

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
David Esty and Richard Rovsek) MUR 238 (76)
and Associates, Inc.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on October 27, 1976, the Commission adopted the recommendation of the General Counsel that it finds no reason to believe that a violation of the Federal Election Campaign Act, as amended, had been committed in the above-captioned matter.

Accordingly, the file in this case has been closed.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

77040033485

DATE AND TIME OF TRANSMITTAL: _____

NO. MUR 238 (76)

REC'D: 9/23/76

FEDERAL ELECTION COMMISSION
Washington, D. C.

Complainant's Name: Based on unnotarized letter from President Ford Committee

Respondent's Name: David Esty and Richard Rovsek & Associates, Inc.

Relevant Statute: 2 U.S.C. §441d; 2 U.S.C. §441b

Internal Reports Checked: None

Federal Agencies Checked: None

SUMMARY OF ALLEGATION

Respondent, an incorporated New York advertising agency and its President
are the publishers of a brochure entitled "The Complete Ford/Dole Campaign
Materials Catalog '76." It carries the following disclaimer on the outside
back page: A STATEMENT WITH REGARD TO THE FEDERAL ELECTION COMMISSION (F.E.C.)
AND ITS SEPT. 3rd 1976 RULING PERTAINING TO EXPENDITURES FOR CAMPAIGN MATERIALS:
YOU ARE BEING SENT INFORMATION CLEARLY STATING THAT THE \$1,000 LIMIT ON CAMPAIGN

PRELIMINARY LEGAL ANALYSIS

(Cont'd.)

There appears to be no violation. The catalog itself appears to be a purely
commercial venture over which the Commission has no jurisdiction. See FEC
Informal Opinion Responses 757 (October 5, 1976) and 784 (October 4, 1976).
The disclaimer, while probably an erroneous, and certainly confusing statement
of the law, does not constitute a violation of 2 U.S.C. §441d since the cata-
log is not a communication expressly advocating the election or defeat of a
clearly identified candidate.

RECOMMENDATION

Close file. Mr. Esty is aware of the problem and has contacted the Commission.
He has also attempted to remedy the situation by mailing a corrected letter to
those receiving the catalog.
Date of Next Commission Review: _____

SUMMARY OF ALLEGATION (Cont'd.)

MATERIALS FOR EACH STATE AND LOCAL HEADQUARTERS DO NOT APPLY TO THE ITEMS IN THIS CATALOG. YOU MAY SPEND AS MUCH ON THESE MATERIALS AS YOU FEEL IS NECESSARY TO ELECT THE FORD/DOLE TEAM. IF YOU HAVE ANY QUESTIONS ON THIS CALL:

THE PRESIDENT FORD COMMITTEE IN WASHINGTON
AT: 202/457-6400

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FEDERAL ELECTION COMMISSION
GENERAL REGISTRATION
OFFICE OF GENERAL COUNSEL

RR&A
RICHARD ROVSEK
& ASSOCIATES, INC.

RECEIVED
FEDERAL ELECTION
COMMISSION

76 OCT 1 AIO: 56

September 29, 1976

Mr. Benjamin M. Vandegrift
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Vandegrift:

Attached is a xerox of the letter we are sending out to Republican State Chairmen and the various leaders to whom we sent the Ford/Dole catalog.

As you can see, we have clearly disengaged ourselves from the President Ford Committee which, in fact, was the case with this project.

We deeply regret any trouble we have caused the FEC and the PFC with regard to the legal confusion we obviously caused. I might also add we regret that this commercial venture, to date, has not been a success.

Please let me know if you have any further questions or comments. As you know, I have and will continue to cooperate with the Commission.

Cordially,


David E. Esty

cc: Robert Visser
President Ford Committee

RR&A

RICHARD ROVSEK
& ASSOCIATES, INC.

September 28, 1976

Dear

We recently sent you "The Complete Ford/Dole Campaign Materials Catalog '76".

The purpose of this letter is to urge you to disregard the statement on the back cover of the catalog pertaining to the applicability of the campaign materials to the Federal Election Committee's ruling on independent expenditures of this nature. The statement is inaccurate as was our information and we regret it. You should know, furthermore, that this catalog was not authorized by the President Ford Committee. Richard Rovsek & Associates is a private organization having nothing to do with the President Ford Committee's own campaign materials operation nor, frankly, do we know what is available to you from the PFC. The catalog project was financed by us as a commercial venture.

Nonetheless, we urge you to study the catalog and let us know as quickly as possible as to what items you need to help the Ford/Dole team on to victory. Should you have any questions do not hesitate to call the Federal Election Committee toll-free at 800-424-9530.

Thank you.

Cordially,


David C. Esty

DCE:mmc

CC #580
MUE 238

President Ford Committee

1828 L STREET, N.W., SUITE 250, WASHINGTON, D.C. 20036 (202) 457-6400

September 21, 1976

William Oldaker, Esquire
The Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

762401

HAND DELIVERED

76 SEP 22 P 2: 25

RE: Richard Rovsek & Associates, Inc.

Dear Mr. Oldaker:

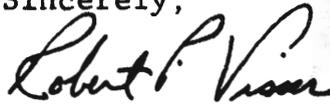
Pursuant to our recent telephone conversation, I enclose herewith a catalog entitled "The Complete Ford Dole Campaign Materials Catalog '76", which has apparently been produced by the above-referenced company. As I advised you, the President Ford Committee has previously purchased certain campaign materials from this company and has previously been approached by Mr. David Esty of that company with regard to the preparation of this catalog. At that time, we advised Mr. Esty that he was free to do whatever he wanted in regard to selling campaign materials or undertaking any other appropriate activity pursuant to the Federal election campaign laws as an independent businessman and referred him to the Federal Election Commission for further advice. We also advised Mr. Esty that the President Ford Committee would not cooperate with him in any manner in the preparation of this catalog nor in the submission of authorized campaign materials to him for distribution or sale. It should be noted, however, that the "Presidential" kit was designed by our advertising agency, Campaign '76 Media Communications, Inc., on a special order basis.

Moreover, this is to confirm that upon telephone inquiries regarding this catalog and receipt of the enclosed brochure, we reviewed the statement on the back thereof. In addition to being a confused and erroneous statement of the law, it concluded with the advice that the President Ford Committee would answer any questions with regard to these matters. I telephoned Mr. Esty upon receipt of this information and material and advised him that, as before, the President Ford Committee has not and would not authorize any of his activities, that I believed that his brochure contained erroneous interpretations and information regarding the Federal Election Commission's interpretation of the campaign laws and suggested that he advise all persons who have been mailed this catalog a letter clarifying the fact that the President Ford Committee is in no way connected or associated with this commercial enterprise.

In view of the present status of the law with regard to the area of independent expenditures and, in view of the very strict policies instituted by this committee with regard to contact, communication or other response with regard to independent committees of any nature whatsoever, I believe that it is appropriate to bring this matter to your attention with the request that you take such action as you may deem appropriate to rectify this situation at an early date.

If you have any further questions with regard to this matter, please do not hesitate to telephone me.

Sincerely,



Robert P. Visser
General Counsel

CC: David Esty
Richard Rovsek & Associates, Inc.

RPV/nh

77040023493

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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76 SEP 22 P2:24

President Ford Committee

1400 L STREET, N.W., SUITE 2000 WASHINGTON, D.C. 20006

William Oldaker, Esquire
The Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION

1. Memo from Emmons to Oldaker - 10/27/76

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

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

Signed Kurt Burkhardt
date 9/27/77

770400:49: