



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MJR # 2676

DATE FILMED 4/6/89 CAMERA NO. 4

CAMERAMAN AS

99040742415



FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20463

August 10, 1988

Mr. Barry De Young  
PO Box 7251  
Boulder, CO 80301-7251

Dear Mr. De Young:

We have received your letter of August 2, 1988, regarding the possibility of a violation of the Federal Election Campaign Act of 1971, as amended ("the Act").

The 1976 amendments to the Act and Federal Election Commission regulations require that a complaint meet certain specific requirements. Your letter does not meet these requirements. Consequently, the Commission can take no action at this time to investigate the matter.

However, if you desire the Commission to look into the matter discussed in your letter to determine if the Act has been violated, a formal complaint as described in 11 C.F.R. 111.4(a) must be filed. Requirements of this section of the law and Commission regulations at 11 C.F.R. 111.4 which are a prerequisite to Commission action are detailed below:

1. A complaint must be in writing. (11 C.F.R. 111.4(a)(1))
2. The complaint must be sworn to and signed in the presence of a notary public and shall be  notarized. (11 C.F.R. 111.4(a)(2))
3. A formal complaint must contain the full name and address of the person making the complaint. (11 C.F.R. 111.4(a)(3))
4. A formal complaint should clearly identify as a respondent each person or entity who is alleged to have committed a violation. (11 C.F.R. 111.4(a)(4))
5. A formal complaint should clearly identify the source of information upon which the complaint is based. (11 C.F.R. 111.4(a)(5))
6. A formal complaint should contain a clear and concise recitation of the facts describing the violation of a

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statute or law over which the Commission has jurisdiction. 71 C.F.R. 111.4

A formal complaint should be accompanied by supporting documentation if known and available to the person making the complaint.  
11 C.F.R. 111.4

Finally, please include your telephone number, as well as the full names and addresses of all respondents.

Enclosed is a copy of Commission regulations, and your attention is directed to 11 C.F.R. 111.4 through 111.10 that deal with preliminary enforcement procedures. Also enclosed is a compilation of Federal Election Campaign laws on which these regulations are promulgated. I trust these materials will be helpful to you should you wish to file a legally sufficient complaint with the Commission. The file regarding this correspondence will remain confidential for a 15 day time period during which you may file an amended complaint as specified above.

If we can be of any further assistance, please do not hesitate to contact us at (202) 474-0000.

Sincerely,

Lawrence W. Apple  
General Counsel



By: Lois E. Latta  
Associate General Counsel

Enclosures  
Exempts  
Procedures

cc: respondents

33040742417





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 10, 1988

William C. Gerante, Treasurer  
Democratic Republican Independent  
Political Education Committee  
28 Columbia Avenue, NW  
Washington, DC 20001

Dear Mr. Gerante:

On August 2, 1988, the Federal Election Commission received a letter alleging that the Democratic Republican Independent Political Education Committee and you, as treasurer, violated section 304(a) of the Federal Election Campaign Act of 1971, as amended, whereby you procured from the copy of the enclosed letter to the complainant, false allegations of not being subject matter of the investigation for the purpose of filing a complaint. It is noted that the letter to the complainant contained the allegations of the complainant and the complainant's name was not included in the letter for a properly filed complaint. The complainant's name will be included in the letter if it is filed.

The Commission will regard information for 18 days as being confidential if the complainant or the subject, if the subject has not been identified, requests that the information be so treated. Confidential information will be provided to the file clerk.

If you have any questions, please do not hesitate to call me at (202) 453-7000.

Sincerely,

Lawrence M. Noble  
General Counsel

By: Lois G. Lerner  
Associate General Counsel

Enclosures

- Copy of Complaint
- Copy of Letter to Complainant

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FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20463

August 10, 1988

Dele Barrow, Treasurer  
Dele Officer For Congress  
P.O. Box 107e  
Sioux City, IA 51101

Dear Mr. Barrow:

On August 2, 1988, the Federal Election Commission received a letter advising that Dele Barrow has informed the Commission that he has violated sections of the Federal Election Campaign Act of 1971, as amended. However, as indicated from the copy of the enclosed letter to the complainant, these allegations do not meet the legal definition of a contribution for the purpose of the Act. Therefore, no action will be taken on this matter unless the complainant can provide additional information to the Commission. If the matter is referred, you will be advised of the results.

The Commission will remain confidential for 10 days to allow the complainant to file a rebuttal. If the defects are not cured by the complainant and the Commission is satisfied that the matter is not a contribution, no action will be taken.

If you have any questions, please do not hesitate to call the Commission.

Sincerely,

Lawrence M. Noble  
General Counsel

By: Lois E. Lerner  
Associate General Counsel

- Enclosures  
Copy of Complaint  
Copy of Letter to Complainant

93040742420



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 10, 1988

Mr. [Name]  
[Address]  
Washington, D.C. 20000

Dear Mr. [Name]:

On August 1, 1988, the Federal Election Commission received a letter from [Name] and you, as complainant, who alleged that the Federal Election Commission had violated the provisions of the Federal Election Campaign Act of 1971, as amended. However, we investigated your complaint and the evidence indicates that the Commission did not violate the provisions of the Act. The Commission is a bipartisan, nonpartisan body and its actions are based on the facts and the law. The Commission is not a political party and it does not have a political agenda. The Commission is committed to the integrity of the electoral process and to the public's confidence in the Commission's actions.

The Commission's decision is based on the facts and the law. The Commission is not a political party and it does not have a political agenda. The Commission is committed to the integrity of the electoral process and to the public's confidence in the Commission's actions.

The Commission's decision is based on the facts and the law. The Commission is not a political party and it does not have a political agenda. The Commission is committed to the integrity of the electoral process and to the public's confidence in the Commission's actions.

Sincerely,

Lawrence H. Moore  
General Counsel

By: Lois E. Carter  
Associate General Counsel

- Enclosures  
Copy of Complaint  
Copy of Letter to Complainant

83040742421

Editor & Publisher  
The Crucible  
The Naturalist

**GARRY DE YOUNG**  
**(De Young Press)**  
**Environmentalist**

P.O. BOX 7252  
SPENCER, IOWA 51301-7252

August 17, 1988

Author & Publisher  
of fine books  
and magazines

RECEIVED  
FEDERAL ELECTION COMMISSION  
AUG 22 AM 9:30

BOOK # 200

TWR 2676

RECEIVED  
FEDERAL ELECTION COMMISSION  
AUG 22 PM 4:48

Lawrence M. Noble, General Counsel  
FEDERAL ELECTION COMMISSION  
Washington DC 20463

Dear Mr. Noble:

This letter constitutes a formal complaint in response to my previous correspondence with your office and in accordance with your reply in your letter of August 10, 1988.

I comply with each paragraph of your letter as follows:

- (1) This complaint is in writing.
- (2) This complaint has been sworn to and notarized.
- (3) My Full name and address is Garry De Young, 605 West 9th Street, P.O. Box 7252, Spencer, Iowa 51301-7252.
- (4) My formal complaint names Dave O'Brien, PO Box 1076, Sioux City, Iowa 51102 and The Teamster's Union, address unknown.
- (5) The source of my information is twofold: (A) An article which appeared in the Spencer Daily Reporter for Saturday, July 30, 1988 and (B) An article which appeared in the Des Moines Register on Saturday, July 30, 1988. In addition, since the date of my original letter, there has appeared a report on the television program 60 Minutes which was aired this past Sunday, August 14, 1988, a copy of which is included with this letter.
- (6) A clear and concise recitation of the facts describing the violation of a statute or law over which the Commission has jurisdiction follows:

I was a candidate for the United States House of Representatives from this, the Sixth Congressional District of Iowa in the Democratic Primary Election which was held on June 7th. I was defeated in that election by Dave O'Brien.

After the primary I went on vacation in Oregon. Upon my return I had heard that the Teamster's Union had been placed under the jurisdiction of a federal court because of racketeering charges.

000047422

On July 30th I read in the newspaper about the charges made by Republican incumbent Fred Grandy in the attached newspaper articles.

It now becomes evident that Teamster's Union funds, which apparently included funds received through racketeering were given to Dave O'Erien and used to help defeat me in the June 7th Primary.

I am demanding that Dave O'Brien's name be removed from the November general election ballot because of these apparent illegalities.

I am requesting the Federal Election Commission to conduct an investigation into all aspects of this matter, including, but not limited to, the activities of the Teamster's Union and also the role of the Roman Catholic Church in the Sixth Congressional District Primary and its role, if any, in the Teamster's Union.

(7) This formal complaint is accompanied by the following supporting documentation:

- (A) Newspaper article described above from the Spencer Daily Reporter.
- (B) Newspaper article described above from the Des Moines Register.
- (C) Videotape copy of the 60 Minutes Program described above.

(8) I do not have a telephone at home. However, my wife, Mary De Young, a supervisor for the Iowa Department of Human Rights, Protective Services Division, in Spencer, can be reached at (712) 262-5251 and can transmit any message you might wish to convey.

Sincerely,

Garry De Young

NOTARIZATION

I state that the above statements are true to the best of my knowledge, have been made without coercion or intimidation, were and are made under my own free will and not under any duress, subject to the penalties of perjury.

Subscribed to and sworn before me on this 17th day of August, 1983.

Shelva L. Kardon

NOTARY

my commission expires  
09-12-90

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## Sides trade jabs over 6th District

Rhetoric and press releases are flying in the race for Iowa's 6th District congressional seat.

The position, held by first-term Republican Rep. Fed Grandy, is being sought by Democratic candidate David O'Brien.

Each camp is now accusing the other of violating federal election laws.

Democrats charged Grandy with illegally accepting \$11,550 in corporate contributions, saying he's guilty of "sloppy bookkeeping or complete ignorance of campaign finance law."

Republicans said O'Brien "seems to be taking ethics lessons from Speaker Jim Wright" and failed to report on time \$8,000 in contributions from big labor groups.

Wright, D-Texas, is under investigation by the House Ethics Committee for a series of financial deals.

The exchange underscores the seriousness both parties are attaching to the 6th District race.

Iowa Republican Chairman Michael Mahaffey started the exchange when he issued a statement Thursday accusing O'Brien of failing to immediately report contributions of more than \$1,000 from the United Auto Workers, Teamsters and American Federation of State, County and Municipal Employees. Federal election law requires that big contributions coming just before an election be reported immediately.

"The public had a right to know about those contributions before the primary election," said Mahaffey. "That's why the law is there."

Iowa Democratic Chairman Bonnie Campbell fired back, saying Republicans "may have thrown one too many stones in their political glass house."

She said Grandy's financial disclosure forms showed \$11,550 in contributions from 23 corporations and organizations, contributions which are banned by federal election laws.

While it's legal to accept contributions from political action committees affiliated with those groups, the disclosure forms don't show that, she said.

"The Iowa Democratic Party is calling on the Grandy campaign to take the appropriate action with the Federal Election Commission to clear up the questions of illegality, and publicly explain why it happened," she said.

Grandy aides said the contributions came from PACs, but were incorrectly listed on the disclosure forms. They said the FEC has been notified the PAC designation was "regretfully omitted" from the disclosure forms and has acknowledged the correction.

O'Brien has said the delay in reporting was an oversight.

As a freshman congressman facing his first re-election bid, Grandy is certain to get heavy attention from Democrats this year. Incumbent congressmen are far more vulnerable in their early terms, before they can build name recognition and political allegiances which make veterans virtually unbeatable.

All six Iowa congressmen are seeking another term, with Grandy and freshman 3rd District Democratic Rep. David Nagle facing the most serious challenges.

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# Candidates' camps trade accusations

By The Associated Press

The race for western Iowa's 6th District seat in Congress began to heat up Friday with each camp accusing the other of violating federal election laws.

Democrats charged first-term Republican Representative Fred Grandy with illegally accepting \$11,550 in corporate contributions and said he is guilty of "sloppy book-keeping or complete ignorance of campaign finance law."

Republicans said Democratic candidate David O'Brien of Sioux City "seems to be taking ethics lessons from Speaker Jim Wright" and failed to report on time \$8,000 in contributions from labor groups.

Wright, a Texas Democrat, is under investigation by the House Ethics Committee for his financial deals.

The exchange between the Grandy and O'Brien campaigns underscores the seriousness both parties attach to the 6th District race.

Iowa Republican Party Chairman Michael Mahaffey started the exchange when he issued a statement accusing O'Brien of failing to immediately report contributions of more than \$1,000 from the United Auto Workers, Teamsters union and the American Federation of State, County and Municipal Employees.

Federal law requires that large contributions coming just before an election be reported immediately.

"The public had a right to know about those contributions before the primary election," said Mahaffey. "That's why the law is there."

Iowa Democratic Party Chairwoman Bonnie Campbell pointed out that Grandy's financial disclosure forms showed \$11,550 in contributions from 23 corporations and organizations — gifts that are banned by federal election laws. While it is legal to accept contributions from political action committees affiliated with those groups, the disclosure forms do not show that, she said.

"The Iowa Democratic Party is calling on the Grandy campaign to take the appropriate action with the Federal Election Commission to clear up the questions of illegality and publicly explain why it happened," she said.

Grandy aides said the contributions came from political committees but were incorrectly listed on the disclosure forms. They said the Federal Election Commission has been notified of the omission.

O'Brien said the delay in reporting his contributions was an oversight.

As a freshman congressman facing his first re-election bid, Grandy is certain to get considerable attention from Democrats this year. Incumbent congressmen are more vulnerable in their early terms, before they can build name recognition and political allegiances that make veterans difficult to beat.

All six Iowa congressmen are seeking re-election in the Nov. 8 election, with Grandy and freshman 3rd District Democrat David Nagle facing the most serious challenges.



FRED GRANDY

DAVID O'BRIEN

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# Iowa politics begin heating up

By Harrison Weber

DES MOINES (INA) — Iowa politics are starting to sizzle.

Republican State Chairman Michael Mahaffey is calling upon five top Iowa Democrats to return or place in escrow, campaign contributions they have received from DRIVE, a political action committee of the International Brotherhoods of Teamsters.

Mahaffey, in a written statement, said the five Democrats should take this action "until possible links between the funds and organized crime have been resolved."

The five are U.S. Senator Tom Harkin, Third District Congressman Dave Nagle, and three Democratic congressional candidates.

"I think it is a low blow to assume that every person who belongs to the Teamsters is somehow connected to the mob. That is not correct," said Bonnie Campbell, the Democratic State Chair.

"No one I know," Campbell continued, "has suggested that there is any fraud or underworld connections with respect to the link between individual Teamster members and DRIVE, their political action committee."

She said the decision to return the money "clearly rests" with the candidates. "I personally would not feel compelled to return the money unless someone just felt the need to do that."

Mahaffey said Federal Election Commission records show that several Iowa Democrats have recently accepted DRIVE PAC funds for their campaigns including Harkin, \$2,000; Nagle, \$6,000; Congressional candidates Dave O'Brien, Sioux City, \$2,500; Eugene Freund, Council Bluffs, \$5,000; and Eric Tabor, Baldwin, \$5,000.

The GOP chairman said he believes the Democrats should return the funds to the PAC or place the money in an escrow account "in light of a racketeering suit which has been filed against the giant union by the U.S. Justice Department."

Mahaffey said these allegations raise "serious questions" about the sources of DRIVE PAC funding. "While we wait for the legal process to function as it should, we are calling upon Iowa officeholders and candidates to return, or at least place in escrow, these contributions they have accepted from DRIVE."

The republican chairman said the civil suit filed late last month seeks to force the Teamsters to temporarily relinquish control of its union "because it is said to be run by organized crime."

The U.S. Justice Department alleges that "organized crime has deprived union members of their rights through a pattern of racketeering that includes 20 murders, a number of shootings, bombings, beatings, a campaign of fear, extortion and theft ..."

Mahaffey said until these matters have been resolved and the members of the Teamsters Union have been assured that they once again have a voice in a democratically-run union, "there will be questions in people's minds about DRIVE PAC money."

"I think the people of Iowa will respect politicians who don't use campaign contributions from such questionable sources," he said.

Mahaffey also pointed out that records filed with the FEC in Washington show none of Iowa's Republican Congressmen or GOP Congressional candidates have accepted PAC funds from the

DRIVE committee.

Money contributed to DRIVE is the result of individual contributions by hundreds of thousands of members of the Teamsters Union, Campbell said.

"I don't think you can assume that if a handful of people in the Teamsters leadership are in fact somehow connected to organized crime that everyone who drives a truck and belongs to the Teamsters Union is therefore tied to the underworld. That is not a correct assumption," she added.

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## NATIONAL NEWS

# Teamster VP ousts Presser's chosen heir

By HENRY WEINSTEIN

© 1988 Los Angeles Times

WASHINGTON, D.C. — William McCarthy, a regional Teamster leader, was elected Friday to be the union's new leader, defeating the heir chosen by Jackie Presser, who died a week ago.



JACKIE PRESSER

McCarthy narrowly defeated Weldon Mathis, the union's secretary-treasurer, whom Presser had named interim president on May 4. McCarthy had been considered a long shot just a few days ago, but he gained support throughout the week.

"This is a very happy event in my life, being elected president of the union I've been in for so long," the crusty, 68-year-old Bostonian said at a news conference. "This is a heavy responsibility I have no illusions about how tough the job will be." McCarthy had been the top Teamster leader in New England for the last two decades, serving as one of the union's regional vice presidents.

### Union Faces Suit

McCarthy's selection came at a crucial time for the 1.6 million-member union. The Department of Justice, in a suit filed under the federal Racketeer Influenced and Corrupt Organizations Act, is seeking to put the union in trusteeship and oust all the members of the executive board until "free and fair elections" of new officers can be held.

The suit alleges that such a drastic remedy is needed because the union has been dominated by organized crime for decades.

McCarthy said Friday that the lawsuit contains "a lot of innuendoes." He predicted that if U.S. District



William McCarthy Derides U.S. suit against union

Judge David Edelstein, who is presiding over the case in New York, "hears our side, we'll come out just as clear as we have been."

### Intense Lobbying

Friday's close vote climaxed an intense week of lobbying by Teamsters board members, union lawyers and Teamster officials from around the country. Jobs and other inducements were offered to board members to gain their support, according to several board members.

Mathis, who retains his job as secretary-treasurer, said he was disappointed but added that he had "no bitter feelings." He acknowledged that "there's a difference of opinion" within the board, but he quickly added, "We're not having a revolution."

McCarthy, thin and white-haired, is scheduled to finish Presser's term, which runs until June 1991.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 22, 1988

Robert Janks, Treasurer  
Automobile Club Of Michigan  
PAC  
1 Auto Club Road  
Dearborn, MI 48126

Dear Mr. Janks:

In August 2, 1988, the Federal Election Commission received a letter alleging that the United Auto workers violated sections of the Federal Election Campaign Act of 1971, as amended. However, as indicated from the copy of the enclosed letter, the Automobile Club Of Michigan PAC and you, as treasurer, mistakenly received a copy of the complaint due to administrative oversight. Thus, no action will be taken on this matter regarding you and the Automobile Club Of Michigan PAC.

This matter will remain confidential for 15 days and no additional notification will be provided.

If you have any questions, please do not hesitate to call me at (202) 455-2210.

Sincerely,

Lawrence M. Noble  
General Counsel

By: Lois G. Lerner  
Associate General Counsel

Enclosures  
Copy of letter

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 29, 1988

Mr. Garry De Young  
PO Box 7252  
Spencer, IA 51301-7252

RE: MUR 2676

Dear Mr. De Young:

This letter acknowledges receipt of your complaint, received on August 22, 1988, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Dave O'Brien For Congress, Dave O'Brien, and the International Brotherhood Of Teamsters. 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 2676. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble  
General Counsel

By: Lois G. Lerner  
Associate General Counsel

Enclosure  
Procedures

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*glen*



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 29, 1988

Dave O'Brien For Congress  
PO Box 1076  
Sioux City, IA 51102

RE: MUR 2676  
Dave O'Brien For  
Congress

Gentlemen:

The Federal Election Commission received a complaint which alleges that Dave O'Brien For Congress 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 2676. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Dave O'Brien For Congress 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 Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel



By: Lois G. Lerner  
Associate General Counsel

Enclosures

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

cc: Mr. David O'Brien  
2315 Wall Street  
Sioux City, IA 51105

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 29, 1988

International Brotherhood  
Of Teamsters  
25 Louisiana Avenue, NW  
Washington, DC 20001

RE: MUR 2676  
International Brotherhood  
Of Teamsters

Gentlemen:

The Federal Election Commission received a complaint which alleges that the International Brotherhood Of Teamsters 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 2676. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the International Brotherhood Of Teamsters 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 Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel



By: Lois G. Lerner  
Associate General Counsel

Enclosures

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

8 9 0 4 0 7 4 2 4 3 4

Editor & Publisher  
The Crucible  
The Naturalist

**GARRY DE YOUNG**  
**(De Young Press)**  
**Environmentalist**

CCC# 310

Author & Publisher  
of fine books  
and magazines

P.O. BOX 7252  
SPENCER, IOWA 51301-7252  
September 2, 1988

Lawrence E. Noble, General Counsel  
Federal Election Commission  
Washington DC 20463

REFERENCE: NO. MUR 2676

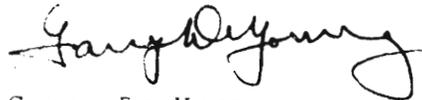
SUBJECT: Supplemental Background Material

Enclosed are three tape recordings: KDCR Interivew  
and The Human Environment; John Day Fossil Beds; and The  
Lens of Life and Other Poems.

Also enclosed are: A copy of The Silence of the  
"Good" People and the following copies of self-explantory  
sections of lawsuits now in the Clay County District Court  
and the United States Supreme Court as well as before  
the United States District Court.

As I gather other material which I think may be of  
help to you in formulating background and otherwise, I  
will send it to you.

Sincerely,



Garry De Young

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88 SEP -5 PM 3:37  
RECEIVED  
1988 SEP 04

**GARRY DE YOUNG  
DEMOCRAT  
FOR  
U.S. HOUSE OF REPRESENTATIVES**

P.O. BOX 7252  
SPENCER, IOWA 51301  
December 19, 1987



FEDERAL COURT ALLOWS IOWA PUBLIC TELEVISION THIRTY DAYS  
IN DE YOUNG DISCRIMINATION CASE

SPENCER, IOWA - Federal Judge Donald O'Brien has ordered Iowa Public Television to respond to four questions within thirty days in the lawsuit brought by Garry De Young in 1984 when he was denied his right to participate in the so-called "Harkin-Jepsen senatorial debates."

The questions the Court has asked are:

1. Iowa Public Television is regulated by the State of Iowa.
2. Does Iowa Public Television receive public funds from the state of Iowa?
3. What is the function of Iowa Public Television?
4. Is there a symbiotic relationship between Iowa Public Television and the State of Iowa?

De Young asserts that since public funding supports Iowa Public Television that this constitutes a colorable action and for that reason he was entitled to participate in the debates as a full, first class legal candidate, which he indeed was.

De Young further contends that devices used to circumvent this right constitutes a subterfuge and is inherently discriminatory.

If the federal court upholds this discriminatory practice De Young will appeal to the 8th Circuit Court of Appeals and then to the United States Supreme Court.

+END OF RELEASE+

*I am still awaiting a ruling on  
this case - Sept. 2, 1988.  
Garry De Young*

89040742436

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

**FILED**  
SIOUX CITY OFF./WESTERN DIV.  
NORTHERN DISTRICT OF IOWA

8:13 am  
DEC 18 1987

WILLIAM J. KANAK-Clerk  
By: *J. Holt*  
Deputy

GARRY DE YOUNG, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
LARRY G. PATTEN, Executive )  
Director; JOHN C. WHITE, )  
Program Director; IOWA PUBLIC )  
TELEVISION; DEAN BORG; )  
IOWA PUBLIC BROADCASTING )  
NETWORK, )  
 )  
Defendants. )

NO. C 86-4163

ORDER

This matter is before the Court on defendants' resisted motion to dismiss. Garry De Young has brought suit against Dean Borg, a commentator on a program entitled "Iowa Press." He has also brought suit against Larry G. Patten, John White and Iowa Public Television. Patten and White are officials of Iowa Public Television.

In his suit against Dean Borg, Mr. De Young alleges that he was damaged because Dean Borg discussed debates between candidates for the United States Senate and did not mention Mr. De Young's name. Mr. De Young further alleges that this exclusion by Dean Borg was a contributing factor to his loss of the subsequent election. This Court finds that an analogy can be drawn between Mr. De Young's case and Christian Populist Party v. Secretary of State, 650 F. Supp. 1205 (E.D.Ark. 1987). In Christian Populist Party, the disgruntled plaintiffs brought suit against--among

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others--John R. Starr, editor of the Arkansas Democrat, because Mr. Starr did not publish statements and news releases supplied by the plaintiffs. The court stated: "There is no constitutional right of a citizen to compel a newspaper to publish material which that citizen deems 'newsworthy,' or which grants a citizen a right to damages if the newspaper chooses not to publish such material when requested." 650 F. Supp. at 1213.

This Court finds that the same reasoning should apply to a television news commentator. Newspaper editors and television commentators need to have the freedom to decide what is "news" without fear of government interference or suits brought by those with a different conception of what the "news" should be. The Court grants defendants' motion to dismiss as applied to Dean Borg.

The second part of Mr. De Young's complaint is more troublesome. Mr. De Young alleges that Iowa Public Television through its executive director, Larry G. Patten, and program director, John White, excluded him from debates between two other senatorial candidates. He alleges that this exclusion amounted to denial of access to the public and manipulation of the political process. He alleges that the defendants' actions caused him mental anguish. The unique aspect of this charge is that this Court cannot find another case where a plaintiff has sued a public broadcaster. Suits of a similar nature have appeared in court, but they have all involved private entities such as NBC, CBS or Turner Communications Corporation Network. See Belluso v. Turner Communications Corp., 633 F. 2d 393 (5th Cir. 1980); Daly v. Columbia Broadcasting

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System, Inc., 309 F. 2d 83 (7th Cir. 1962); Gordon v. National Broadcasting Company, 287 F. Supp. 452 (S.D.N.Y. 1968).

The field of radio and television is regulated by United States Code, Title 47. The United States Government issues licenses to broadcasters and regulates their conduct. Title 47, United States Code, Section 315, specifically addresses equal access to the media for candidates to public office. This statute provides that broadcasters must afford equal opportunities to all candidates for office. However, debates have been held to be an exception to this statute. See Chisolm v. FCC, 538 F. 2d 349, 176 U. S. App. D. C. 1 (D.C.Cir.), cert. denied, 426 U. S. 880 (1976). In Chisolm the court stated:

Debates between qualified political candidates initiated by broadcast entities and candidates' press conferences would be exempt from equal time requirements of this chapter, provided they were covered live, based upon good faith determination of licenses that they are "bonafide news events" worthy of presentation, and further provided that there is no evidence of broadcast favoritism.

538 F. 2d at 349.

Chisolm seems to indicate that Mr. De Young might have brought a cause of action alleging that the broadcasters did not act in good faith and that there was evidence of favoritism; however, this action would have been before the Federal Communications Commission, an administrative law body. The Congress has provided in 47 C.F.R. § 1.41 and §§ 1.701-735 the method for presenting claims of this kind.

The Court in Christian also faced the issue of a candidate being excluded from a televised debate. In Christian the court stated:

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It has often been held that one wishing to assert a claim that they have been injured by a broadcaster's violation of the statute must initially seek relief from the commission. "Indeed, the commission is the exclusive primary forum in which alleged violations of the Communications Act may be vindicated." [Citations omitted.] In light of Mr. Forbes' failure to make any showing that he has attempted to avail himself of available administrative remedies, the court finds that it lacks subject matter to adjudicate this matter.

650 F. Supp. at 1205.

This Court finds that it does not have subject matter jurisdiction to entertain a claim by Mr. De Young involving denial of equal access.

The Court still finds it necessary to examine the question of whether or not Iowa Public Broadcasting or Iowa Public Television and its executives could be construed as acting under color of state law for the purposes of sustaining a cause of action under 42 U.S.C. § 1983. As stated previously, this Court has been unable to find any cases directly addressing this issue. However, this Court finds that an analogy can be drawn between Iowa Public Television and The Daily Nebraskan. In Sinn v. The Daily Nebraskan, 829 F. 2d 662 (8th Cir. 1987), the court determined that The Daily Nebraskan, a college student newspaper, was independent from the state for purposes of a suit brought under 42 U.S.C. § 1983. The issue in Sinn was whether or not the newspaper had a duty to publish want ads which expressed a sexual orientation. In the original case before the district court, Judge Warren Urbom concluded that: "The university, through a variety of guidelines, policies and procedures, successfully fostered and protected the newspaper's editorial independence and that therefore, in the exercise of editorial discretion, The Daily

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Nebraskan was distinguished from the state." 829 F. 2d at 633.

This Court also finds instructive the court's discussion in Sinn of Rendell-Baker v. Kohn, 457 U. S. 830, 102 S. Ct. 2764, 73 L. Ed. 2d 418 (1982), and Blum v. Yaretsky, 457 U. S. 991, 102 S. Ct. 2777, 73 L. Ed. 2d 534 (1982), where the court stated: "Those cases set out four factors as determinative of state action: (1) extensive regulations, (2) receipt of public funds, (3) type of function involved, and (4) presence of a symbiotic relationship." (Citations omitted.) The Rendell-Baker court pointed out that regulation and subsidization of an entity, without more, do not create state action, but that the proper test was, rather, whether the challenged action was "fairly attributable" to the state. 829 F. 2d at 665.

Thus far this Court has determined that if Mr. De Young had a cause of action based on the fairness doctrine, he should have brought it in compliance with the regulations under 47 U.S.C. § 135. The Court does not have subject matter jurisdiction for actions that should have been brought before an administrative agency. This Court has also looked to the guidance provided by the Eighth Circuit Court of Appeals in Sinn; however, at this time, this Court does not feel that defendants have offered enough evidence to be granted a motion to dismiss in Mr. De Young's action against Patten, White and Iowa Public Television.

Defendants further argue that the state law claim must be dismissed on Eleventh Amendment grounds. The Eleventh Amendment precludes federal court jurisdiction over suits against states or state instrumentalities seeking to enforce state law. Pennhurst

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State School & Hospital v. Halderman, 465 U. S. 89, 106 (1984).

Thus, the initial question is whether Defendant Iowa Public Television is a state instrumentality under the Eleventh Amendment.

In Gilliam v. City of Omaha, 524 F. 2d 1013, 1015 (8th Cir. 1975), the Eighth Circuit held:

[T]he Eleventh Amendment limits the jurisdiction of the federal courts only as to suits against the state. It is settled that a suit against a county, a municipality, or other lesser governmental unit is not regarded as a suit against a state within the meaning of the Eleventh Amendment. Unless a political subdivision of the state is simply the "arm or alter ego of the state", it may sue and be sued pursuant to the same rules as any other corporation.

Id. at 1015. Whether Iowa Public Television is a "lesser governmental unit(s)" is a factual question. At least one court has held that this issue must be considered on a case-by-case basis. Soni v. Board of Trustees, 513 F. 2d 347, 352 (6th Cir. 1975), cert. denied, 426 U. S. 919 (1976).

Courts have utilized two tests in making this determination. The first test is whether the governmental unit has "substantial functional autonomy." Gay Student Services v. Texas A & M University, 612 F. 2d 160, 165 (5th Cir.), cert. denied, 449 U. S. 1034 (1980). The second test is whether any monetary judgment necessarily will be paid from the state treasury. Braderman v. Pennsylvania Housing Finance Agency, 598 F. Supp. 834, 838-39 (D. Pa. 1984). The Court does not believe it has enough evidence before it to make this determination, and finds that this issue would best be addressed by a motion for summary judgment.

The Court would entertain supplemental briefs from defendants concerning whether:

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1. Iowa Public Television is regulated by the State of Iowa.
2. Does Iowa Public Television receive public funds from the state of Iowa?
3. What is the function of Iowa Public Television?
4. Is there a symbiotic relationship between Iowa Public Television and the State of Iowa?

If the defendants wish to file a brief addressing these questions within thirty days of this order, the Court will reconsider defendants' motion to dismiss.

IT IS ORDERED that defendants' motion to dismiss Defendant Dean Borg is granted.

IT IS FURTHER ORDERED that defendants' motion to dismiss Larry Patten, John White and Iowa Public Television is denied at this time, but will be reconsidered if defendants file a brief as stipulated in this order.

December 17, 1987.

*Donald E O'Brien*

Donald E. O'Brien, Chief Judge  
UNITED STATES DISTRICT COURT

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Copies mailed by regular mail on December 18, 1987 to:  
 Larry DeYoung; PO Box 7252; Spencer, Iowa 51301-7252  
 Lynn M Walding; AAG; Administrative Law Division; Hoover State Office Building;  
 2nd Floor; Des Moines, Iowa 50319

*J. Hoch*  
Deputy Clerk

SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, D. C. 20543

June 21, 1988

Mr. Garry De Young  
PO Box 7252  
Spencer, IA 51301-7252

Re: Garry De Young,  
v. Republican Party of Iowa, et al.  
No. 87-7211

Dear Mr. De Young:

The petition for a writ of certiorari in the above entitled case was docketed in this Court on May 24, 1988 as No. 87-7211.

A form is enclosed for notifying opposing counsel that the case was docketed.

Very truly yours,

Joseph F. Spaniol, Jr., Clerk

by

*Ellen Bronfield*  
Ellen Bronfield  
Assistant

Enclosures

9704074444

QUESTION PRESENTED FOR REVIEW

1. The question presented for review concerns redress in favor of the State of Iowa instead of to me despite the fact that I am in fact the injured party.

2. I assert I should receive redress for the wrong done me as asserted by the Iowa Campaign Finance Disclosure Commission in its findings.

=====

IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1988

=====

Garry De Young,  
PETITIONER,  
v.  
Republican Party of Iowa, Et al.,  
RESPONDENT.

=====

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

The petitioner, Garry De Young, respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Eighth Circuit on March 11, 1988.

OPINION BELOW

A copy of the opinion by the Eighth Circuit is attached as appendix.

MY ARGUMENT

I assert that because I am the de-facto injured party in this case, not the State of Iowa, that it is I who should receive redress, not the State of Iowa.

REASON CERTIORARI SHOULD BE GRANTED

Certiorari should be granted in this case because it deals with discriminatory practice by the Republican Party against me. As a United States citizen guaranteed protection under the Fourteenth Amendment's equal protection clause I have been denied legal representation and have been denied In Forma Pauperis Pro Se status, all of which are necessary for equal protection.

June 8, 1988

  
Garry De Young  
P.O. Box 7252  
Spencer, Iowa 51301-7252  
(No Telephone)

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERND DISTRICT OF IOWA  
WESTERN DIVISION

GARRY DE YOUNG  
P.O. BOX 7252  
SPENCER, IOWA 51301-7252  
Plaintiff,

v.  
Sandra Steinbach  
Director of Elections  
Statehouse  
Des Moines, Iowa 50319  
Defendant.

PETITION

=====

1. I, G rry De Young, Plaintiff in this case, request permission to proceed in forma pauperis.
2. I have previously submitted to this court the required affidavit of poverty and inability to pay the fees and costs. This is a matter of public record.
3. I am a citizen of the United States and hold standing to sue before this Court.
4. This Court holds original jurisdiction of Constitutional questions.
5. This complaint concerns the signature requirements in order to get on the ballot as an Independent (no party affiliation) candidate.
6. The requirements to file as an Independent are 3100 signatures.
7. The requirements to file as a Democratic candidate are 640 signatures.
8. This violates my right to equal protection under the Fourteenth Amendment. See 440 U.S. 173 (1979)
9. This requirement violates the compelling interest test in 440 U.S. 188.
10. I seek from this court an end to this discriminatory practice favoring political parties.
11. I seek \$10,000 in damages from the State of Iowa for this discriminatory practice against me.

June 12, 1988

*Copy To  
Sandra Steinbach*

*Garry De Young*  
GARRY DE YOUNG  
P.O. BOX 7252  
SPENCER, IOWA 51301-7252

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**(De Young Press)**  
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Author & Publisher  
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P.O. BOX 7252  
SPENCER, IOWA 51301-7252

August 25, 1988

REC'D AUG 29 1988

Clerk of Court  
United States District Court  
Room 300 - Federal Building  
Sioux City, Iowa 51102

SUBJECT: Status of Petition relating to nominating  
signatures

Attention: Deputy Hoch

Dear Deputy Hoch:

I am trying to keep my files in order and note  
that no file number has been issued for the petition  
I submitted on June 12th.

Would you kindly let me know the status on this?

Sinceely,

*Garry De Young*

Garry De Young

*See  
attached  
MH*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERND DISTRICT OF IOWA  
WESTERN DIVISION

GARRY DE YOUNG  
P.O. BOX 7252  
SPENCER, IOWA 51301-7252  
Plaintiff,

v.  
Sandra Steinbach  
Director of Elections  
Statehouse  
Des Moines, Iowa 50319  
Defendant.

PETITION

*CB8-4040*  
*CB8-4041*  
*CB8-4042*  
*CB8-4043*

- =====
1. I, Garry De Young, Plaintiff in this case, request permission to proceed in forma pauperis.
  2. I have previously submitted to this court the required affidavit of poverty and inability to pay the fees and costs. This is a matter of public record.
  3. I am a citizen of the United States and hold standing to sue before this Court.
  4. This Court holds original jurisdiction of Constitutional questions.
  5. This complaint concerns the signature requirements in order to get on the ballot as an Independent (no party affiliation) candidate.
  6. The requirements to file as an Independent are 3100 signatures.
  7. The requirements to file as a Democratic candidate are 640 signatures.
  8. This violates my right to equal protection under the Fourteenth Amendment. See 440 U.S. 173 (1979)
  9. This requirement violates the compelling interest test in 440 U.S. 188.
  10. I seek from this court an end to this discriminatory practice favoring political parties.
  11. I seek \$10,000 in damages from the State of Iowa for this discriminatory practice against me.

June 12, 1988

*Copy To  
Sandra Steinbach*

*Garry De Young*  
\_\_\_\_\_  
GARRY DE YOUNG  
P.O. BOX 7252  
SPENCER, IOWA 51301-7252

83040742448

GARRY DE YOUNG,  
Plaintiff,

C88 - 4040

vs

DAVE O'BRIEN AND  
SANDRA STEINBACH,  
Defendants.

- ar 21 1 ORDER(J Han): Clerk file Pltfs. petition w/out prepayment of a filing fee. Action is dismissed as frivolous. (cma)
- ar 21 2 PETITION For Restraining Order.
- ar 21 3 JUDGMENT: Pltf. take nothing and that the action be dismissed as frivolous. (cma)
- ar 28 4 NOTICE OF APPEAL to Order in this case by Pltf.
- Jun 23 5 ORDER From U.S. Court of Appeals for the Eighth Circuit: An Action is legally frivolous if it is without arguable merit. The Court is satisfied that this appeal is without arguable merit and therefore is dismissed under Eighth Circuit Rule 12(a).

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GARRY DE YOUNG

Plaintiff

VS

C88-4041

BONNIE CAMPBELL and SANDRA STEINBACH  
Defendants

1988

Apr 21

01

ORDER: (J) Clerk of Court file pltfs petition w/out prepayment of Filing fee; action dismissed as frivolous (cma)

Apr 21

02

PETITION to Declare 1988 Democratic Caucus Results Null and Void and to Declare the Iowa Democratic Caucus Process Unconstitutional by pltf (c/r/r/r to pltf & regular mail to parties of record)

Apr 21

03

JUDGMENT: Pltf take nothing & action dismissed as frivolous (cma)

Apr 28

04

NOTICE of Appeal by pltf (certified copies to 8th Circuit)

June 24

05

ORDER: (8TH CIRCUIT) Court satisfied case w/out arguable merit & therefore dismissed under 8th Circuit Rule 12(a)(attested copy)

977474450

GARRY DE YOUNG,  
Plaintiff,

C88 - 4042

vs

BONNIE CAMPBELL; SANDRA STEINBACH; DAVE O'BRIEN and  
MICHAEL EARLL,  
Defendants.

- Mar 21 1 (J)ORDER: Clerk of Court file Pltfs petition w/out prepayment of filing fee. Action Dismissed as frivolous. (cma)
- Mar 21 2 PETITION To Declare Nominating Petition Procedures of Dave O'Brien and Michael Earll Illegal and Invalid. (cma)
- Mar 21 3 DEMAND For Subpoena of Nominating Petitions. (cma)
- Mar 21 4 JUDGMENT: Pltf. take nothing and that the action be Dismissed as frivolous. (cma)

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GARRY DE YOUNG

Plaintiff

VS

C88-4043

LUCAS DE KOSTER; MIKE EARLL; and SANDRA  
STEINBACH

Defendants

1988

- Mar 21 01 ORDER: (J) Clerk of Court file pltf's petition w/out prepayment of filing fee; action dismissed as frivolous (cma)
- Mar 21 02 MOTION to Withdraw and Dismiss and to Expand to a Constitutional Challenge by pltf
- Mar 21 03 DEMAND for Subpoena of Documents Relating to Hatch Act Violations by Michael Earll by pltf
- Mar 21 04 DOCUMENTS of Record by pltf
- Mar 21 05 DOCUMENTS of Record by pltf
- Mar 21 06 DOCUMENTS of Record by pltf
- Mar 21 07 DOCUMENTS of Record by pltf
- Mar 21 08 JUDGMENT: Pltf take nothing and action dismissed as frivolous (cma)
- Mar 28 09 NOTICE of Appeal by pltf (certified copies to 8th circuit)
- Apr 06 -- MAILED Entire to Eighth Circuit in St Louis, Missouri
- June 24 10 ORDER (8TH CIRCUIT): Court satisfied case is w/out arguable merit & therefore dismissed under 8th Circuit Rule 12(a)(attested copy)

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P.O. BOX 7252  
SPENCER, IOWA 51301-7252

August 30, 1988

Clerk of Court  
United States District Court  
Room 300 - Federal Building  
Sioux City, Iowa 51102

SUBJECT: CORRECTION TO COURT RECORDS

Attention: Deputy Hoch

Dear Deputy Hoch:

There is an error in the court's records. The petition I filed on June 12th was separate from the other petitions and dealt with a separate issue, that concerning the number of signatures required for a non-party candidate to get on the ballot.

I must have a separate ruling on this in order to appeal this to the United States Supreme Court.

According to Law of Federal Courts by Wright I have a solid case here. Refer to page 783 of this text .

Because I was severely discriminated against by the Democratic Party in the June 7th Primary that election did not reflect actual total support from this Sixth District, especially in view of the fact that neither Independents nor Republicans could vote in this closed primary.

The requirement that I obtain such a large number of signatures (3100) against 640) is clearly discriminatory and supported by the cases mentioned on page 783 and elsewhere.

Sincerely,



Garry De Young

30040741953

Editor & Publisher  
The Crucible  
The Naturalist

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(De Young Press)

Author & Publisher  
of fine books  
and magazines

**Environmentalist**

P.O. BOX 7252  
SPENCER, IOWA 51301-7252

August 31, 1988

Clerk of Court  
United States District Court  
Room 300 - Federal Building  
Sioux City, Iowa 51102

SUBJECT: CORRECTION TO LETTER SUBMITTED AUGUST 30, 1988

Attention: Deputy Hoch

Dear Deputy Hoch:

The paragraph in the letter I sent you yesterday, August 30, 1988, which reads: "According to Law of Federal Courts by Wright..." Should read:

According to Constitutional Law by Nowak, Rotunda and Young, Second Edition, published by West Publishing Company, 1983,, Page 783 of this text."

I am enclosing a copy of this page.

Sincerely,



Garry De Young

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P. 7.

candidate... statute helped... standard... Court reviewed... strict scrutiny... the right to... te. Consequen... these burdens... est and the... interests... Ohio scheme... system, it did... parties—the... parties. The... assured the... out it did so... new parties. P... that the... sion, but the... Ohio chose... ot necessary... justify the... ts to vote and... level of review... Ohio law violated

could form a new party.<sup>50</sup> The law violated the principle of equality among voters and was an unreasonable burden on candi-

After *Moore v. Ogilvie*, the Illinois election code required that new political parties and independent candidates obtain the signatures of 25,000 qualified voters to appear on the ballot for statewide elections; they did not have to receive a specific number of signatures from specific counties, the requirement which was invalidated in *Moore*. However, the Illinois election code required that independent candidates, or candidates of new parties, for offices of political subdivisions in Illinois had to receive signatures from at least five percent of the number of people who had voted in the previous election of that particular subdivision. The distinction in the statute, as applied to City of Chicago or Cook County elections, required that these candidates receive substantially more signatures to gain access to the Chicago or Cook County ballots than would similar independent candidates for statewide office. Thus, an independent candidate would need 35,000 signatures for inclusion on the ballot in a Chicago election, while a candidate for statewide office would need only 25,000 signatures. In *Illinois State Board of Elections v. Socialist Workers Party*,<sup>52</sup> the Supreme Court unanimously held that the political subdivision requirement violated equal protection and that the new politi-

cal parties or independent candidates could not be required to obtain more signatures than the statewide requirement (25,000) for city or county elections. The majority opinion, by Justice Marshall, found the classification subject to the compelling interest test because it affected the fundamental rights of association and voting. Justice Marshall's opinion seemed to indicate that exclusion of frivolous candidates was an acceptable purpose for the legislation, although he described that goal only as a "legitimate" one. The majority held that the subdivision signature requirement was invalid because it was not the most narrow, or least restrictive, means of excluding frivolous candidates from the ballot.<sup>51</sup>

Not all demonstrated support states are unconstitutional. The Supreme Court sustained Georgia's demonstrated support requirement in *Jenness v. Fortson*.<sup>53</sup> Georgia law required candidates for elective office who ran without winning a primary election to file petitions with signatures from qualified voters equaling five per cent of the vote cast in the last general election for that office. If the candidate belonged to a political party that received more than twenty per cent of the votes in the last gubernatorial election, the state relieved the candidate of the petition requirement. The Court distinguished *Williams* by suggesting that the Ohio statute challenged in that case presented an "entangling web of election laws."<sup>54</sup>

<sup>50</sup> Id. at 819.  
<sup>51</sup> 440 U.S. 173 (1979).  
<sup>52</sup> 440 U.S. at 188. Mr. Justice Blackmun concurred in the result but not in the use of the "compelling interest test." He believed that the law should be subject to "strict scrutiny" but that the phrases "compelling state interest" and "least drastic means" were vague and an open ended invitation to lower courts to engage in a form of substantive due process analysis similar to that used earlier this century in the economic area. 440 U.S. at 188-189 (Blackmun, J., concurring). Justice Stevens also concurred separately in the judgment; he would have preferred to rest the decision on a due process rationale. Justice Stevens thought that there might sometime be sufficient reasons for distinguishing city and state election requirements but that the 5% requirement was excessive, given the fact that the state did not defend it as other states on a historical remnant of an earlier election code.

Thus, Justice Stevens believed that this particular requirement deprived the candidates of liberty without due process. 440 U.S. at 189 (Stevens J., concurring). Justice Rehnquist concurred because he found no rational basis for the higher requirement for the city elections, but he noted that the unreasonableness of this requirement stemmed from the Supreme Court action in *Moore* and lower court invalidation of other portions of the election code. Had it not been for these judicial actions, which the Justice apparently did not agree with, the election code would have been reasonable in requiring statewide candidates to have a lesser number of signatures but requiring that set numbers of signatures be obtained in a specific number of counties around the state. 440 U.S. at 189-90 (Rehnquist, J., concurring).

<sup>52</sup> 403 U.S. 431 (1971).  
<sup>53</sup> Id. at 437 (quoting *Williams*).

SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, D. C. 20543

August 15, 1988

Mr. Garry De Young  
P.O. Box 7252  
Spencer, IA 51301-7252

Re: Garry De Young,  
v. Lucas De Koster, et al.  
No. 88-5282

Dear Mr. De Young:

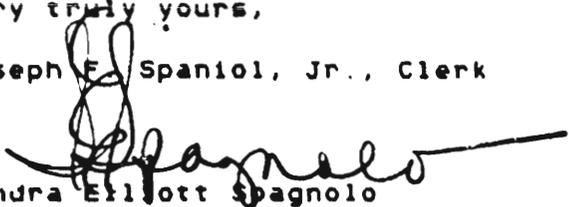
The petition for a writ of certiorari in the above entitled case was docketed in this Court on June 20, 1988 as No. 88-5282.

A form is enclosed for notifying opposing counsel that the case was docketed.

Very truly yours,

Joseph F. Spaniol, Jr., Clerk

by

  
Sandra Elliott Spagnolo  
Assistant

Enclosures

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QUESTION PRESENTED FOR REVIEW

1. Whether 5 USCS 1501, known as the "Hatch Act" and which deprives state and federal employees is Constitutional.

23040742457

IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1988

NO. \_\_\_\_\_

-----  
Garry De Young,  
PETITIONER,

v.

Lucas De Koster, et al.,  
RESPONDENTS.

-----  
PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

The Petitioner, Garry De Young, respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Eighth Circuit entered on May 31, 1988.

OPINION BELOW

A copy of the opinion by the Eighth Circuit is attached as appendix.

JURISDICTION

The Supreme Court of the United States holds final jurisdiction on all Constitutional questions.

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution, Amendment V:

Nor shall any person... be deprived of life, liberty, or property, without due process of law...

United States Constitution, Amendment I:

Congress shall make no law... abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

STATEMENT OF THE CASE

1. The question presented for review concerns the Constitutionality of 5 U. S. 1501, known as the "Hatch Act."

2. I assert that 5 USCS 1501, known as The Hatch Act injures me because it deprives basic rights of citizenship to state and federal employees, that in addition this Act serves to intimidate such employees and in the process of denying them opportunity to participate in the electoral process militates against me as a candidate who has been discriminated against by the officials of the Democratic Party.

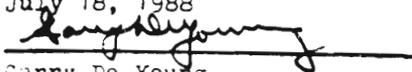
3. I further assert that this is a class action suit and that the District and Appeals Courts have oversimplified and trivialized this case and have refused to recognize the adverse impact it has upon the political process.

4. This Act is in violation of the First, Fifth and Fourteenth Amendments, violates the right to freedom of association and violates the compelling interest test.

REASON CERTIORARI SHOULD BE GRANTED

Certiorari should be granted in order that I may have the opportunity to present the documentation and arguments supporting my assertions.

July 18, 1988

  
Garry De Young  
P.O. Box 7252  
Spencer, Iowa 51301-7252

SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, D. C. 20543

August 15, 1988

Mr. Garry De Young  
P.O. Box 7252  
Spencer, IA 51301-7252

Re: Garry De Young,  
v. Dave O'Brien, et al.  
No. 88-5283

Dear Mr. De Young:

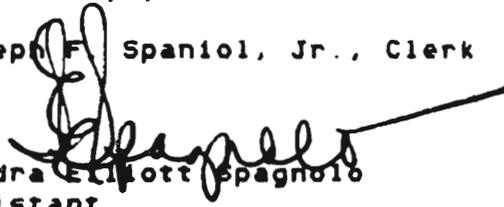
The petition for a writ of certiorari in the above entitled case was docketed in this Court on June 20, 1988 as No. 88-5283.

A form is enclosed for notifying opposing counsel that the case was docketed.

Very truly yours,

Joseph F. Spaniol, Jr., Clerk

by

  
Sandra Elliott Spagnolo  
Assistant

Enclosures

37040742450

QUESTION PRESENTED FOR REVIEW

1. Whether lawyers, as officers of the Court are members of the judicial branch of government.

2. If lawyers are members of the judicial branch of government does it not violate the principle of the separation of powers when lawyers serve in the Legislative Branch or the Executive Branch of Government without resigning from their law practice and from the Bar of the state in which they are licensed to practice law.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1988

NO. \_\_\_\_\_

-----  
PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

The Petitioner, Garry De Young, respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Eighth Circuit entered on May 31, 1988.

OPINION BELOW

A copy of the opinion by the Eighth Circuit is attached as appendix.

JURISDICTION

The Supreme Court of the United States holds final jurisdiction on all Constitutional questions.

CONSTITUTIONAL PROVISION INVOLVED

Separation of Powers:

Implicit in the outlines for the three separate branches of government, the Executive, Judicial and Legislative, is the principle of the strict separation of those powers.

STATEMENT OF THE CASE

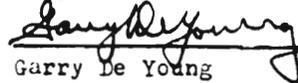
1. The question presented for review concerns the Constitutional legality of lawyers running for the United States House of Representatives, the United States Senate and the Presidency of the United States.
2. The United States Constitution mandates the separation of powers. Lawyers are officers of the Court and thus members of the judicial branch of Government. Unless they resign from their law practice they are in conflict of interest when in Congress.
3. In order to have a truly fair Judiciary it is essential that lawyers and judges be totally free of any political affiliation and bias.
4. Inherent in political affiliation is bias and unfairness.

5. Lawyers such as Dave O'Brien, nephew of Federal Judge Donald O'Brien, have an intimidating and chilling effect upon their opponents, in this case me, when competing for the office of Representative in the United States House of Representatives and if elected are in the position to subvert the U.S. House of Representatives in favor of the Judiciary through creating or supporting self-serving legislation which is supportive of their advancement into the ranks of the judiciary.

REASON CERTIORARI SHOULD BE GRANTED

Certiorari should be granted in order that I may have the opportunity to present the complete arguments supporting my assertions.

July 19, 1988



Garry De Young

P.O. Box 7252  
Spencer, Iowa 51301-7252

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SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, D. C. 20543

August 15, 1988

Mr. Garry De Young  
P. O. Box 7252  
Spencer, IA 51301-7252

Re: Garry De Young,  
v. Bonnie Campbell, et al.  
No. 88-5275

Dear Mr. De Young:

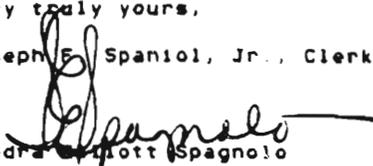
The petition for a writ of certiorari in the  
above entitled case was docketed in this Court on  
June 20, 1988 as No. 88-5275.

A form is enclosed for notifying opposing  
counsel that the case was docketed.

Very truly yours,

Joseph E. Spaniol, Jr., Clerk

by

  
Sandra Elliott Spagnolo  
Assistant

Enclosures

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QUESTION PRESENTED FOR REVIEW

1. Whether failing to comply with Article II, Section 6 of the Iowa Constitution violated Appellant's rights to equal protection under the Fourteenth Amendment to the United States Constitution.

03040742465

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IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1988

NO. \_\_\_\_\_

Garry De Young,  
PETITIONER,

v.  
Bonnie Campbell, et al.,  
RESPONDENTS.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

The Petitioner, Garry De Young, respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Eighth Circuit entered on May 31, 1988.

OPINION BELOW

A copy of the opinion by the Eighth Circuit is attached as appendix.

JURISDICTION

The Supreme Court of the United States holds final jurisdiction on all Constitutional questions.

CONSTITUTIONAL PROVISION INVOLVED

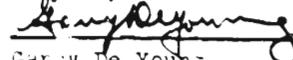
United States Constitution, Amendment XIV:

.... No State... shall deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

1. The question presented for review concerns the Constitutionality of the Iowa Caucuses.
2. Article II, Section 6 of the Iowa Constitution states that all elections shall be by ballot. The Iowa Democratic Caucuses were not held by ballot thus permitting coercion and intimidation of participants.
3. I assert that because I am the injured party in this case that I am entitled to redress. I further assert that the District and Appeals Courts trivialized this issue in not providing me with the protection guaranteed under the equal protection clause of the Fourteenth Amendment.

July 19, 1988

  
Garry De Young  
Box 7252  
Ancker, Iowa 51301-7252

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UNITED STATES POSTAL SERVICE  
Rates and Classification Center  
Main Post Office Building  
433 West Van Buren Street  
Chicago, IL 60698-9599

MAR 17 1988

RCC30:JFStefaniak:D623/32172

Mr. Gary DeYoung  
PO Box 7252  
Spencer, IA 51301-7252

Dear Mr. DeYoung:

Your letter of February 23, 1988 which was addressed to the Postal Inspection Service was forwarded to our office for response.

We investigated the special (nonprofit) rate authorization used by the organization you named and found it was legitimately granted under the conditions of Sections 623 and 642, Domestic Mail Manual.

As information, current postal regulations do not prohibit nonprofit authorized organizations from engaging in incidental political activities. Such activities could include lobbying for pending legislation or supporting political candidates, etc. However, prior to the 1976 Tax Reform Act nonprofit organizations authorized under the educational, religious, or philanthropic categories were prohibited from engaging in any political "action". This restriction was removed by amendments to the postal regulations in 1977.

Currently, organizations which prove they are nonprofit and are operated within the definition of a qualifying category are eligible for the special rates regardless of any incidental political activities they may conduct.

We thank you for your interest in this matter.

Sincerely,

Wayne A. Wilkerson  
General Manager  
Rates & Classification Center  
Chicago, IL 60698-9599

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IN THE IOWA DISTRICT COURT FOR CLAY COUNTY  
Clay County Courthouse  
Spencer IA 51301

FILED

1988 JUN 29 PM 4:23

Garry De Young  
PO Box 7252  
Spencer, Iowa 51301-7252  
Plaintiff,

v.

Jane Norman  
715 Locust Street  
Des Moines, Iowa 50317

Charles C. Edwards  
715 Locust Street  
Des Moines, Iowa 50317

The Gannett Corporation  
715 Locust Street  
Des Moines, Iowa 50317  
Defendants.

CLERK DISTRICT COURT  
CLAY COUNTY, IOWA  
PETITION FOR REDRESS OF LIBEL

1. I, Garry De Young, Petitioner and Plaintiff in this action seek monetary redress by this Court from the Defendants above named and others which may subsequently be named in this action, with subsequent additions of the full addresses as they become available.
2. I am a citizen of the United States of America and of Clay County, Iowa and have standing to sue.
3. This Court holds original jurisdiction on libel cases.
- 3A. This action was originally filed in federal court but I have been advised by that Court that the District Court is the Court holding jurisdiction.
4. I am seeking Ten Billion Dollars \$10,000,000,000.00 in damages from the above Defendants for libelous statements made against me in the May 29, 1988 Des Moines Sunday Register by Staff Writer Jane Norman, against the President & Publisher for printing such libelous statements to be made and against the Gannett Corporation for its larger role in ownership of this newspaper.
5. I am seeking all expenses in which I will be involved including lawyers fees at the rate of \$150 per hour, beginning with the original petition filed in federal court, such time to be determined at the rate of \$150 for each typewritten page, or portion thereof, submitted to this Court and for each copy thereof submitted to other interested parties.
6. I am seeking interest at the rate of 25% from ~~May 29, 1988 until this case resou~~

May 29, 1988 until this case results in total redress, that interest to be compounded at the highest legal rate permitted by loan sharks.

7. This libel constitutes continuing harrassment and unprofessional and unethical news reporting by the Des Moines Register and is part of a continuing practice of news dissembly and disinformation directly harmful to me.

8. I am very much aware that newspapers have been hiding behind the First Amendment right to freedom of the press in their libelous actions but enough is enough.

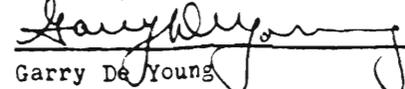
9. I presently have a case in the 8th Circuit Court of Appeals originating-in this Court where I was charged with libel for telling the truth about Doctor Ed Kelly denying me medical care when I had a heart attack. For this Court to be consistent in its rulings and not be charged with having double standards, it is imperative that the Court take this case under serious consideration immediately and demonstrate for all the world to see that large corporations cannot run rough shod over individuals who lack the power and the resources which these corporations possess and that they cannot any longer, simply because of their wealth, power and other resources, continue to try manipulating the political process with malicious and libelous, scandalous lies.

10. I am leaving for a three week vacation on June 20th and upon direction from this Court will submit a timely legal brief.

11. The purpose of this petition is to get this case filed in timely fashion into the proper court.

12. I demand legal representation under the equal protection clause of the Fourteenth Amendment.

June 16, 1988

  
Garry De Young  
P.O. Box 7252  
Spencer, IA 51301-7252

Copies will be sent my certified mail to Defendants on June 17, 1988.

IN THE IOWA DISTRICT COURT FOR CLAY COUNTY

GARRY DE YOUNG, )  
Plaintiff ) NO. 22197  
v. )  
JANE NORMAN, CHARLES C. EDWARDS, ) Response to Motion  
AND GANNETT COMPANY., ) to Dismiss and  
Defendants ) for sanctions

-----

1. I, Garry De Young, Plaintiff in this case respond to Defendants Motion dated August 25th 1988 as follows:

2. The shallow argument that Defendants were not properly served is moot because the purpose of service is to insure that Defendants are notified. The fact that the attorney for the Defendants has responded is sufficient evidence that service served its purpose, that Defendants were made aware of my complaints against them.

3. I have no objection to being subjected to an inquisition to determine my financial status although I consider it a waste of time. It will be one way for the lawyers for the Defense to run up costs and thus to justify their accumulating fees to Defendants. This obviously is a judicial decision anyway, not mine, and it will cause delay.

4. The argument that I have not stated a claim is absurd. I was libeled by Jane Norman and that constitutes a self-evident claim in that it contreibuted to my loss of the June 7th Democratic Primary Election by creating unfavorable impressions about me.:

"A justiciable controversy is ... distinguished from a diference or dispute of a hypothetical character; and concrete, touching the legal relations of parties having adverse legal interests." - Aetna Life Ins. Co. v. Haworth, 1937, 57 S.Ct. 461, 464, 300 U.S. 229, 240-241, 81 L.Ed. 617 (citations omitted.)

5. In respect to my claim: "...in general the court looks to the sum demanded by plaintiff. It does not matter that on the face of the complaint there may appear a defense to part of the claim, since possibly defendant will not assert that defense." - Schunk v. Moline, Milburn & Stoddard Co., 1892, 13 S.Ct. 416, 147 U.S. 500, 37 L.Ed. 255; Zacharia v. Harbor Island Spa, C.A.2d, 1982, 684 F.2d 199.

6. Claim discussion continued: "The court may believe it highly unlikely that plaintiff will recover the amount demanded, but this is not enough to defeat jurisdiction." - Barry v. Edmunds, 1886, 6S Ct. 501, 116, U.S. 550, 29 L.Ed. 729; etc. (Page 184 Law of Federal Courts, Charles Alan Wright, 4th Edition.

7. Claim discussion continued: "Plaintiff is master of his claim, and if he chooses to ask for less than the jurisdictional amount, only the sum he demands is in controversy and jurisdiction is absent, even though his underlying claim was of a value exceeding the statutory minimum." - Brady v. Indemnity Ins. Co. of North America, C.C.A. 6th, 1933, 68 F. 2d 302, noted 1934, 12 N. Car. L. Rev. 390; Sponholz v. Stanislaus, D.C.N.Y. 1976, 410 Supp. 286; Standard Acc. Ins. Co. v. Aguirre, D.C. Tex. 1961, 199 F. Supp. 918 -See Paragraph 31 in Law of Federal Courts, Ibid.

8. On the initial filing in federal court: "Plaintiff is master of his claim, and if he chooses not to assert a federal claim, though one is available to him, defendant cannot remove on the basis of a federal question." Page 215, Law of Federal Courts, Ibid.

9. I have demanded a lawyer to represent me, recognizing that I am at a significant disadvantage trying to argue my own case. I do not have legal training and do not pretend to possess legal competence. I assert that by not being provided with a lawyer my rights to equal protection under the Fourteenth Amendment are denied. I continue this demand for legal representation in this case.

10. On the question of "statement of claim": The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits. - Page 441, Law of Federal Courts.

11. On the question of statement of claim": "A simple statement in sequence of the events which have transpired, coupled with a direct claim by way of demand for judgment of what the plaintiff expects and hopes to recover, is a measure of clarity and safety;" - Page 441, Law of Federal Courts.

12. The above rulings satisfy my statement of claim but I will state it again: I am suing Jane Norman, the Des Moines Register and the Gannett Company for a libelous statement made in the Des Moines Register about me. I have previously submitted to Jane Norman a copy of a letter to the editor which appeared in the Worthington Daily Globe and which I submit as exhibit A. This libel conveys the impression that I am a person who punches people and this is not true. My battleground is through my writings and my court cases. I hold the Register and the Gannett Corporation responsible for what appears in their publication, the Des Moines Register and am seeking ten billion dollars in redress for loss of the primary election in which this libel was a contributing factor. This was a deliberate misrepresentation and malicious and did harm to my public image.

13. Inclusion of the newspaper article by James Flansburg is irrelevant because that too is libelous and defamatory and incorrect. I consider Flansberg a dishonest and devious person and a political manipulator.

14. Discussions on pleadings: "Pleadings are to be so construed as to do substantial justice. The old rule that a pleading must be construed most strongly against the pleader is no longer followed. Instead the court will not require technical exactness or make refined inferences against the pleader but will construe the pleading in his favor if justice so requires. - Page 442, Law of Federal Courts, Ibid.

15. "A complaint is not subject to dismissal unless it appears to a certainty no relief can be granted under any set of facts that can be proved in support of its allegations. - Page 442, Law of Federal Courts, Ibid.

16. "The pleader may allege matters alternatively or hypothetically, and except for the good faith requirements of Rule 11, the allegations may even be inconsistent. - Page 442, Law of Federal Courts, Ibid.

17. "The object of procedure should be to secure a determination on the merits rather than to penalize litigants because of procedural blunders." - Page 445, Law of Federal Courts, Ibid.

18. "The Supreme Court has insisted that pro-se complaints must be tested by less stringent standards than formal pleadings drafted by lawyers." - Page 447, Law of Federal Courts, Ibid.

19. "No longer are civil trials to be carried on in the dark. Use of the discovery rules is intended to 'make a trial less a game of blind man's buff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent.' The 'sporting theory of justice' was rejected. Victory is intended to go to the party entitled to it, on all the facts, rather than to the side that best uses its wits." - Page 540 Law of Federal Courts, Ibid.

20. Gannett Corporation cannot absolve itself of responsibility in this case because it is a fact that it is the parent company of the Des Moines Register and this establishes that responsibility, giving this court that jurisdiction.

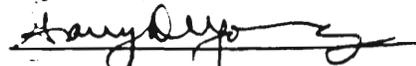
21. 21. Jane Norman is a political reporter. As such she is charged with the responsibility to accurately report on political candidates. Jane Norman never has interviewed me although I have been a candidate for the United States Senate in 1980; a candidate for the Iowa Senate in 1982; a candidate for the U.S. House of Representatives in the Republican Primary in 1984; a candidate for the United States Senate in 1984 as an Independent and a candidate for the U.S. House of Representatives in the Democratic Primary in 1984.

22. I have never had my differences with John Culver explained by the Des Moines Register, nor by Jane Norman although I have sought to have this done. By refusing to do this a great disservice is done to the people of the State of Iowa and to the United States because the Des Moines Register is read by people outside of the State of Iowa. The damage to me is even greater and more direct.

23. It is time these monopoly newspapers are stopped in their tracks with their character assassination, and I apply this also to defamatory cartoons such as the one which defamed the Reverend Jerry Fallwell in Hustler Magazine. Enough is enough, and that is why I have taken it upon myself to ask the court to call a halt to these unsavory practices which are not the mark of good journalism, but sleazy and cheap sensationalism which serves only to hurt innocent people.

24. My training is not in journalism and my training is not in law. My training is in education and in the sciences, both areas where truth is considered a premium.

August 26, 1988



Garry De Young  
P.O. Box 7252  
Spencer IA 51301-7252

EXHIBIT "A" ATTACHED.  
Copy to Kasey Kincaid - 100 Hub Tower, 699 Walnut St.,  
Des Moines IA 50309 - City for Defendants.



IN THE IOWA DISTRICT COURT FOR CLAY COUNTY

GARRY DE YOUNG, Plaintiff, v. JANE NORMAN, et al., Defendants.	) ) ) ) ) )	NO. 22197 Motion for Addition of Defendants.
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1. I, Garry De Young, Plaintiff and injured party in this case herewith name as additional defendants in this case Kasey W. Kincaid and the firm of NYEMASTER, GOODE, MCLAUGHLIN, EMERY & O'BRIEN, P.C., 1900 Hub Tower, 699 Walnut Street, Des Moines, Iowa 50309.

2. These additionally named defendants have, on the basis of hearsay, without any injury from me upon them, have taken it upon themselves to cause me harm and injury by becoming accomplices in the libelous actions taken against me by Jane Norman and the Des Moines Register and its parent company, The Gannett Corporation.

3. Precedent for naming lawyers as defendants exists in Iowa, most recently in the highly publicized Cooper case.

August 28, 1988

*Garry De Young*  
Garry De Young  
P.O. Box 7252  
Spencer, Iowa 51301-7252

P 839 144 256  
RECEIPT FOR CERTIFIED MAIL  
INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL  
(See Reverse)

Send to <i>Kasey W. Kincaid</i>	
Street and Apt. <i>699 Walnut St.</i>	
City and ZIP Code <i>Des Moines Ia 50309</i>	
Postage	\$ 25
Insured Fee	\$5
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing whom and Date Delivered	90
Return Receipt showing to whom Date and Address of Delivery	
TOTAL Postage and Fees	\$ 200
Postmark or Date AUG 29 1988	

Kincaid, 1900 Hub Tower, 699 Walnut Des Moines, Iowa 50309

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1.  Show to whom delivered, date, and addressee's address. 2.  Restricted Delivery <sup>†(Extra charge)†</sup>

3. Article Addressed to: <i>Kasey Kincaid</i>	4. Article Number <i>P 839 144 256</i>
5. Signature - A: <i>Garry De Young</i>	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail
6. Signature - B: <i>Kasey Kincaid</i>	Always obtain signature of addressee or agent and DATE DELIVERED.
7. Date of Delivery <i>8/30/88</i>	8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Mar. 1987 • U.S.G.P.O. 1987-178-266 DOMESTIC RETURN RECEIPT

IN THE IOWA DISTRICT COURT FOR CLAY COUNTY

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GARRRY DE YOUNG,	)	NO. 22197
Plaintiff,	)	
v.	)	MOTION OF DEMAND TO
JANE NORMAN, et al.,	)	PROCEED WITH DISCOVERY
Defendants.	)	THROUGH INTERROGATORIES
	)	AND DEPOSITIONS.

---

1. I, Garry De Young, Plaintiff and injured party in this case, demand the right to proceed with discovery.

2. Discovery will consist of interrogatories submitted to Defendant Jane Norman and Defendant Kasey W. Kincaid.

3. Discovery will also consist of depositions taken from Defendants Jane Norman and Kasey W. Kincaid.

4. I, Garry De Young, Plaintiff, victim and injured party in this case also demand assistance from this court in providing a court reporter and a place within the Clay County Courthouse in which to take these depositions.

5. In accordance with the equal protection clause of the Fourteenth Amendment to the United States Constitution, in recognition of the fact that I am not a trained lawyer and am at a significant disadvantage in seeking to represent myself against a powerful law firm, I demand legal representation to assist me in the preparation of these interrogatories and in conducting the taking of these depositions.

August 28, 1988

  
Garry De Young  
P.O. Box 7252  
Spencer, Iowa 51301-7252

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IN THE IOWA DISTRICT COURT FOR CLAY COUNTY

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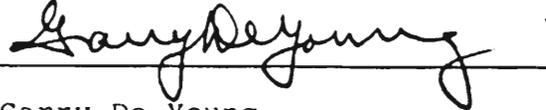
GARRY DE YOUNG ,	)	NO. 22197
Plaintiff,	)	
v.	)	DOCUMENT OF RECORD
Jane Norman, et al.,	)	
Defendants.	)	

---

1. I, Garry De Young, submit as Exhibit "B" a document of record, which is an article which appeared in the Des Moines Register on Tuesday, February 9, 1988 captioned Judge OKs Cooper lawyer as co-defendant in lawsuit.

2. The purpose in submitting this document is to substantiate my statement made in paragraph 3 in my motion for addition of Defendants.

August 31, 1988



Garry De Young  
P.O. Box 7252  
Spencer, Iowa 51301-7252

Copy sent by regular first class mail to Kasey W. Kincaid,  
1900 Hub Tower, 699 Walnut Street, Des Moines, Iowa 50309

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## Judge OKs Cooper lawyer as co-defendant in lawsuit

The Register's Iowa News Service

NEWTON, IA. — A Jasper County District judge ruled Monday that Jane Harlan, the former attorney for the five Cooper children, may name Karen Cooper's lawyer as a co-defendant in a suit Cooper has filed against Harlan.

Harlan is being sued for \$10 million by Cooper for what she claims is the public disclosure of confidential information about her and her children. The children were the subject of a custody battle between their foster parents, Larry and Paula Mick of Kellogg, and Karen Cooper. The children were taken from the Micks in January 1987.

Harlan's lawyers had filed a petition asking that Cooper's lawyer, Gerald Feuerhelm, be named as a third-party defendant in Cooper's suit, charging that Feuerhelm released false and harmful information about Cooper.

## Group to help pay for Cooper appeal

By DEANNA COX

Register Staff Writer

A group has formed to help pay costs of appealing the Cooper children's case to the U.S. Supreme Court.

Citizens for Children's Justice is raising money to help lawyer Jane Harlan of Newton finance a petition to the Supreme Court for the five children. Harlan wants to ask the court to review a November ruling by the Iowa Supreme Court that upheld the decision of state officials to remove the children from the custody of their foster parents, Larry and Paula Mick of Kellogg.

Harlan has until Feb. 23 to ask the U.S. Supreme Court to consider the appeal. Even then, it is not certain if

the justices will agree to bear the case.

"It is important to Jane to get this particular case to the Supreme Court because she's already put a lot of time into it but has little money left to do it," said Barbara Soorholtz of Melbourne, a member of the group raising money for the appeal.

Iowa laws give children virtually no civil rights, Soorholtz said. "Hopefully, they will have a better chance returning to the Micks in the U.S. Supreme Court."

Said Soorholtz, "Appealing to the U.S. Supreme Court is the only hope in Iowa right now at protecting children's civil rights."

Soorholtz said she hopes the group will continue indefinitely to help children who believe their rights are violated.

Soorholtz became involved in the Cooper case when she heard about it from her husband, State Senator John Soorholtz.

"My husband went down to Kellogg the day the children were taken from the Micks' house," Soorholtz said. "Having five children of our own, I could imagine what they were all going through."

Soorholtz said Harlan is working with a Milwaukee, Wis., lawyer on the appeal.

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**HAND DELIVERED**  
RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

600#356

08 SEP 12 AM 9:59

P.O. Box 1076 Sioux City, Iowa 51102

Phone 712-233-2040

September 8, 1988

Mr. Laurence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 2676 Dave O'Brien for Congress

Dear Mr. Noble:

I am writing to you on behalf of the Dave O'Brien for Congress Committee in response to the complaint filed by Mr. Garry De Young (MUR 2676), which we received notice of on September 1, 1988.

In paragraph 6 of his complaint, Mr. De Young alleges that the O'Brien campaign received funds from the International Brotherhood of Teamsters. This is not true. The funds in question actually came from the D.R.I.V.E. Political Action Committee, an entity which is separate and distinct from the International Brotherhood of Teamsters. It is my understanding that the D.R.I.V.E. Political Action Committee is not included in the current investigation of the Teamsters Union, and no one has questioned the legality of D.R.I.V.E.'s funding sources (which come from individual union member contributions). Therefore, the legality of the funds received by the O'Brien campaign from the D.R.I.V.E. Political Action Committee is not in question, and Mr. De Young's charge lacks any validity.

Mr. De Young further asks your agency to conduct an investigation of the role of the Roman Catholic Church in Iowa's Sixth District congressional primary. Such a request is frivolous. While Dave O'Brien is a member of the Roman Catholic Church, the Roman Catholic Church has never played any role in the Dave O'Brien for Congress campaign. The Dave O'Brien for Congress Committee is in no way affiliated with the Roman Catholic Church.

Based on the above, the Dave O'Brien for Congress Committee believes that Mr. De Young's complaint is without merit, and requests that no action be taken by the FEC on matter MUR 2676.

Very truly yours,

*Daniel E. Smith*  
Daniel E. Smith  
Campaign Coordinator

08 SEP 12 PM 2:18

RECEIVED  
FEDERAL ELECTION COMMISSION

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**II. FACTUAL AND LEGAL ANALYSIS**

**A. THE ALLEGATIONS AND RESPONSE**

The allegations center around contributions by the Teamsters' separate segregated fund, Democratic, Republican, Independent Voter Education ("DRIVE"), to the Committee during the June 7th 1988, primary. The complainant alleges the following:

1. that the Committee accepted money from DRIVE which in fact came from the treasury of the Teamsters' Union;

2. that the funds used to make the DRIVE contributions were raised through racketeering.

Mr. De Young further requests that the Commission investigate all aspects of this matter, "including but not limited to, the activities of the Teamsters' Union and also the role of the Roman Catholic Church in the Sixth Congressional District Primary and its role, if any, in the Teamsters' Union".

As a remedy, the complainant requests that Mr. O'Brien's name be removed from the November ballot.

On September 12, 1988, this Office received a letter from the Committee in response to the complaint. The Committee denies that the funds used to make DRIVE contribution came from Teamsters' moneys. The Committee notes that it is its understanding that DRIVE is not included in the recent investigation of the Teamsters and that "no one has questioned the legality of D.R.I.V.E.'s funding sources (which come from individual union member contributions)". The Committee also states that while Dave O'Brien is Catholic, the Roman Catholic

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church has played no role in the O'Brien campaign. The Committee affirms that it "is in no way affiliated with the Roman Catholic Church". No response has been received from the Teamsters.

**B. STATEMENT OF THE LAW**

The Act requires that reports filed by a political committee disclose all contributions received from individuals and other political committees. 2 U.S.C. § 434(b)(2). The candidate's principal campaign committee must file special notices on contributions received after the 20th day but more than 48 hours, before an election in which the candidate is running. These contributions must also be itemized on the committee's next scheduled report. 2 U.S.C. § 434(a)(6)(A).

The Act states that a political committee may not accept contributions made from the treasuries of national banks, corporations or labor organizations. 2 U.S.C. § 441b(a). However, corporations and labor organizations may use their treasury funds to establish a separate segregated fund which itself may collect contributions from a limited class of individuals and use this money to make contributions and expenditures in federal elections. This limited class consists of union members and executive or administrative personnel, and their families. 11 C.F.R. § 114.5(g)(2).

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C. APPLICATION OF THE LAW TO THE FACTS

1. Failure to timely report contributions from Union PACs

The complainant includes in his submission various news clippings relating to charges made by the Republican incumbent, Representative Fred Grandy, that the Committee has failed to timely report \$8,000 in contributions from Union PACs before the June 7, 1988, primary. In one article, Mr. O'Brien admits that his committee failed to timely report some contributions.

In a letter received by the Commission on June 17, 1988, the Committee informed the Commission of \$8,000 in contributions from Union PACs that were made from June 2, 1988, to June 3, 1988, (\$3,000 from UAW V Cap PAC, \$2,500 from DRIVE and \$2,500 from American Federation of State, County and Municipal Employees-AFL-CIO). These Contributions were made after the 20th day before the June 7, 1988, primary but more than 48 hours before the primary and so should have been reported within 48 hours in which they were made. Instead, the Committee was more than a week late in reporting them when it made its June 17, 1988, notification. This notification occurred 10 days after the primary had taken place. The Committee subsequently reported these contributions in its 1988 July Quarterly Report.

This Office recommends that (while the committee should have reported the contributions earlier) because the contributions were, in any case, brought to the Commission's attention by Committee in a letter and were subsequently included in the next report, the Commission should find reason to believe Section 434(a)(6)(A) was violated and take no further action. This is

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consistent with past Commission action regarding Section 434(a)(6). See MURs 2200 and 2299.

Therefore, the Office of the General Counsel recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(a)(6) and take no further action.

**2. Use of prohibited contributions**

The Committee's June 17, 1988 letter and its 1988 July Quarterly Report list a June 2, 1988, contribution from DRIVE. While the complainant alleges that the contribution from DRIVE contained funds from the Teamster's union treasury and that this money is the fruit of racketeering activity, the complainant presents no evidence that union treasury funds were used. An examination of DRIVE's 1988 May Monthly Report which reports the \$2,500 contribution to the Committee indicates that all of DRIVE's receipts came from individuals.

Therefore, the Office of the General Counsel recommends that the Commission find no reason to believe that Dave O'Brien for Congress and Dave O'Brien, as treasurer; the International Brotherhood of Teamsters; and DRIVE and Wallace D. Clements, as treasurer, violated 2 U.S.C. § 441b.

**3. Examination of the other allegations**

Complainant has requested that the Commission examine the role of the Roman Catholic Church in the June 7, 1988 primary and in the Teamsters generally. The Complainant has failed, however, to allege any violation of the Act that could be the basis for a reason to believe finding. Therefore, the Roman Catholic Church

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has not been served and no recommendations are made with respect to it.

III. RECOMMENDATIONS

1. Find reason to believe that Dave O'Brien for Congress and Dave O'Brien, as treasurer, violated 2 U.S.C. § 434(a)(6) and take no further action.
2. Find no reason to believe that Dave O'Brien for Congress and Dave O'Brien, as treasurer, violated 2 U.S.C. § 441b.
3. Find no reason to believe that the International Brotherhood of Teamsters and Democratic, Republican, Independent Voter Education and Wallace D. Clements, as treasurer, violated 2 U.S.C. § 441b.
4. Close the file.

Lawrence M. Noble  
General Counsel

10-21-88  
Date

BY:   
Lois G. Lerner  
Associate General Counsel

Attachments:

1. Response to Complaint
2. Proposed Letters (3) and Factual and Legal Analysis (1)

39040742487



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / JOSHUA MCFADDEN  
COMMISSION SECRETARY

DATE: OCTOBER 26, 1988

SUBJECT: OBJECTION TO MUR 2676 - FIRST G.C. REPORT  
SIGNED OCTOBER 21, 1988

The above-captioned document was circulated to the Commission on Monday, October 24, 1988 at 4:00 p.m.

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 November 1, 1988.

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

89040742488



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

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

DATE: OCTOBER 27, 1988

SUBJECT: OBJECTIONS TO MUR 2676 - FIRST G.C. REPORT  
SIGNED OCTOBER 21, 1988

The above-captioned document was circulated to the Commission on Monday, October 24, 1988 at 4:00 p.m.

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	_____ X _____

This matter will be placed on the meeting agenda for November 1, 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 )  
 )  
 Dave O'Brien for Congress and )  
 Dave O'Brien, as treasurer )  
 International Brotherhood of ) MUR 2676  
 Teamsters )  
 Democratic, Republican, Independent )  
 Voter Education and Wallace D. )  
 Clements, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of November 1, 1988, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2676:

1. Find reason to believe that Dave O'Brien for Congress and Dave O'Brien, as treasurer, violated 2 U.S.C. § 434(a)(6).
2. Find no reason to believe that Dave O'Brien for Congress and Dave O'Brien, as treasurer, violated 2 U.S.C. § 441b.
3. Find no reason to believe that the International Brotherhood of Teamsters and Democratic, Republican, Independent Voter Education and Wallace D. Clements, as treasurer, violated 2 U.S.C. § 441b.
4. Direct the Office of General Counsel to send appropriate letters and Factual and Legal Analysis pursuant to the above actions.

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

Attest:

Nov. 2, 1988

Date

Marjorie W. Emmons

Marjorie W. Emmons  
 Secretary of the Commission

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plm



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 9, 1988

Dave O'Brien, Treasurer  
Dave O'Brien for Congress  
P.O. Box 1076  
Sioux City, Iowa 51102

RE: MUR 2676  
Dave O'Brien for  
Congress and Dave  
O'Brien, as treasurer

Dear Mr. O'Brien:

On August 29, 1988, the Federal Election Commission notified David O'Brien for Congress and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on November 1, 1988, found that there is reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 434(a)(6), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

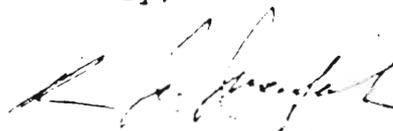
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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

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

Sincerely,



Thomas J. Josefiak  
Chairman

Enclosure  
Designation of Counsel Form  
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Dave O'Brien for Congress MUR: 2676  
and Dave O'Brien, as  
treasurer

I. FACTUAL AND LEGAL ANALYSIS

A. THE ALLEGATIONS AND RESPONSE

On August 22, 1988, the Commission received a complaint filed by Mr. Garry De Young. Mr. De Young was a candidate for Democratic nomination in the Iowa 6th Congressional District of Iowa. The complaint alleges that International Brotherhood of Teamsters (the "Teamsters") and Dave O'Brien for Congress ("the Committee"), the principal campaign committee of the complainant's primary opponent, Dave O'Brien, were in violation of the Federal Election Campaign Act, as amended (the "Act").

The allegations center around contributions by the Teamsters' separate segregated fund, Democratic, Republican, Independent Voter Education ("DRIVE"), to the Committee during the June 7, 1988, primary. The complainant alleges the following:

1. that the Committee accepted money from DRIVE which in fact came from the treasury of the Teamsters' Union;
2. that the funds used to make the DRIVE contributions were raised through racketeering.

Mr. De Young further requests that the Commission investigate all aspects of this matter, "including but not limited to, the activities of the Teamsters' Union and also the role of the Roman Catholic Church in the Sixth Congressional District Primary and

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its role, if any, in the Teamsters' Union".

As a remedy, the complainant requests that Mr. O'Brien's name be removed from the November ballot.

On September 12, 1988, this Office received a letter from the Committee in response to the complaint. The Committee denies that the funds used to make DRIVE contribution came from Teamsters' moneys. The Committee notes that it is its understanding that DRIVE is not included in the recent investigation of the Teamsters and that "no one has questioned the legality of D.R.I.V.E.'s funding sources (which come from individual union member contributions)". The Committee also states that while Dave O'Brien is Catholic, the Roman Catholic church has played no role in the O'Brien campaign. The Committee affirms that it "is in no way affiliated with the Roman Catholic Church".

**B. STATEMENT OF THE LAW**

The Act requires that reports filed by a political committee disclose all contributions received from individuals and other political committees. 2 U.S.C. § 434(b)(2). The candidate's principal campaign committee must file special notices on contributions received after the 20th day but more than 48 hours, before an election in which the candidate is running. These contributions must also be itemized on the committee's next scheduled report. 2 U.S.C. § 434(a)(6)(A).

The Act states that a political committee may not accept contributions made from the treasuries of national banks, corporations or labor organizations. 2 U.S.C. § 441b(a).

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However, corporations and labor organizations may use their treasury funds to establish a separate segregated fund which itself may collect contributions from a limited class of individuals and use this money to make contributions and expenditures in federal elections. This limited class consists of union members and executive or administrative personnel, and their families. 11 C.F.R. 114.5(g)(2).

**C. APPLICATION OF THE LAW TO THE FACTS**

**1. Failure to timely report contributions from Union PACs**

The complainant includes in his submission various news clippings relating to charges made by the Republican incumbent, Representative Fred Grandy, that the Committee has failed to timely report \$8,000 in contributions from Union PACs before the June 7, 1988, primary. In one article, Mr. O'Brien admits that his committee failed to timely report some contributions.

In a letter received by the Commission on June 17, 1988, the Committee informed the Commission of \$8,000 in contributions from Union PACs that were made from June 2, 1988, to June 3, 1988, (\$3,000 from UAW V Cap PAC, \$2,500 from DRIVE and \$2,500 from American Federation of State, County and Municipal Employees-AFL-CIO). These Contributions were made after the 20th day before the June 7, 1988, primary but more than 48 hours before the primary and so should have been reported within 48 hours in which they were made. Instead, the Committee was more than a week late in reporting them when it made its June 17, 1988, notification. This notification occurred 10 days after the primary had taken place. The Committee subsequently

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reported these contributions in its 1988 July Quarterly Report.

Therefore, there is reason to believe that the Committee violated 2 U.S.C. § 434(a)(6).

**2. Use of prohibited contributions**

The Committee's June 17, 1988 letter and its 1988 July Quarterly Report list a June 2, 1988, contribution from DRIVE. While the complainant alleges that the contribution from DRIVE contained funds from the Teamster's union treasury and that this money is the fruit of racketeering activity, the complainant presents no evidence that union treasury funds were used. An examination of DRIVE's 1988 May Monthly Report which reports the \$2,500 contribution to the Committee indicates that all of DRIVE's receipts came from individuals.

Therefore, there is no reason to believe that Dave O'Brien for Congress and Dave O'Brien, as treasurer, violated 2 U.S.C. § 441b.

**3. Examination of the other allegations**

Complainant has requested that the Commission examine the role of the Roman Catholic Church in the June 7, 1988 primary and in the Teamsters generally. The Complainant has failed, however, to allege any violation of the Act that could be the basis for a reason to believe finding.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

November 14, 1988

MEMORANDUM

TO: The Commission  
FROM: Lawrence M. Noble  
General Counsel  
BY: Lois G. Lerner *HL*  
Associate General Counsel

SUBJECT: MUR 2676

During Executive Session on November 1, 1988, the Commission considered the recommendations of the Office of the General Counsel to find no reason to believe that Dave O'Brien for Congress and Dave O'Brien, as treasurer; the International Brotherhood of Teamsters ("Teamsters"); and Democratic, Republican, Independent Voter Education ("DRIVE") and Wallace D. Clements, as treasurer, violated 2 U.S.C § 441b. This Office also recommended that the Commission find reason to believe that Dave O'Brien for Congress and Dave O'Brien, as treasurer violated 2 U.S.C. § 434(a)(6)(A) but take no further action and close the file.

The Commission did not accept the recommendation to take no further action against Dave O'Brien for Congress and Dave O'Brien, as treasurer regarding the violation of Section 434(a)(6)(A). The Commission did accept the recommendations to find no reason to believe that the Teamsters and DRIVE and Wallace D. Clements, as treasurer, violated 2 U.S.C § 441b. However, the Commission did not specifically vote to "close the file" as to the Teamsters and DRIVE although it did vote to direct this Office to send "the appropriate letters" pursuant to the Commission's actions. Thus, consistent with the Commission's action, this Office is recommending that the Commission close the file in this matter as to the Teamsters and DRIVE and approve the attached letter to the Teamsters and DRIVE.

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**RECOMMENDATIONS.**

1. Close the file in MUR 2676 as to the International Brotherhood of Teamsters and Democratic, Republican, Independent Voter Education and Wallace D. Clements, as treasurer
2. Approve the attached letter.

**Attachments:**

1. Certification, November 1, 1988.
2. Proposed letter.

**Staff Person: Michael Marinelli**

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Dave O'Brien for Congress and	)	MUR 2676
Dave O'Brien, as treasurer	)	
International Brotherhood of	)	
Teamsters	)	
Democratic, Republican, Independent	)	
Voter Education and Wallace D.	)	
Clements, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 16, 1988, the Commission decided by a vote of 6-0 to take the following actions in MUR 2676:

1. Close the file in MUR 2676 as to **the** International Brotherhood of Teamsters and Democratic, Republican, Independent Voter Education and Wallace D. Clements, as treasurer, as recommended in the General Counsel's memorandum to the Commission dated November 14, 1988.
2. Approve the letter, as recommended in the General Counsel's memorandum to the Commission dated November 14, 1988.

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

Attest:

*November 16, 1988*

Date

*Hilda Arnold*  
 for Marjorie W. Emmons  
 Secretary of the Commission

Received in the Office of Commission Secretary:	Mon.,	11-14-88,	12:19
Circulated on 48 hour tally basis:	Mon.,	11-14-88,	4:00
Deadline for vote:	Wed.,	11-16-88,	4:00

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RECEIVED  
FEDERAL ELECTION COMMISSION

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November 17, 1988

Federal Election Commission  
Washington, D.C. 20463

Attention: Mr. Michael Marinelli

Re: MUR 2676  
Dave O'Brien for Congress  
Dave O'Brien as Treasurer

Dear Mr. Marinelli:

Please consider this letter a request for conciliation in this matter. The Dave O'Brien for Congress campaign has no basic disagreement with the factual and legal analysis of the commission. However, the commission should consider the following mitigating facts in making its decision concerning what sanctions are appropriate:

1. Mr. DeYoung's complaint does not specifically concern the late filing of campaign contributions by PACS. In pursuit of Mr. DeYoung's complaint the Commission did find a violation, one which the O'Brien campaign had previously admitted to and attempted to correct, regarding the late filing of PAC contributions. This allegation was made by Congressman Grandy in a newspaper article. Since the allegation of late filing was not specifically mentioned in Mr. DeYoung's complaint and Representative Grandy has not filed an official complaint concerning said allegation, the O'Brien campaign requests the Commission to dismiss the complaint without sanction because the allegation is not formally before the Commission.

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2. The O'Brien campaign was simply not aware of the additional reporting requirements for contributions of \$1,000 or more which are received after the pre-primary report and prior to 48 hours before the primary. As soon as the O'Brien campaign discovered said additional reporting requirement it acknowledged in a letter dated June 17, 1988 to the Commission that an oversight had occurred in the failure to timely report three separate PAC contributions of more than \$1,000.00 received during said time period. This acknowledgement was sent well before Mr. DeYoung's August 22, 1988 complaint. Thus, the matter was simply an oversight and not an intentional hiding of campaign contributions.
  3. The O'Brien campaign is now left approximately \$8,000.00 to \$10,000.00 in debt. All of the indebtedness will be owed to Dave O'Brien personally and as guarantor of a note with Norwest Bank of Sioux City, Iowa. Dave O'Brien and the bank are currently setting up a payment schedule for the \$8,000.00 to \$10,000.00 debt. No other individuals, corporations or organizations of any kind will be owed any money whatsoever by the Dave O'Brien campaign. Therefore, the Commission should consider that any fine ordered to be paid by the Dave O'Brien for Congress campaign is simply going to come directly from Dave O'Brien personally.

The Dave O'Brien for Congress committee asks the commission to please waive the payment of any fine considering the debt that is already owed, the relatively minor nature of the violation involved, the fact that the O'Brien campaign notified the Commission of said violation immediately upon its discovery and for the reason that the violation found is not the specific subject of any formal complaint filed with the Commission.

Sincerely,

  
DAVE O'BRIEN

DAO:cc



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 21, 1988

Mr. William J. McCarthy, General President  
International Brotherhood Independent  
Of Teamsters  
Mr. Wallace D. Clements, Treasurer  
Democratic, Republican, Independent Voter Education  
25 Louisiana Avenue, N.W.  
Washington, D.C. 20001

RE: MUR 2676  
International Brotherhood  
Of Teamsters  
Democratic, Republican,  
Independent Voter  
Education and  
Wallace D. Clements,  
as treasurer

Dear Mr. McCarthy and Mr. Clements:

On August 29, 1988, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 1, 1988, the Commission found, on the basis of the information in the complaint, that there is no reason to believe the International Brotherhood Of Teamsters and the Democratic, Republican, Independent Voter Education and Wallace D. Clements, as treasurer, violated 2 U.S.C. § 441b. Accordingly, the Commission closed its file in this matter as it pertains to the International Brotherhood Of Teamsters and the Democratic, Republican, Independent Voter Education and Wallace D. Clements, as treasurer.

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William J. McCarthy, General President and Wallace D. Clements,  
Treasurer  
Page 2

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. 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.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(A)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

EXECUTIVE SESSION

JAN 10 1989

In the Matter of )
Dave O'Brien for Congress and ) MUR 2676
David O'Brien, as treasurer )

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On November 1, 1988, the Commission found reason to believe that the Dave O'Brien for Congress (the "Committee") and David O'Brien, as treasurer, violated 2 U.S.C. § 434(a)(6) when it failed to file timely special notices of \$8,000 in contributions from Union PACs received after the 20th day but more than 48 hours, before the election in which the candidate, David O'Brien participated. In a letter dated November 17, 1988, the Committee asked that no further action be taken in the matter or, in the alternative, that the Commission grant a request for preprobable cause conciliation.

II. ANALYSIS

In its November 17, 1988 letter, the Committee argues that complaint filed by Mr. De Young out of which this matter arose did not specifically allege a violation of 2 U.S.C. § 434(a)(6). Therefore, the Committee concludes the Commission should not have made reason to believe findings on that violation and, having done so, should now take no further action.

This Office notes that while the complaint does not

1. Mr. O'Brien, the Democratic Congressional candidate in Iowa 6th Congressional District, was defeated by the Republican incumbent, Representative Fred Grandy. Mr. O'Brien received 36% of the vote.

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specifically cite to 2 U.S.C. § 434(a)(6), the Committee's reporting omission forming the basis for this violation was raised by the factual issues discussed in the complaint. The complaint filed by Mr. De Young had alleged that the Committee had received funds from union treasuries that had been raised through racketeering. Although, there was no evidence to support this allegation, newspaper articles incorporated into the complaint discussed charges made by Mr. O'Brien's Republican opponent, Representative Fred Grandy, that the O'Brien campaign had failed to report last minute union PAC contributions. A subsequent review of reports filed by the Committee confirmed the reporting omission. This Office further notes that the Commission may make findings based on "information ascertained in the normal course of carrying out its supervisory responsibilities." See 2 U.S.C § 437g(a)(2). The Respondent was notified of the Commission's finding and provided a legal and factual basis forming the basis for the Commission's finding.

Therefore, this Office recommends that the Commission enter into preprobable cause conciliation with Dave O'Brien for Congress and David O'Brien, as treasurer.

**III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY**

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**IV. RECOMMENDATIONS**

1. Enter into conciliation with Dave O'Brien for Congress and David O'Brien, as treasurer, prior to a finding of probable cause to believe.
2. Approve the attached proposed conciliation agreement and letter.

Lawrence M. Noble  
General Counsel

12-16-88  
Date

BY:   
Lois G. Lerner  
Associate General Counsel

**Attachments**

1. November 17, 1988 reply and request for conciliation
2. Proposed Conciliation Agreement and letter

Staff assigned: Michael Marinelli

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Dave O'Brien for Congress and ) MUR 2676  
David O'Brien, as treasurer )

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 2676:

1. Enter into conciliation with Dave O'Brien for Congress and David O'Brien, as treasurer, prior to a finding of probable cause to believe.
2. Approve the proposed conciliation agreement and letter attached to the General Counsel's report dated December 16, 1988, subject to amendment of the agreement at line fifteen on page two to show the correct figure.

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

Attest:

Jan. 13, 1989  
Date

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

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*nlw*



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

January 18, 1989

David O'Brien, Treasurer  
Dave O'Brien for Congress  
P.O. Box 1076  
Sioux City, Iowa 51102

RE: MUR 2676  
Dave O'Brien for  
Congress and David  
O'Brien, as treasurer

Dear Mr. O'Brien:

On November 1, 1988, the Federal Election Commission found reason to believe that Dave O'Brien for Congress and you, as treasurer, violated 2 U.S.C. § 434(a)(6). On November 21, you submitted a response to the Commission's reason to believe finding in this matter. At your request, on January 11, 1989, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

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

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David O'Brien  
Page 2

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

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
Conciliation Agreement

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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

Dave O'Brien for Congress and  
David O'Brien, as treasurer

)  
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MUR 2676

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

**I. BACKGROUND**

Attached is a conciliation agreement which has been signed by David O'Brien, the treasurer of the Dave O'Brien for Congress Committee (the "Committee").

On November 1, 1988, the Commission found reason to believe that the Committee had violated 2 U.S.C. § 434(a)(6) by failing to report within 48 hours \$8,000 in Union PAC contributions which came after the 20th day before the primary but more than 48 hours before the primary. On January 11, 1989, the Commission approved the Committee's request to enter into pre-probable cause conciliation.

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**II. RECOMMENDATIONS**

1. Accept the attached conciliation agreement with Dave O'Brien for Congress and David O'Brien, as treasurer.
2. Close the file.
3. Approve the attached letters.

Lawrence M. Noble  
General Counsel

          2-24-89            
Date

BY:

          Lois G. Lerner            
Associate General Counsel

**Attachments**

1. Committee response
2. Conciliation Agreement
3. Letters to Complainant and Respondents

Staff Assigned: Michael Marinelli

83040742511

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Dave O'Brien for Congress and ) MUR 2676  
David O'Brien, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 1, 1989, the Commission decided by a vote of 6-0 to take the following actions in MUR 2676:

1. Accept the conciliation agreement with Dave O'Brien for Congress and David O'Brien, as treasurer, as recommended in the General Counsel's report signed February 24, 1989.
2. Close the file.
3. Approve the letters, as recommended in the General Counsel's report signed February 24, 1989.

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

Attest:

*March 1, 1989*

Date

*Hilda Arnold*  
for Marjorie W. Emmons  
Secretary of the Commission

Received in the Office of Commission Secretary: Mon., 2-27-89, 10:21  
Circulated on 48 hour tally basis: Mon., 2-27-89, 4:00  
Deadline for vote: Wed., 3-01-89, 4:00

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

March 8, 1989

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Mr. Garry De Young  
P.O. Box 7252  
Spencer, Iowa 51301-7252

RE: MUR 2676

Dear Mr. De Young:

This is in reference to the complaint you filed with the Federal Election Commission on August 17, 1988, concerning certain union contributions received by Dave O'Brien for Congress during the 1988 Democratic primary in Iowa.

The Commission found there was no reason to believe Dave O'Brien for Congress (the "Committee") and David O'Brien, as treasurer; the Democratic, Republican, Independent Voter Education and Wallace D. Clements, as treasurer; and the International Brotherhood of Teamsters violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended. However, the Commission found that there was reason to believe that the Committee and David O'Brien, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) and conducted an investigation in this matter. On March 1, 1989, a conciliation agreement signed by the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on 1989. A copy of this agreement is enclosed for your information.

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Garry De Young  
Page 2

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

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
Conciliation Agreement

33040742514



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 8, 1989

David O'Brien, Treasurer  
Dave O'Brien for Congress  
P.O. Box 1076  
Sioux City, Iowa 51102

RE: MUR 2676  
Dave O'Brien for  
Congress and David  
O'Brien, as treasurer

Dear Mr. O'Brien:

On March 1, 1989, the Federal Election Commission accepted the signed conciliation agreement on your behalf in settlement of a violation of 2 U.S.C. § 434(a)(6), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter. This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

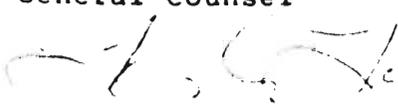
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David O'Brien, treasurer  
Page 2.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
Conciliation Agreement

89040742516

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 2676  
Dave O'Brien for Congress and )  
David O'Brien, as treasurer )

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Mr. Garry De Young. The Federal Election Commission ("Commission") found reason to believe that Dave O'Brien for Congress and David O'Brien, as treasurer ("Respondents"), violated 2 U.S.C. § 434(a)(6).

NOW, THEREFORE, the Commission and the respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Dave O'Brien for Congress is the principal campaign committee of candidate David O'Brien and is a political committee within the meaning of 2 U.S.C. § 431(4).

2. David O'Brien is the treasurer of Dave O'Brien for Congress Committee.

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3. Pursuant to 2 U.S.C. § 434(a)(1), each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of 2 U.S.C. § 434. Pursuant to 2 U.S.C. § 434(a)(6)(A), the candidate's principal campaign committee must file special notices on contributions received after the 20th day but more than 48 hours, before an election in which the candidate is running. The notification must be made within 48 hours from the time these contributions are received and the contributions must also be itemized on the committee's next scheduled report.

4. The Democratic Primary Election for the 6th Iowa Congressional District was held on June 7, 1988.

5. From June 2, 1988 to June 3, 1988, Respondents received \$8,000 in contributions from union PACs (\$3,000 from UAW V PAC, \$2,500 from DRIVE on June 2, 1988, and \$2,500 from American Federation of State, County and Municipal Employees-AFL-CIO on June 3, 1988). These contributions were reported to the Commission in a letter received on June 17, 1988. The Committee subsequently reported these contributions in its 1988 July Quarterly Report.

V. Respondents failed to report within 48 hours of their receipt the \$8,000 in contributions which were made after the 20th day before the June 7, 1988 primary but more than 48 hours before the primary, in violation of 2 U.S.C. § 434(a)(6)(A).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Seven Hundred, Fifty Dollars and no/100 (\$750.00) pursuant to 2 U.S.C. § 437g(a)(5)(A).

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VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

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FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner  
Associate General Counsel

3/8/89  
Date

FOR THE RESPONDENTS:

  
(Name)  
(Position)

2/10/89  
Date

3 3 0 4 0 7 4 2 5 2 0



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20461

March 8, 1989

Mr. William J. McCarthy, General President  
International Brotherhood  
Of Teamsters  
Mr. Wallace D. Clements, Treasurer  
Democratic, Republican, Independent Voter Education  
25 Louisiana Avenue, N.W.  
Washington, D.C. 20001

RE: MUR 2676  
International Brotherhood  
Of Teamsters  
Democratic, Republican,  
Independent Voter  
Education and  
Wallace D. Clements,  
as treasurer

Dear Mr. McCarthy and Mr. Clements:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

A handwritten signature in cursive script, appearing to read "Lois G. Lerner".

BY: Lois G. Lerner  
Associate General Counsel

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2676

DATE FILMED 4/6/89 CAMERA NO. 4

CAMERAMAN AS

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