



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2670

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RECEIVED  
FEDERAL ELECTION COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION,

Democratic Senatorial Campaign Committee )

vs. )

Friends of Senator Dave Karnes )

and )

Senator David Karnes )

MUR No. 2670

INTRODUCTION

It has now come to light that David Karnes and his principal campaign committee, Friends of Senator Dave Karnes, have received substantial illegal contributions from an incorporated law firm in Omaha, Nebraska. This professional corporation has supported the Karnes fundraising operation with free office space, equipment and supplies, and possibly other goods and services.

These illegal corporate subsidies, provided in violation of § 441b of the Federal Election Campaign Act of 1971, as amended ("FECA"), were apparently directed by a partner of that firm, a Mr. Sam Jensen. Mr. Jensen served until days ago as Finance Chairman for the Karnes campaign. It also appears that Senator Karnes knew of and consented to this unlawful arrangement.

The facts and the legal violations that they establish are set out more fully below. These violations are serious.

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An immediate Commission investigation is required, and the circumstances justify an expedited schedule for the conduct of that investigation and the prompt release of its results to the public in Nebraska.

Disclosure of Illegal Corporate Subsidies

These violations surfaced upon the departure from the Karnes campaign of Mr. Sam Jensen of the law firm of Erickson & Sederstrom, P.C. (a professional corporation). At that time, reviewing Jensen's record of service to Karnes, press reports unmasked the financial role of this law firm:

"Karnes' financial effort, which included paid staff members and one volunteer, was based at Jensen's Omaha law office".

Lincoln Star, August 1, 1988 at page 7 (Exhibit "A").

The account in the Lincoln Star was echoed in the report, a day earlier, of the Omaha World Herald:

"Karnes finance effort has been run out of Jensen's office at the Erickson & Sederstrom law firm in Regency since December . . . three paid staff members and one volunteer worked on finances out of Jensen's office."

Omaha World Herald, July 30, 1988 at p. 5 (Exhibit "B").

The language of these accounts is slightly different: in the words of the Lincoln Star, the Karnes' fundraising effort was "based at" Jensen's law firm while the Omaha World Herald reported that the effort was "run out of" that office.

The meaning is the same. Paid staff members of the Karnes

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campaign, devoted exclusively to fundraising, have been housed and serviced by Jensen's law firm.

The Karnes campaign made this arrangement knowingly. It was an arrangement made at the direction and with consent of a top Karnes campaign official: Sam Jensen. Senator Karnes apparently knew, too. For according to these press reports, Mr. Karnes decided, for tactical and not legal reasons, that he wished to have the finance and campaign operations more closely coordinated and, therefore, housed in a single location at the main campaign headquarters in Omaha. He could not have made or approved this decision unless he had known that the finance operation was not based at campaign headquarters, but rather elsewhere and "off-budget", at the law firm of Mr. Jensen.

Thus it was that Mr. Karnes asked Jensen to move the finance operation to campaign headquarters and thus it was, most extraordinarily, that Jensen declined to move out of concern for the inconvenience to his law practice which would result. The Omaha World Herald reports:

"If he [Jensen] were to remain in the post, Jensen said, he needed the finance staff at his office".

Omaha World Herald, supra.

Because Karnes -- again for tactical and not legal reasons -- wanted the finance staff at the campaign headquarters, the Jensen era came to an end.

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But not too quickly. By the accounts of both the Lincoln Star and the Omaha World Herald, the arrangement at Jensen's firm lasted from December of 1987 through July of this year. This is a period of almost eight months.

Over this period, the Karnes campaign filed three financial disclosure reports. None reflect any payments for rent or any other reimbursements for goods or services provided by Jensen's law firm.

#### Legal Violation

Section 441(b) of the FECA provides that it is a violation of federal law for "any corporation whatever" to make contributions or expenditures in connection with any federal election. See also 11 C.F.R. § 114.2(b). The term "contribution" is defined by regulation to include corporate donations of "anything of value". 11 C.F.R. § 114.1(a)(1). "Anything of value" is further defined to include "facilities, equipment, supplies [and] personnel" -- in short, everything available in the modern law office. 11 C.F.R. 100.7(a)(1)(iii)(A).

As a matter of public record, the Erickson firm is a professional corporation. (Exhibit "C"). The FEC has repeatedly held that the prohibitions of Section 441(b) apply to any corporation, including professional corporations. Advisory Opinion 1982-63, Fed. Election Camp. Fin. Guide (CCH) ¶ 5704

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(February 10, 1980. See also Advisory Opinion 1978-20 Fed.

Election Camp. Fin. Guide (CCH) ¶ 5318 ("... all corporations are subject to the prohibitions [of the Act] regarding contributions or expenditures".) The Commission has also made clear that to avoid a prohibited corporate contribution, a candidate or political committee must reimburse at full fair market value, and within a commercially reasonable time, any use of corporate facilities, equipment, supplies or personnel.

11 C.F.R. § 114.9(a)(2).\*/ The failure to make this reimbursement places the candidate and political committee -- and also the corporation -- in violation of a core provision of the statute.

The Erickson does not appear to have made and for that matter the Karnes campaign to have requested any reimbursements. For almost eight months, the finance operation of the Karnes campaign was "run out of" an incorporated law firm. This use of the firm triggered a legal obligation to make reimbursement for the rental space used. This was not all. Presumably the law firm's facilities were also used, including but not limited to supplies, telephones, xerox machines, telefax or telecopier facilities, and

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\*/ Commission regulations make an exception for de minimus use by volunteers. 11 C.F.R. § 114.9(a). This is of no help to Karnes here. Jensen may have served as a "volunteer", but his firm housed three paid staff members who could not claim the protection of this de minimus exception. In any event, the exception is only available for "occasional, isolated, or individual use", on the order of no more than an hour per week. The use made of the law firm by the entire Karnes finance operation, on a daily basis, was clearly more substantial.

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possibly also clerical assistance. Yet the Karnes campaign reports do not reflect a penny of reimbursement for any goods or services provided by or in the name of the Erickson law firm.

It is a fitting irony therefore that in discussing his performance in "office", Jensen notes with pride that under his tenure the cost of fundraising declined from 45% of contributions raised to 13%. It is no wonder. Certain of the overhead of fundraising was provided by the Erickson law firm, relieving the campaign of the obligation to pay with the monies that it raised. Thus Jensen's "success" was paid at the price of a significant violation of the law.

Conclusion

This apparent clear violation of federal law should not go unaddressed until long after the election when the citizens of Nebraska no longer have the matter before them in the most urgent terms. There is no excuse for delay. The press reports in question are either accurate or inaccurate. If inaccurate, Karnes should be able to demonstrate the inaccuracy in short order and particularly the reasons why any reimbursements made are not reflected on his FEC reports.

But if accurate, they make out as a clear case as possible of a violation of federal law prohibitions in corporate spending. The Commission should not permit a federal candidate to fund his

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entire fundraising operation of a corporation with impunity. An immediate expedited investigation by the Commission and an equally prompt report to the citizens of Nebraska on the fruits of that investigation are clearly warranted in these circumstances.

Respectfully submitted,

DEMOCRATIC SENATORIAL CAMPAIGN  
COMMITTEE

and

DEMOCRATIC NATIONAL COMMITTEE

8-11-88

Date

BY:   
Robert F. Bauer

Counsel  
1110 Vermont Avenue, N.W.  
Suite 1200  
Washington, DC 20005  
(202) 887-9030

DISTRICT OF COLUMBIA, SS :

  
Sworn before me this  
11th day of August, 1988

~~My Commission Expires June 30, 1993.~~

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 22, 1988

Robert F. Bauer  
Counsel  
1110 Vermont Avenue, NW  
Suite 1200  
Washington, DC 20005

RE: MUR 2670

Dear Mr. Bauer:

This letter acknowledges receipt of your complaint, received on August 12, 1988, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by the Honorable David Karnes, Friends Of Senator David Karnes and Jon D. Hoffmaster, as treasurer, Erickson & Secerstrom, P.C., and Mr. Sam Jensen. 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 2670. 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 Betha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble  
General Counsel

By: Lois G. Lerner  
Associate General Counsel

Enclosure  
Procedures

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 22, 1988

The Honorable David Karnes  
417 S. 93rd Street  
Omaha, NE 68114

RE: MUR 2670  
Honorable David Karnes

Dear Senator Karnes:

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 2670. Please refer to this number in all future correspondence.

The complaint was not sent to you earlier due to administrative oversight. 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 Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 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 Robert Raich, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel



By: Lois G. Lerner  
Associate General Counsel

Enclosures

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 22, 1988

Jon D. Hoffmaster, Treasurer  
Friends Of Senator David  
Karnes  
626 N. 109th Plaza  
Omaha, NE 68154

RE: MUR 2670  
Friends Of Senator  
David Karnes and Jon  
D. Hoffmaster, as  
treasurer

Dear Mr. Hoffmaster:

The Federal Election Commission received a complaint which alleges that Friends Of Senator David Karnes 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 2670. Please refer to this number in all future correspondence.

The complaint was not sent to you earlier due to administrative oversight. Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and Friends Of Senator David Karnes 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 Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 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 Robert Raich, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel



By: Lois G. Lerner  
Associate General Counsel

Enclosures

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 22, 1988

Erickson & Sederstrom, P.C.  
Merrill Lynch Plaza  
First Floor  
10330 Regency Parkway Drive  
Omaha, NE 68114

RE: MUR 2670  
Erickson & Sederstrom,  
P.C.

Gentlemen:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2670. Please refer to this number in all future correspondence.

The complaint was not sent to you earlier due to administrative oversight. 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.

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

Sincerely,

Lawrence M. Noble  
General Counsel



By: Lois G. Lerner  
Associate General Counsel

Enclosures

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 22, 1988

Mr. Sam Jensen  
c/o Erickson & Sederstrom, P.C.  
Merrill Lynch Plaza  
First Floor  
10330 Regency Parkway Drive  
Omaha, NE 68114

RE: MUR 2670  
Sam Jensen

Dear Mr. Jensen:

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 2670. Please refer to this number in all future correspondence.

The complaint was not sent to you earlier due to administrative oversight. 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.

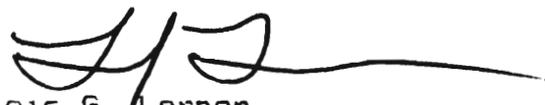
This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing 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 Robert Raich, the attorney assigned to this matter, at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel

  
By: Lois G. Lerner  
Associate General Counsel

Enclosures

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

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

@CC# 177

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August 22, 1988

By Hand Delivery

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

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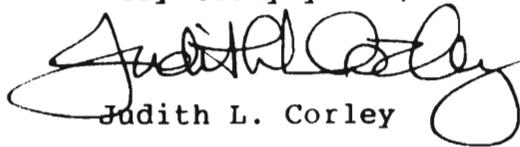
FEDERAL ELECTION COMMISSION

Dear Mr. Raich:

Pursuant to our telephone conversation of earlier today, please find enclosed Exhibits A through C of the Complaint filed against Senator David Karnes by the Democratic Senatorial Campaign Committee and the Democratic National Committee.

I apologize for any inconvenience the inadvertent omission of these exhibits may have caused. If you need any additional information, please do not hesitate to contact me.

Very truly yours,

  
Judith L. Corley

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EXHIBIT "A"

# Karnes' fund-raiser resigns

OMAHA (AP) — Attorney Sam Jensen says he has left the post of finance chairman for Sen. David Karnes' campaign.

Jensen, who took over as state finance chairman in December, says he will scale back the time he spends helping raise money for the Republican Senate candidate.

Both national and state fund raising will fall under the authority of Kirk L. Clinkenbeard, a political fund raiser based in Washington, D.C., Jensen said.

The Karnes campaign hired Clinken-

beard in June.

Karnes' financial effort, which included three paid staff members and one volunteer, was based at Jensen's Omaha law office. The Karnes campaign wanted to move the staff to a campaign office where Clinkenbeard has desks, Jensen said.

No major dispute existed between him and Clinkenbeard, Jensen said. "If there was a disagreement, it was minor," he said.

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# Omahan Jensen Leaves Karnes Post

By C. David Kotok

World-Herald Staff Writer

Omaha attorney Sam Jensen has left the post of finance chairman for Sen. Dave Karnes' campaign and will scale back the time he spends helping raise money for the Republican Senate candidate.

Both national and state fund raising will fall under the authority of Kirk L. Clinkenbeard, the political fund-raiser based in Washington, D.C., the Karnes campaign retained in mid-June, Jensen said.

The Karnes finance effort had been run out of Jensen's office at the Erickson & Sederstrom law firm in Regency since December, when Jensen took over as state finance chairman. Three paid staff members and one volunteer worked on finances out of Jensen's office.

### No Major Dispute

The Karnes campaign wanted to move the staff to the campaign office in the Old Mill shopping area, where Clinkenbeard has desks, Jensen said.

No major dispute existed between him and Clinkenbeard, Jensen said. "If there was a disagreement, it was minor," he said.

The problem was that with his active law practice, Jensen said, he could not be running back and forth to the campaign office. If he were to remain in the post, Jensen said, he needed the finance staff at his office.

Unlike Clinkenbeard, who is paid on commission for the amount of funds he raises, Jensen said, his time is volunteered.

"This guy's paid a commission and should be a real tiger," Jensen said.

The Karnes campaign decided it would be best to have greater coordination between the political campaign and the finance operation, said Jensen, who helped raise funds for Gov. Orr and former Gov. Charles Thone.

Jensen said that when he joined the Karnes campaign in December, the campaign's funds stood at about \$400,000, which had been raised since Karnes was appointed to the seat in March 1967. The cost of fund raising

was 45 percent of the dollars contributed, Jensen said.

### Raised \$900,000

The campaign then raised an additional \$900,000 for the May primary against Rep. Hal Daub, with the cost of the fund raising falling to 13 percent of money contributed, Jensen said.

The July 1 reports for Karnes and Democratic candidate Bob Kerrey showed the Republican with a net debt of more than \$150,000 and Kerrey with net cash on hand of \$360,000. That comparison, in Kerrey's favor, did not play a role in the Karnes finance campaign changes, Jensen said.

After the primary, Karnes' base of primary contributors was "all beat up," Jensen said. In recent weeks, fund raising has picked up, with more than \$65,000 raised in Omaha during the week of the National Democratic Convention, Jensen said.

Clinkenbeard is getting a "system in place," with finance committees organized for Karnes in 27 counties, Jensen said.

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X

braska, 1985-1987. Member: Colorado, Nebraska State and American (Member, Litigation Section) Bar Associations. [Capt., JAG Corps. 1983-1987; With USAFR, 1987—]

REPRESENTATIVE CLIENTS: K-Products, Inc.; E.A. Pederson Co.; Northern Bank; Ails-Chalmers, Inc.; Deutsche Credit Corp.; DeLaval Agricultural Div.; French Laboratories, Inc.; Heaston Corp.; Ralston Purina Co.; Father Flanagan's Boys Home; Bishop Clarkson Memorial Hospital, Omaha, Nebraska; The Community Hospital Association, McCook, Nebraska; Ford Motor Credit Company, Dearborn, Michigan; Lutheran Community Hospital, Norfolk, Nebraska; Nebraska Hospital Association Research and Educational Foundation, Lincoln, Nebraska; Bryan Memorial Hospital, Lincoln, Nebraska. REFERENCES: FirstTier Bank N.A. Omaha; First National Bank; Norwest Bank, N.A.

**ELICK & JONES**

SUITE 280, II GUARANTEE CENTER  
8805 INDIAN HILLS DRIVE  
OMAHA, NEBRASKA 68114-4070  
Telephone: 402-390-0390

General Civil Practice. Corporation, Tax, Probate, Insurance, Real Estate and Medical Legal Law.

**MEMBERS OF FIRM**

ALFRED G. ELICK, born Omaha, Nebraska, June 24, 1917; admitted to bar, 1941, Nebraska. Education: University of Michigan (A.B., 1939; J.D., 1941). Member, Order of the Coif. Adjunct Professor, Medical Jurisprudence and Humanities, University of Nebraska College of Medicine, 1981—. President, Legal Aid Society of Omaha, 1967-1969. Member: Omaha (President, 1962), Nebraska State (Member, Executive Council, 1956-1963; Chairman, House of Delegates, 1971-1973; President, 1975-1976) and American (Member, 1965-1973 and Chairman, 1972-1973, Standing Committee on Lawyer Referral Service) Bar Associations; American Academy of Hospital Attorneys. Fellow: American Bar Foundation; American College of Probate Counsel.

MICHAEL D. JONES, born Bremerton, Washington, May 31, 1944; admitted to bar, 1969, Nebraska. Education: University of Nebraska at Omaha (B.A., 1966); Creighton University (J.D., 1969). Delta Theta Phi. Staff Editor, The Creighton Law Review, 1968-1969. Adjunct Assistant Professor, Medical Jurisprudence and Humanities, University of Nebraska College of Medicine, 1982—. Member: Omaha, Nebraska State (Member, Inquiry Committee, Second Disciplinary Judicial District, 1985—) and American Bar Associations.

DAVID L. BUELT, born Riceville, Iowa, August 13, 1950; admitted to bar, 1974, Nebraska. Education: St. Mary's College (B.A., 1971); Creighton University (J.D., magna cum laude, 1974). Phi Alpha Theta. Associate Editor, The Creighton Law Review, 1973-1974. Law Clerk for Associate Justice Lawrence M. Clinton of the Nebraska Supreme Court, 1974-1975. Member: Omaha, Nebraska State and American Bar Associations.

GEORGE T. BLAZEK, born Omaha, Nebraska, March 31, 1951; admitted to bar, 1978, Nebraska. Education: Creighton University (B.S.B.A., 1973; J.D., 1978); St. Louis University (M.H.A., 1975). Beta Alpha Psi. Member: Omaha, Nebraska State and American Bar Associations.

AMY L. LONGO, born Omaha, Nebraska, November 13, 1948; admitted to bar, 1979, Nebraska. Education: Creighton University (B.S.N., 1970); Creighton University (J.D., 1979). Member, Moot Court Board. Registered Nurse, Nebraska, 1970. Adjunct Assistant Professor Medical Jurisprudence and Humanities, University of Nebraska College of Medicine, 1987—. Member: Omaha, Nebraska State (Member, House of Delegates, 1984—) and American Bar Associations.

**ASSOCIATE**

MELISSA LANG SCHUTT, born Blair, Nebraska, December 20, 1958; admitted to bar, 1984, Nebraska. Education: Doane College (B.A., 1981); University of Nebraska (J.D., 1984). Sigma Nu Phi. Member: Omaha, Nebraska State and American Bar Associations.

REPRESENTATIVE CLIENTS: University of Nebraska Medical Center; Cookley Industrial Service, Inc.; Sanyo Hydraulics, Inc.; American Road Equipment Co.; Norwest Bank Nebraska, N.A.; M.B.C. Construction, Inc.; Ashken Wholesale Service, Inc. of Nebraska; Federal Deposit Insurance Corp.

**EPSTEIN & LEAHY**

A Partnership including a Professional Corporation  
SUITE 300 FIRST WEST SIDE BANK BUILDING  
222 SOUTH 72ND STREET  
OMAHA, NEBRASKA 68114  
Telephone: 402-397-4141

General Practice, Real Estate, Condemnation, Corporation, Probate, Creditors Rights and Taxation Law.

EINAR VIREN (1907-1976).

JOSEPH M. EMMERT (1898-1967).

IRVING B. EPSTEIN, (P.C.), born Omaha, Nebraska, May 9, 1927; admitted to bar, 1948, Nebraska. Education: University of Nebraska; Creighton University (J.D., 1948). Deputy City Attorney, Omaha, 1955-1962. Member: Omaha (Member, Executive Council, 1970-1972), Nebraska State (Member, House of Delegates, 1974-1978; Lecturer, Nebraska Continuing Legal Education, Inc., Counseling the Closely Held Corporation, 1979-1985) and American Bar Associations. Corporate and Real Estate.

JOSEPH L. LEAHY, JR., born Omaha, Nebraska, December 22, 1938; admitted to bar, 1962, Nebraska. Education: Creighton University (A.B., 1960; J.D., 1962). Phi Alpha Delta. Member, City of Omaha Municipal Court Nominating Commission, 1970-1973. Member: Omaha, Nebraska State and American Bar Associations. Probate and Real Estate.

PATRICK W. MEYER, born Laramie, Wyoming, October 5, 1955; admitted to bar, 1981, Nebraska and U.S. District Court, District of Nebraska. Education: Creighton University (B.A., 1978; J.D., 1981). Deputy Dodge County Attorney, 1981-1983. Law Clerk to the Hon. John T. Grant, Nebraska Supreme Court, 1983-1984. Member: Omaha and Nebraska State Bar Associations.

CYNTHIA E. EPSTEIN, born Omaha, Nebraska, July 13, 1957; admitted to bar, 1982, Nebraska. Education: University of Texas (B.B.A., 1979); University of Nebraska (J.D., 1982); Boston University (LL.M., 1985). Member: University of Nebraska Law Review, 1981-1982; Boston University Journal of Tax Law, 1984-1985. Certified Financial Planner. Member: Omaha, Nebraska State and American Bar Associations. Taxation.

REPRESENTATIVE CLIENTS: BC Leasing Co.; Baltzell Agn-Products, Inc.; Baxter Electric, Inc.; Beigrade Realty Co.; Convenient Food Marts of Nebraska, Inc.; Cavanaugh Land Company (Farms); Cherry County Livestock Auction Co.; Commercial Realty Co.; Days Inn (Omaha); Dundee Realty Co.; Engels Aircraft, Inc.; First Westside Bank; Gendler Land Investment Co.; Keystone Wholesale Co. (Drugstores); Marathon Realty Corp.; Mayfair Textiles, Inc.; Medicine Chest Licensing Co.; Millard's, Inc. (Auto Parts); Nelson Refrigeration, Inc.; Omaha Fixture Manufacturing, Inc.; Omaha Livestock Market, Inc.; Packers Bank & Trust Co.; Pollock Red-Mix, Inc.; Restorers, Inc.; Sanitary and Improvement Districts; Scott Manufacturing Co.; Seedtec, Inc.; Thompson, Dreessen & Dorer, Inc.; Waste Management of Nebraska; Werner Enterprises, Inc. (Trucking); Western Development Corp.; Wise-Mack, Inc.

**ERICKSON & SEDERSTROM, P.C.**

FIRST FLOOR, MERRILL LYNCH PLAZA  
10330 REGENCY PARKWAY DRIVE  
OMAHA, NEBRASKA 68114  
Telephone: 402-397-2200

Lincoln, Nebraska Office: Suite 400, Cornhusker Plaza, 301 South 13th Street. Telephone: 402-476-1010.

General Civil Practice. Banking, Corporate, Bankruptcy, Tax and Health Care Law. Trial Practice in all State and Federal Courts. Employment and Labor Relations Representation for Employers.

LOUIS E. LIPP, born Omaha, Nebraska, May 23, 1907; admitted to bar, 1930, Nebraska. Education: Creighton University (Ph.B., 1928; J.D., 1930). Member: Omaha (Member, 1962-1965 and

(This Card Continued)

Chairman, 1964-1965, Committee on Bar ( ), Nebraska State and American Bar Associations.

LEWIS R. LEIGH, born Omaha, Nebraska, November 3, 1916; admitted to bar, 1939, Nebraska; 1963, U.S. Court of Appeals, 8th Circuit. *Education:* University of Omaha (A.B., 1938); University of Nebraska (J.D., 1939). Phi Delta Phi. Member: Board of Education, Omaha, Nebraska, 1948-1956; Board of Regents, University of Omaha, 1956-1958. President, Educational Service Unit No. 3, 1970. Member: Omaha and Nebraska State Bar Associations.

LEO EISENSTATT, born Omaha, Nebraska, 1918; admitted to bar, 1941, Nebraska and U.S. District Court, District of Nebraska; 1954, U.S. Court of Appeals, 8th Circuit; 1958, U.S. Supreme Court. *Education:* University of Nebraska; Creighton University (J.D., 1941). Member: Omaha (Member, Executive Council, 1954-1956; President-elect, 1962; President, 1963), Nebraska State (Member, House of Delegates, 1964-1969; Chairman, 1967-1969) and American (Member, Council of Economics of Law Practice, 1974-1979; Chairman, Products Media Board, 1977-1980) Bar Associations.

RAY R. SIMON, born Omaha, Nebraska, January 17, 1923; admitted to bar, 1945, Nebraska. *Education:* University of Omaha; Creighton University (J.D., 1945). Member: Omaha, Nebraska State and American Bar Associations.

DONALD H. ERICKSON, born Omaha, Nebraska, March 2, 1922; admitted to bar, 1948, Nebraska. *Education:* Municipal University of Omaha; Doane College; Creighton University (LL.B., 1948). Assistant City Attorney, Omaha, 1957-1959. Vice President and General Counsel, Omaha Safety Council, 1960-1964. Vice Consul for Sweden, 1976—. Member: Omaha and Nebraska State Bar Associations.

CHARLES THONE, born Hartington, Nebraska, January 4, 1924; admitted to bar, 1950, Nebraska and U.S. District Court, District of Nebraska; 1956, U.S. Supreme Court. *Education:* University of Nebraska (J.D., 1950). Phi Alpha Delta. Assistant State Attorney General, 1950-1952. Assistant U.S. Attorney, 1952-1954. Member of Congress, 1971-1979. Governor of Nebraska, 1979-1983. Member of President's Export Council, 1981—. Member: Nebraska State Bar Association. Language: German.

DANIEL D. KOUKOL, born Omaha, Nebraska, December 7, 1926; admitted to bar, 1952, Nebraska. *Education:* University of Omaha (B.A., 1949); University of Nebraska (J.D., 1952). Phi Delta Phi. Member: Nebraska State Bar Association. [With U.S. Navy, 1944-1946]

WM. E. MORROW, JR., born Alliance, Nebraska, August 2, 1930; admitted to bar, 1953, Nebraska. *Education:* University of Nebraska (B.Sc., 1951; J.D., 1953). Phi Delta Phi. Member, Board of Editors, Nebraska Law Review, 1950-1952. Assistant United States Attorney, 1958-1961. Member: Omaha, Nebraska State, Federal and American Bar Associations.

SOREN S. JENSEN, born Blair, Nebraska, October 30, 1935; admitted to bar, 1961, Nebraska. *Education:* University of Nebraska (B.A., 1957; J.D., 1961). Phi Delta Phi. Member, Board of Editors, 1959-1960, Associate Editor, 1960-1961, Nebraska Law Review. Chairman, Nebraska Coordinating Commission for Post Secondary Education, 1976-1979. Vice President, Omaha Public Power District, 1979-1981. Member: Omaha, Nebraska State and American (Member, Section on Employment and Labor Law) Bar Associations.

DANIEL B. KINNAMON, born Moulton, Iowa, July 1, 1937; admitted to bar, 1962, Iowa, Nebraska, U.S. District Court and U.S. Court of Appeals, 8th Circuit; 1973, U.S. Supreme Court. *Education:* Parsons College (B.A., magna cum laude, in History, 1959); State University of Iowa (J.D., cum laude, 1962). Phi Delta Phi. Member: Omaha, Iowa State, Nebraska State and American Bar Associations.

JOEL DAVIS, born New York, N.Y., June 8, 1942; admitted to bar, 1967, Texas; 1969, Nebraska. *Education:* University of Ne-

braska at Omaha (B.S., 1964); University of Houston (J.D., 1967). Phi Alpha Delta (Member: Omaha, Nebraska State and American Bar Association); Bar of Texas.

VIRGIL K. JOHNSON, born Britton, South Dakota, August 14, 1942; admitted to bar, 1967, South Dakota; 1969, Nebraska. *Education:* University of South Dakota (B.S., with honors, 1964. J.D., cum laude, 1967). Beta Gamma Sigma; Delta Theta Phi. Associate Editor and Business Manager, South Dakota Law Review, 1966-1967. Member: Omaha and Nebraska State Bar Associations, State Bar of South Dakota.

CHARLES V. SEDEKSTROM, JR., born Deadwood, South Dakota, December 18, 1941; admitted to bar, 1967, South Dakota and Nebraska. *Education:* Black Hills State College; University of South Dakota (J.D., 1967). Associate Editor, South Dakota Law Review, 1967. Member: Omaha and Nebraska State Bar Associations; State Bar of South Dakota; American Society of Hospital Attorneys; Nebraska Trial Lawyers Association; The Association of Trial Lawyers of America.

MICHAEL C. WASHBURN, born Omaha, Nebraska, August 16, 1945; admitted to bar, 1970, Nebraska. *Education:* Creighton University (B.A., 1967; J.D., 1970). Phi Alpha Delta. Member: Omaha and Nebraska State Bar Associations.

MICHAEL A. FORTUNE, born White Sulphur Springs, West Virginia, April 18, 1943; admitted to bar, 1971, Nebraska. *Education:* Conception College (B.A., 1965); Creighton University (J.D., 1971). Phi Alpha Delta. Member: Omaha and Nebraska State Bar Associations.

CHARLES L. TITUS, born Sioux City, Iowa, October 29, 1948, admitted to bar, 1972, Nebraska. *Education:* Creighton University (B.S.B.A., 1970; J.D., 1972). Member: Omaha and Nebraska State Bar Associations.

JOHN C. BROWNRIFF, born St. Clair Shores, Michigan, August 7, 1948; admitted to bar, 1974, Nebraska; 1977, U.S. Tax Court. *Education:* Rockhurst College (B.A., 1970); Creighton University (J.D., cum laude, 1974). Lecturer, Trial Practice, Creighton University, School of Law, 1978—. Member: Omaha, Nebraska State and American Bar Associations; Nebraska Association of Trial Attorneys.

JAMES B. CAVANAGH, born Iowa City, Iowa, July 7, 1948; admitted to bar, 1974, Nebraska. *Education:* Creighton University (B.S.B.A., 1970; J.D., cum laude, 1974). Member: Nebraska State Bar Association.

THOMAS J. CULHANE, born Omaha, Nebraska, June 25, 1947; admitted to bar, 1974, Nebraska. *Education:* Creighton University (B.A., 1969; J.D., summa cum laude, 1974). Member: Omaha and Nebraska State Bar Associations.

SAMUEL EARLE CLARK, born Council Bluffs, Iowa, June 6, 1953; admitted to bar, 1978, Iowa and Nebraska; 1984, U.S. Supreme Court. *Education:* Drake University (B.A., 1975; J.D., 1977) Georgetown University (LL.M., 1984). Legislative Counsel, U.S. Representative Hal Daub, 1981-1984. Member: Omaha, Iowa State, Nebraska State and American Bar Associations.

HOWARD N. KAPLAN, born Omaha, Nebraska, June 16, 1952; admitted to bar, 1978, Missouri; 1981, U.S. Tax Court; 1983, Nebraska and U.S. Court of Appeals for the Federal Circuit, 1984. U.S. Court of Appeals, Eighth Circuit. *Education:* Tulane University (B.A., 1974); Washington University (J.D., 1977); George Washington University (LL.M., with highest honors, in Taxation, 1983). Attorney, Internal Revenue Service, 1978-1983. Phi Beta Kappa. Recipient, American Jurisprudence Award in Trusts and Estates. Co-author with B.R. Hopkins: "Could *Ditunno* and *Hampengartner* Result in Expanding the Scope of Unrelated Business?" 60 JTAX 40, 1985. Author: "Real Estate Opportunities for Tax-Exempt Organizations: Potential and Pitfalls After Plumstead Theatre," Taxes, May, 1983. Member: The Missouri Bar; Nebraska State and American (Member: Section of Taxation, Committee on Exempt Organizations, Subcommittee on Unrelated Business Income and Competition Issues; Member, Task Force on Taxpayers' Bill of Rights, 1987—) Bar Associations.

(This Card Continued)

**GARY L. HOFFMAN**, born Omaha, Nebraska, November 1, 1950; admitted to bar, 1980, Iowa and U.S. Court of Military Appeals; 1981, U.S. Court of Appeals, Eighth Circuit, U.S. Tax Court and U.S. District Court, District of Nebraska and Northern District of Iowa; 1982, Nebraska and U.S. Court of Appeals for the Federal Circuit. *Education*: University of Nebraska (B.A., 1977); University of Iowa (J.D., with distinction, 1980); Georgetown University (LL.M., securities regulation, 1983). *Member*: Nebraska State, Iowa State, Federal and American (Member, Sections on: Corporation, Banking and Business Law; Litigation; Criminal Justice) Bar Associations; The Association of Trial Lawyers of America; American Society of International Law. [Capt., JAGC, U.S. Army, 1980-1983]

**TAMRA WILSON SETSER**, born Clinton, Missouri, October 29, 1953; admitted to bar, 1981, Missouri and U.S. District Court, Western District of Missouri; 1983, Nebraska and U.S. District Court, District of Nebraska. *Education*: Southwest Missouri State University (B.S., 1976); McGeorge School of Law, University of California; University of Missouri (J.D., 1981). Phi Kappa Delta; Phi Delta Phi. *Member*: Kansas City, Omaha, Nebraska State and American (Member, Litigation Section) Bar Associations; The Missouri Bar; Nebraska State Trial Lawyers Association.

**J RUSSELL DERR**, born Lincoln, Nebraska, July 16, 1955; admitted to bar, 1982, Nebraska and U.S. District Court, District of Nebraska. *Education*: University of Nebraska (B.A., 1978); Creighton University (J.D., 1981). *Member*: Omaha, Nebraska State and American Bar Associations.

**PATRICIA M. DUGAN**, born Omaha, Nebraska, December 13, 1955; admitted to bar, 1982, Nebraska, U.S. District Court, District of Nebraska and U.S. Court of Appeals, Eighth Circuit. *Education*: Creighton University (B.S.B.A., cum laude, 1980; J.D., magna cum laude, 1982). Phi Alpha Delta. Judicial Clerkship to Judge Donald Ross, 8th Circuit Court of Appeals, 1982-1984. *Member*: Nebraska State Bar Association.

**DEBORAH D. MCLARNEY**, born Omaha, Nebraska, March 18, 1950; admitted to bar, 1984, Nebraska and U.S. District Court, District of Nebraska. *Education*: University of Nebraska (B.S., 1975); Creighton University (J.D., 1984). *Member*, Editorial Staff, Creighton University Law Review, 1983-1984. Author: "Stern v. Nelson: The Repugnancy Rule in the Construction of Wills," Vol. 16, No. 1, Creighton Law Review, 1982-1983. *Member*: Omaha, Nebraska State and American Bar Associations.

**HENRY R. SETSER**, born Springfield, Missouri, February 23, 1949; admitted to bar, 1984, Nebraska and U.S. District Court, District of Nebraska. *Education*: Southwest Missouri State University (B.S., in Economics, 1973); Creighton University (J.D., 1984). *Member*: Omaha and Nebraska State Bar Associations.

**JERALD L. RAUTERKUS**, born Harlan, Iowa, August 8, 1952; admitted to bar, 1985, Nebraska and U.S. District Court, District of Nebraska. *Education*: University of Northern Iowa (B.S., with honors, 1974); University of Nebraska at Omaha (M.A., 1978); Creighton University (J.D., 1985). *Member*, Creighton University Law Review, 1984-1985. Author: "The Feres Doctrine and Activity Incident To Service," 8th Circuit Survey, Creighton Law Review, Spring Issue, 1984. *Member*: Nebraska State and American Bar Associations.

**REPRESENTATIVE CLIENTS**: Sperry Corp.; Mortgage Guaranty Insurance Corp. (MGC); Nebraska State Bank of Omaha; Wagner Bank System; Immanuel Medical Center; Dana, Larson, Roubal & Associates; IBP, Inc.; International Telephone & Telegraph (tele-communications division); Stauffer Chemical Co.; Comhuker Casualty Co.; Insurance Company of North America; Quaker Oats Co.; Baker's Supermarkets, Inc.; Bozell, Jacobs, Kenyon & Eckhardt, Inc.; United A-G Cooperative, Inc.; Memory Control Technology Corp.; National American Insurance Co.; Nox-Crete, Inc.; Martin Luther Home; Nebraska Fertilizer & Ag-Chemicals Institute, Inc.

**LABOR RELATIONS COUNSEL FOR**: Hershey Foods, Inc.; Omaha World Herald; Younkers, Inc.; IBP Inc.; Wilson Foods; AT&T; United Stockyards Corp.; Mutual of Omaha; Nash Finch Co.; Eaton Corp.; Dorsey Laboratories; Lincoln Electric System; Lincoln General Hospital; General Motors Corp.; Richman Gordan Stores; Hinky Dinky Supermarkets; Boise Cascade Corp.; Durbucue Packing Co.

## ERWIN PROFESSIONAL CORPORATION

1650 FARNAM STREET  
OMAHA, NEBRASKA 68102  
Telephone: 402-346-6000  
Securities and Syndication Law.

**GREGORY DUBOIS ERWIN**, born Red Oak, Iowa, November 6, 1940; admitted to bar, 1965, Nebraska; 1966, New York; 1969, Colorado; 1970, Maryland and District of Columbia. *Education*: Grinnell College (B.A., 1962); University of Nebraska (J.D., summa cum laude, 1965). Phi Delta Phi; Order of the Coif. Lead Articles Editor, Nebraska Law Review, 1964-1965. Author: "Private Placements and Limited Partnership Offerings: Changes in the Rules," 11 Creighton Law Review 280, 1978; "Securities Fraud and the Statute of Limitations: The Strange Case of the 'Modified Uniform' Securities Act," 10 Creighton Law Review 324, 1976; "A Useful Exemption from Securities Registration for Smaller Real Estate Syndications: SEC Rule 240," 4 Real Estate Law Journal 263, 1976; "Partnership Interests as Securities: An Alice in Wonderland Tour," 9 Creighton Law Review 310, 1975; "Marketing Investment Condominiums and Real Estate Syndications Without Securities Registration: SEC Rule 146," 3 Real Estate Law Journal 119, 1974; "Goodbye Private Placement, Hello 146-Recent Appellate Court Decisions Suggest That Investment Bankers Should No Longer Rely On The Private Placement Exemption," 6 Creighton Law Review 127, 1972-1973. Co-Author: "Privilege Against Self-Incrimination in Nebraska," 44 Nebraska Law Review 783, 1965. *Member*, Board of Governors, Real Estate Securities and Syndication Institute, 1976-1978. *Member*: Omaha, Nebraska State and American Bar Associations; The District of Columbia Bar.

**REPRESENTATIVE CLIENTS**: American First Companies.  
**REFERENCES**: Kutak Rock & Campbell; First Tier Bank N.A., Omaha; First National Bank of Omaha.

## FELLMAN LAW OFFICE

100 CONTINENTAL BUILDING  
OMAHA, NEBRASKA 68102  
Telephone: 402-344-7444

*General Civil and Criminal Practice in State and Federal Courts. Trials and Appeals. Personal Injury, Workers Compensation, Divorce, Child Custody and Administrative Law.*

**RICHARD M. FELLMAN**, born Omaha, Nebraska, May 30, 1935; admitted to bar, 1959, Nebraska and U.S. District Court, District of Nebraska. *Education*: University of Nebraska (A.B., 1957; J.D., 1959). Phi Delta Phi; Delta Sigma Rho. *Member*, University of Nebraska National Moot Court Team, 1959. State Senator, Nebraska Unicameral Legislature, 1973-1974. Chairman, Judiciary Subcommittee on No Fault Divorce, 1973-1974. *Member*, 1977-1980 and Chairman, 1980, Douglas County Board of Commissioners. *Member*, Panel of Arbitrators, American Arbitration Association. *Member*: Omaha and Nebraska State (Chairman, Family Law Committee, 1971-1972; 1975-1976) Bar Associations; Nebraska Trial Lawyers Association (Member, Board of Directors, 1971-1972); The Association of Trial Lawyers of America.

A list of Representative Clients will be furnished upon request.  
**APPROVED ATTORNEY FOR**: American Title Insurance Co.  
**REFERENCES**: First Tier Bank, N.A., Omaha; First National Bank of Omaha; Security National Bank of Omaha.

## PAUL F. FESTERSEN, P.C.

510 SERVICE LIFE BUILDING  
19TH & FARNAM STREETS  
OMAHA, NEBRASKA 68102  
Telephone: 402-344-3400

*General Civil Practice. Commercial Transactions. Corporation and Business Law. Bankruptcy and Reorganization.*

**PAUL F. FESTERSEN**, born Omaha, Nebraska, April 22, 1940; admitted to bar, 1964, Nebraska. *Education*: Yale University (B.A., magna cum laude, 1961); Harvard Law School (LL.B.,

(This Card Continued)



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 29, 1988

Mr. Sam Jensen  
c/o Erickson & Sederstrom, P.C.  
First Floor, Merrill Lynch Plaza  
10330 Regency Parkway Drive  
Omaha, Nebraska 68114

RE: MUR 2670  
Sam Jensen

Dear Mr. Jensen:

On August 22, 1988, you were notified that the Federal Election Commission received a complaint from Democratic Senatorial Campaign Committee and Democratic National Committee alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

Also on August 22, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: *LAL*  
Lois G. Lerner  
Associate General Counsel

Enclosure

8 9 0 4 0 7 3 3 7 9 8



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 29, 1988

Erickson & Sederstrom, P.C.  
First Floor, Merrill Lynch Plaza  
10330 Regency Parkway Drive  
Omaha, Nebraska 68114

RE: MUR 2670  
Erickson & Sederstrom,  
P.C.

Gentlemen:

On August 22, 1988, you were notified that the Federal Election Commission received a complaint from Democratic Senatorial Campaign Committee and Democratic National Committee alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

Also on August 22, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: *LSL*  
Lois G. Lerner  
Associate General Counsel

Enclosure

8 9 0 4 0 7 6 3 7 9 9



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 29, 1988

The Honorable David Karnes  
417 South 93rd Street  
Omaha, Nebraska 68114

RE: MUR 2670  
Senator David Karnes

Dear Senator Karnes:

On August 22, 1988, you were notified that the Federal Election Commission received a complaint from Democratic Senatorial Campaign Committee and Democratic National Committee alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

Also on August 22, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

*/s/*  
BY: Lois G. Lerner  
Associate General Counsel

Enclosure

89740733800

*7/21*



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 29, 1988

Judith L. Corley, Esquire  
Perkins Coie  
1110 Vermont Avenue, N.W.  
Washington, D.C. 20005

RE: MUR 2670

Dear Ms. Corley:

This letter acknowledges receipt on August 22, 1988, of the supplement to the complaint Democratic Senatorial Campaign Committee and Democratic National Committee filed on August 12, 1988, against Friends of Senator David Karnes and Jon D. Hoffmaster, as treasurer; Senator David Karnes; Erickson & Sederstrom, P.C.; and Sam Jensen. The respondents will be sent copies of the supplement. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner  
Associate General Counsel

89040733801

rdm



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

August 29, 1988

Jon D. Hoffmaster, Treasurer  
Friends of Senator David Karnes  
626 North 109th Plaza  
Omaha, Nebraska 68154

RE: MUR 2670  
Friends of Senator David  
Karnes and Jon D.  
Hoffmaster, as  
treasurer

Dear Mr. Hoffmaster:

On August 22, 1988, you were notified that the Federal Election Commission received a complaint from Democratic Senatorial Campaign Committee and Democratic National Committee alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

Also on August 22, 1988, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosure

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**STATEMENT OF DESIGNATION OF COUNSEL**

CCA#305

RECEIVED  
FEDERAL ELECTION COMMISSION

88 SEP -6 PM 12:40

MUR 2670

NAME OF COUNSEL: Ben Ginsberg

ADDRESS: 440 First Street NW

Suite 600

Washington, DC 20001

TELEPHONE: 202 347 0202

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.

September 2, 1988  
Date

  
Signature

Jon D. Hoffmaster, Treasurer

RESPONDENT'S NAME: Friends of Senator Dave Karnes  
and

ADDRESS: David K. Karnes

626 North 109th Plaza

Omaha, NE 68154

HOME PHONE: \_\_\_\_\_

BUSINESS PHONE: 402-496-9337

89040755803

**HAND DELIVERED** 6CC#318  
RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

LEWIS R. LERCH  
LEO EISENSTADT  
RAY R. SIMON  
DONALD H. FROCKSON  
CHARLES THONE  
DANIEL D. KUKKOL  
WM. F. MORROW, JR.  
RICHARD M. DUXBURY  
SAM JENSEN  
DANIEL B. KINNAMON  
RODNEY P. CATHCART  
JOEL DAVIS  
VIRGIL K. JOHNSON  
CHARLES V. SEDERSTROM  
CHARLES D. HUMBLE  
MICHAEL C. WASHBURN  
MICHAEL A. FORTUNE  
CHARLES L. TITUS  
DOUGLAS L. CURRY  
JOHN C. BROWN RIGG  
JAMES B. CAVANAGH  
THOMAS J. CULHANE

LAW OFFICES  
**ERICKSON & SEDERSTROM**  
A PROFESSIONAL CORPORATION

ONE MERRILL LYNCH PLAZA  
10330 REGENCY PARKWAY DRIVE  
OMAHA, NEBRASKA 68114-3761  
TELEPHONE (402) 397-2200  
FACSIMILE (402) 390-7137

88 SEP -8 AM 9:20

JAMES E. GORDON  
LARRY V. ALBERS  
SAMUEL EARLE CLARK  
RICHARD J. BUTLER  
JAMES C. ZALEWSKI  
GARY L. HOFFMAN  
J. RUSSELL DERR  
PATRICIA M. DUGAN  
MARK M. SCHORR  
DEBORAH D. MELARNEY  
JERALD L. RAUTERKUS  
LINDA W. ROHMAN

WRITER'S DIRECT DIAL NUMBER

390-7114

September 7, 1988

OF COUNSEL

LOUIS E. LIPP  
ROLAND J. SANTONI  
H. D. ROBERTSON  
DONNA KARNES  
MICHAEL BOYLE  
KATHRYN L. BOE

SEP -8 PM 3:38  
RECEIVED  
FEDERAL ELECTION COMMISSION

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

RE: MUR 2670  
Sam Jensen

Dear Mr. Nobel:

Enclosed are copies of the following documents regarding the above-referenced matter.

- Affidavit of Sam Jensen
- Affidavit of Michael Boyle
- Copies of Statements Issued by Erickson & Sederstrom to the Karnes Campaign
- Copies of Two Checks Paid to Erickson & Sederstrom From the Karnes Campaign
- Copies of Two Statements for Additional Clerical Services (for which payment has been received)

If you have additional questions and/or comments, please contact me.

Very truly yours,

Sam Jensen

SSJ/ce

Enclosures

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which were to be paid for. Other individuals are renting offices in the firm for higher amounts (while still others are renting offices for less), but the individuals paying higher rent are lawyers who have use of the law library, secretarial support, etc.

Special telephone service was to be installed for which the Campaign would be responsible. All facsimile transmissions, printing, and use of word processing, etc. was to be billed to the Campaign and Affiant's secretary agreed to work during lunch hours, after hours, etc. and weekends to do production work using the word processing equipment, and she billed the Campaign for these expenses directly.

Attached to this affidavit are the billings sent to the Campaign. No payment was received from the Campaign until after July 1, 1988.

(5) During the month of June and early July, the Campaign staff recommended to Senator Karnes that the Finance group be moved back to the Campaign office because of problems involved in communication and coordination. The Affiant was in disagreement with this recommendation and indicated that he could not direct the Finance staff persons if they were not in his office, considering the amount of time which would be required and the fact that he needed to keep his law practice since he was a Karnes volunteer. Nevertheless, the decision was made to move the Finance staff members (three full-time staff members and one full-time volunteer) to the Campaign office. As a result, the Affiant submitted his resignation to Senator Karnes as Finance Chairman.

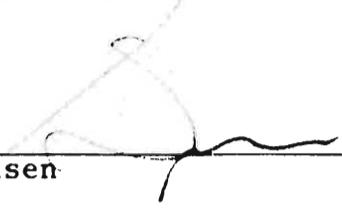
(6) The move of the Finance staff from the Erickson & Sederstrom office to the Campaign office was completed on or about August 1, 1988.

To Affiant's knowledge, the law firm of Erickson & Sederstrom has not furnished any free service(s) to the Karnes Campaign other than those which would normally be associated with a volunteer doing work for a candidate. Since December, Affiant has made some phone calls to friends and associates soliciting money from them. No doubt some of these calls were long distance for which the Campaign was not billed. Also, his secretary has probably written letters to individuals and arranged for luncheon

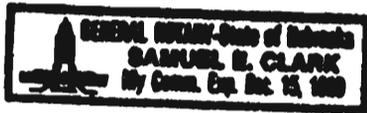
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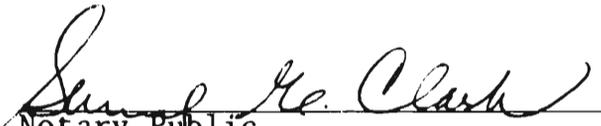
meetings, etc. However, any and all expenses having to do with the two-month period when the Finance staff was working in the Erickson & Sederstrom office were billed to the Campaign.

Further Affiant sayeth naught.

  
\_\_\_\_\_  
Sam Jensen

Subscribed to and sworn to me before me this 5th day of September, 1988.



  
\_\_\_\_\_  
Notary Public

89040735807

A F F I D A V I T

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

Michael Boyle, being first duly sworn on his oath deposes and says that:

(1) The Affiant is an associate of the law firm of Erickson & Sederstrom, P.C. He is a former mayor of the City of Omaha; a member of the Democratic Party; and is a supporter of the candidacy of Robert Kerrey for the United States Senate.

(2) In late May of 1988 he was advised by Sam Jensen that Affiant would be moving his office on the second floor of the Erickson & Sederstrom law offices across the hall to another location on the second floor because of the fact that the Karnes Finance office was going to be installed in two of the law firm's offices, one of which he was presently occupying.

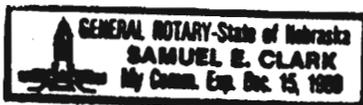
This move was accomplished in late May or early June, 1988. To the best of Affiant's knowledge, no Karnes staff persons operated out of the Erickson & Sederstrom office until such time.

(3) Affiant observed the fact that the staff persons associated with the Karnes Finance organization vacated the premises in late July, 1988.

Further Affiant sayeth naught.

*Michael Boyle*  
Michael Boyle

Subscribed to and sworn to me before me this 5th day of September, 1988.



*Samuel E. Clark*  
Notary Public

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LAW OFFICES

**ERICKSON & SEDERSTROM**

A PROFESSIONAL CORPORATION

ONE MERRILL LYNCH PLAZA  
10330 REGENCY PARKWAY DRIVE  
OMAHA, NEBRASKA 68114-3761  
TELEPHONE (402) 397-2200

ACCOUNT NUMBER

6/30/89

MJM 50192 20352

KARNES FOR SENATE  
6846 PACIFIC STREET SUITE 100  
OMAHA NE 68106

**CAMPAIGN EXPENSES**

DETACH HERE & RETURN TOP PORTION WITH REMITTANCE

\$  
AMOUNT ENCLOSED

	AMOUNT BILLED	PAYMENTS	BALANCE
		PREVIOUS BALANCE	.00
6/24/88 PHOTOCOPIING	26.90		
6/30/88 POSTAGE	105.30		
6/27/88 LONG DISTANCE	211.86		
6/28/88 TELECOPY CHARGES	91.35		
6/30/88 JULY RENT	150.00		
6/31/88 JUNE RENT	150.00		
	<b>TOTAL EXPENSES DUE</b>		<b>735.31</b>
	<b>NEW BALANCE AS OF 6/30/88</b>		<b>735.31</b>

333740733

LAW OFFICES

**ERICKSON & SEDERSTROM**

A PROFESSIONAL CORPORATION

ONE MERRILL LYNCH PLAZA  
10330 REGENCY PARKWAY DRIVE  
OMAHA, NEBRASKA 68114-3761  
TELEPHONE (402) 397-2200

ACCOUNT NUMBER

8/03/88

MJM 50192 20352

KARNES FOR SENATE  
6846 PACIFIC STREET SUITE 100  
OMAHA NE 68106

**CAMPAIGN EXPENSES**

DETACH HERE & RETURN TOP PORTION WITH REMITTANCE

\$

AMOUNT ENCLOSED

	AMOUNT BILLED	PAYMENTS	BALANCE
		PREVIOUS BALANCE	735.31
7/25/88 PHOTOCOPYING	461.00		
7/22/88 POSTAGE	60.80		
8/02/88 LONG DISTANCE	925.67		
8/01/88 DIRECT PRINTING COSTS ON 5520.	115.20		
7/26/88 WORD PROCESSING	816.15		
7/25/88 TELECOPY CHARGES	200.10		
	TOTAL EXPENSES DUE		2,578.92
	PAYMENT OF EXPENSES		735.31 CR
	NEW BALANCE AS OF 8/03/88		2,578.92

89040730

LAW OFFICES

**ERICKSON & SEDERSTROM**

A PROFESSIONAL CORPORATION

10330 REGENCY PARKWAY DRIVE  
OMAHA, NEBRASKA 68114-3761  
TELEPHONE (402) 397-2200

ACCOUNT NUMBER

8/30/88

NJM 50192 20352

KARNES FOR SENATE  
6846 PACIFIC STREET SUITE 100  
OMAHA NE 68106

**CAMPAIGN EXPENSES**

DETACH HERE & RETURN TOP PORTION WITH REMITTANCE

\$  
AMOUNT ENCLOSED

	AMOUNT BILLED	PAYMENTS	BALANCE
		PREVIOUS BALANCE	2,578.92
* * F E E S * *			
8/30/88		SECRETARIAL TIME IN CONNECTION WITH THE KARNES NEWSLETTER.	
		FEEES FOR LEGAL SERVICES THRU 8/30/88	180.00
8/30/88	14.01	LONG DISTANCE	
8/31/88	68.00	DIRECT PRINTING COSTS ON 5520	
8/23/88	118.77	WORD PROCESSING	
8/24/88	26.10	TELECOPY CHARGES	
		TOTAL EXPENSES DUE	226.88
		PAYMENT OF EXPENSES	2,578.92CR
		NEW BALANCE AS OF 8/30/88	406.88

PLEASE REFER TO FORMER STATEMENTS FOR EXPLANATION OF PREVIOUS BALANCES SHOWN ABOVE SERVICES, IF ANY RENDERED AFTER THE DATE INDICATED WILL BE BILLED ON A LATER STATEMENT

PAYMENTS RECEIVED AFTER DATE OF INVOICE WILL BE SHOWN ON NEXT MONTHS INVOICE

**FRIENDS OF SENATOR DAVE KARNES**

626 N. 109TH PLZ. PH. 402-496-9337  
OMAHA, NE 68154

**NORWEST BANK NEBRASKA**  
OMAHA, NE 68102  
27-5-1040

**CHECK NUMBER**

DATE July 29, 1988

1217

**TOTAL AMOUNT**  
735.31

PAY Seven Hundred Thirty-five and 31/100-----

TO THE  
ORDER OF:

Erickson & Sederstrom  
10330 Regency Parkway Drive  
Omaha, NE 68114 3761

*Donald Walsh As Treasurer*

⑈001217⑈ ⑆104000058⑆ 1155706424⑈

50192.20352

**FRIENDS OF SENATOR DAVE KARNES**

626 N. 109TH PLZ. PH. 402-496-9337  
OMAHA, NE 68154

**NORWEST BANK NEBRASKA**  
OMAHA, NE 68102  
27-5-1040

**CHECK NUMBER**

DATE August 15, 1988

1323

**TOTAL AMOUNT**  
2,578.92

PAY Two Thousand Five Hundred Seventy-eight and 92/100-----

TO THE  
ORDER OF:

Erickson & Sederstrom  
One Merrill Lynch Plaza  
10330 Regency Parkway Drive  
Omaha, NE 68114 3761

*Donald Walsh As Treasurer*

⑈001323⑈ ⑆104000058⑆ 1155706424⑈

50192.20352

STATEMENT AND INVOICE

July 22, 1988

Connie J. Evans  
5003 South 162 Avenue  
Omaha, NE 68135

TO: SENATOR DAVE KARNES - FINANCE

For clerical services required in the production of  
Karnes Kabinet mailing from June 28 through July 16.

TOTAL DUE: \$237.00

3 2 7 4 0 7 5 3 3 1 5

STATEMENT AND INVOICE

July 29, 1988

Connie J. Evans  
5003 South 162 Avenue  
Omaha, NE 68135

TO: SENATOR DAVE KARNES - FINANCE

For clerical services required in the production of  
Karnes Kabinet mailing from July 18 through July 28.

Amount Due This Invoice: \$ 99.00

Amount Due per Invoice Dated July 22, 1988: \$237.00

TOTAL AMOUNT DUE: \$336.00

8 9 7 4 0 7 6 5 8 1 4

National Republican Senatorial Committee

CCC# 347

RECEIVED  
FEDERAL ELECTION COMMISSION

89 SEP 12 AM 8:24

BENJAMIN L. GINSBERG  
LEGAL COUNSEL

September 7, 1988

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

ATTN: Robert Raich, Esquire  
Office of the General Counsel

RE: MUR 2670

Dear Mr. Noble:

This letter and the enclosed attachments and affidavit are submitted by Senator Dave Karnes and The Friends of Senator Dave Karnes in response to the complaint in the above-captioned matter filed with the Federal Election Commission ("FEC" or "Commission"). Respondents received a portion of the complaint on August 25, 1988, with the complete complaint arriving on September 2, 1988.

As this response demonstrates, Democrat Senate candidate Bob Kerrey and his surrogates have decided not to let facts get in the way of filing false and irresponsible accusations against Senator Dave Karnes, Kerrey's opponent in the November election. As this response demonstrates, Kerrey based this complaint on one uncorroborated news account that the newspaper told Kerrey's counsel was inaccurate before he filed the complaint. Attachment A.

The complaint alleges that Senator Dave Karnes and his principle campaign committee, The Friends of Senator Dave Karnes, violated the Federal Election Campaign Act of 1971, as amended ("FECA"). For the reasons set forth herein, the FEC should find no reason to believe that Senator Karnes or The Friends of Senator Dave Karnes have committed any such violation.

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### I. The Complaint

The Complaint alleges that Senator Karnes and his committee violated 2 U.S.C. 441b by receiving unreimbursed use of facilities at a law firm that is a professional corporation. The complaint's legal argument is based solely on the assertion that the firm

does not appear to have made and for that matter the Karnes campaign to have requested any reimbursements. For almost eight months, the finance operation of the Karnes campaign was 'run out of' an incorporated law firm. This use of the firm triggered a legal obligation to make reimbursement for the rental space used. This was not all. Presumably the law firm's facilities were also used, including but not limited to supplies, telephones, xerox machines, telefax or telecopier facilities, and possibly also clerical assistance. Yet the Karnes campaign reports do not reflect a penny of reimbursement for any goods or services provided by or in the name of the Erickson law firm.

Complaint at 5-6 (emphasis added).

As factual support for this "significant violation of the law," id. at 6, the Kerrey complaint cites two newspaper articles concerning a change in the Karnes campaign's finance director. The articles in the Lincoln Star, Attachment B, and Omaha World Herald, Attachment C, report the existence of a Karnes fundraising effort at finance director's Sam Jensen's law firm, Erickson & Sederstrom, P.C. ("law firm"). 1/

The complaint offers no other evidence to support the allegation that the Karnes campaign's fundraising effort existed for eight months at the law firm.

### II. Facts

If Kerrey and his surrogates had not ignored the correction told them by the World-Herald or had conducted even the most cursory investigation, this complaint would never have been filed. The fact is that a Karnes fundraising operation existed at the law firm not for 8 months as Kerrey charges but only from Memorial Day weekend of 1988 through the end of July. Affidavit

---

1/ The complaint states: "By the accounts of both the Lincoln Star and the Omaha World Herald, the arrangement at Jensen's firm lasted from December of 1987 through July of this year. This is a period of almost eight months." Complaint at 4. In fact, only the World Herald account mentions the time a Karnes fundraising effort existed at the law firm. Attachments B and C.

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of Sam Clark at para. 4 (hereinafter "Clark Aff.", Attachment D); Affidavit of Michael Boyle, Attachment E (the original of the Boyle Affidavit has been submitted with the Response of Erickson & Sederstrom in MUR 2670). Mr. Boyle is the former Democratic mayor of Omaha, a supporter of Kerrey and an attorney at Erickson & Sederstrom.

During this two month period, invoices were prepared by the law firm on a monthly basis. Clark Aff. at 6. Exhibit 1 to the Clark Aff. is the invoice prepared by the law firm on June 30, 1988, one month after the Karnes campaign moved in. It reflects the rent for June and July, as well as the costs incurred by the campaign for photocopying, postage, telephone and telecopy charges. The rent charged by the law firm is based on the amount and type of space used. Clark Aff. at 5, 6.

The Karnes campaign received the invoice on July 1, 1988 and paid by check on July 29, 1988. A copy of the check is attached as Exhibit 2 to Clark Aff. The check cleared the bank on August 3, 1988. Clark Aff. at 6.

A second invoice reflecting the costs of the Karnes operation for the month of July was prepared by the law firm on August 3, 1988. It reflects costs for photocopying, postage, telephone and telecopying, and use of the firm's word processing system. Exhibit 3 to Clark Aff. The Karnes campaign paid that invoice on August 15, 1988. Exhibit 4 to Clark Aff.; Clark Aff. at 7.

The payments do trigger a reporting obligation by the Karnes committee and they will appear, correctly, on the committee's third quarter report.

Any other use of the law firm's facilities by Jensen outside of that two month period falls under the FECA's de minimus exception. 11 C.F.R. 114.9(a); Clark Aff. at 4. No staff employees of the law firm worked on the Karnes campaign during business hours. Id. Any clerical employees of the firm who did work for the Karnes campaign did so on their own time and were paid directly by the Karnes committee as independent contractors. Id.

The Kerrey complaint is based solely on an allegation in one Omaha World Herald article that a Karnes campaign fundraising effort existed at the law firm for the 8 months between December and July 1988. But, according to the same newspaper, Kerrey's attorney was notified before filing the complaint that the 8-month report was false. Attachment A. According to the newspaper, attorney Robert Bauer traveled to Omaha on August 9, 1988, called a press conference and announced that the complaint would be filed

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later that week. According to the World-Herald account:

When a World-Herald reporter told Bauer Tuesday [at the press conference] that the paid staffers had worked out of the offices for only two months instead of eight, Bauer replied that the principle behind the complaint was still valid; alleged use of a corporation by a campaign for federal office.

Kerrey and his surrogates chose to ignore this. The most minimal responsible investigation by Kerrey and his surrogates would have shown that no facts existed upon which to base a complaint. Despite the notice given by the World-Herald on August 9, the complaint was filed with the FEC on August 12, 1988.

### III. Legal Argument

The complaint correctly cites the relevant legal test for the Karnes campaign's involvement with the law firm.

The Commission has also made clear that to avoid a prohibited corporate contribution, a candidate or political committee must reimburse at full fair market value, and within a commercially reasonable time, any use of corporate facilities, equipment, supplies or personnel. 11 C.F.R. 114.9(a)(2). The failure to make this reimbursement places the candidate and political committee -- and also the corporation -- in violation of a core provision of the statute.

Complaint at 5.

The facts demonstrate that Senator Dave Karnes and The Friends of Senator Dave Karnes complied with the letter and spirit of the law and the regulations. Senator Karnes' committee fully reimbursed within a commercially reasonable time the law firm for any and all use of its space and facilities.

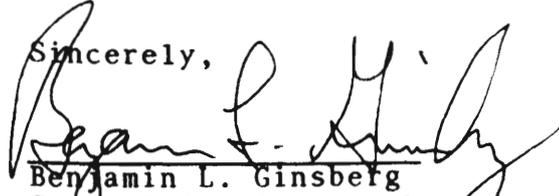
### IV. Conclusion

Accordingly, Senator Karnes and The Friends of Senator Dave Karnes hereby request that the Commission find no reason to believe that there is any violation of the Act or the applicable Regulations. In addition, respondents request that the Commission take this action as quickly as possible. Respondents concur with Kerrey and his surrogates that "immediate expedited" action by the Commission and an "equally prompt report to the citizens of

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Nebraska" on these charges "are clearly warranted in these circumstances." The Commission must clear the public record of this false and baseless charge.

Sincerely,



Benjamin L. Ginsberg  
Counsel for Senator Dave Karnes  
and The Friends of Senator Dave  
Karnes

39040753819

18 OMAHA WORLD-HERALD Wednesday, August 10, 1988

## Democrats Accuse Kames Camp Election-Law Violation Alleged

By Joe Brennan

World-Herald Staff Writer

Democratic Party officials said they will file a complaint today in Washington, D.C., alleging violations of federal election laws by the campaign of Sen. Dave Kames, R-Neb.

The complaint will allege that the Kames campaign failed to reimburse the Omaha law offices of Erickson & Sederstrom for rent and other office services.

The offices were used by the Kames campaign as the base for its fund-raising efforts for eight months beginning in December 1987 and ending Aug. 1, according to Robert Bauer, general counsel for the Democratic Senatorial Campaign Committee.

### Disclosure Reports

Bauer said three disclosure reports filed by the Kames campaign with the Federal Election Commission during that period showed that Kames did not reimburse the law firm for use of the offices. He said that amounted to the Kames campaign accepting corporate contributions, a violation of federal campaign laws.

The Kames campaign denied the allegations, saying the Democrats misinterpreted two news stories about Omaha attorney Sam Jensen, who was the voluntary state finance chairman for the campaign during the period in question. Jensen, a Republican, is a partner in Erickson & Sederstrom.

Kames spokesman Brent Bahler said the allegations will prove to be "a major embarrassment" for the Democrats and Kames' opponent, Bob Kerrey.

"They are going to wind up with egg on their faces," Bahler said. "If this is the way Bob Kerrey is going to conduct his campaign over the next three months, we are delighted."

Bahler said paid staff members worked out of the office only from June 1 to Aug. 1 of this year, not for eight months, and that the Kames campaign has been billed for the June 1 to Aug. 1 services.

Prominent Democrats are members of Erickson & Sederstrom, 10330 Regency Parkway Drive. They include former Omaha Mayor Mike Boyle and former State Tax Commissioner Donna Kames, who served in the Kerrey administration.



Bauer, a Washington, D.C., lawyer, called a press conference Tuesday at the Omaha Press Club to outline the allegations. He was accompanied by Mike Fahey, Democratic national committeeman from Nebraska.

Bauer said the Democratic campaign group and the Democratic National Committee would file the complaint jointly.

He said it was based in part on news accounts in The World-Herald and Lincoln Star on Jensen's resignation as finance chairman for Kames. The stories said three paid staff members for Kames and a volunteer operated out of Jensen's Erickson & Sederstrom offices.

Bauer said disclosure reports filed by the Kames campaign "show no reimbursement whatsoever" for rent, telephones, copying and other office services by the Kames staff members who used the law offices.

Bahler said the Kames campaign received a bill dated June 30 from Erickson & Sederstrom for \$735.31. He said the bill was for rent, postage, phones, copying charges and other services during June.

Bahler said the bill has been paid. Sam Clark, a partner in the law firm, said a second bill dated July 31 and mailed Aug. 5 has been sent by the law firm to the Kames campaign. It totals \$2,578 for similar services, he said. Bahler said he had not seen the second billing.

### Law Offices

Clark said the three paid staffers "moved into" the law offices Memorial Day weekend. Their office space rarely was fully occupied, with one or two staff members usually present while others were traveling, he said.

Clark, a Republican, said the Democrats based their allegations on a "faulty" reading of the stories on Jensen.

A July 30 story in The World-Herald said in part:

"The Kames finance effort had been run out of Jensen's office at the Erickson & Sederstrom law firm in Regency since December, when Jensen took

over as state finance chairman. Three paid staff members and one volunteer worked on finances out of Jensen's offices."

When a World-Herald reporter told Bauer Tuesday that the paid staffers had worked out of the offices for only two months instead of eight, Bauer replied that the principle behind the complaint was still valid: alleged use of a corporation by a campaign for federal office.

He said Jensen, as a volunteer, could not make unlimited use of office services at Erickson & Sederstrom without billing them to the Kames campaign.

Jensen was unavailable for comment. Clark said it was his understanding that Jensen has billed the Kames campaign for all office expenses he incurred while raising money for the senator's campaign.

The Kames fund-raising campaign is now run out of the campaign's office in the Old Mill shopping area in Omaha.

### Complaint Pending

Bauer said that the election commission, after receiving the complaint, would provide a copy to the Kames campaign. After allowing the Kames campaign a chance to respond, the commission would then determine whether a "full-fledged" investigation should be conducted.

Bahler suggested that the Kerrey campaign was "orchestrating" the Democrats' allegations against Kames, but Kerrey campaign manager Paul Johnson said the campaign had no role in setting up the press conference or preparing the complaint.

Johnson said the campaign was notified in advance that the allegations would be made.

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# Karnes' fund-raiser resigns

OMAHA (AP) — Attorney Sam Jensen says he has left the post of finance chairman for Sen. David Karnes' campaign.

Jensen, who took over as state finance chairman in December, says he will scale back the time he spends helping raise money for the Republican Senate candidate.

Both national and state fund raising will fall under the authority of Kirk L. Clinkenbeard, a political fund raiser based in Washington, D.C., Jensen said.

The Karnes campaign hired Clinken-

beard in June.

Karnes' financial effort, which included three paid staff members and one volunteer, was based at Jensen's Omaha law office. The Karnes campaign wanted to move the staff to a campaign office where Clinkenbeard has desks, Jensen said.

No major dispute existed between him and Clinkenbeard, Jensen said. "If there was a disagreement, it was minor," he said.

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# Omahan Jensen Leaves Karnes Post

By C. David Kotok

World-Herald Staff Writer

Omaha attorney Sam Jensen has left the post of finance chairman for Sen. Dave Karnes' campaign and will scale back the time he spends helping raise money for the Republican Senate candidate.

Both national and state fund raising will fall under the authority of Kirk L. Clinkenbeard, the political fund-raiser based in Washington, D.C., the Karnes campaign retained in mid-June, Jensen said.

The Karnes finance effort had been run out of Jensen's office at the Erickson & Sederstrom law firm in Regency since December, when Jensen took over as state finance chairman. Three paid staff members and one volunteer worked on finances out of Jensen's office.

## No Major Dispute

The Karnes campaign wanted to move the staff to the campaign office in the Old Mill shopping area, where Clinkenbeard has desks, Jensen said.

No major dispute existed between him and Clinkenbeard, Jensen said. "If there was a disagreement, it was minor," he said.

The problem was that with his active law practice, Jensen said, he could not be running back and forth to the campaign office. If he were to remain in the post, Jensen said, he needed the finance staff at his office.

Unlike Clinkenbeard, who is paid on commission for the amount of funds he raises, Jensen said, his time is volunteered.

"This guy's paid a commission and should be a real tiger," Jensen said.

The Karnes campaign decided it would be best to have greater coordination between the political campaign and the finance operation, said Jensen, who helped raise funds for Gov. Orr and former Gov. Charles Thone.

Jensen said that when he joined the Karnes campaign in December, the campaign's funds stood at about \$400,000, which had been raised since Karnes was appointed to the seat in March 1987. The cost of fund raising

was 45 percent of the dollars contributed, Jensen said.

## Raised \$900,000

The campaign then raised an additional \$900,000 for the May primary against Rep. Hal Daub, with the cost of the fund raising falling to 13 percent of money contributed, Jensen said.

The July 1 reports for Karnes and Democratic candidate Bob Kerrey showed the Republican with a net debt of more than \$150,000 and Kerrey with net cash on hand of \$380,000. That comparison, in Kerrey's favor, did not play a role in the Karnes finance campaign changes, Jensen said.

After the primary, Karnes' base of primary contributors was "all beat up," Jensen said. In recent weeks, fund raising has picked up, with more than \$65,000 raised in Omaha during the week of the National Democratic Convention, Jensen said.

Clinkenbeard is getting a "system in place," with finance committees organized for Karnes in 27 counties, Jensen said.

X

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City of Omaha )  
 )  
State of Nebraska)

BEFORE THE FEDERAL ELECTION COMMISSION  
OF THE UNITED STATES

IN THE MATTER OF

Democratic Senatorial Campaign Committee )  
 )  
 v. )  
 )  
Friends of Senator Dave Karnes )

AFFIDAVIT OF SAMUEL CLARK

Samuel Clark, being first duly sworn, deposes and says:

1. I am Samuel Clark. I live in Omaha, Nebraska.
2. I am a shareholder at the Omaha, Nebraska law firm of Erickson & Sederstrom, P.C.
3. In that capacity, I am familiar with the arrangement between my law firm and The Friends of Senator Dave Karnes, the principle campaign committee of the United States Senate candidate Dave Karnes (hereinafter "the committee"). Erickson & Sederstrom agreed to allow the committee to house a fundraising operation in unused space in our offices as a convenience to Mr. Sam Jensen, a shareholder in the firm. Mr. Jensen served until the end of July 1988 as finance director of the Karnes campaign.
4. The committee moved personnel into the Erickson & Sederstrom offices on Memorial Day weekend 1988. At no time previously did the Karnes committee have any personnel housed in our offices. Karnes committee personnel moved out the the Erickson & Sederstrom offices at the end of July 1988. Any other use of Erickson & Sederstrom by the Karnes committee, its agents or employees either fell under the de minimus rule, 11 C.F.R. 114.9(a), or was billed to, and reimbursed by, the Karnes committee. No law firm employees worked on the Karnes campaign during regular business hours; any clerical personnel who did work for the campaign did so on their own time and were reimbursed by the campaign as independent contractors.
5. Providing space to non-firm individuals and organizations is not unprecedented for Erickson & Sederstrom. The firm rents space to various individuals which includes secretarial, telephone and other support service. The space occupied by the Karnes campaign did not include these support services and because it was contained between occupied areas and does not have a separate entrance (as does the space leased to five other

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0  
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individuals) it would not be attractive to any individual or group seeking discrete office space. We did assess a reasonable rent against the Karnes committee and carefully monitored and charged for any costs incurred by their occupancy.

6. The firm prepared invoices on a monthly basis for the months of June and July that the campaign had personnel using space at the firm. Exhibit 1 to this Affidavit is the invoice prepared on June 30, 1988 for rent for June and July and the campaign's expenses to date for June. Exhibit 2 is a copy of the July 29, 1988 check the firm received from the Karnes campaign to cover the invoice. The check cleared the bank on August 3, 1988.

7. An invoice for the campaign's expenses during July are not calculated before the June 30 invoice was prepared on August 3, 1988 and is attached as Exhibit 3. Exhibit 4 is a copy of the August 15, 1988 check sent by the Karnes campaign which paid that invoice.

*Shirley K. Clark*

Signed and sworn to before me  
this 9 th day of September 1988.

*Lena C. Taylor*  
Notary Public

My Commission Expires: *July 14, 1992*

3 3 7 4 0 7 3 8 2 4

ATTACHMENT D

EXHIBIT 1

**ERICKSON & SEDERSTROM**

A PROFESSIONAL CORPORATION  
 ONE MERILL LYNCH PLAZA  
 1030 REGINCY PARKWAY (SUITE)  
 OMAHA, NEBRASKA 68114-3761  
 TELEPHONE (402) 397 2700

ACCOUNT NUMBER

6/30/88

MJM 50192 20352

KARNES FOR SENATE  
 6806 PACIFIC STREET SUITE 100  
 OMAHA NE 68106

**CAMPAIGN EXPENSES**

DETACH HERE & RETURN TOP PORTION WITH REMITTANCE

\$ AMOUNT ENCLOSED

	AMOUNT BILLED	PAYMENTS	BALANCE
		PREVIOUS BALANCE	.00
6/24/88 PHOTOCOPYING	26.80		
6/30/88 POSTAGE	105.30		
6/27/88 LONG DISTANCE	211.86		
6/28/88 TELECOPY CHARGES	91.35		
6/30/88 JULY RENT	150.00		
6/01/88 JUNE RENT	150.00		
	<b>TOTAL EXPENSES DUE</b>		<b>735.31</b>
	<b>NEW BALANCE AS OF 6/30/88</b>		<b>735.31</b>

Received: July 1, 1988  
 Paid : July 29, 1988  
 Norwest Bank Account  
 Check #1217  
 Cleared : August 3, 1988

INVOICE NUMBER	INVOICE DATE	VOUCHER NO.	PAY TO	GRAND AMOUNT	DISCOUNT AMOUNT	CHECK NUMBER NET AMOUNT
MJM 50192	0352 6/30/88			735.31		735.31
TOTAL AMOUNTS						

**FRIENDS OF SENATOR DAVE KARNES**  
 820 N. 100TH PL. P.O. 402-490-9337  
 OMAHA, NE 68154

NORTHWEST BANK NEBRASKA  
 OMAHA, NE 68102  
 27-6-1040

DATE July 29, 1988

CHECK NUMBER  
 1217

PAY TO THE ORDER OF: Seven Hundred Thirty-five and 31/100-----

1012 1217  
 735.31

Erickson & Sederstrom  
 10330 Regency Parkway Drive  
 Omaha, NE 68114 3761

NOT NEGOTIABLE

ATTACHMENT D  
EXHIBIT 3

7  
8  
890407

7/25/88 PHOTOCOPYING  
7/27/88 POSTAGE  
8/02/88 LONG DISTANCE  
8/01/88 DIRECT PRINTING COSTS ON 5820.  
7/25/85 WORD PROCESSING  
7/25/82 TELECOPY CHARGES

AMOUNT BILLED	PAYMENTS	BALANCE
		PREVIOUS BALANCE 735.00
	400.13	
461.00		
60.80		
925.67		
115.20		
916.15		
200.10		
		TOTAL EXPENSES DUE 2,578.92
		PAYMENT OF EXPENSES 735.31
		NEW BALANCE AS OF 8/03/88 2,578.92

ATTACHMENT D  
EXHIBIT 4

FRIENDS OF SENATOR DAVE KARNES

INVOICE NUMBER	INVOICE DATE	VOUCHER NO.	PARTIAL	GROSS AMOUNT	DISCOUNT AMOUNT	CHECK NUMBER NET AMOUNT
8904070682	8/3/88			2,578.92		2,578.92
			TOTAL AMOUNTS			

FRIENDS OF SENATOR DAVE KARNES  
520 N. 108TH AVE. PH. 402-408-0097  
OMAHA, NE 68154

NORTHWEST BANK NEBRASKA  
OMAHA, NE 68102  
27-9-1040

CHECK NUMBER  
DATE August 15, 1988 1323

TOTAL AMOUNT
2,578.92

PAY Two Thousand Five Hundred Seventy-eight and 92/100-----  
TO THE ORDER OF:

Erickson & Sederstrom  
One Merrill Lynch Plaza  
10330 Regency Parkway Drive  
Omaha, NE 68114 3761

NOT NEGOTIABLE

A F F I D A V I T

STATE OF NEBRASKA )  
                          ) ss.  
COUNTY OF DOUGLAS )

Michael Boyle, being first duly sworn on his oath deposes and says that:

(1) The Affiant is an associate of the law firm of Erickson & Sederstrom, P.C. He is a former mayor of the City of Omaha; a member of the Democratic Party; and is a supporter of the candidacy of Robert Kerrey for the United States Senate.

(2) In late May of 1988 he was advised by Sam Jensen that Affiant would be moving his office on the second floor of the Erickson & Sederstrom law offices across the hall to another location on the second floor because of the fact that the Karnes Finance office was going to be installed in two of the law firm's offices, one of which he was presently occupying.

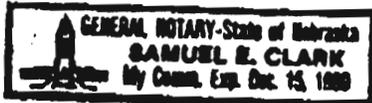
This move was accomplished in late May or early June, 1988. To the best of Affiant's knowledge, no Karnes staff persons operated out of the Erickson & Sederstrom office until such time.

(3) Affiant observed the fact that the staff persons associated with the Karnes Finance organization vacated the premises in late July, 1988.

Further Affiant sayeth naught.

*Michael Boyle*  
Michael Boyle

Subscribed to and sworn to me before me this 5th day of September, 1988.



*Samuel E. Clark*  
Notary Public

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

RECEIVED  
FEDERAL ELECTION COMMISSION

88 NOV 29 AM 11:00

FIRST GENERAL COUNSEL'S REPORT

**SENSITIVE  
EXECUTIVE SESSION  
DEC 08 1988**

MUR #: 2670  
DATE COMPLAINT RECEIVED  
BY OGC: 8/12/88  
DATE OF NOTIFICATION TO  
RESPONDENTS: 8/22/88  
STAFF MEMBER: R. Raich

COMPLAINANTS: Democratic Senatorial Campaign Committee  
Democratic National Committee

RESPONDENTS: Friends of Senator David Karnes and  
Jon D. Hoffmaster, as treasurer  
Senator David Karnes  
Erickson & Sederstrom, P.C.  
Sam Jensen

RELEVANT STATUTES: 2 U.S.C. § 441b(a)  
11 C.F.R. § 114.9(a)(1)

INTERNAL REPORTS CHECKED: Committee Index of Disclosure  
Documents  
Statements of Candidacy  
Statements of Organization  
Committee's Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter arises from a complaint (Attachment I) filed with the Commission by the Democratic Senatorial Campaign Committee and the Democratic National Committee on August 12, 1988. The complainants filed a supplement to the complaint (Attachment II) on August 22, 1988.

Copies of the complaint and supplement were forwarded to the respondents. The Commission has now received responses from Erickson & Sederstrom, P.C. (the "Corporation") and Sam Jensen (Attachment III), and from Friends of Senator David Karnes (the "Committee") and Jon D. Hoffmaster, as treasurer, and Senator

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period preceding the complaint, the Committee's reports did not yet disclose its disbursements to the Corporation.

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation<sup>\*/</sup> to make a contribution or expenditure in connection with a federal election, or for any corporate officer or director to consent to any such contribution or expenditure, or for any political committee or other person knowingly to accept or receive any corporate contribution. Pursuant to 11 C.F.R. § 114.9(d), persons other than stockholders and employees of a corporation who make use corporate facilities for activity in connection with a federal election are required to reimburse the corporation within a commercially reasonable time in the amount of the normal and usual rental charge for the use of the facilities.

According to the Corporation, it rents office space to several persons; some who pay more, and some who pay less, than the \$150 per month rent charged for the space rented to the Committee. The persons who pay higher rent are lawyers who have use of the law library, secretarial support, support services, and a separate entrance, all of which were not provided to the Committee. In their signed and sworn affidavits, the respondents state that the rent charged by the Corporation was reasonable, and that the Corporation

<sup>\*/</sup> The question of whether a professional organization is a corporation is determined by the law of the state in which the professional organization exists. 11 C.F.R. § 114.7(d). Erickson & Sederstrom, P.C. is a corporation under Nebraska state law. Only a corporation that is organized under Nebraska law as a professional corporation may include the abbreviation P.C. in its corporate name. Neb. Rev. Stat. §§ 21-2206 and 21-2202(3) (1983).

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carefully monitored and charged for all costs incurred by the Committee's occupancy. The Committee had special telephone service installed for which it was responsible, and all facsimile transmissions, printing, word processing, photocopying, and postage costs were billed to and paid by the Committee. The Corporation billed the Committee \$735.31 on June 30, 1988, which the Committee paid in full on July 29, 1988. The Corporation billed the Committee \$2,578.92 on August 3, 1988, which the Committee paid in full on August 15, 1988. And the Corporation billed the Committee \$406.88 on August 30, 1988, which the Committee paid in full on September 26, 1988. Accordingly, it appears that for those expenses, the Committee paid the usual and normal charge at a commercially reasonable rate during a length of time within normal trade or business practice. See 11 C.F.R. §§ 100.7(a)(1)(iii) and 100.7(a)(4).

There appear to have been no violations of the Act committed in connection with the matters discussed above. In his response to the complaint, however, Sam Jensen makes a statement suggesting that other violations of 2 U.S.C. § 441b(a) did occur.

According to Sam Jensen, "Since December, Affiant [Mr. Jensen] has made some phone calls to friends and associates soliciting money from them. No doubt some of these calls were long distance for which the campaign was not billed. Also, his secretary has probably written letters to individuals and arranged for luncheon meetings, etc." This statement indicates that the Corporation may have made, and the Committee may have accepted, contributions in the form of

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the costs associated with phone calls and letters by Mr. Jensen and his secretary. Moreover, Mr. Jensen may have consented to those contributions on behalf of the Corporation, and he may have accepted those contributions on behalf of the Committee.

Pursuant to 11 C.F.R. § 114.9(a)(1), stockholders and employees of a corporation who make occasional, isolated, or incidental use of the corporation's facilities for individual volunteer activity in connection with a federal election must reimburse the corporation to the extent that overhead or operating costs are increased. The responses state that Mr. Jensen is a stockholder of the corporation, and it is clear that he is also an employee. As used in the Regulations, "occasional, isolated, or incidental" generally means, with regard to an employee (including an employee who is a stockholder) who uses corporate facilities during working hours, an amount of activity that does not prevent the employee from completing the normal amount of work the employee usually carries out. 11 C.F.R. § 114.9(a)(1)(i). There is no indication that calls and letters by Mr. Jensen and his secretary on behalf of the Committee prevented them from carrying out their normal amount of work. Therefore, the Corporation needed to be reimbursed for its increase in overhead or operating costs caused by their activity. The only increase in operating costs associated with these activities appears to be the additional charge for the long distance or toll calls. Because the Corporation apparently was not reimbursed for the apparent increase in operating costs caused by the phone calls referred to in Mr. Jensen's affidavit, his actions appear to have created violations of 2 U.S.C. § 441b(a).

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The Corporation may have violated Section 441b(a) by not receiving reimbursement for its increase in operating costs. Because Mr. Jensen was an agent of the Committee, his actions may have caused the Committee knowingly to accept or receive a prohibited corporate contribution. As a person knowingly accepting or receiving a corporate contribution on behalf of the Committee, and perhaps as a corporate officer or director consenting to a corporate contribution, Mr. Jensen personally may have violated Section 441b(a). Accordingly, this Office recommends that the Commission find reason to believe the Committee and its treasurer; Erickson & Sederstrom, P.C.; and Sam Jensen violated 2 U.S.C. § 441b(a). The attached discovery requests concern the value of the corporate contribution and Mr. Jensen's status as an officer or director.

Because there is no evidence indicating Senator Karnes participated in or was aware of the actions constituting these violations, this Office recommends that the Commission find no reason to believe Senator David Karnes violated 2 U.S.C. § 441b(a).

### III. RECOMMENDATIONS

1. Find reason to believe Friends of Senator David Karnes and Jon D. Hoffmaster, as treasurer; Erickson & Sederstrom, P.C.; and Sam Jensen violated 2 U.S.C. § 441b(a).
2. Find no reason to believe Senator David Karnes violated 2 U.S.C. § 441b(a) and close the file as it pertains to him.
3. Approve the attached Factual and Legal Analyses.
4. Approve the attached Interrogatories and Requests for Production of Documents.

5. Approve and send the attached letters.

Lawrence M. Noble  
General Counsel

11-28-88  
Date

By:   
Lois G. Lerner  
Associate General Counsel

Attachments

- I. Complaint
- II. Supplement to Complaint
- III. Corporation's and Jensen's Response
- IV. Committee's and Karnes's Response
- V. Factual and Legal Analyses
- VI. Interrogatories and Document Requests
- VII. Letters

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FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/CANDACE M. JONES *mmj*  
COMMISSION SECRETARY

DATE: NOVEMBER 30, 1988

SUBJECT: Objection to MUR 2670 - First General Counsel's Rpt.  
Signed November 28, 1988.

The above-captioned document was circulated to the Commission on Tuesday, November 29, 1988 at 4:00.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

- Commissioner Aikens \_\_\_\_\_
- Commissioner Elliott \_\_\_\_\_
- Commissioner Josefiak \_\_\_\_\_   x
- Commissioner McDonald \_\_\_\_\_
- Commissioner McGarry \_\_\_\_\_
- Commissioner Thomas \_\_\_\_\_

This matter will be placed on the meeting agenda for Thursday, December 8, 1988.

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/CANDACE M. JONES *mmj*  
COMMISSION SECRETARY

DATE: NOVEMBER 30, 1988

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Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	<u>          X          </u>
Commissioner Elliott	<u>                          </u>
Commissioner Josefiak	<u>          X          </u>
Commissioner McDonald	<u>                          </u>
Commissioner McGarry	<u>                          </u>
Commissioner Thomas	<u>                          </u>

This matter will be placed on the meeting agenda for Thursday, December 8, 1988.

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	)	
	)	
Friends of Senator David Karnes	)	
and Jon D. Hoffmaster, as treasurer)	)	MUR 2670
Senator David Karnes	)	
Erickson & Sederstrom, P.C.	)	
Sam Jensen	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of January 11, 1989, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2670:

1. Find reason to believe that Sam Jensen violated 2 U.S.C. § 441b(a), but take no further action and close the file as it pertains to him.
2. Find no reason to believe the following violated 2 U.S.C. § 441b(a) and close the file pertaining to them: Friends of Senator David Karnes and Jon D. Hoffmaster, as treasurer; Erickson & Sederstrom, P.C.; and Senator David Karnes.
3. Direct the Office of General Counsel to send appropriate letters pursuant to the above actions.

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

Attest:

January 17, 1989  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 27, 1989

Ben Ginsberg, Esquire  
National Republican Senatorial Committee  
440 First Street, N.W.  
Suite 600  
Washington, D.C. 20001

RE: MUR 2670  
Friends of Senator David  
Karnes and John D.  
Hoffmaster, as treasurer  
David Karnes

Dear Mr. Ginsberg:

On August 22, 1988, the Federal Election Commission notified your clients, Friends of Senator David Karnes and Jon D. Hoffmaster, as treasurer, and Senator David Karnes, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaint were forwarded to your clients at that time.

On January 11, 1989, the Commission found, on the basis of the information in the complaint and information provided by you, your clients, and other persons, that there is no reason to believe your clients violated 2 U.S.C. § 441b(a). 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  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

January 27, 1989

Sam Jensen, Esquire  
Erickson & Sederstrom, P.C.  
One Merrill Lynch Plaza  
10330 Regency Parkway Drive  
Omaha, Nebraska 68114

RE: MUR 2670  
Erickson & Sederstrom, P.C.  
Sam Jensen

Dear Mr. Jensen:

On August 22, 1988, the Federal Election Commission notified Erickson & Sederstrom, P.C. and you of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to Erickson and Sederstrom, P.C. and you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you and other persons, the Commission on January 11, 1989, found no reason to believe Erickson & Sederstrom, P.C. violated 2 U.S.C. § 441b(a). On that same date, the Commission found reason to believe Sam Jensen violated 2 U.S.C. § 441b(a), but after considering the circumstances of this matter determined to take no further action and closed its file.

The Commission reminds you that pursuant to 11 C.F.R. § 114.9(a)(1), stockholders and employees of a corporation who make occasional, isolated, or incidental use of the corporation's facilities for individual volunteer activity (such as making telephone calls and writing letters) in connection with a federal election must reimburse the corporation to the extent that overhead or operating costs are increased. You should take immediate steps to insure that your corporation receives full reimbursement for all federal election activities of its stockholders and employees.

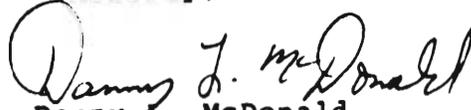
The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Please send such materials to the General Counsel's Office.

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Sam Jensen  
Page 2

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

  
Danny L. McDonald  
Chairman

Enclosure  
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Sam Jensen

MUR: 2670

This matter arises from a complaint filed with the Commission by the Democratic Senatorial Campaign Committee and the Democratic National Committee on August 12, 1988. The complainants filed a supplement to the complaint on August 22, 1988.

Copies of the complaint and supplement were forwarded to the respondents. The Commission has now received a response from Sam Jensen.

The complaint appears to be based on an inaccurate article published in the July 30, 1988, Omaha World-Harold newspaper. That article said in part, "The Karnes finance effort had been run out of Jensen's Office at the Erickson & Sederstrom law firm in Regency since December, when Jensen took over as state finance chairman. Three paid staff members and one volunteer worked on finances out of Jensen's office." It thus appeared that Sam Jensen, the Committee's former State Finance Chairman, had allowed the Corporation to provide the Committee with office space and various office expenses during an eight-month period. Those eight months included all or part of three reporting periods, but because the Committee's reports disclosed no payments to the Corporation for the supposed use of its facilities, it appeared that the Corporation may have made a prohibited contribution to the Committee.

The responses to the complaint demonstrate that the complaint was based on misinformation. According to the

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responses, the Committee's finance operations were located at the Corporation's offices only from Memorial Day weekend (May 28 and 29, 1988) through approximately the end of July 1988. Moreover, the Corporation invoiced, and the Committee promptly paid, for rent and office expenses incurred during the two-month period the Committee used the Corporation's offices. Because the Committee did not receive the Corporation's first invoice until after the end of the reporting period preceding the complaint, the Committee's reports did not yet disclose its disbursements to the Corporation.

There appear to have been no violations of the Act committed in connection with the matters discussed above. In his response to the complaint, however, Sam Jensen makes a statement suggesting that other violations of 2 U.S.C. § 441b(a) did occur. That section of the Act makes it unlawful for any corporation<sup>\*</sup> to make a contribution or expenditure in connection with a federal election, or for any corporate officer or director to consent to any such contribution or expenditure, or for any political committee or other person knowingly to accept or receive any corporate contribution.

According to Sam Jensen, "Since December, Affiant [Mr. Jensen] has made some phone calls to friends and associates soliciting money from them. No doubt some of these calls were long distance for which the campaign was not billed. Also, his secretary has probably written letters to individuals and arranged for luncheon meetings, etc." This statement indicates that the Corporation may have made, and the Committee may have accepted, contributions in the form of

<sup>\*</sup>/ The question of whether a professional organization is a corporation is determined by the law of the state in which the professional organization exists. 11 C.F.R. § 114.7(d).

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the costs associated with phone calls and letters by Mr. Jensen and his secretary. Moreover, Mr. Jensen may have consented to those contributions on behalf of the Corporation, and he may have accepted those contributions on behalf of the Committee.

Pursuant to 11 C.F.R. § 114.9(a)(1), stockholders and employees of a corporation who make occasional, isolated, or incidental use of the corporation's facilities for individual volunteer activity in connection with a federal election must reimburse the corporation to the extent that overhead or operating costs are increased. The responses state that Mr. Jensen is a stockholder of the corporation, and it is clear that he is also an employee. As used in the Regulations, "occasional, isolated, or incidental" generally means, with regard to an employee (including an employee who is a stockholder) who uses corporate facilities during working hours, an amount of activity that does not prevent the employee from completing the normal amount of work the employee usually carries out. 11 C.F.R. § 114.9(a)(1)(i). There is no indication that calls and letters by Mr. Jensen and his secretary on behalf of the Committee prevented them from carrying out their normal amount of work. Therefore, the Corporation needed to be reimbursed for its increase in overhead or operating costs caused by their activity. However, because the Corporation apparently was not reimbursed for its increase in operating costs caused by the phone calls referred to in Mr. Jensen's affidavit, his actions appear to have created violations of 2 U.S.C. § 441b(a).

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As a person knowingly accepting or receiving a corporate contribution on behalf of the Committee, and perhaps as a corporate officer or director consenting to a corporate contribution, Mr. Jensen personally may have violated Section 441b(a). Accordingly, there is reason to believe Sam Jensen violated 2 U.S.C. § 441b(a). Under the circumstances of this matter, however, the Commission will take no further action against Mr. Jensen, and will close the file.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

January 27, 1989

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

Robert F. Bauer, Counsel  
Democratic Senatorial Campaign Committee  
Democratic National Committee  
1110 Vermont Avenue, N.W., Suite 1200  
Washington, D.C. 20005

RE: MUR 2670

Dear Mr. Bauer:

On January 11, 1989, the Federal Election Commission reviewed the allegations of your complaint filed August 12, 1988. On the basis of the information provided in your complaint, and information provided by the respondents, the Commission found no reason to believe David Karnes; Friends of Senator David Karnes and Jon D. Hoffmaster, as treasurer; or Erickson & Sederstrom, P.C. violated 2 U.S.C. § 441b(a). On that same date, the Commission also found reason to believe Sam Jensen violated 2 U.S.C. § 441b(a), however, after considering the circumstances of this matter, the Commission determined to take no further action against Sam Jensen, and closed the file in this matter. The file will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8). A Statement of Reasons explaining the Commission's actions will follow.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
General Counsel's Report  
Certification

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2670

DATE FILMED 3/3/87 CAMERA NO. 3

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20543

THE FOLLOWING MATERIAL IS BEING ADDED TO THE  
PUBLIC FILE OF CLOSED MUR 2670.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 6, 1989

Robert F. Bauer, Counsel  
Democratic Senatorial Campaign Committee  
Democratic National Committee  
1110 Vermont Avenue, N.W., Suite 1200  
Washington, D.C. 20005

RE: MUR 2670

Dear Mr. Bauer:

By letter dated January 27, 1989, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Friends of Senator David Karnes and David Karnes. Enclosed with that letter were a General Counsel's Report and a Commission Certification.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to close the file. This document will be placed on the public record as part of the file of MUR 2670.

If you have any questions, please contact Robert Raich, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

Enclosure  
Statement of Reasons

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