FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

9-21-87

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 2312

87040654318

GCC#4041

LAW OFFICES
McGUINESS & WILLIAMS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N. W.
WASHINGTON, D. C. 20005
202 789-8600

JAMES F. SCHOENER
202 789-8644

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
87 JUL 28 P4:21
87 JUL 28 A10:44
FEC
SECRETARY

July 27, 1987

Honorable Scott Thomas
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2372
"Kemp's First Fund"

Dear Chairman Thomas:

On July 24th, I received the report of your Commission concerning the complaint I filed on behalf of my client Jack Kemp for President Committee. This complaint was against a group calling itself Conservatives for a Secure America and they were soliciting funds using the name and purporting to support Congressman Jack Kemp for President. These people made such solicitations without approval or sponsorship of Congressman Kemp and persisted in spite of numerous written and verbal requests to stop.

In the complaint filed on March 20, 1987, we alleged that beside the misleading mail solicitations the respondents were using an extensive telephone solicitation which neglected to advise that the solicitation was a "project" and that the solicitors were not authorized by Jack Kemp or any candidate. Attached to the complaint were several typical complaints that Congressman Kemp received from members of the public that had been misled by the respondents. One complaint was received from Major Robert Stuber of Fairfax, Virginia, who described the telephonic solicitation. I personally talked to several donors listed in the F.E.C. reports and found that they had given sizeable contributions (in response to telephone requests) believing that they were giving to Congressman Kemp.

In the cover letter with my complaint, I offered to give your office any assistance in its investigation that they needed. In fact, I had several persons who indicated a desire to assist if called.

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Since filing the case, no one from the General Counsel's office bothered to call me, and so far as I can ascertain, no calls were made to any donors to this "Fund." I contacted Major Stuber and he certainly was not called or contacted in anyway. This is quite remarkable since in several matters in which I represented respondents, the General Counsel has routinely and directly contacted donors (some of whom even remotely indicated a complaint).

I am disappointed that in spite of Common Cause v. Federal Election Commission, D.D.C. (1986) 655 F. Supp. 619, the Commission has not reviewed and corrected what I believe to be an erroneous approach to the so-called "project" scheme. But I am truly disappointed in the apparent lack of investigation of allegations by the legal staff. On page 9 of the General Counsel's report, the writer admits that there was "specific allegation" of lack of disclaimer in telephonic solicitations, yet then states that there is "no information" to support the claim. I submit that Major Stuber's letter is ample evidence to require further "investigation" on the part of the General Counsel; and certainly if counsel desired to use my investigations, I was only a telephone call away.

The General Counsel then concludes on the basis of further "substantiation" that "there is insufficient evidence to pursue this allegation." It is submitted that 2 U.S.C. § 437g does not place the obligation for investigation on the complainant, but on the contrary--it is on the General Counsel. In light of the seriousness of these allegations, we are deeply disappointed in the shallowness of this report.

Very truly yours,

James F. Schoener

James F. Schoener

bab

cc: All Commissioners
Honorable Jack Kemp
Charles R. Black, Esq.

87040554320

LAW OFFICES
McGUINESS & WILLIAMS
SUITE 1200
1015 FIFTEENTH STREET, N. W.
WASHINGTON, D. C. 20005

87 JUL 27 P4:31

Honorable Scott Thomas
Chairman
Federal Election Commission
999 E Street, N.W.
Room 910
Washington, D.C. 20463

87040054321

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2372

DATE FILMED 9/30/87 CAMERA NO. 2

CAMERAMAN AS

8704045482 3

PUBLIC RECORD INDEX - MUR 2372E

1. Ltr, 17 Mar 87, James F. Schoener (Attorney, Kemp for President Exploratory Committee) to FEC, w/encl (Complaint).

2. Ltr, 27 Mar 87, George F. Rishel (Acting Assoc. Gen. Counsel, FEC) to David Hendry, Jr.

3. Ltr, 27 Mar 87, G.F. Rishel to Sharon L. Boyd, Treasurer, Conservatives for a Secure America.

4. Ltr, 27 Mar 87, G.F. Rishel to Jack Kemp for President Exploratory Committee, c/o James F. Schoener.

5. Ltr, 13 Apr 87, Kenneth A. Gross (Counsel, Conservatives for a Secure America) to FEC.

6. Ltr, 14 Apr 87, K.A. Gross (Counsel for David Hendry) to FEC.

7. Ltr, 22 Apr 87, K.A. Gross to FEC.

8. Ltr, 22 Apr 87, G.F. Rishel to K.A. Gross.

9. Ltr, 29 Apr 87, K.A. Gross to Sandra Robinson, w/ATCH (Response of Conservatives for a Secure America; Sharon Boyd, as Treas.; and David Hendry, Jr.).

10. First General Counsel's Report, 29 Jun 87.

11. Memo, 6 Jul 87, Office of Comsn Secretary to General Counsel, Subj: Objections to MUR 2372.

12. Certification of Commission Action, dtd 15 Jul 87.

13. Ltr, 17 Jul 87, Lawrence M. Noble to James F. Schoener, w/encl (General Counsel's Report).

14. Ltr, 17 July 87, L.M. Noble to Kenneth A. Gross, w/encl (General Counsel's Report).

15. Ltr, 28 Jul 87, J.F. Schoener to Scott E. Thomas, Chairman, FEC.

-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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RECEIVED AT THE FEC
87 MAR 20 A9:00

LAW OFFICES
McGUINESS & WILLIAMS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N. W.
WASHINGTON, D. C. 20005
202 789-8600

JAMES F. SCHOENER
202 789-8644

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
87 MAR 20 A10:11

March 17, 1987

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

Re: Kemp for President (Exploratory) v. Kemp's First Fund

Dear Sirs:

Enclosed please find an original and three copies of a signed, notarized complaint against "Kemp's First Fund," which purports to be a "project" of Conservatives for a Secure America. The complaint also includes the persons known to be directly participating in this violation.

Please advise the M.U.R. number when assigned as well as the counsel who will be handling this matter. Should such counsel wish to talk to me concerning this complaint, I may be reached at 789-8640.

Very truly yours,

James F. Schoener

James F. Schoener

bab

Enclosures

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UNITED STATES OF AMERICA

Before The

FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
87 MAR 20 A11:04

| | |
|---|---|
| JACK KEMP FOR PRESIDENT EXPLORATORY COMMITTEE | ) |
| Complainant, | ) |
| v. | ) |
| KEMP'S FIRST FUND, SHARON BOYD, DAVID HENDRY, JR., and CONSERVATIVES FOR A SECURE AMERICA | ) |
| Respondents. | ) |

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COMPLAINT

James F. Schoener, counsel to Jack Kemp for President Exploratory Committee being duly sworn, files this complaint against respondents and says as follows:

1. He is counsel to the Jack Kemp for President Exploratory Committee which has been authorized by Congressman Jack Kemp to conduct exploratory efforts on his behalf in consideration of becoming a candidate for nomination to the Presidency of the United States.

2. Respondents Kemp's First Fund, (as a project of Conservatives for a Secure America), Sharon Boyd and David Hendry, Jr. have made mail solicitations for contributions purporting to seek funding on behalf of Congressman Jack Kemp in a campaign for the Presidency.

3. Conservatives for a Secure America have disclosed by their reports filed with this Commission that they allege to have

spent funds in excess of $50,000 as independent expenditures on behalf of Congressman Kemp for the office of President of the United States; an office for which the Congressman is not a candidate. Since the November 1986 election, they have shown independent expenditures for Congressman Kemp who is not a candidate for reelection.

4. On or about the 18th day of April, and the 14th day of May, 1986, respondents mailed certain pieces of literature, of the amount and numbers unknown to your complainant, copies of such literature are attached as Exhibits A and B. Congressman Kemp did not authorize the use of his name in that literature or any other literature published by respondents.

5. While such literature does state it is not authorized by any candidate, the tenor and thrust of the letter implies that funds will be used in a campaign for Jack Kemp for President, and an ordinary reader would not understand that his fundraising has been specifically disapproved by Congressman Kemp.

6. Congressman Kemp has not authorized any member of his staff, nor any officer or agent of any Committee authorized by him to allow the issuance of such literature or the use of his name, except as to the Jack Kemp for President Exploratory Committee (the complainant, herein).

7. Complainant on behalf of Congressman Kemp has requested respondents to cease using Congressman Kemp's name in its literature and solicitations as shown in attached Exhibit C, and in further telephonic requests, the massive extent of which can be estimated by the disclosure of the disbursements for "telemarketing."

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8. Subsequent to the sending of above Exhibit C, respondent has made telephonic solicitation of funds in the name of Congressman Kemp. See attached Exhibit D. Such telephonic requests imply Congressman Kemp's approval and consent to those solicitations. Complainant is informed and believes that the telephonic solicitations have been made which have not disclosed that they are not an authorized committee, in fact infer that they are authorized by Congressman Kemp.

9. The failure to clearly state that this literature and telephone requests were not issued under authorization of Congressman Kemp is contrary to his desires and instruction and is a violation of the provisions of 2 U.S.C. § 441d(a).

10. The use of the subterfuge of declaring this fund raising a "project" violates the intent and thrust of 2 U.S.C. § 432(e)(4). Respondents do not purport to be a so-called Draft Committee.

11. Complainant is informed and believes that such mailing solicitations have caused confusion among people throughout the country who desire to support Congressman Kemp in a presidential campaign in the event he should be a candidate and that some have been misled into sending funds to respondents. At least one maximum contributor to Congressman Kemp has been solicited leading complainant to suspect the copying of F.E.C. reports to obtain their solicitation lists.

Wherefore complaintant prays:

1. That respondents be required to account for each and every contribution received.



8 7 0 4 0 6 5 4 8 2 8

2. That respondents be enjoined from any other mailings or telephonic solicitation concerning complainant.

3. That the Federal Election Commission take such proper action as indicated by the Provisions of the Federal Election Campaign Act.

James F. Schoener
James F. Schoener, Attorney
for Complainant

This complaint was sworn to before me, a Notary Public in and for the District of Columbia, City of Washington, D.C., on the 4th day of March, 1987, by James F. Schoener, who swore that the facts contained herein are true, and as to the matters based on information and belief he believes them to be true, and he made the same under the provisions of 18 U.S.C. 1001.

Notary Public

My Commission Expires September 30, 1989

My Commission expires _____.

Prepared by:

James F. Schoener
James F. Schoener
Attorney for Kemp for President
Exploratory Committee
McGuiness & Williams
1015 15th Street, N.W.
Suite 1200
Washington, D.C. 20005
(202) 789-8640

87040654829

# KEMP'S FIRST FUND

*A Project of Conservatives for a Secure America*

Major Hendry fought and died in Vietnam. Now with Kemp's First Fund he's fighting to help Congressman Jack Kemp continue the Reagan Revolution beyond 1988.

Sharon Boyd

Sharon Boyd
National Chairman
KEMP'S FIRST FUND

April 18, 1986

Dear Friend:

America is under attack. But the attack is not from outside enemies.

Today, as in the past, these enemies are from within.

When I was serving our country in Vietnam, I knew who the enemy was.

In combat, I saw men I commanded, many of them my friends, shot and killed by communist guerillas. Those men died bravely for their country.

As the war went on, we had to stay tough - there was no time for tears. And yet, I felt I had suffered my share of pain.

But, when I came back and saw how the liberals had turned America against the very values my men fought and died for, I am not too proud to tell you it is then that I cried.

For when I returned, I was met at the airport not by cheering friends, but by cursing, garbage throwing hippies.

Instead of calling me a hero (I had earned the Silver Star and Purple Heart), they called me "traitor" and "baby killer."

Instead of throwing confetti, they threw garbage and blood on my uniform and decorations.

I vowed then that I would never let these people - these liberals - ruin our nation again.

And I began to work tirelessly to defeat the Left.

EXHIBIT A

(1)

Washington D.C. 20070-2044

A copy of our financial report is available from the Federal Elections Commission on request.

I worked hard for President Reagan's election in 1980 and again, in 1984. I worked hard for all conservative candidates. As I am sure you did.

But those same liberals who went underground in the 60's and in 1980 have resurfaced with a vengeance, and again are attacking every moral value we hold dear.

Today they are harder to recognize -- they have traded in their "love beads" for suits and ties.

But, I recognize them. And in the name of the troops I commanded, I will not forget them.

I see them on our campuses, television and even in the halls of our Congress.

These liberals recruit our young people to march against President Reagan. Against the family. Against religion. Always blaming America first.

They march FOR abortion. For socialism. For atheism. For GAY RIGHTS.

They canvas DOOR TO DOOR collecting huge amounts of money. The liberal war-chest is overflowing with money. Money that is being spent to defeat conservatives.

And, my friend, they are well on their way to winning this battle for our country.

Liberal leaders know something.

They know that conservatives have not planned for 1986 and 1988.

They think that conservatives have grown soft and are not ready to make the extreme sacrifices in 1986 and 1988.

The way we sacrificed in 1980 and 1984.

Liberals are sacrificing EVERYTHING to return their leftist agenda to the Senate and especially to the White House.

Why do you think Tip O'Neil is retiring?

He's confident that liberal re-control of this nation is at hand.

Are you ready for an expanded welfare state with socialized medicine, supported by big government?

Are you ready to see federally funded abortions performed on demand - right in our high schools? On our children?

Ted Kennedy is! And he's ready to raise YOUR TAXES to pay for it.

I won't stand by and let that happen. I intend to fight.

I promised President Reagan personally at our most recent meeting.

I said, "Mister President, I'm going to fight to continue the Reagan Revolution past 1988. I'm going to fight for Jack Kemp."

And he smiled, shook my hand and thanked me.

The other conservative leaders there also thanked me and wished me luck.

That is when I joined KEMP'S FIRST FUND.

I believe in KEMP'S FIRST FUND.

I fought for this country in Vietnam. Now I am fighting again - but - I desperately need your financial support if KEMP'S FIRST FUND is going to elect JACK KEMP - the man entrusted to continue President Reagan's work.

Jack Kemp was fighting for conservatives when we were a small, struggling movement.

Jack Kemp did not abandon us then. And I will not abandon him now!

He and those who share his vision need your financial support NOW.

He is fighting for his political life and the future of America.

Join KEMP'S FIRST FUND.

KEMP'S FIRST FUND will be there to halt the Liberal March of Death to steal the Senate and the White House.

I've been told that my personal safety will be at risk if KEMP'S FIRST FUND is successful in keeping the pressure on the liberals. But I've faced threats and injury before. I have already been wounded nine times fighting for our country in Vietnam as an officer with Special Forces.

Jack Kemp and President Reagan need our help.

I want to tell them that you stand with them. Ready to be counted.

CAN I COUNT ON YOU?

Your gift of at least $50 to KEMP'S FIRST FUND will send a message to the Left.

Tell them that conservatives HAVE NOT grown soft and lazy.

Tell them that we ARE ready to sacrifice for our future.

For our country. For our children. For the memory of the U.S. troops who paid the price when our country was soft and uncommitted.

Send your check of at least $50 to KEMP'S FIRST FUND today.

If you can send more - $75, $100 even $500 it would mean so much - but its your check for at least $50 that I pray for.

We are going to fight - but we can't WIN without your generous support.

We know you won't let us down.

God bless you,

David Hendry, Jr.
Security Advisor

P.S. Liberal pro-abortionists, gays and atheists have targeted JACK KEMP for defeat in 1986 and 1988. [redacted] THE TIME TO ACT IS NOW! Send your check for AT LEAST $50 to KEMP'S FIRST FUND today.

---

**PLEASE RETURN THIS WITH YOUR CHECK PAYABLE TO**
**KEMP'S FIRST FUND**
**CONSERVATIVES OF A SECURE AMERICA**
**WASHINGTON, D.C. 20070-2044**

Dear David,

YES! I want to join the fight to save our country from the liberals. I know that KEMP'S FIRST FUND cannot keep them from retaking the Senate and the White House without my financial support.

Enlist me in KEMP'S FIRST FUND and let's [redacted]. I enclose:

☐ $50 ☐ $75 ☐ $100 ☐ $500 ☐ Other _____

The Federal Election Commission requires that we ask:

OCCUPATION: _____ EMPLOYER: _____

Kemp's First Fund is a special project of and has been paid for by Conservatives for a Secure America.
Not authorized by any candidate or candidate's committee.

1

# KEMP'S FIRST FUND

*A Project of Conservatives for a Secure America*

Major Hendry fought and bled in Vietnam. Now with Kemp's First Fund he's fighting to help Congressman Jack Kemp continue the Reagan Revolution beyond 1988.

Sharon Boyd

Sharon Boyd
National Chairman
KEMP'S FIRST FUND

Dear Friend, May 14, 1986

Every day we read in our newspapers of one act of terrorism after another.

Atrocities committed by godless maniacs whose only goal is to maim innocent Americans like yourself.

They do those things in [illegible] God — but their God — still — God

What would you say if I told you that there are terrorists right here in the United States of America?

Walking the halls of the U.S. Congress. —

Committing atrocities against humanity.

Terrorist that call themselves "Americans."

And they kill, hold hostages and promote godlessness in the name of the "Higher Cause of Liberalism."

As the Security Advisor to KEMP'S FIRST FUND, I can tell you that these terrorists are real and here today.

You know their names. They are the Liberals in our Congress.

And I am ready to call them what they are - LIBERAL TERRORISTS.

These leftists attack every value that has made our nation so great.

They don't care about morality. The Liberal Terrorists in our Congress seek to create a ONE-WORLD-SOCIALIST AMERICA.

A society where God and the family have no place. Indeed, they are outlawed.

Isn't that what is really happening in America?

3421 M St. N.W.
Suite 1010
20007

8704065483 4

Washington D.C. 20070-2044

EXHIBIT B

A copy of our financial report is available from the Federal Elections Commission on request.

1

Not True

Children can't pray in schools - families are destroyed by drugs, crime and immorality.

It is the Liberal Terrorists in Congress that have brought such shame to our proud nation.

NOT SO!

In the name of "America" they order the execution of MILLIONS of unborn Americans.

In the name of "America", they force atheism into law - making criminals out of God-fearing children.

That is the real terrorism in America.

Terrorism supported by Liberal - "Blame America First" - members of Congress.

I have prayed for America. I have asked for guidance.

Who can America turn to? Who can we trust with our children.

I fought for this country in Vietnam. Now I am fighting again - but - I desperately need your financial support if KEMP'S FIRST FUND is going to elect JACK KEMP - the man entrusted to continue President Reagan's work.

Jack Kemp stands with us. A man, who, for over twenty-years, has warned us about the rising tide of Liberal Terrorism in America.

Jack Kemp is the only man I trust to continue the Reagan Revolution through 1986 and beyond.

Jack Kemp is the man I trust to wage war against America's enemies.

AND THE LIBERALS HAVE TARGETED HIM FOR DEFEAT.

They know Jack Kemp and they fear him.

That is why I joined KEMP'S FIRST FUND.

BULLSHIT

I've been told that my personal safety will be at risk if KEMP'S FIRST FUND is successful in keeping the pressure on the liberals. But I've faced threats and injury before. I have already been wounded nine times fighting for our country in Vietnam as an officer with Special Forces.

MUST BE HEADWOUNDS

Only KEMP'S FIRST FUND can help Jack Kemp and his struggle against Liberal Terrorism.

But we need your generous financial support.

Really?

1

8704065483 5

Without your help, Liberal Terrorists will put a Death-Grip on America until every decent moral value we hold dear is dead.

I know you won't let that happen. Your gift of AT LEAST $50 to KEMP'S FIRST FUND will allow us to continue our support of Jack Kemp and the people who share his vision.

Is it worth $50 to save America and help KEMP'S FIRST FUND?

If you can send more, $100, $500, or $1000 it would mean more than I can say.

But it is your check for AT LEAST $50 I will pray for tonight.

KEMP'S FIRST FUND will stand strong with Jack Kemp.

God-bless you,

David Hendry, Jr.
Security Advisor

P.S. Socialist-Liberal Terrorists have targeted Jack Kemp as an "Outlaw Of The People." JACK KEMP IS FIGHTING FOR ALL OF US. PLEASE DON'T LET HIM DOWN. Only your check for AT LEAST $50 to KEMP'S FIRST FUND will keep our vision alive.

---

PLEASE RETURN THIS WITH YOUR CHECK PAYABLE TO
KEMP'S FIRST FUND
CONSERVATIVES OF A SECURE AMERICA
WASHINGTON, D.C. 20070-2044

Dear David,

YES! I want to join the fight to save our America and Jack Kemp from LIBERAL TERRORISTS. I know that KEMP'S FIRST FUND will retaliate against them, BUT ONLY WITH MY FINANCIAL SUPPORT.

Enlist me in the KEMP'S FIRST FUND war against Liberal Terrorists. I enclose:

☐ $50 ☐ $75 ☐ $100 ☐ $500 ☐ Other _____

The Federal Election Commission requires that we ask:

OCCUPATION: _____ EMPLOYER: _____

Kemp's First Fund is a special project of and has been paid for by Conservatives for a Secure America.
Not authorized by any candidate or candidate's committee.

8704045548836

LAW OFFICES OF
MILLER, CANFIELD, PADDOCK AND STONE
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005
TELEPHONE (202) 789-3640

SIDNEY T. MILLER (1864-1940)
GEORGE L. CANFIELD (1866-1928)
LEWIS H. PADDOCK (1866-1935)
FERRIS D. STONE (1882-1945)

DETROIT, MICHIGAN
ANN ARBOR, MICHIGAN
BIRMINGHAM, MICHIGAN
BOCA RATON, FLORIDA
GRAND RAPIDS, MICHIGAN
KALAMAZOO, MICHIGAN
LANSING, MICHIGAN
MONROE, MICHIGAN
TRAVERSE CITY, MICHIGAN

JAMES F. SCHOENER
(202) 789-8643

August 4, 1986

Mr. David Hendry, Jr.
Conservatives for a Secure America
Washington, D.C. 20070-22044

Dear Mr. Hendry:

The literature soliciting funds for a so-called "Kemp's First Fund" has been referred to our firm as counsel to Congressman Jack Kemp. On behalf of Congressman Kemp we must demand that you stop using his name in your solicitation and the title of your group. We further demand that you refund all contributions made under this title. You have no right to use the Congressman's name even with the vague disclaimer at the end of your materials. You should check the Federal Election Commission action against Ralph Galliano in M.U.R. 1603 - where he was fined a substantial amount for wrongful use of Senator Phil Gramm's name on a "project" similar to your assertion in "Kemp's First Fund". Further, a postal action for misrepresentation and fraud put a stop order on Mr. Galliano's mail box.

If you do not agree to the terms of this letter immediately we will be forced to undertake similar proceedings against your activities.

Upon receipt of this letter either you or your counsel should contact the undersigned.

Very truly yours,

James F. Schoener

James F. Schoener

JFS:lmw
cc: Sharon Boyd

8 7 0 4 0 6 5 4 8 3 7

EXHIBIT C (1)

RECEIVED PURSUANT TO TELEPHONE SOLICITATION.

## Kemp's First Fund

[illegible] you for talking with me and for your pledge to Kemp's First Fund. Jack Kemp is aware of the [illegible]est sacrifice you have made and will continue to make to keep America strong and to help him in [illegible] fight for the Presidency.

[illegible]e/Blue believer, now is the time to stand up and be counted and clearly demonstrate support for [illegible]ck Kemp and Kemp's First Fund. We can't allow the Presidency to fall into the hands of liberal [illegible]publicans and Democrats.

[illegible] Kemp and Kemp's First Fund realize that your dreams for a secure and free America can be [illegible]lized through hard work and sacrifice.

[illegible]lp in these critical elections, please consider increasing or doubling your pledge.

Thank you,

Maureen

[illegible] Federal Election Commission requires that we ask:

[illegible]cc

[illegible]cupation _____ Employer _____

Kemp's First Fund is a project of and has been paid for by Conservatives for a Secure America.
Not authorized by any candidate or candidate's committee.

PLEASE RETURN THIS WITH YOUR CHECK
PAYABLE TO
KEMP'S FIRST FUND
CONSERVATIVES FOR A SECURE AMERICA
WASHINGTON, D.C. 20070-2044

CODE – IR-2 Date 8-10-86

Name (Please Print) _____

Street Address _____

City State Zip

Amount Pledged $ 50

Amount Enclosed $ _____

(NAME + ADDRESS GUESSED TO PROTECT CONTRIBUTOR)

EXHIBIT D (1)

1130 Court Rd
Novato, Ca 94947

RECEIVED

[illegible] 2 1986

JACK KEMP, MC
WASHINGTON, D.C.

If for some reason you don't feel you can support me again in 1986, it is important I know that as well. I would also ask if that be the case, you share your reasons with me for that decision.

However, I look forward to an early and favorable reply. Please let me count you again among my most active supporters . . . I already count you among my friends.

Let me hear from you soon.

PAC

Cordially,

Jack Kemp

Jack Kemp

Dear Jack — Enclosed find check for 50.00. I promised this to a lady who called me probably 2 wks ago — I cannot help [illegible] — I'm a housebound invalid [illegible] for nearly 2 yrs — have told only a few people — if I've told you — then please forgive this — over

(1)

## Kemp's First Fund

Thank you for talking with me and for your pledge to Kemp's First Fund. Jack Kemp is aware of the great sacrifice you have made and will continue to make to keep America strong and to help him in his fight for the Presidency.

As a true believer, now is the time to stand up and be counted and clearly demonstrate support for Jack Kemp and Kemp's First Fund. We can't allow the Presidency to fall into the hands of liberal Republicans and Democrats.

Jack Kemp and Kemp's First Fund realize that your dreams for a secure and free America can be realized through hard work and sacrifice.

To help in these critical elections, please consider increasing or doubling your pledge.

Thank you.

Maureen

The Federal Election Committee requires that we ask:

Occupation _____ Employer _____

Kemp's First Fund is a [illegible] Not authorized by any candidate or candidate's committee.

8 7 0 4 0

PLEASE RETURN THIS WITH YOUR CHECK
PAYABLE TO
KEMP'S FIRST FUND
CONSERVATIVES FOR A SECURE AMERICA
WASHINGTON, D.C. 20070-2044

CODE - IR-2 Date 8-10-86

Mrs. Nickerson

Name (Please Print)

1130 Court Rd.

Street Address

Novato, Calif. 94947

City State Zip

Amount Pledged $ 50

Amount Enclosed $ _____

I am for you and every I don't have the money - am in pain all the time - I quit taking dope - dont want to be a "hophead".

Hope you win in election. This 50.00 is very small and want help much - I feel you will win.

Best to you and wife -

Please keep in touch!

Am anxious about the outcome for everyone running for re-election

Lena

Sent check in envelope you enclosed. - ~~[illegible]~~

(1)

8704065 4840

Kemp's First Fund
Washington, D.C. 20070-2044
Project of Conservatives
for a Secure America

VA MSC
PM
24 JUL
1986

Maj. Robert Stubus
3819 Plaza Dr #01
Fairfax, VA 22030

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
FIRST CLASS PERMIT NO. 15963 WASHINGTON, D.C.

**KEMP'S FIRST FUND**
**CONSERVATIVES FOR A SECURE AMERICA**
**WASHINGTON, D.C. 20070-2044**

87:04065484 1

KF

## Kemp's First Fund

Thank you for talking with me and for your pledge to Kemp's First Fund. Jack Kemp is aware of the great sacrifice you have made and will continue to make to keep America strong and to help him in his fight for the Presidency.

As a true believer, now is the time to stand up and be counted and clearly demonstrate support for Jack Kemp and Kemp's First Fund. We can't allow the Presidency to fall into the hands of liberal Republicans and Democrats.

Jack Kemp and Kemp's First Fund realize that your dreams for a secure and free America can be realized through hard work and sacrifice.

To help in these critical elections, please consider increasing or doubling your pledge.

Thank you.

The Federal Election Committee requires that we ask:

PLEASE RETURN THIS WITH YOUR CHECK
PAYABLE TO
KEMP'S FIRST FUND
CONSERVATIVES FOR A SECURE AMERICA
WASHINGTON, D.C. 20070-2044

CODE – IR Date 7-24-86

MAJ. ROBERT STUBUS
Name (Please Print)

3819 PLAZA DR #01
Street Address

FAIRFAX, VA 22030
City State Zip

Amount Pledged $ 30.00

(1)

The Stuber Group Inc.
3819 Plaza Drive
Fairfax, Virginia 22030

RECEIVED AUG 4 1986
RECEIVED
AUG 04 1986

Bob Hickson
Looks like they're still at it!
SV

July 25, 1986

Hon. Jack Kemp
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Kemp,

First let me say that it was a pleasure seeing you again recently at the wedding of our mutual friend Jack Abramoff.

However, the reason I write you today is not to exchange pleasantries, but to alert you to a fundraising activity that is being conducted using (or better yet, abusing) your good name.

On Wednesday evening, July 23rd, I received a telephone call soliciting funds for "Jack Kemp's First Fund". The caller (who later identified himself as Dave Fritchie) asked me to support you with a political contribution of $30.

Being the supporter that I am, I agreed to pledge $30 but only if it would benefit your presumed candidacy for President. He informed me that it would benefit your campaign. I then asked if the contribution was tax-deductible. He said (after consulting his "superviser") that in fact it was.

Rather than conduct a lengthy discussion with him on the legalities of this effort, I decided to wait to receive the "pledge confirmation" form in the mail. It arrived today, and I am enclosing a copy of it for your investigation.

8704065548842

I think their fundraising program is most misleading. After reading their pledge acknowledgement form it seems that they want us to believe that this effort is "not authorized by any candidate or candidate's committee." They can't have it both ways. (Note: they imply in sentence number two that you are aware of my "great sacrifice" by making this contribution.)

Oh well, I guess everyone has some scam to run and you are the intended victim. Sorry to hear about this, but thought you'd want to know in case someone else hasn't informed you of this effort. Good luck.

Sincerely,

Robert Stuber

Robert Stuber

P.S. -- The reason the name on the pledge form doesn't match mine is that the list they are using was compiled from records containing many typographical errors.

Enclosures

RS/abm

8704065548843

SMTH445L 92 ML
Mr. Lee Smith
Box 445
Udall KS 67146

Congressman Jack Kemp

Here is the letter I talked to

Lynn Schmidt about .

If you are going to run for president

were should i send money to support

your campaign

Thank You

Lee Smith

Box 445

Udall Kansas 67146

8704065548844

st Fund
n, D.C. 20070-2044
servatives
rica

Jack Kemp 10/20/86
This is letter I told you about in Montgomery on 10/17/86. We appreciate your visit

THE FAMILY HOBBY

USA 22

Mr. n

Rt

Montgomery, Ala. 36108

8 7 0 4 0 4 4 8 4 5

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

**BUSINESS REPLY MAIL**
FIRST CLASS PERMIT NO. 15963 WASHINGTON, D.C.

**KEMP'S FIRST FUND**
**CONSERVATIVES FOR A SECURE AMERICA**
**WASHINGTON, D.C. 20070-2044**

B-54

## Kemp's First Fund

Thank you for talking with me and for your pledge to Kemp's First Fund. Jack Kemp is aware of the great sacrifice you have made and will continue to make to keep America strong and to help him in his fight for the Presidency.

As a true believer, now is the time to stand up and be counted and clearly demonstrate support for Jack Kemp and Kemp's First Fund. We can't allow the Presidency to fall into the hands of liberal Republicans and Democrats.

Jack Kemp and Kemp's First Fund realize that your dreams for a secure and free America can be realized through hard work and sacrifice.

To help in these critical elections, please consider increasing or doubling your pledge.

Thank you.
Edna

The Federal Election Committee requires that we ask:

Occupation_____ Employer_____

Kemp's First Fund is a project of and has been paid for by Conservatives for a Secure America.
Not authorized by any candidate or candidate's committee

PLEASE RETURN THIS WITH YOUR CHECK
PAYABLE TO
KEMP'S FIRST FUND
CONSERVATIVES FOR A SECURE AMERICA
WASHINGTON, D.C. 20070-2044

CODE – KDIB-54 Date 2-21-87

Mr. David Wilson
Name (Please Print)

4442 Cresta Verde La
Street Address

Bonita CA 92002
City State Zip

Amount Pledged $ 15.00

Amount Enclosed $_____

---

st Fund
n, D.C. 20070-2044
conservatives
erica

8 7 0 4 0 5 5 4 6

NO VA MSC
PM
25 FEB
1987

USA 22

Mr. David Wilson
4442 Cresta Verde La
Bonita, CA
92002

## Kemp's First Fund

Thank you for talking with me and for your pledge to Kemp's First Fund. Jack Kemp is aware of the great sacrifice you have made and will continue to make to keep America strong and to help him in his fight for the Presidency.

As a true believer, now is the time to stand up and be counted and clearly demonstrate support for Jack Kemp and Kemp's First Fund. We can't allow the Presidency to fall into the hands of liberal Republicans and Democrats.

Jack Kemp and Kemp's First Fund realize that your dreams for a secure and free America can be realized through hard work and sacrifice.

To help in these critical elections, please consider increasing or doubling your pledge.

Thank you. Linda

The Federal Election Committee requires that we ask:

PLEASE RETURN THIS WITH YOUR CHECK
PAYABLE TO
KEMP'S FIRST FUND
CONSERVATIVES FOR A SECURE AMERICA
WASHINGTON, D.C. 20070-2044

CODE – KFT Date 9/25/86

Mr. Julian E. Elgin
Name (Please Print)

Rt. 8, Box 395
Street Address

Montgomery Ala. 36108
City State Zip

Amount Pledged $ 25.00

(1)

5/29

# Briefing

## Kemp's Unfund

Representative Jack F. Kemp has not been coy about his Presidential aspirations, but he and his staff are taken aback by a letter seeking $50 to $500 donations for something calling itself Kemp's First Fund.

The letter maintains that "liberal pro-abortionists, gays and atheists have targeted Jack Kemp for defeat" and "he is desperate for your help."

Not that desperate, says Mr. Kemp's press aide, John Buckley. "That kind of language would not be countenanced by any Jack Kemp entity," he said. "It's offensive to us."

Mr. Buckley said Mr. Kemp's legal advisers were seeking ways to stop the use of the upstate New Yorker's name in the fund-raising effort. That may poses a ticklish problem. The letter, sponsored by Conservatives for a Secure America, carries a disclaimer at the end: "Not authorized by any candidate or candidate's committee."

That is a standard disclaimer of the independent political committees that have become something of a standard component of recent campaigns. Under election law, an independent committee may raise and spend money in excess of normal limits that must be observed by committees set up and operated by the candidates. But to do that, the committee must not consult or coordinate with the candidate or his committees.

Thus, according to Fred S. Eiland, press officer of the Federal Election Commission, there may be no way Mr. Kemp can deter the committee, which duly registered with the commission on Feb. 12.

Conservatives for a Secure America lists a Washington address, but no telephone number is available through directory assistance.

## That Alexander Lottery

In the wake of a hard-fought Democratic primary victory in Arkansas's First Congressional district, Representative Bill Alexander has asked state party officials to consider filing a complaint about a campaign lottery sponsored by the National Republican Congressional Committee.

The lottery, open to anyone over 18 in Mr. Alexander's district, offered a trip anywhere in the world for two and $2,000 spending money.

Entrants in the lottery were asked to rate the importance of campaign issues, not least of which involved a number of international trips Mr. Alexander had made at taxpayer expense, including one, at a purported cost of more than $50,000, on which he was accompanied by his daughter.

Mr. Alexander's aides concede that the lottery, versions of which the Republicans reportedly are considering using in other Congressional campaigns, did not appear to violate lottery laws per se. But they say it may run afoul of election law that makes it a felony to offer money to a voter to influence his choice.

Meantime, an Alexander spokesman reports that about 150 of his own campaign workers in the district sent in entries.

## That Race in Maryland

Kathleen Kennedy Townsend will make it official today, announcing her candidacy for Maryland's Second Congressional District seat against the incumbent, Helen Delich Bentley, a Republican. Mrs. Townsend will outline her campaign at Towson American Legion Post 22, in that suburb of Baltimore. Her mother, Ethel Kennedy, and several siblings will be on hand, as well as her husband, David Townsend, and their three children. The campaign is receiving the assistance of David Garth, the New York-based political consultant, who said: "I think it's going to be a tough race. But I think she can do it."

## Bats, Capital Style

It is softball season in Washington, and the daily scramble for the limited number of playing fields on the mall in front of the Capitol is under way. To obtain a grassy field, as opposed to a muddy swamp or hilly infield, most Congressional offices dispatch interns to the mall in mid-

Tom Hanson

afternoon to sit for hours in the hot sun and stake out territory for the evening game. But when it comes to reserving a diamond, it seems that not all teams play on a level field.

Some interns complain that teams with players from the House Interior Committee, which oversees the National Park Service, somehow manage to reserve the best fields without sending anyone down. Say it ain't so, Jee.

Wayne King
Robin Toner

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 27, 1987

David Hendry, Jr.
1413 Abingdon Drive
Alexandria, VA 22314

RE: MUR 2372
David Hendry, Jr.

Dear Mr. Hendry:

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 2372. 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. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Sandra Robinson, 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,

Lawrence M. Noble
Acting General Counsel

By: George P. Rishel
Acting Associate General Counsel

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

8704065548 49

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 27, 1987

Sharon L. Boyd, Treasurer
Conservatives For A Secure America
416 Queen Street
Alexandria, VA 22314

RE: MUR 2372
Conservatives For A Secure America

Dear Ms. Boyd:

The Federal Election Commission received a complaint which alleges that Conservatives For A Secure America 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 2372. 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 Conservatives For A Secure America in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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3

If you have any questions, please contact Sandra Robinson, 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,

Lawrence M. Noble
Acting General Counsel

By: George R. Rishel
Acting Associate General Counsel

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

cc: Darin Hendry, Asst. Treasurer
Conservatives For A Secure America
521 Wilkes Street
Alexandria, VA 22314

87040654851

pbm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 27, 1987

Jack Kemp For President Exploratory Committee
c/o James F. Schoener, Esq.
McGuiness & Williams
Suite 1200
1015 Fifteenth Street, NW
Washington, DC 20005

RE: MUR 2372

8704065485 2

Dear Mr. Schoener:

This letter acknowledges receipt of your complaint, received on March 20, 1987, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Conservatives For A Secure America and Sharon L. Boyd, as treasurer, and David Hendry, Jr. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2372. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
Acting General counsel

By: George F. Rishel
George F. Rishel
Acting Associate General Counsel

Enclosures
Procedures

4

RECEIVED AT THE FEC
GCC # 3125
87 APR 15 A8:31

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
919 EIGHTEENTH STREET, N.W.
WASHINGTON, D.C. 20006-5503
(202) 463-8700

TELEX: 904343
SKARSLAW-WASH
TELECOPIER:
(202) 293-3931

919 THIRD AVENUE
NEW YORK, NEW YORK 10022
(212) 735-3000
ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 523-0002
ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000
300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000
333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700

April 13, 1987

Sandra Robinson, Esquire
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
87 APR 15 A8:51

Re: MUR 2372 - Kemp v. Conservatives for a Secure America and Sharon L. Boyd, as Treasurer and David Hendry, Jr.

Dear Ms. Robinson:

I have been asked to represent Conservatives for a Secure America, its treasurer and David Hendry, Jr. This matter has just came to my attention and the respondents intend to file a complete response to the allegations. Thus, I am requesting a 15 day extension of time.

While a preliminary review of the complaint indicates that no violation occurred, the requested time is necessary so that all allegations are fully reviewed and addressed. I will be submitting a designation of counsel under separate cover.

Thank you for your consideration of this matter.

Very truly yours,

Kenneth A. Gross

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5

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
919 EIGHTEENTH STREET, N.W.
WASHINGTON, D.C. 20006-5503
(202) 463-8700

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SKARSLAW-WASH
TELECOPIER:
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300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000
333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700

87 APR 16 AM 11:48

April 14, 1987

Sandra Robinson, Esquire
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
87 APR 16 P 3:05

Re: MUR 2372 - Kemp v. Conservatives for a Secure America and Sharon L. Boyd, as Treasurer and David Hendry, Jr.

Dear Ms. Robinson:

Per our conversation and my letter of April 13, 1987, enclosed is a copy of the designation of counsel form in the above referenced matter. The enclosed designation is for David Hendry, Jr. I am having Darin Hendry as assistant treasurer, sign a separate form on behalf of the committee and treasurer. I will send you that form as soon as I receive it from the client.

Thank you for your cooperation in this matter.

Very truly yours,

Kenneth A. Gross

Enclosure

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## STATEMENT OF DESIGNATION OF COUNSEL

MUR 2372

NAME OF COUNSEL: Kenneth A. Gross

ADDRESS: Skadden, Arps, Slate, Meagher & Flom
919-18th Street, N.W.
Washington, D.C. 20006

TELEPHONE: 202/463-8700

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.

April 14, 1987
Date

Signature

RESPONDENT'S NAME: David Hendry, Jr.

ADDRESS: 521 Wilkes Street
Alexandria, Virginia 22314

HOME PHONE:

BUSINESS PHONE:

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6

RECEIVED AT THE FEC
87 APR 22 A10:03

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
919 EIGHTEENTH STREET, N.W.
WASHINGTON, D.C. 20006
(202) 463-8700

TELECOPIER
(202) 293-3931

919 THIRD AVENUE
NEW YORK, NEW YORK 10022
(212) 735-3000

ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 523-0002

ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 429-8200

515 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90071
(213) 486-4800

333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700

April 20, 1987

Sandra Robinson, Esquire
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
87 APR 22 P3:16

Re: MUR 2372

Dear Ms. Robinson:

Enclosed is the designation of counsel form for Conservatives for a Secure America and Sharon Boyd, as treasurer.

Sincerely,

Kenneth A. Gross

Enclosure

8704065548856

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2372

NAME OF COUNSEL: SKADDEN, ARPS, SLATE, MEAGHER & FLOM # KEN GROSS

ADDRESS: 919 18TH ST NW, WASH DC 20006

TELEPHONE: 202-463-8700

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.

Date 4/17/87

Sharon L. Boyd
Signature

RESPONDENT'S NAME: Sharon Boyd

ADDRESS: 3421 M ST NW #1010
WASHINGTON DC 20007
and Conservatives for a Secure America

HOME PHONE:

BUSINESS PHONE:

8704065548857

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Plum

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 22, 1987

Mr. Kenneth A. Gross
Skadden, Arps, Slate, Meagher & Flom
919 Eighteenth Street, N.W.
Washington, D.C. 20006-5503

Re: MUR 2372
Kemp's First Fund,
Conservatives for a Secure
America and Sharon Boyd, as
treasurer, and David Hendry,
Jr.

Dear Mr. Gross:

This is in response to your letter dated April 13, 1987, which we received on April 15, 1987, requesting an extension of fifteen (15) days to respond to the complaint in the above-captioned matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on April 29, 1987.

If you have any questions, please contact Sandra Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
Acting General Counsel

George F. Rishel

By: George F. Rishel
Acting Associate General
Counsel

8

8 7 0 4 0 6 5 4 8 5 8

GCC 3276
RECEIVED AT THE FEC
87 MAY 1 AM 11:18

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
919 EIGHTEENTH STREET, N.W.
WASHINGTON, D.C. 20006-5503
(202) 463-8700

TELEX 904343
SKARSLAW-WASH
TELECOPIER:
(202) 293-3931

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NEW YORK, NEW YORK 10022
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(617) 573-0002
ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000
300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000
333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700

April 29, 1987

Sandra Robinson, Esquire
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
87 APR 30 P2:36
May 1

Re: MUR 2372 - Conservatives for a Secure America, Sharon Boyd as treasurer, and David Hendry, Jr.

Dear Ms. Robinson:

On March 17, 1987, the Kemp for President Exploratory Committee filed a complaint against Conservatives for a Secure America, Sharon Boyd, as treasurer, and David Hendry, Jr. This response, on behalf of all the respondents, demonstrates that the complainant has failed to allege a violation under the Federal Election Campaign Act ("FECA" or the "Act"). The respondents categorically deny that any violation occurred, specifically, complainant's allegations in ¶¶ 9 and 10 of its complaint.*

---

* To the extent the complainant is alleging a violation of 2 U.S.C. § 438(a)(4) in ¶ 11 of its complaint, the respondents deny that they copied any names of contributors from the FEC reports.

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A. The use of Kemp's name in the project does not violate 2 U.S.C. § 432(e)(4).

(1) Allegation

Despite the complainant's transparent attempt to cast "Kemp's First Fund" as a separate entity or political committee, it is merely a project of the registered political committee, Conservatives for a Secure America ("CSA"). Other statements in the complaint concerning the use of Congressman Kemp's name do not rise to the level of allegations under the Act; they are mere window dressing. In addition, it is curious that the complaint is filed on behalf of Congressman Kemp's presidential fund, since the solicitations in question are on behalf of Jack Kemp's congressional campaign. Congressman Kemp's presidential campaign was not in existence at the time the expenditures were made.

(2) Discussion

2 U.S.C. § 432(e)(4) provides, in relevant part, that "[i]n the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name." See also 11 C.F.R. § 102.14(a). This prohibition, by its terms, applies only to the names of polit-

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ical committees and does not purport to regulate the use of a candidate's name in any other context. Thus, the relevant inquiry is whether Kemp's First Fund is a political committee, or is merely a project of CSA.

The applicable definition of "political committee" appears at 2 U.S.C. § 431(4)(A). It provides as follows:

> Any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year. . . .

In analyzing whether a project is a political committee, in other matters, the Commission has based its determination on three pertinent factors. See MUR 1252, MUR 1316 and MUR 1603. The three criteria are (a) whether the project has a separate existence or organizational structure, (b) whether all contributions and expenditures were disclosed on reports filed by the political committee, and not the project, and (c) whether all contributions and expenditures are deposited in the political committee's depository. The Commission also requires the proper disclaimer on the materials. That issue is addressed below in the 2 U.S.C. § 441d discussion.

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(a) The project has no separate existence.

CSA is responsible for the creation and management of the Kemp First Fund project. All communications, whether by mail or telephone, were developed by CSA personnel and were paid for with CSA funds. Also, David Hendry, Jr., who signed the letters in question had a contractual relationship with CSA, not Kemp's First Fund. A copy of the contract is attached as Exhibit "A". CSA paid for the mailing list which was used in the Kemp First Fund mailings. The mailings and the telephonic communications informed the solicitee that the Kemp First Fund was a project of CSA. If a telephone solicitee indicated a desire to contribute, CSA mailed the follow-up confirmation requesting that the contribution be sent to CSA. All contributions which were received were sent to and processed by CSA. In reality, Kemp's First Fund is nothing more than a phrase used by a political committee.

(b) All contributions and expenditures were disclosed on CSA reports.

All the contributions received and expenditures made with regard to the Kemp's First Fund project have

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been fully disclosed by CSA, on reports signed by CSA's treasurer or assistant treasurer. Kemp's First Fund is not a reporting entity, nor does it receive contributions or make expenditures.

(c) CSA received all the contributions.

The contributions received in response to the Kemp's First Fund project were deposited into CSA's registered depository. Kemp's First Fund maintains no bank account.

Kemp's First Fund has no characteristics of a political committee, nor has it operated as a political committee. It has no existence apart from CSA. In prior enforcement actions, the Commission has never found the use of a project name to result in a violation of 2 U.S.C. § 432(e)(4). See e.g., MUR 1252,* MUR 1316 and MUR 1603. Likewise, in this matter, CSA did not violate 2 U.S.C. § 432(e)(4). The only question which remains is whether CSA placed the proper disclaimers on its literature.

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* Judicial review of MUR 1252 is presently on appeal in the D.C. Circuit No. 87-5036. In that pending matter, the FEC is defending its dismissal of allegations of violations of 2 U.S.C. § 432(e)(4).

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B. CSA used the proper disclaimer.

Section 441d(a)(3) of the FECA provides:

> Whenever a person . . . solicits any contribution through any . . . direct mailing, or any other type of general public political advertising, such communication . . . (3) 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. . . .

If a solicitation is made on behalf of a candidate but paid for by any other person and not authorized by a candidate, the authorized committee of a candidate, or its agent, the disclaimer must "clearly state that the communication has been paid for by such person and is not authorized by any candidate or candidate's committee." 11 C.F.R. § 110.11(a)(1)(iii). The materials in question carry a clear and conspicuous disclaimer stating that CSA paid for the mailing and that it is not authorized by any candidate. The disclosure reads as follows:

> Kemp's First Fund is a special project of and has been paid for by Conservatives for a Secure America. Not authorized by any candidate or candidate's committee.

This disclaimer is in full compliance with § 441d(a)(3), as acknowledged by the complainant. Thus, the respondents have not violated § 441d(a)(3) or the Commission's disclaimer regulations.

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(a) David Hendry, Jr. did not violate any laws.

The complainant alleges no specific violation against David Hendry, Jr. To the extent the complainant is attempting to implicate him in the alleged violations against the committee, Mr. Hendry denies such violations on the same grounds as the committee, and further asserts that as an individual, who merely signed letters for the committee, he should not be held personally liable.

C. Conclusion

For the reasons stated above, the respondents respectfully request that the Commission find no reason to believe that CSA and Sharon Boyd, as treasurer, and David Hendry, Jr., violated any provision of the Act or Commission's regulations in this matter, and close the file.

Sincerely,

Kenneth A. Gross

Attachment

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Exhibit A

AGREEMENT

Agreement this 4th day of April, 1986 by and between David Hendry and Conservatives for a Secure America, Inc.(CSA) whereby the following is agreed:

1) David Hendry agrees to serve as the Security Advisor to CSA during the term of this contract.

2) Mr. Hendry will make himself available to CSA and make presentations to groups, conventions or appropriate gatherings, on behalf of CSA, for the purposes of, among other things, presenting facts and opinion designed to ensure that the political and business leadership in the United States fully understand the threat of terrorism.

Mr. Hendry shall receive as compensation hereunder, One Hundred dollars per year plus expenses related to the servicing of and performance under this contract.

This contract shall extend for one year from the date hereof and may be extended upon the written consent of both parties.

Agreed and Accepted:

Sharon L. Boyd

CSA
By: Sharon Boyd

David Hendry

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SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 2372
DATE COMPLAINT RECEIVED BY OGC: March 20, 1987
DATE OF NOTIFICATION TO RESPONDENT: March 27, 1987
STAFF MEMBER: Sandra H. Robinson

COMPLAINANT: Jack Kemp for President Exploratory Committee

RESPONDENTS: Conservatives for a Secure America (Kemp's First Fund), Sharon L. Boyd, as treasurer; and David Hendry, Jr.

RELEVANT STATUTES:
2 U.S.C. § 432(e)(4)
2 U.S.C. § 438(a)(4)
2 U.S.C. § 441d(a)(3)
11 C.F.R. § 110.11(a)(1)

INTERNAL REPORTS CHECKED: Public Disclosure Reports

FEDERAL AGENCIES CHECKED: None

## I. GENERATION OF THE MATTER

James F. Schoener, legal counsel for the Jack Kemp for President Exploratory Committee ("complainant") filed a complaint, on behalf of his client, against Conservatives for a Secure America ("CSA"), Sharon L. Boyd, as treasurer; and David Hendry, Jr. ("respondents"). The complaint alleged that respondents made use of Congressman Jack Kemp's name without permission in an effort to solicit contributions for use in support of Mr. Kemp. The solicitations were made under the

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auspices of a "project," entitled "Kemp's First Fund." The complainant disputed the characterization of "Kemp's First Fund" as a project of CSA and charged that the solicitation activity was in violation of 2 U.S.C. § 432(e)(4), as it was not authorized by Mr. Kemp or any of his agents. The complaint also alleged that respondents may have copied information from complainant's disclosure reports filed with the Commission and used such information to solicit contributions, in violation of 2 U.S.C. § 438(a)(4). The complaint further alleged that the content of the letters of solicitation, while including a candidate disclaimer, is ambiguous and confusing and does not make it clear that the activity is not authorized by Mr. Kemp. Finally, the complaint alleged that during the telephone solicitations respondents implied that Mr. Kemp approved of such solicitations. Complainant believes that a disclaimer was not used during the telephone solicitations. Complainant charged that the ambiguous nature of respondents' written solicitations and the failure to use a disclaimer in telephone solicitations are a violation of 2 U.S.C. § 441d(a)(3). Supporting documents were attached to the complaint.

Respondents submitted a response through legal counsel on April 29, 1987. Attachment I.

## II. FACTUAL AND LEGAL ANALYSIS

### A. BACKGROUND

The filing of the complaint in this matter and the incidents described therein occurred prior to Congressman Jack Kemp's

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official announcement that he is a candidate for U.S. President in the 1988 election. It is suggested throughout the complaint that the fundraising activities of respondents are directed toward Mr. Kemp's then anticipated candidacy for U.S. President. The tenor of the letter is to generate support for Mr. Kemp, but it does not identify a specific Federal office being sought by him. The letter does address the 1986 and 1988 election cycles. The notice confirming telephone solicitations includes specific reference to Mr. Kemp's "fight for the Presidency."

Conservatives for a Secure America ("CSA") is a political committee registered with the Commission pursuant to 2 U.S.C. § 433(a). There are no connected organizations or affiliated committees listed on its Statement of Organization or subsequent amendments. CSA has asserted that it supports and opposes more than one Federal candidate and is not a separate segregated fund or a party committee.

Congressman Jack Kemp was a successful candidate for the U.S. House of Representatives from the State of New York, District 31, in the 1986 election. For the 1986 election cycle, in addition to his principal campaign committee called Citizens for Jack Kemp, Mr. Kemp authorized a joint fundraising committee named Kemp Super Bowl Brunch, which is now terminated. The Campaign for Prosperity is not an authorized committee, but was affiliated with the Kemp Super Bowl Brunch Committee and is designated a multi-candidate committee. On April 6, 1987,

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Mr. Kemp filed a Statement of Candidacy for the office of President in the 1988 election. His designated principal campaign committee is the Jack Kemp for President Committee. The Victory 88 Committee is authorized as a joint fundraising committee. In its amended Statement of Organization, the Victory 88 Committee identified the Campaign for Prosperity and the Jack Kemp for President Exploratory Committee as affiliated committees and joint fundraising participants.

It is evident, then, that CSA is not an authorized or affiliated committee for either of Mr. Kemp's campaigns, nor has it reported such an association.

B. RELEVANT LAW

The Federal Election Campaign Act of 1971, as amended ("the Act") requires in relevant parts, the following:

a. Any political committee which is not an authorized committee shall not include the name of any candidate in its name. 2 U.S.C. § 432(e)(4).

b. The Federal Election Commission ("the Commission") must make reports filed with it available for public inspection within 48 hours of receipt of such reports. Copies of reports may be provided to persons at his or her expense. Any information copied from such reports may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, except that political committee information may be used to solicit contributions from such committee. Political committees may submit up to ten pseudonyms on each

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report to protect against illegal use of the names and addresses of contributors. 2 U.S.C. § 438(a)(4).

c. Communications expressly advocating the support or defeat of a clearly identified candidate, or soliciting contributions through direct mailing or any other type of general public political advertising and not authorized by a candidate, a candidate's committee 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. 2 U.S.C. § 441d(a)(3).

The Commission's Regulations further stipulate that communications made pursuant to 2 U.S.C. § 441d must include a disclaimer which is presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of the persons who paid for the communications. 11 C.F.R. § 110.11(a)(1).

C. APPLICATION OF THE LAW

The complaint alleged that respondents are not authorized to use Congressman Jack Kemp's name, and based on the premise that "Kemp's First Fund" is not a "project" of CSA, suggested that it is a separate committee using Mr. Kemp's name in violation of 2 U.S.C. § 432(e)(4).

In his response, legal counsel for respondents asserted that "Kemp's First Fund" is a project of CSA and, based upon the Commission's previous actions in similar matters, requested a finding of no reason to believe and the closing of the file.

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The Commission has taken the position that, where fundraising and independent expenditure projects of political committees meet specific criteria, the use of a candidate's name is permissible in a project name. See, e.g., MUR 1603 and MUR 1252.[1/] The criteria set by the Commission include: (a) the project must have no existence or structure separate from the political committee involved; (b) all contributions and expenditures must be disclosed on reports filed by the political committee conducting the project, and (c) the solicitations must contain the required disclaimers.

In his response, counsel for respondents addressed each of these elements. He stated that CSA created the "Kemp's First Fund" project, that it was administered by CSA staff, and its expenses were paid with CSA funds. A copy of the contract between David Hendry, Jr. and CSA was provided as evidence of

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1/ The complainant in MUR 1252 filed suit pursuant to 2 U.S.C. § 437g(a)(8) in the U.S. District Court for the District of Columbia, Common Cause v. FEC, Civil Action No. 83-2199. The District Court found for Common Cause on the issue of the 2 U.S.C. § 432(e)(4) violation. The Court reasoned that the legislative history and language of the statute supports an interpretation that would find a violation in circumstances where a candidate's name was used in unauthorized committees' "projects." The Court determined that the purpose of the law was to protect against confusion among the general public as to which committees and/or activities are authorized by a candidate, and that the use of a candidate's name in such a "project" defeats the "plain meaning" of the Act and the intent of Congress. This case is currently on appeal by the Commission in the U.S. Court of Appeals for the D. C. Circuit, Civil Action No. 87-5036. The Commission has obtained a stay of the District Court's decision pending the appeal.

In MUR 1603, the Commission found reason to believe on a violation of Section 432(e)(4), but was evenly divided regarding this Office's no probable cause recommendation on this section.

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CSA's primary responsibility and control over Mr. Hendry's duties. Attachment I(8). The contract was effective as of April 4, 1986. Copies of letters provided by the complainant show that they were mailed after the contract date. Respondents' counsel also explained that all contributions received as a result of the project's solicitations were addressed to CSA and deposited with CSA's registered bank, and that "Kemp's First Fund" maintains no bank account. The sample solicitation materials attached to the complaint show CSA's address as the return address for "Kemp's First Fund." The foregoing factors demonstrate that "Kemp's First Fund" is not a separate entity, but is dependent upon CSA for its existence and operation.

Respondents stated that CSA has fully disclosed the contributions and expenditures made as a result of "Kemp's First Fund," on reports filed with the Commission. Copies of the referenced reports were not attached, nor were they identified by name. The total amounts of receipts and expenditures generated by "Kemp's First Fund" were also not included in the response. However, a review of CSA's disclosure reports shows a total of $71,285.42 in contributions received during the reporting periods immediately following the date of contract for Mr. Hendry's services. CSA's reports for 1986 were reviewed, including the July Quarterly, the October Quarterly, the Pre-General Election, the Post General Election and the Year-End Reports. A total of $58,631.97 in independent expenditures is also disclosed on these reports, and all are designated for Jack Kemp for Congress. It

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can reasonably be inferred that some of the financial disclosures so reported resulted from the activity of "Kemp's First Fund."

A discussion of whether a proper disclaimer was used by CSA is relevant to the issue of an alleged violation of Section 432(e)(4), and will also serve as a discussion of the specific allegation of a violation of 2 U.S.C. § 441d(a)(3).

The following disclaimer is clearly printed on the last page of the letters mailed by CSA under the heading of "Kemp's First Fund:"

> "Kemp's First Fund is a special project of *and* has been paid for by Conservatives for a Secure America. Not authorized by any candidate or candidate's committee."

In addition, the heading on the first page of these letters includes the phrase, "A Project of Conservatives for a Secure America," and at the bottom of that same page is printed the phrase, "A copy of our financial report is available from the Federal Election Commission on request." CSA, and not "Kemp's First Fund," is registered with, and reports to, the Commission.

The written confirmation notice sent as follow-up to the telephone solicitations includes the following disclaimer:

> "Kemp's First Fund is a project of and has been paid for by Conservatives for a Secure America. Not authorized by any candidate or candidate's committee."

Alhough the text of the letter is ambiguous as to the exact office for which Mr. Kemp's candidacy is being supported, and the text of the confirmation notice could be confusing to the reader, the disclaimers on each are clear and conspicuous, and give

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adequate notice of who paid for the communication. 11 C.F.R. § 110.11(a)(1).

The question of whether Section 441d reaches the content of telephone solicitations has not been addressed by the Commission. Neither the Act nor the Regulations speak specifically to that form of communication as either covered by the Act or exempted pursuant to 11 C.F.R. § 110.11(a)(2). The question would turn on whether the telephone solicitation can be considered "any other form of general public advertising." In the instant matter, a specific allegation is made regarding the lack of a disclaimer during the telephone solicitations. The complainant states that this allegation is based on information, but does not provide any information to substantiate the claim. Futhermore, copies of the notices sent to confirm telephone pledges do contain the appropriate disclaimer. In light of the fact that the proper disclaimer was provided on the confirmations and the lack of specific evidence indicating no disclaimer was provided during the phone calls, this Office believes that there is insufficient evidence to pursue this allegation.

The complainant's allegation that information copied from its reports filed with the Commission was used to solicit contributions is also not supported by any evidence. The complainant makes reference to one person solicited, but does not identify that person. There is no assertion that the complainant used pseudonyms on its disclosure reports pursuant to 2 U.S.C. § 438(a)(4) and that such a pseudonym was solicited. The

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complainant offers no evidence that the respondents copied names from reports filed with the Commission for solicitation purposes. There is no substantiation of this claim based on the information provided.

Based on the foregoing, this Office recommends that the Commission make a finding of no reason to believe that respondents committed the alleged violations and close the file.

III. RECOMMEDATIONS

1. Find no reason to believe that Conservatives for a Secure America, Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 2 U.S.C. § 432(e)(4).

2. Find no reason to believe that Conservatives for a Secure America, Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 2 U.S.C. § 438(a)(4).

3. Find no reason to believe that Conservatives for a Secure America, Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 2 U.S.C. § 441d(a)(3).

4. Find no reason to believe Conservatives for a Secure America, Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 11 C.F.R. § 110.11(a)(1).

5. Approve the attached letters.

6. Close the file.

Date 6/29/87

Lawrence M. Noble
Acting General Counsel

Attachments
1. Response to complaint
2. Proposed letters (2)



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Attachment(s) 142

to First General Counsel's Report

have been removed from this

position in Public Record File.

See Index Item(s) 9, 14 & 15

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10

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: JULY 6, 1987

SUBJECT: OBJECTION TO MUR 2372 - FIRST G.C. REPORT SIGNED JUNE 29, 1987

The above-captioned document was circulated to the Commission on Tuesday, June 30, 1987 at 4:00 P.M.

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

| | |
|---|---|
| Commissioner Aikens | |
| Commissioner Elliott | |
| Commissioner Josefiak | |
| Commissioner McDonald | |
| Commissioner McGarry | X |
| Commissioner Thomas | X |

This matter will be placed on the Executive Session agenda for July 14, 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 | ) | |
| | ) | |
| Conservatives for a Secure America (Kemp's First Fund) | ) | MUR 2372 |
| Sharon L. Boyd, as Treasurer | ) | |
| David Hendry, Jr. | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of July 14, 1987, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 2372:

1. Find no reason to believe that Conservatives for a Secure America; Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 2 U.S.C. § 432(e)(4).

2. Find no reason to believe that Conservatives for a Secure America; Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 2 U.S.C. § 438(a)(4).

3. Find no reason to believe that Conservatives for a Secure America; Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 2 U.S.C. § 441d(a)(3).

4. Find no reason to believe Conservatives for a Secure America; Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 11 C.F.R. § 110.11(a)(1).

(continued)

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5. Approve the letters attached to the General Counsel's report dated June 29, 1987.

6. Close the file.

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

Attest:

7/15/87
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1987

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

James F. Schoener, Esquire
McGuiness & Williams
Suite 1200
1015 Fifteenth Street, N.W.
Washington, D.C. 20005

Re: MUR 2372

Dear Mr. Schoener:

On July 14, 1987, the Federal Election Commission reviewed the allegations of your complaint dated March 17, 1987, and found that on the basis of the information provided in your complaint and information provided by respondents there is no reason to believe Conservatives for a Secure America; Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 2 U.S.C. §§ 432(e)(4), 438(a)(4) and 441d(a)(3); and 11 C.F.R. § 110.11(a)(1). Accordingly, on July 14, 1987, the Commission closed the file in this matter. The Federal Election Campaign Act of 1971, as amended ("the Act") allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Report

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13

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1987

Kenneth A. Gross, Esquire
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

Re: MUR 2372
Conservatives for a Secure America; Sharon L. Boyd, as treasurer; and David Hendry, Jr.

Dear Mr. Gross:

On March 27, 1987, the Federal Election Commission notified your clients, Conservatives for a Secure America; Sharon L. Boyd, as treasurer; and David Hendry, Jr., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 14 , 1987, the Commission found, on the basis of the information in the complaint and information provided by you, that there is no reason to believe Conservatives for a Secure America; Sharon L. Boyd, as treasurer; and David Hendry, Jr., violated 2 U.S.C. §§ 432(e)(4), 438(a)(4), and 441d(a)(3); and 11 C.F.R. § 110.11(a)(1). Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Report

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GCC#4041

LAW OFFICES
McGUINESS & WILLIAMS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
SUITE 1200
1015 FIFTEENTH STREET, N. W.
WASHINGTON, D. C. 20005
202 789-8600

JAMES F. SCHOENER
202 789-8644

Robinson

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July 27, 1987

Honorable Scott Thomas
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2372
"Kemp's First Fund"

Dear Chairman Thomas:

On July 24th, I received the report of your Commission concerning the complaint I filed on behalf of my client Jack Kemp for President Committee. This complaint was against a group calling itself Conservatives for a Secure America and they were soliciting funds using the name and purporting to support Congressman Jack Kemp for President. These people made such solicitations without approval or sponsorship of Congressman Kemp and persisted in spite of numerous written and verbal requests to stop.

In the complaint filed on March 20, 1987, we alleged that beside the misleading mail solicitations the respondents were using an extensive telephone solicitation which neglected to advise that the solicitation was a "project" and that the solicitors were not authorized by Jack Kemp or any candidate. Attached to the complaint were several typical complaints that Congressman Kemp received from members of the public that had been misled by the respondents. One complaint was received from Major Robert Stuber of Fairfax, Virginia, who described the telephonic solicitation. I personally talked to several donors listed in the F.E.C. reports and found that they had given sizeable contributions (in response to telephone requests) believing that they were giving to Congressman Kemp.

In the cover letter with my complaint, I offered to give your office any assistance in its investigation that they needed. In fact, I had several persons who indicated a desire to assist if called.

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Since filing the case, no one from the General Counsel's office bothered to call me, and so far as I can ascertain, no calls were made to any donors to this "Fund." I contacted Major Stuber and he certainly was not called or contacted in anyway. This is quite remarkable since in several matters in which I represented respondents, the General Counsel has routinely and directly contacted donors (some of whom even remotely indicated a complaint).

I am disappointed that in spite of Common Cause v. Federal Election Commission, D.D.C. (1986) 655 F. Supp. 619, the Commission has not reviewed and corrected what I believe to be an erroneous approach to the so-called "project" scheme. But I am truly disappointed in the apparent lack of investigation of allegations by the legal staff. On page 9 of the General Counsel's report, the writer admits that there was "specific allegation" of lack of disclaimer in telephonic solicitations, yet then states that there is "no information" to support the claim. I submit that Major Stuber's letter is ample evidence to require further "investigation" on the part of the General Counsel; and certainly if counsel desired to use my investigations, I was only a telephone call away.

The General Counsel then concludes on the basis of further "substantiation" that "there is insufficient evidence to pursue this allegation." It is submitted that 2 U.S.C. § 437g does not place the obligation for investigation on the complainant, but on the contrary--it is on the General Counsel. In light of the seriousness of these allegations, we are deeply disappointed in the shallowness of this report.

Very truly yours,

James F. Schoener

James F. Schoener

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cc: All Commissioners
Honorable Jack Kemp
Charles R. Black, Esq.



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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2372

DATE FILMED 9/30/87 CAMERA NO. 2

CAMERAMAN AS

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