. The transaction entered into by Republic Media Group is distinguishable from the factual situations appearing in the past Advisory Opinions wherein the Commission concluded a contribution was being made when a person transmits money to a political committee. Those Opinions dealt, in general, with the sale of goods or assets whose purpose was to raise funds for the seller committee. There the transactions took on a business or commercial guise, when their true character was additional political activity through the sale of fundraising items. Political committees have sought to sell books, Advisory Opinion 1979-76; artwork, AO 1980-34; jackets, AO 1981-7; and computer equipment, AO 1983-2. All of these situations involved items being sold primarily for general fundraising purposes. Here, the

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transaction is more analogous to the sale of advertising services rather than the sale of a fundraising item. Republic Media Group is engaged in commercial transactions with the participating candidates. The primary motivation for the sale of its advertising services is not general political fundraising, but is rather its business aspects, i.e., the profit-motive. As asserted by Ed Zschau, in his response to the complaint, the participating candidates were making payments for the purchase of advertising services.

It is also relevant to look at which election the participating candidates intend to influence. Presumably that is their own. Thus, their payment to Republic Media Group is more likely to be an expenditure on the candidates' own behalf. If the conclusion is reached that the payments by the participating Federal candidates were expenditures, then they would be correctly reported on Schedule A as receipts by Republic Media Group.

The above discussion has several different legal consequences under the Act as to whether any violations occurred and if so, as to which sections of the Act were violated. Because Matters Under Review 2181 and 2255 involve the identical factual situations with substantially the same allegations and named respondents, the Office of General Counsel is recommending

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that the Commission merge the two MURs. The following recommendations involve Republic Media Group and its treasurer, Michael Mercier. With respect to the remaining named respondents, James G. Corey, Pacific Ad Mail, Mercier-Kukurin, and Ed Zschau, the Office of General Counsel is recommending that the Commission find no reason to believe that the Act was violated.

Reporting

The ramifications for the reporting of Republic Media Group's transactions regarding the slate card was discussed above and involves those candidates who paid to be listed on the slate. Republic Media Group is a reporting entity, having registered as a political committee with the Commission. 1/ The fees paid by the participating candidates should have been reported on Schedule A for receipts, as they were. However, the expenditures which Republic Media Group made on behalf of the participating candidates should have been reported as disbursements on Schedule B. Republic Media Group failed to report these amounts as disbursements. Therefore, the Office of General Counsel recommends that the Commission find reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 434.

1/ Matter Under Review 2329 involves the failure of Republic Media Group to timely file its 1986 October Quarterly report.

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Deposit of Impermissible Funds

Pursuant to 11 C.F.R. § 102.5(a)(1), an organization which finances both Federal and non-Federal elections must either establish a separate Federal account which is treated as a "political committee" subject to the requirements of the Act, 11 C.F.R. § 102.5(a)(1)(i), or limit itself to receiving only those contributions that are subject to the prohibitions and limitations of the Act, regardless of whether the contributions are to be used in connection with Federal or non-Federal elections, 11 C.F.R. § 102.5(a)(1)(ii).

Republic Media Group financed activity with regard to both Federal and non-Federal elections. According to its Statement of Organization, Republic Media had only one account. Because it did not establish a separate Federal account, Republic Media Group was limited to receiving only those funds that conformed with the prohibitions and limitations of the Act. Republic Media Group's July Quarterly report shows receipts from entities entitled to accept corporate and labor union contributions under California state law. Thus, it appears that Republic Media Group may have had corporate and labor union money deposited in the same account as its other funds. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a)(1), for using prohibited funds in connection with a Federal election.

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Insufficient Disclaimer

Republic Media Group's slate card states,

All candidates... with an (*) asterisk by their name have paid towards the production of this guide. ... The Republican ticket is a REPUBLIC MEDIA GROUP production.

Pursuant to 2 U.S.C. § 441d, whenever a person makes an expenditure for the purpose of financing communications expressly advocating the election of a clearly identified candidate, such communication (a) if paid for by a candidate's authorized political committee, shall so state, but (b) if not authorized by a candidate shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate.

Here, Republic Media Group produced a slate and which was paid and authorized for by certain candidates and not paid for and authorized by other candidates. The paying candidates are delineated on the slate by asterisks. However, although the reader of the slate card can presumably deduce that those candidates without asterisks by their names did not pay to be included, there is no statement on the slate indicating that it was not authorized by the non-paying candidates. Such a statement must be included, pursuant to 2 U.S.C. § 441d, if, as Republic Media Group asserts, they made independent expenditures on behalf of the non-paying candidates. Therefore, the Office of General Counsel recommends that the Commission find reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 441d.

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III. Recommendations

The Office of General Counsel recommends that the

Commission:

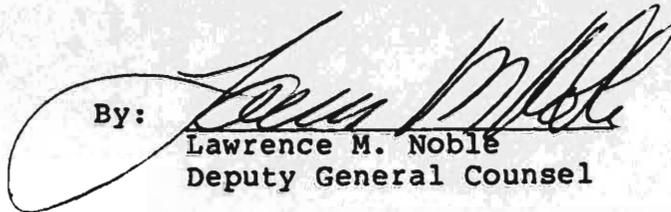
1. Merge Matters Under Review 2181 and 2255.
2. Find reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 434(b).
3. Find reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).
4. Find reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 441d(a).
5. Find no reason to believe that Michael Mercier, individually, James G. Corey, Pacific Ad Mail, Mercier-Kukurin and Ed Zschau violated the Act.
6. Approve the attached letters.

Charles N. Steele
General Counsel

Date

3/11/87

By:


Lawrence M. Noble
Deputy General Counsel

Attachments

1. Responses
2. Disclosure Report, Republic Media Group
3. Letters

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
 ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / JOSHUA MCFADDEN *JM*

DATE: MARCH 17, 1987

SUBJECT: OBJECTIONS TO MUR 2181/2255 - G. C. REPORT
 SIGNED MARCH 11, 1987

The above-captioned document was circulated to the Commission on Friday, March 13, 1987 at 2:00 P.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	_____ X _____
Commissioner Josefiak	_____
Commissioner McDonald	_____
Commissioner McGarry	_____ X _____
Commissioner Thomas	_____

This matter will be placed on the Executive Session agenda for March 24, 1987.

Please notify us who will represent your Division before the Commission on this matter.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
 ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / JOSHUA MCFADDEN *JM*

DATE: MARCH 18, 1987

SUBJECT: OBJECTIONS TO MURs 2181/2255 -- G. C. REPORT
 SIGNED MARCH 11, 1987

The above-captioned document was circulated to the Commission on Friday, March 13, 1987 at 2:00 P.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	_____ X _____
Commissioner Josefiak	_____ X _____
Commissioner McDonald	_____ X _____
Commissioner McGarry	_____ X _____
Commissioner Thomas	_____ X _____

This matter will be placed on the Executive Session agenda for March 24, 1987.

Please notify us who will represent your Division before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Republic Media Group)
Michael Mercier, treasurer)
James G. Corey) MURs 2181 and 2255
Pacific Ad Mail)
Mercier-Kukurin)
Ed Zschau)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of March 31, 1987, do hereby certify that the Commission took the following actions with respect to MURs 2181 and 2255:

1. Decided by a vote of 6-0 to merge Matters Under Review 2181 and 2255.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

2. Decided by a vote of 5-1 to reject recommendation number 2 in the General Counsel's report dated March 11, 1987, and instead find no reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 434(b).

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald dissented.

(continued)

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3. Decided by a vote of 5-1 to reject recommendation number 3 in the General Counsel's report dated March 11, 1987, and instead find no reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 441b.

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald dissented.

4. Failed in a vote of 3-3 to pass a motion to reject recommendation number 3 in the General Counsel's report dated March 11, 1987, and instead find no reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 11 C.F.R. § 102.5(a).

Commissioners Aikens, Elliott, and Josefiak voted affirmatively for the motion; Commissioners McDonald, McGarry, and Thomas dissented.

5. Decided by a vote of 5-1 to find reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 441d(a).

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented.

6. Decided by a vote of 6-0 to find no reason to believe that Michael Mercier, individually, James G. Corey, Pacific Ad Mail, Mercier-Kukurin and Ed Zschau violated the Act.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

7. Decided by a vote of 6-0 to direct the Office of General Counsel to send appropriate letters.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

Marjorie W. Emmons

Secretary of the Commission

4-1-87

DATE

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 28, 1987

Kathleen J. Purcell, Esquire
Remcho Johansen & Purcell
220 Montgomery Street
Suite 800
San Francisco, CA 94101

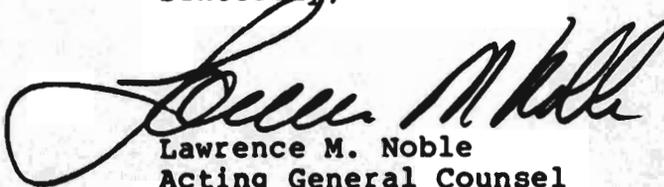
RE: MURs 2181 and 2255
James G. Corey, Michael
Mercier, Pacific Ad Mail,
and Mercier-Kukurin

Dear Ms. Purcell:

On June 9 and October 3, 1986, the Commission notified your clients of two complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March 31, 1987, 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 by Michael Mercier individually, James G. Corey, Pacific Ad Mail and Mercier-Kukurin. Accordingly, the Commission closed its file in this matter as it pertains only to Michael Mercier individually, James G. Corey, Pacific Ad Mail and Mercier-Kukurin. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,


Lawrence M. Noble
Acting General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Handwritten mark

April 28, 1987

Samuel D. Hinkle, IV, Esquire
McCutcheon, Doyle, Brown & Enerson
Three Embarcadero Center
San Francisco, CA 94111

RE: MUR 2181
Ed Zschau

Dear Mr. Hinkle:

On June 9, 1986, 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 March 31, 1987, determined that on the basis of the information in the complaint, and information provided by the respondents, there is no reason to believe that a violation of any statute within its jurisdiction has been committed by Ed Zschau. Accordingly, the Commission closed its file in this matter as it pertains your client. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

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Sincerely,

Lawrence M. Noble
Lawrence M. Noble
Acting General Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 1, 1987

Kathleen J. Purcell, Esquire
Remcho Johansen & Purcell
220 Montgomery Street
Suite 800
San Francisco, CA 94101

RE: MURs 2181 and 2255
Republic Media Group
and Michael Mercier,
as treasurer

Dear Ms. Purcell:

The Federal Election Commission notified your clients on June 9 and October 3, 1986, of two complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaints were forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission on March 31, 1987, determined that there is reason to believe that your clients have committed the violation stated in C. below. Because of the similarities of the allegations in MURs 2181 and 2255, the Commission determined to merge these MURs. In the future, therefore, these matters will be referred to as MUR 2255.

A. Findings Relating to 2 U.S.C. § 434

The Commission determined that there is no reason to believe that Republic Media Group and its treasurer violated 2 U.S.C. § 434, by failing to report expenditures made on behalf of federal candidates, in connection with its slate mailer.

B. Findings Relating to 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

The Commission determined that there is no reason to believe that Republic Media Group and its treasurer violated 2 U.S.C. § 441b, but was equally divided on the question whether Republic Media and its treasurer violated 11 C.F.R. § 102.5(a) by depositing prohibited funds into an account maintained for federal political activity.

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C. Findings relating to 2 U.S.C. § 441d

The Commission determined that there is reason to believe that Republic Media Group and its treasurer violated 2 U.S.C. § 441d(a), by failing to affix a disclaimer to its slate mailer indicating that it was not authorized by non-paying candidates.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

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 have any questions, please contact Celia Jacoby, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



Scott E. Thomas
Chairman

Enclosures
Procedures

83040571643

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415 / 398-6230

RECEIVED AT THE FEC
COC# 3388
87 MAY 18 10:48

May 12, 1987

Celia Jacoby, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2255
Republic Media Group and
Michael Mercier, as treasurer

Dear Ms. Jacoby:

On May 5, 1987, we received the Commission's May 1, 1987 notice of reason to believe that Republic Media Group and Michael Mercier, as treasurer, have committed a violation of 2 U.S.C. Section 441d. Republic Media Group and Michael Mercier, as treasurer (hereinafter respondents), respond as follows.

The gist of the alleged violation is that respondents failed "to affix a disclaimer to [their] slate mailer indicating that it was not authorized by non-paying candidates." Respondents respectfully submit that Section 441d requires no such disclaimer under the circumstances of this case.

The statute provides in relevant part:

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, . . . such communication --

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other

77 MAY 18 A10:38

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Celia Jacoby, Esq.
May 12, 1987
Page Two

persons and authorized by such authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(b) [Omitted.]

2 U.S.C. § 441d.

Respondents' slate mailer clearly satisfies the requirement of subdivision (a)(1). Each mailing indicates on its face which of the listed candidates paid for the communication. Each such candidate has an asterisk by his name, and the mailer thereafter states: "All candidates and ballot issues with an (*) asterisk by their name have paid towards the production of this guide."

Subdivision (a)(2) is inapplicable, since no non-paying candidate on respondents' mailer authorized the mailer.

That leaves only subdivision (a)(3), which is also inapplicable. Subdivision (a)(3) by its terms applies only to a communication that is not authorized by any candidate or candidate's committee. Respondents' mailer was authorized by several candidates, whose payments for the mailer were disclosed as required by subdivision (a)(1).

The inapplicability of subdivision (a)(3) to respondents' slate mailer is readily demonstrated. Subdivision (a)(3) requires a mailer to which it applies to state that it "is not authorized by any candidate or candidate's committee." (Emphasis added.) Inclusion of that disclaimer on respondents' mailer would be untruthful.

Thus, under the clear and unambiguous language of the statute, the disclaimer requirement in Section 441d(a)(3) does not apply to their slate mailer. Nothing in the Commission's regulations alters that result. See 11 C.F.R. § 110.11(a)(1)(iii).

83040671645

Celia Jacoby, Esq.
May 12, 1987
Page Three

Even assuming for purposes of argument that Section 441d(a)(3) applies, respondents' mailer satisfies the disclaimer requirement. Nothing on the mailer indicates that it was authorized by non-paying candidates. More important, several disclaimers on the mailer, taken together, communicate clearly that the non-paying candidates did not authorize the mailer.

In addition to the absence of an asterisk next to the names of these candidates, the mailer contains the following printed statements:

"Candidates or ballot issues appearing on this voter guide may have endorsed other candidates or ballot issues also appearing on this guide. However, their appearance on this guide by itself does not constitute specific endorsement of any other candidate or ballot issue. The Republican ticket is a REPUBLIC MEDIA GROUP production."

"REPUBLIC MEDIA GROUP REPUBLICAN TICKET - AN UNOFFICIAL POLITICAL GROUP."

Taken as a whole, these disclaimers sufficiently disclosed that non-paying candidates did not authorize the mailer. Thus, even if the disclaimer requirement applies, which it does not, respondents have complied.

For the reasons stated above, respondents request that this matter be closed. If for any reason the Commission is not prepared to close this matter, I believe that pre-probable cause conciliation pursuant to 11 C.F.R. § 111.18(d) would be appropriate. Thus, if the matter is not closed, please consider this a request for pre-probable conciliation and give me a call at your earliest convenience.

Sincerely,


Lowell Finley

LF:lmf

cc: Michael Mercier
Jim Corey

830405/1646

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Republic Media Group)
and Michael Mercier,)
as treasurer)

MUR 2255

87 MAY 1
JMT
p4:14
COMMISSION SECRETARY

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose from two separate complaints (one by RUFF Political Action Committee, and the other by Charles A. Bell), concerning a slate mailer which featured a ballot-styled ticket of endorsed candidates and ballot propositions. These complaints principally alleged that the respondents had violated 2 U.S.C. § 434 by failing to report expenditures or contributions on behalf of federal candidates, 2 U.S.C. § 44ld by failure to disclose adequately authorization of the communication by federal candidates, and 11 C.F.R. § 102.5 by failing to limit the receipt of contributions to those subject to the prohibitions and limitations of the Federal Election Campaign Act of 1971, as amended (the "Act").

On March 31, 1987, the Commission merged these matters, formerly designated as MUR 2181 and MUR 2255. On that date the Commission also found reason to believe that Republic Media Group and Michael Mercier, as treasurer, had violated 2 U.S.C. § 44ld(a) by failing to affix a disclaimer to the slate mailer indicating that the communication had not been authorized by the non-paying candidates. No reason to believe that a violation of 2 U.S.C. § 434 or § 44lb was found. However, the Commission was equally divided on the question whether Republic Media Group and

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Michael Mercier, as treasurer, had violated 11 C.F.R. § 102.5(a) by depositing prohibited funds into an account maintained for federal political activity. No violation of the Act by Michael Mercier individually, James G. Corey, Pacific Ad-Mail, Mercier-Kukurin or Ed Zschau was found.

Republic Media Group and Michael Mercier, as treasurer (collectively "Republic Media"), were notified of the Commission's findings on May 1, 1987. Republic Media responded to the Commission's determination on May 12, 1987, stating that Section 441d requires no additional disclaimer under the structure of its slate mailer. Republic Media further requested that this matter be closed, or that the Commission enter into pre-probable cause conciliation (Attachment 1).

II. ANALYSIS

Republic Media argues that the disclaimer requirement of 2 U.S.C. § 441d does not apply to the listing of non-paying candidates on its slate mailer. This argument holds that subsection (3) of this section "applies only to a communication that is not authorized by any candidate or candidate's committee" (emphasis added). Because the slate mailer was authorized by some candidates, Republic Media states that the disclaimer under 2 U.S.C. § 441d(a)(3) is inapplicable. Further Republic Media argues, assuming that the subsection (3) disclaimer were required, the slate mailer satisfies that disclaimer requirement. These factors, it is argued, should be deemed to constitute sufficient disclosure that the non-paying candidates did not

88040571648

authorize the mailer: (i) absence of asterisk next to the non-paying candidate's name; (ii) disclaimer that appearance of a candidate on the guide does not constitute specific endorsement of any other candidate; (iii) statement that the "Republican ticket is a REPUBLIC MEDIA GROUP PRODUCTION"; (iv) statement that "REPUBLIC MEDIA GROUP REPUBLICAN TICKET-AN UNOFFICIAL POLITICAL GROUP"; and (v) the lack of any indication on the mailer that it was authorized by non-paying candidates.

These arguments ignore the central fact that although the medium was unitary, the communications were multiple. Each listing of a candidate was a separate communication which expressly advocated the election of that particular candidate. An expenditure for that purpose under 2 U.S.C. § 441d must contain the appropriate disclosure statement.

Section 441d provides, in pertinent part, that "[w]henver any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate ... such communication ... if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee" (emphasis added). The disclaimer requirement, therefore, relates to each communication on behalf of each candidate whose election was advocated in the slate mailer.

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Republic Media acknowledges that "[n]othing on the mailer indicates that it was authorized by non-paying candidates." However, this provision of the Act requires an explicit statement that the communication was not authorized (emphasis added). Republic Media also acknowledged the multiple communicative nature of its slate mailer device by its disclosure that each paying candidate, as evidenced by asterisks, had authorized the communication. It is evident also from the disclaimer that "... appearance on this guide by itself does not constitute specific endorsement of any other candidate or ballot...", that each paying candidate had authorized only (i) the communication which related to that paying candidate, not those communications made on behalf of another, and (ii) the medium in which such communication was made. Therefore, the Republic Media's failure to include a statement that the non-paying candidates had not authorized the communication violates the disclosure requirement of 2 U.S.C. § 441d(a)(3). Accordingly, the Office of the General Counsel recommends that the Commission reject Republic Media's request to close this matter and enter into negotiations to settle this matter prior to a finding of probable cause to believe.

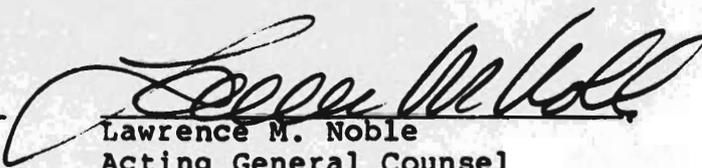
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IV. RECOMMENDATIONS

1. Decline to close this matter.
2. Enter into conciliation with Republic Media Group and Michael Mercier, as treasurer, prior to a finding of probable cause to believe.
3. Approve and send the attached proposed conciliation agreement and letter.

Date 6/1/87


 Lawrence M. Noble
 Acting General Counsel

Attachments

1. Request for conciliation
2. Proposed Conciliation Agreement and letter

1/ The original complaint of Charles Bell alleged that three million pieces were distributed.

2/ In the 1986 July Quarterly Report on Schedule E, Republic Media allocated a pro rata portion of the cost of the slate mailers as an independent expenditure on behalf of the non-paying candidates. Republic Media stated that this allocation was "based on the assumption that 2.7% of the value of the entire slate mailer accrued to non-participating Federal candidates." This Office expresses no view on the validity of this assumption.

BALLOT

SENSITIVE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DATE & TIME TRANSMITTED: TUESDAY ^{June} MAY 2, 1987 11:00

COMMISSIONER: AIKENS, ELLIOTT, JOSEFIK, McDONALD, McGARRY, THOMAS

RETURN TO COMMISSION SECRETARY BY THURSDAY ^{June} MAY 4, 1987 11:00

SUBJECT: MUR 2255 - General Counsel's Report
Signed June 1, 1987

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87 JUN 4 9:48

- () I approve the recommendation
- (✓) I object to the recommendation

COMMENTS: for record only - not to be
placed on agenda.

DATE: 6-4-87 SIGNATURE Joan W Aikens

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



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN *JM*

DATE: JUNE 4, 1987

SUBJECT: OBJECTION TO MUR 2255 - General Counsel's Report
Signed June 1, 1987

The above-captioned document was circulated to the Commission on Tuesday, May 2, 1987 at 11:00 A.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens _____
Commissioner Elliott _____
Commissioner Josefiak _____ X _____
Commissioner McDonald _____
Commissioner McGarry _____
Commissioner Thomas _____

This matter will be placed on the Executive Session agenda for June 9, 1987.

Please notify us who will represent your Division before the Commission on this matter.

830403/1654

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Republic Media Group) MUR 2255
and Michael Mercier,)
as treasurer)

CERTIFICATION

I, Mary W. Dove, recording secretary for the Federal Election Commission executive session on June 9, 1987, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2255:

1. Decline to close this matter.
2. Enter into conciliation with Republic Media Group and Michael Mercier, as treasurer, prior to a finding of probable cause to believe.
3. Approve and send the proposed conciliation agreement attached to the General Counsel's report dated June 1, 1987
4. Send the appropriate letter.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Aikens dissented.

Attest:

6-10-87

Date

Mary W. Dove

Mary W. Dove
Administrative Assistant

8804 067 1655



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 12, 1987

Kathleen J. Purcell, Esquire
Remcho, Johansen & Purcell
220 Montgomery Street
Suite 800
San Francisco, California 94104

RE: MUR 2255
Republic Media Group and
Michael Mercier,
as treasurer

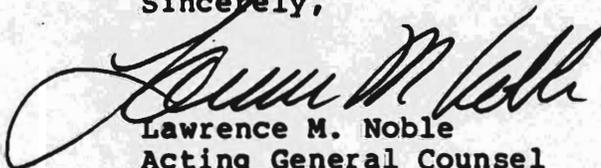
Dear Ms. Purcell:

On March, 31, 1987, the Federal Election Commission found reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 441d(a). At your request, on June 9, 1987, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. The Commission also considered your request to close this matter, and has determined to deny that request.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Celia Jacoby, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,


Lawrence M. Noble
Acting General Counsel

Enclosure
Conciliation Agreement

89040571656

plan

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Republic Media Group and)	MUR 2255
Michael Mercier, as)	
treasurer)	

67 JUN 30 1987
 10:02 AM
 10:02 AM

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On March 31, 1987, the Federal Election Commission (the "Commission") found reason to believe that Republic Media Group and Michael Mercier, as treasurer (the "Respondents"), had violated 2 U.S.C. § 441d(a) by failing to affix a disclaimer to a slate mailer indicating that the communication had not been authorized by the non-paying candidates. By letter dated May 12, 1987, the Respondents requested that this matter be settled prior to a finding of probable cause to believe. On June 9, 1987, the Commission determined to enter negotiations for conciliation of this matter, and on June 12th, an agreement in conciliation was sent to the Respondents. The Respondents have submitted a counterproposal (Attachment 1) for the Commission's consideration. Modifications to that counterproposal were suggested during conversations with counsel for the Respondents on July 10, 13, and 17, 1987.

II.

*Remainder of p1, and all of pp 2+3 deleted.
See 2 USC § 437g(a)(4)(B)(i).*

83040671657

III. RECOMMENDATIONS

1. **Reject the conciliation agreement proposed by Republic Media Group and Michael Mercier, as treasurer.**
2. **Approve and send the attached revised proposed conciliation agreement and letter.**

Date 7/29/87

Lawrence M. Noble (47)
Lawrence M. Noble
Acting General Counsel

Attachments

1. **Conciliation Agreement proposed by Respondents**
2. **Respondents' letter of July 17, 1987**
3. **Proposed revised Conciliation Agreement**
4. **Letter to Respondents**

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL
FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN *JM*
DATE: AUGUST 3, 1987
SUBJECT: OBJECTIONS TO MUR 2255 - General Counsel's Report
Signed July 29, 1987

The above-captioned document was circulated to the Commission on Thursday, July 30, 1987 at 11:00 A.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	_____ X _____
Commissioner Josefiak	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Thomas	_____ X _____

This matter will be placed on the Executive Session agenda for August 4, 1987.

Please notify us who will represent your Division before the Commission on this matter.

88040571659

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Republic Media Group and) MUR 2255
Michael Mercier, as)
treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of August 11, 1987, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2255:

1. Accept the conciliation agreement proposed by Republic Media Group and Michael Mercier, as treasurer.
2. Direct the General Counsel to send to the respondents the appropriate conciliation agreement and an appropriate letter pursuant to the above-noted action.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present at the time this matter was under consideration.

Attest:

8-12-87

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

880405/1650



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 14, 1987

Lowell Finley, Esquire
Remcho, Johansen & Purcell
220 Montgomery Street
Suite 800
San Francisco, California 94104

RE: MUR 2255
Republic Media Group
and Michael Mercier,
as treasurer

Dear Mr. Finley:

This letter is to confirm the Federal Election Commission's receipt of the proposed conciliation agreement submitted on behalf of Republic Media Group and Michael Mercier, as treasurer, on July 9, 1987. The Commission has reviewed the counterproposal and has made the following changes.

Enclosed herewith is a conciliation agreement incorporating these changes which we submit for your signature. If you and your clients agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within five (5) days of your receipt of this letter.

Although the period for conciliation negotiations prior to a finding of probable cause to believe, which is limited to a maximum of 30 days, has expired, the Commission remains hopeful that this matter can be settled through a conciliation agreement.

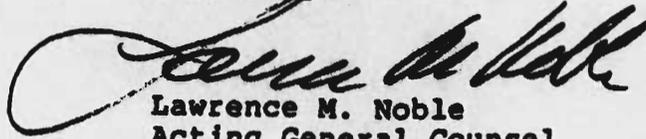
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830405/1661

2/20/87

Should you have any further questions or suggestions for changes, please call Celia L. Jacoby, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



Lawrence M. Noble
Acting General Counsel

Enclosure
Conciliation Agreement

880403/1552

87 OCT 13 PM 4:39

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Republic Media Group and)
Michael Mercier, as treasurer)

MUR 2255

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Michael Mercier, the treasurer of the Republic Media Group.

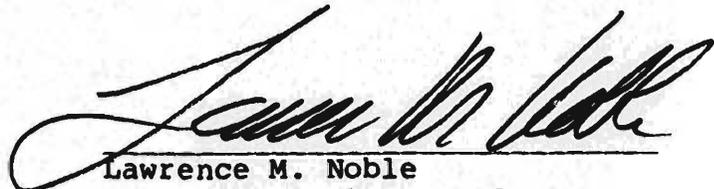
The attached agreement contains no changes from the agreement approved by the Commission on August 11, 1987. A check in the amount of One Thousand Five Hundred Dollars (\$1,500.00) in payment of the civil penalty has been received.

This Office recommends that the Commission accept this conciliation agreement in settlement of this matter with Republic Media Group and Michael Mercier, as treasurer.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Republic Media Group and Michael Mercier, as treasurer.
2. Close the file.
3. Approve the attached letters.

Date 10/13/87


Lawrence M. Noble
General Counsel

Attachments

1. Conciliation Agreement
2. Photocopy of civil penalty check
3. Letters (3) to Respondents
4. Letters (2) to complainants

88040571663

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2255
Republic Media Group and)
Michael Mercier, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 16, 1987, the Commission decided by a vote of 4-0 to take the following actions in MUR 2255:

1. Accept the conciliation agreement with Republic Media Group and Michael Mercier, as treasurer, as recommended in the General Counsel's report signed October 13, 1987.
2. Close the file.
3. Approve the letters, as recommended in the General Counsel's report signed October 13, 1987.

Commissioners Aikens, Elliott, Josefiak, and McGarry voted affirmatively for the decision;

Commissioners McDonald and Thomas did not cast a vote.

Attest:

10-16-87

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary:	Tues.,	10-13-87,	4:39
Circulated on 48 hour tally basis:	Wed.,	10-14-87,	11:00
Deadline for vote:	Fri.,	10-16-87,	11:00

89040571564



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

21 October 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles H. Bell, Jr.
Nielsen, Hodgson, Parrinello & Mueller
1030 Fifteenth Street
Suite 250
Sacramento, CA 95814

RE: MUR 2255

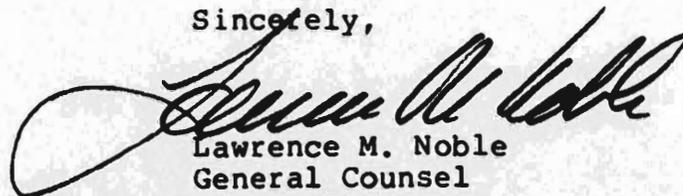
Dear Mr. Bell:

This is in reference to the complaint you filed with the Federal Election Commission on September 26, 1986, concerning possible violations by Republic Media Group, Michael Mercier, James G. Corey, Pacific Ad-Mail and Mercier-Kukurin.

The Commission found that there was reason to believe Republic Media Group and Michael Mercier, as treasurer (the "respondent") violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended, and conducted an investigation in this matter. On October 16, 1987, a conciliation agreement signed by the respondent was accepted by the Commission. Accordingly, the Commission closed the file in this matter on October 16, 1987. A copy of this agreement is enclosed for your information.

If you have any questions, please contact Celia L. Jacoby, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,


Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

21 October 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Houston
RUFF Political Action Committee
214 Massachusetts Avenue, N.E.
Suite 516
Washington, D.C. 20002

RE: MUR 2255

Dear Mr. Houston:

This is in reference to the complaint you filed with the Federal Election Commission on June 2, 1986, concerning possible violations by Republic Media Group, Michael Mercier, James G. Corey, Pacific Ad-Mail and Ed Zschau in connection with a slate mailing.

The Commission found that there was reason to believe Republic Media Group and Michael Mercier, as treasurer (the "respondent") violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended, and conducted an investigation in this matter. On October 16, 1987, a conciliation agreement signed by the respondent was accepted by the Commission. Accordingly, the Commission closed the file in this matter on October 16, 1987. A copy of this agreement is enclosed for your information.

If you have any questions, please contact Celia L. Jacoby, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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890406715666



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

21 October 1987

Kathleen J. Purcell, Esquire
Remcho, Johansen & Purcell
220 Montgomery Street
Suite 800
San Francisco, CA 94101

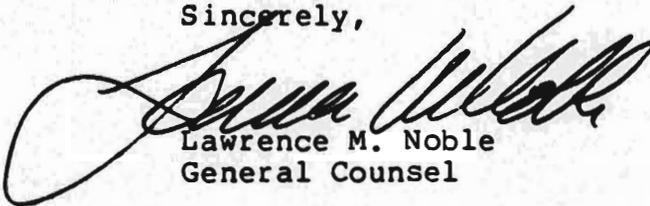
RE: MUR 2255 (formerly
MUR 2181),
James G. Corey,
Michael Mercier,
Pacific Ad-Mail,
and Mercier-Kukurin

Dear Ms. Purcell:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Celia L. Jacoby, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,



Lawrence M. Noble
General Counsel

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rlm

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Plm



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

21 October 1987

Samuel D. Hinkle IV, Esquire
McCutcheon, Doyle, Brown & Emerson
Three Embarcadero Center
San Francisco, CA 94111

RE: MUR 2255 (formerly
MUR 2181),
Ed Zschau

Dear Mr. Hinkle:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Celia L. Jacoby, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
Lawrence M. Noble
General Counsel

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SOD



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

21 October 1987

Lowell Finley, Esquire
Remcho, Johansen & Purcell
220 Montgomery Street
Suite 800
San Francisco, California 94104

RE: MUR 2255
Republic Media Group and
Michael Mercier,
as treasurer

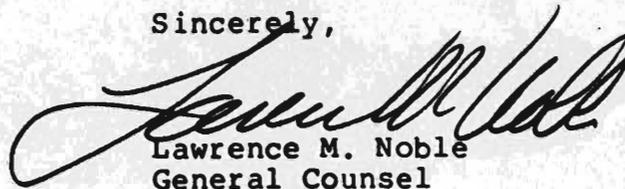
Dear Mr. Finley:

On October 16, 1987, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter. This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Celia L. Jacoby, the attorney assigned to this matter at (202) 376-5690.

Sincerely,


Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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BCC # 4429

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Republic Media Group and)
Michael Mercier, as treasurer)

MUR 2255

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
87 SEP 23 AM 11:05

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn and notarized complaint by the RUFF Political Action Committee and by a signed, sworn and notarized complaint by Charles A. Bell. The Federal Election Commission (the "Commission") found reason to believe that Republic Media Group and Michael Mercier, as treasurer ("Respondents"), violated 2 U.S.C. § 441d(a) on March 31, 1987.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree for the purposes of settlement as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a) (4) (A) (i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, Republic Media Group, is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Respondent, Michael Mercier, is the treasurer of Republic Media Group.

3. Pursuant to 2 U.S.C. § 441d(a), whenever a person makes an expenditure for the purpose of financing communications

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expressly advocating the election of a clearly identified candidate, such communication, if authorized and paid for by a candidate or the candidate's authorized political committee, shall so state. However, if such communication is not authorized by the candidate or the candidate's authorized political committee, the communication must disclose the name of the person who paid for the communication and must state that it was not authorized by any candidate or candidate's committee.

4. Respondents produced a slate mailer to advocate the election of numerous candidates clearly identified by name. The slate mailer was paid for and authorized by certain candidates, but neither paid for nor authorized by other candidates.

5. Those candidates who paid for and authorized the slate mailer were designated by an asterisk opposite their names.

6. Other disclosures and disclaimers designed to inform the public of the source and authorization of the slate mailer were included; however, no express delineation on the slate mailer indicated that a candidate whose name was not denoted by an asterisk had not authorized the slate mailer.

7. Respondents distributed the slate mailer, in numerous variations, to millions of California households.

V. Respondents violated 2 U.S.C. § 441d(a) by failing to affix a disclaimer to their slate mailer indicating that the communication was not authorized by the non-paying candidates.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of One Thousand Five Hundred Dollars (\$1,500.00) pursuant to 2 U.S.C. § 437g(a) (5) (A).

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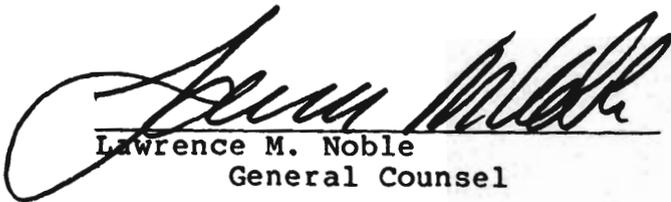
VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:


Lawrence M. Noble
General Counsel

10/21/87
Date

FOR THE RESPONDENTS:


Michael Mercier
Treasurer

9-4-87
Date

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

03 November 1987

John Houston
RUFF Political Action Committee
214 Massachusetts Avenue, N.E.
Suite 516
Washington, D.C. 20002

RE: MUR 2255

Dear Mr. Houston:

By letter dated October 21, 1987, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Republic Media Group, Michael Mercier, James G. Corey, Pacific Ad-Mail and Ed Zschau. Enclosed with that letter was a copy of the conciliation agreement accepted by the Commission.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 434(b) and § 441b. This document will be placed on the public record as part of the file of MUR 2255.

If you have any questions, please contact Celia L. Jacoby, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
Lawrence M. Noble
General Counsel

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

03 November 1987

Charles H. Bell, Jr.
Nielsen, Hodgson Parrinello & Mueller
1030 Fifteenth Street
Suite 250
Sacramento, California 95814

RE: MUR 2255

Dear Mr. Bell:

By letter dated October 21, 1987, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Republic Media Group, Michael Mercier, James G. Corey, Pacific Ad-Mail and Mercier-Kukurin. Enclosed with that letter was a copy of the conciliation agreement accepted by the Commission.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe that Republic Media Group and Michael Mercier, as treasurer, violated 2 U.S.C. § 434(b) and § 441b. This document will be placed on the public record as part of the file of MUR 2255.

If you have any questions, please contact Celia L. Jacoby, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION

In the matter of)
)
Republic Media Group) MUR 2255
and Michael Mercier,)
as treasurer)

STATEMENT OF REASONS

On March 31, 1987, the Federal Election Commission rejected the Office of General Counsel's recommendations to find reason to believe that Republic Media Group and Michael Mercier, as treasurer, had violated 2 U.S.C. §434(b) and §441b, and instead decided by a vote of 5 to 1, Commissioner McDonald dissenting, to find no reason to believe the respondents violated those sections of the Act.

In MUR 2255, the Commission reviewed allegations that Republic Media Group, a political committee engaged in the business of preparing and mailing slate cards, improperly reported expenditures made on behalf of candidates who paid for advertising in the mailer cards. A majority of the Commission concluded that payment of expenses in the course of producing the slate mailer cards, though subject to the general reporting requirements, did not require reporting as disbursements on behalf of participating candidates, and also noted that the amount of such expenditures were essentially disclosed in respondent's reports as receipts from the candidates who paid for inclusion in the slate mailer cards. Accordingly, the majority voted to find no reason to believe that Republic Media Group and Michael Mercier, as treasurer, had violated 2 U.S.C. §434(b).

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The Commission also reviewed allegations that Republic Media Group received funds from prohibited corporate and union sources in the form of payments for inclusion in the slate mailer cards by non-federal candidates who are entitled under California law to receive contributions from such sources. A majority of the Commission concluded that payments by non-federal candidates to Republic Media Group for advertising did not constitute contributions to the committee. See FEC v. Californians for Democratic Representation, No. CV 85-2086 (C.D. Cal. Jan. 9, 1986). Accordingly, a majority of the Commission voted to find no reason to believe that Republic Media Group and Michael Mercier, as treasurer, had violated 2 U.S.C. §441b.

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9/10/87



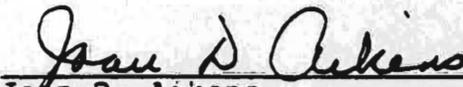
Scott E. Thomas,
Chairman

9/8/87



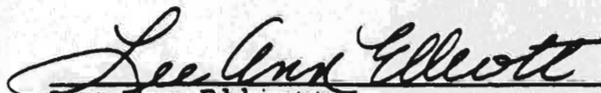
Thomas J. Josefak,
Vice-Chairman

9/10/87



Joan D. Aikens,
Commissioner

9/10/87

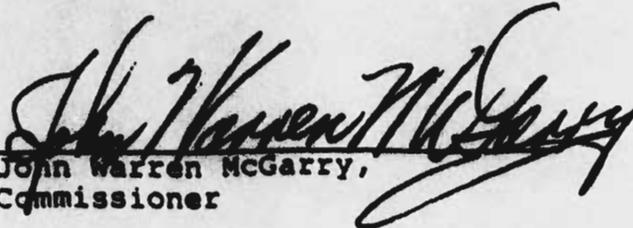


Lee Ann Elliott,
Commissioner

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STATEMENT OF REASONS
MUR 2255
Page 3

9/10/87


John Warren McGarry,
Commissioner

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20541

THIS IS THE END OF MUR # 2255

DATE FILMED 1/13/88 CAMERA NO. 3

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