



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2692

DATE FILMED 7/21/89 CAMERA NO. 7

CAMERAMAN AS

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FEDERAL ELECTION COMMISSION
MAIL ROOM

88 SEP -9 AM 9:16

Ann 2692



GEORGIA REPUBLICANS

August 29, 1988

Lawrence M. Nobel, Esquire
General Counsel
Federal Election Commission
999 E. Street, NW
Washington, D.C. 20004

Dear Mr. Noble:

This Complaint, by John Stuckey, Chairman, Georgia Republican Party, 1776 Peachtree Street, N.W., Suite 500-S, Atlanta, Georgia 30309, against Ben Jones and the Ben Jones for Congress Committee, P.O. Box 1888, Decatur, Georgia 30031 (FEC ID #120596), is filed with Exhibits with the Federal Election Commission ("FEC") pursuant to 2 U.S. C. section 437g(a) of the Federal Election Campaign Act of 1971, as amended ("the act").

I. INTRODUCTION

Ben Jones has demonstrated, once again, his refusal to comply with the law requiring full public disclosure. First, it was failing to file his Financial Disclosure Statement with the Clerk of the U.S. House of Representatives. Now he's violated the federal election law on disclaimers/sponsorship identification -- not once, but twice within the same timeframe. By this Complaint, John Stuckey seeks an FEC investigation into Jones' practices regarding the attached party invitation (Exhibit A) and political door-hanger (Exhibit B).

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II. VIOLATIONS OF LAW

A. Advocacy and Solicitations -- In late July, an invitation was mailed, inviting recipients to a "Surprise Birthday & Dinner honoring Ben Jones on Sunday, August 28th, at Honto's Restaurant" (Exhibit A).

One month before, a door-hanger (Exhibit B) was distributed on behalf of Ben Jones, a candidate for the U.S. House of Representatives from Georgia's Fourth Congressional District.

Although the door-hanger expressly advocates the election of Jones, and the surprise party invitation solicits contributions to the Jones campaign, neither contains the authorization notices required by federal law. The disclaimer rules of the Act are designed to provide the public with complete information on the sponsorship and authority for such political paraphernalia. Jones' failure to use the required disclaimer is an attempt to conceal from the public crucial information about the sponsors of his campaign.

Federal law specifically provides that when a communication expressly advocates the election or defeat of a clearly identified candidate or solicits contributions through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, it must clearly and conspicuously display one of the following authorization notices:

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

if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communications is paid for by such other persons and authorized by such authorized political committee;

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

2 U.S.C. 441d.

The party invitation invited recipients to join in the celebration at a cost of "\$50 per person"¹. A response card gave recipients the option of paying by check or credit card. But nowhere on the invitation or response card was the recipient informed on the sponsor of the surprise party, or to whom checks should be made payable.

¹. In addition to the disclosure provisions of the Act, the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) set forth a new disclosure requirement. Specifically, the Act provides that political organizations, including political action committees and campaign committees classified under the Internal Revenue Code 28 U.S.C. section 527, are required to disclose that contributions for gifts to them are not deductible as charitable contributions for Federal income tax purposes. The disclosure requirement became effective for each fundraising solicitation made on or after February 1, 1988. The Act provides for the imposition of a penalty of \$1,000 on the organization for each day in which a failure to comply occurs. The maximum penalty for any one year is \$10,000 unless the failure to comply is due to intentional disregard.

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Jones' door-hanger identifies issues on which he will work "As your congressman ... on behalf of you and your family", such as "Reduce the massive federal budget deficits ... strengthen our system of public education ...wage a full scale assault on the insidious influx of illegal drugs ... protect social security ... provide an effective, efficient national defense develop a cohesive, visionary trade policy ... insure a clean and healthy environment ...". Directly beneath Jones' key insures, Jones, in his own penmanship writes, "I'll be a mainstream, responsive, independent, and above all, effective representative on your behalf."

Jones and his campaign clearly attempted to benefit from both the surprise party and the door-hanger. But did Jones' campaign pay for them? Does he have unseen, unknown benefactors? Was there help from sources Jones did not want the public to know about? By violating 2 U.S.C. 441d and 11 C.F. R. 110.11(a), Jones and his campaign insured that the answers are hidden from the public.

B. Corporate Contributions -- A basic tenet of federal election law is that contributions or expenditures by corporations are prohibited:

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office.

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2 U.S.C. 441b(a). This prohibition applies whether the contribution is in the form of money, goods or services. Neither candidates or political committees can accept such contributions, nor may officers and directors of corporations provide consent for such contributions or expenditures to be made on the corporation's behalf. 11 C.F.R. 114.2(a)(2)(c), (d).

Who did pay for the party invitation mailing? Who paid for the party? If Honto's Restaurant did, then Ben Jones and the Ben Jones for Congress Committee have accepted an illegal corporate contribution.

III. CONTRIBUTION

There are two scenarios of why Jones continues to break the law -- Jones simply "forgot" to include the disclaimers, or he knowingly omitted them to protect his faceless benefactors.

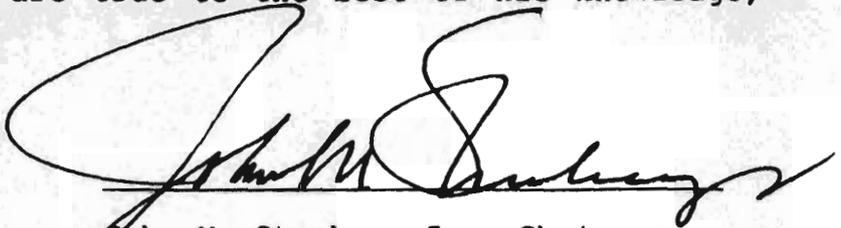
It is difficult to believe that a version of the campaign trail such as Ben Jones is totally ignorant of federal law. These "omissions" appear to be knowingly and willful violations of federal law and should be dealt with as such. The public deserves to know who is funding his campaign, and how.

The undersigned hereby requests that the FEC investigates these potential violations and enforce, as necessary, the FECA and FEC's regulations.

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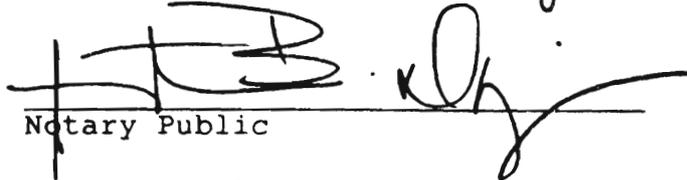
IV. VERIFICATION

The undersigned swears that the allegations and facts set forth in this complaint are true to the best of his knowledge, information and belief.



John M. Stuckey, Jr., Chairman
Georgia Republican Party
1776 Peachtree Street, N.E.
Suite 500-S
Atlanta, GA 30309

Subscribed and sworn to before me this 30th day of August, 1988.



Notary Public

My Commission Expires: June 21, 1982.

89040755112

8 9 0 4 0 7 5 5 1 1 J

Robin Lee Fitch, Jim Jackson
and friends
cordially invite you
to a **SURPRISE Birthday & Dinner**
honoring Ben Jones

Sunday, August 28th
at Honto's Restaurant
3295 Chamblee-Dunwoody Rd.

Conversation at 6:30 p.m.
Dinner at 7:00 p.m.
\$50 per person

Spread the word, but keep the secret

For more information:
377-5188 (Robin)
377-1251 (Jim)



Yes, I will attend.

Number in party _____

Check

Credit Card

Visa

Mastercard

Exp. Date _____ Card Number _____

Signature _____



BEN JONES

Congress

4th District

**As your congressman, I will work
in Washington on behalf of you
and your family to:**

- ★ Reduce the massive federal budget deficits and the huge national debt which threaten to mortgage America's future.
- ★ Strengthen our system of public education. Only through an educated and highly skilled workforce can we remain competitive in the world marketplace.
- ★ Wage a full scale assault on the insidious influx of illegal drugs. Only action, not lip service, can eradicate this destructive influence on our society.
- ★ Protect social security and health care for the elderly, as well as other senior citizens' programs, from attempts to weaken them.
- ★ Provide an effective, efficient national defense. We need a balanced, realistic approach to military preparedness in a quickly changing world.
- ★ Develop a cohesive, visionary trade policy which strengthens America's production capabilities, enhancing our potential for industrial and technological development, and protecting our jobs from unfair foreign trade practices.
- ★ Insure a clean and healthy environment for all Americans, now and in the future. The rapid growth of our region requires vigilance to protect our limited natural resources.

*I'll be a mainstream, responsive,
independent, and above all, effective
representative on your behalf.*

Ben Jones

8 9 0 4 0 7 5 5 1 1 5

Born in Lenoir, NC, 1941, raised in Portsmouth, Virginia, Ben first came to Georgia in 1962. He attended the University of North Carolina at Chapel Hill, where he became deeply involved in politics and filmmaking.

He has combined a successful career as an entertainer with involvement in numerous civic and charitable activities, and political campaigns. Chairman of the

Georgia Film Board, which has been instrumental in bringing new industry to the state, he is past president of Georgia's Screen Actor's Guild, member of the State Senate Music Industry Committee, and on the Board of Directors for "Dreams Come True", working with Eggleston Children's Hospital. He is the Honorary Chairman of the Scleroderma Foundation of Georgia and active with the Georgia Special Olympics and the United Negro College Fund.



As a performer, Ben has appeared in hundreds of films, plays, and television shows.

In 1986, Ben received 47% of the vote in his Fourth District Congressional race against incumbent Pat Swindall. He has continued his campaign for that seat in 1988.

He lives in Newton County with his wife Vivian, a television producer and Atlanta native, and their four year old son, Walker.

BEN JOYNER

Congressional 4th



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 16, 1988

John Stuckey, Chairman
Georgia Republican Party
1776 Peachtree Street, NW
Suite 500-S
Atlanta, GA 30309

RE: MUR 2692

Dear Mr. Stuckey:

This letter acknowledges receipt on September 9, 1988, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by the Ben Jones For Congress Committee and Joseph L. Shulman, as treasurer, and Honto's Restaurant. 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 2692. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Betha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

8904075516



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1988

Joseph L. Schulman, Treasurer
Ben Jones For Congress
Committee
PO Box 1888
Decatur, GA 30031

RE: MUR 2692
Ben Jones For Congress
Committee and Joseph L.
Schulman, as treasurer

Dear Mr. Schulman:

The Federal Election Commission received a complaint which alleges that the Ben Jones For Congress Committee and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2692. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and the Ben Jones For Congress Committee 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.

89040755117

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

Sincerely,

Lawrence M. Noble
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

cc: Ben Lewis Jones
1068 Cornish Mountain Road
Covington, GA 30209

89040755118



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1988

Honto's Restaurant
3295 Chamblee-Dunwoody Road
Atlanta, GA 30341

RE: MUR 2592
Honto's Restaurant

Gentlemen:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2592. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

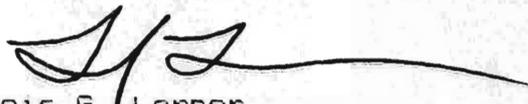
This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing 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.

89040755119

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

Sincerely,

Lawrence M. Noble
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

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BEN JONES / 88 CONGRESS

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HAND DELIVERED
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FEDERAL ELECTION COMMISSION
MAIL ROOM

88 OCT -6 AM 10: 12

P.O. BOX 1888 • DECATUR, GEORGIA 30031-1888 • PHONE (404) 636-1888
CAMPAIGN HEADQUARTERS: 2139 North Decatur Road • Decatur, Georgia 30033

October 4, 1988

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

Re: MUR 2692

Dear Mr. Kellner:

This is in response to the complaint filed against the Ben Jones for Congress Committee (the "Committee") on August 29, 1988, by Mr. John Stuckey.

The complaint raises questions regarding the lack of the disclaimer required by 2 U.S.C. 441(d) on two different items of literature distributed by the Ben Jones campaign, a "door hanger" and an invitation to a "surprise party" fundraiser.

1. "Door Hanger". Approximately 6,000 of the "door hanger" pieces were printed in early July, 1988, about 2,000 of which were distributed during the primary campaign. All costs associated with the literature were paid by the Committee. The disclosure was omitted from the piece by unintentional oversight. Rather than having a camera-ready, typeset proof reviewed by the campaign prior to printing, instructions to the printer for this piece consisted of a rough design utilizing elements of earlier literature together with minor additions. Due to time constraints, the piece was printed without a final review.

2. "Surprise Party" Invitation. At the suggestion of some of the campaign's volunteers, the campaign agreed to allow those volunteers to make the arrangements for a "surprise party" banquet, honoring candidate's birthday, at a local restaurant on August 28. The campaign would pay all expenses for the event. Guests contributed \$50 for each ticket.

In order to maintain the element of surprise for the candidate, the volunteers handled the arrangements themselves, physically outside the campaign headquarters. These tasks included design of the invitations. These invitations, the costs of printing and mailing for which

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were paid by the Committee, did not bear the disclaimer due to the volunteers' ignorance of any requirement and the campaign's failure to inform them of such. Approximately 4,000 invitation were distributed, the vast bulk of these through a mailing to the campaign's volunteer and contributor mailing list. The Committee paid for the printing and mailing of the invitations, and all other expenses associated with the event.

The Committee regrets both instances. Obviously, closer scrutiny of the pieces prior to their printing would have avoided this problem. In order to prevent a reoccurrence of this type of problem, the campaign has taken several steps. First, the disclaimer has been affixed to the remaining door hanger pieces in the event that they are ever distributed. Second, the relevant provisions of federal campaign law have been reviewed with the staff and the campaign's printer to insure their knowledge of the substance and importance of the requirements. Third, the campaign has adopted a policy that no literature will be printed or distributed by the campaign until it has been reviewed and approved for compliance by the campaign manager and by counsel.

The Committee appreciates the opportunity to address this matter prior to the Committee opening a formal investigation as requested by Mr. Stuckey. We would like to emphasize the following:

1. The number of pieces of literature distributed without a disclaimer is a small percentage of the total pieces of literature distributed by the campaign, over 100,000.

2. There are no "hidden benefactors" of the campaign. The literature was paid for entirely by the Committee, and there was never any intent or effort to mislead anyone in that respect.

3. Both omissions were the result of unintentional oversights, and the campaign has taken positive steps to prevent a reoccurrence of this error.

Thank you for your consideration of this response. Of course, the campaign stands ready to discuss with the Commission staff any further steps you believe desirable to insure future compliance.

Very truly yours,


Robert D. Terry
Counsel

89040755122

06C #621

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MAIL ROOM

LAW OFFICES
SALEM & WONG
SUITE 320, BUCKHEAD CENTRE
2870 PEACHTREE ROAD, N.W.
ATLANTA, GEORGIA 30305

88 OCT -7 AM 11:56

JOE SALEM (1923-1982)
DONNA J. SALEM
ALVIN T. WONG

(404) 261-8088

October 4, 1988

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

ATTN: Kenneth Kellner, Esq.

RE: MUR 2692
Response Of Honto Restaurant, Inc.

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FEDERAL ELECTION COMMISSION
88 OCT -7 PM 3:17

Dear Mr. Kellner:

Please be advised that I represent Honto Restaurant, Inc. and Mr. Johnny To, the sole shareholder of that corporation. Attached herewith is the Statement Of Designation Of Counsel.

This letter is written in response to a Complaint filed by John Stuckey, Chairman, Georgia Republican Party, against Ben Jones and the Ben Jones For Congress Committee, dated August 29, 1988, and filed on September 9, 1988.

By way of background information, Honto Restaurant is a Chinese restaurant which has been recognized by a number of Atlanta publications, including the Atlanta Magazine and the Atlanta Constitution and Journal, as one of the best restaurants in the Metropolitan Atlanta Area. It is popular with Asians as well as Americans. Because of its size, it regularly accommodates large private parties.

On August 28, 1988, Honto Restaurant did accommodate a request for a private party for Mr. Ben Jones. It charged and received in excess of Five Thousand Dollars (\$5,000.00) for services rendered and food furnished to this private party. Honto Restaurant did not donate food, services or cash at this event or at any other time to Mr. Ben Jones or to any organizations that may be affiliated with his election efforts.

As part of the Complaint, Mr. Stuckey attached a copy of the invitation. The invitation clearly shows that the party was given by a Robin Lee Fitch and a Jim Jackson with both of their telephone

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SALEM & WONG

Federal Election Commission
ATTN: Kenneth Kellner, Esq.
October 4, 1988
Page 2

numbers printed on the invitation itself. If there have been any violations committed, I would suggest Ms. Fitch and Mr. Jackson be questioned.

In paragraph II B 2 (page 5 of the Complaint), Mr. Stuckey writes:

"Who did pay for the party invitation mailing? Who paid for the party? If Honto's Restaurant did, then Ben Jones and the Ben Jones For Congress Committee have accepted an illegal corporate contribution."

As you will note, the invitation indicated and the party for Mr. Jones was in fact held on August 28, 1988. Mr. Stuckey drafted this Complaint on August 29, 1988, and I assume he immediately mailed it to your office for filing. No one ever telephoned or contacted Honto Restaurant and Mr. Johnny To to inquire as to whether Honto Restaurant or Mr. To provided a cash donation to Mr. Jones, or provided free or discounted food and services for the dinner held at Honto Restaurant on August 28, 1988 (which it did not). I find it totally irresponsible for the Chairman of the Georgia Republican Party to insinuate that my client had made an illegal corporate contribution without having made any attempt to first investigate same.

You may or may not be aware that Congressman Pat Swindall, 4th District, Georgia, is involved in a hotly contested congressional race with Mr. Ben Jones. I do not question Mr. Stuckey's right to report any potential violations to the Federal Election Commission but I find it an absolute embarrassment for a major political party to involve a business entity and a citizen of the district in the election maneuvering of two (2) candidates. A copy of this letter is being sent to Mr. Stuckey and Congressman Pat Swindall to let them know that my client is very upset about being dragged into this matter. Additionally, by a copy of this letter, demand is hereby made upon the Georgia Republican Party to issue a statement to the Federal Election Commission specifically clearing my client of any wrongdoing. If the Georgia Republican Party has factual basis to support the allegation that my client made an illegal corporate contribution, I demand that the Complaint be formally amended and the charges accordingly stated.

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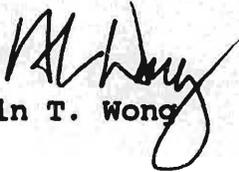
SALEM & WONG

Federal Election Commission
ATTN: Kenneth Kellner, Esq.
October 4, 1988
Page 3

I trust this letter is an adequate response and that you will advise me that my client's participation in this investigation will no longer be necessary.

Thank you.

Very truly yours,


Alvin T. Wong

ATW/dmk
8373L

Enclosure

cc: Honto Restaurant, Inc.

Mr. John Stuckey,
Chairman, Georgia Republican Party

The Honorable Pat Swindall,
Representative In Congress

Mr. Ben Jones

Ben Jones For Congress Committee

89040755125

STATEMENT OF DESIGNATION OF COUNSEL

NUR 2692

NAME OF COUNSEL: Mr. Alvin T. Wong
Salem & Wong
ADDRESS: Suite 320, Buckhead Centre
2970 Peachtree Road, N.W.
Atlanta, GA 30305
TELEPHONE: (404) 261-6088

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

9-27-88
Date

Johnny To
Signature

RESPONDENT'S NAME: Honto Restaurant (Mr. Johnny To)
ADDRESS: 3295 Chamblee-Dunwoody Road
Atlanta, GA 30341
HOME PHONE: Decline To Disclose
BUSINESS PHONE: (404) 458-8088

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GEORGIA REPUBLICANS

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FEDERAL ELECTION COMMISSION
MAIL ROOM

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88 OCT 19 AM 9:17

October 12, 1988

Federal Election Commission
999 East Street, NW
Washington, D.C. 20463

Attn: Kenneth Kellner, Esq.
Re: MUR 2692

Dear Mr. Kellner:

By way of this letter, I wish to formally withdraw the complaint which I filed on September 9, 1988 on behalf of the Georgia Republican Party against Ben Jones and the Ben Jones for Congress Committee.

After receiving a copy of a letter to the Federal Election Commission from Mr. Alvin Wong (on behalf of Honta Restaurant, Inc.) I am convinced that there were no improper contributions to the Jones campaign resulting from the event in question.

Although there may have been some errors in reporting by the Jones campaign, I do not believe the situation merits any further investigation by the Commission.

Sincerely,

John W. Stuckey, Jr.
Chairman

JMS/tbd

cc: Mr. Alvin T. Wong
The Honorable Pat Swindall

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FEDERAL ELECTION COMMISSION
88 OCT 19 AM 10:11

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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FEDERAL ELECTION COMMISSION
SECRETARY

88 OCT 24 AM 11:09

SENSITIVE

October 24, 1988

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

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

SUBJECT: MUR 2692
Complainant's Request to Withdraw Complaint

On September 9, 1988, the Office of the General Counsel received a signed, sworn, and notarized complaint from John M. Stuckey, Jr., Chairman of the Georgia Republican Party, against the Ben Jones For Congress Committee and Joseph L. Schulman, as treasurer. On October 19, 1988, the Office of the General Counsel received another letter from the complainant requesting the withdrawal of the complaint (Attachment 1).

Under 2 U.S.C. §§ 437c(b)(1) and 437d(e), the Commission is vested with exclusive jurisdiction over civil enforcement of the Federal Election Campaign Act of 1971, as amended ("the Act"). Moreover, the enforcement provisions of the Act make it clear that if a proper complaint is received, the Commission may proceed to determine whether there is reason to believe a violation has occurred. 2 U.S.C. § 437g(a)(1) and (2).

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The Office of the General Counsel recommends that the Commission send the attached letter to the complainant. The letter states that the Commission is empowered to take any action which it deems appropriate on complaints properly filed with it, and that any request for withdrawal will not prevent the Commission from taking further action in this matter.

RECOMMENDATION

1. Approve the attached letter to John M. Stuckey, Jr.

Attachments:

1. Letter from Complainant
2. Letter to Complainant

Staff Assigned: Kenneth Kellner

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

John M. Stuckey, Jr.

)
)
)
)

MUR 2692

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 26, 1988, the Commission decided by a vote of 6-0 to approve the Letter to John M. Stuckey, Jr., as recommended in the General Counsel's memorandum to the Commission dated October 24, 1988.

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

Attest:

Oct. 24, 1988

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary:	Mon.,	10-24-88,	11:09
Circulated on 48 hour tally basis:	Mon.,	10-24-88,	4:00
Deadline for vote:	Wed.,	10-26-88,	4:00

jm

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plm



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 28, 1988

John M. Stuckey, Jr., Chairman
Georgia Republican Party
1776 Peachtree Street, NW
Suite 500-S
Atlanta, GA 30309

RE: MUR 2692

Dear Mr. Stuckey:

This is in reference to your letter dated October 12, 1988, requesting that the complaint you filed against the Ben Jones For Congress Committee and Joseph L. Schulman, as treasurer, be withdrawn.

Under 2 U.S.C. § 437g, the Federal Election Commission is empowered to review a complaint properly filed with it and to take action which it deems appropriate under the Federal Election Campaign Act of 1971, as amended ("the Act"). A request for withdrawal of a complaint will not prevent the Commission from taking appropriate action under the Act. Your request will become part of the public record within 30 days after the entire file is closed.

If you have any further questions about this procedure, please contact Kenneth E. Kellner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

89040755131

89 MAR -3 PM 3:20

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE
EXECUTIVE SESSION
MAR 14 1989

MUR 2692
DATE COMPLAINT RECEIVED
BY OGC September 9, 1988
DATE OF NOTIFICATION TO
RESPONDENTS September 16, 1988
STAFF MEMBER: Kenneth Kellner

COMPLAINANT: John M. Stuckey, Jr., Chairman of the Georgia
Republican Party

RESPONDENTS: Ben Jones for Congress Committee and Joseph L.
Schulman, as treasurer, and Honto Restaurant, Inc.

RELEVANT STATUTES: 2 U.S.C. § 441b(a)
2 U.S.C. § 441d(a)
2 U.S.C. § 431(9)(B)(viii)
11 C.F.R. § 100.7(b)(2)
11 C.F.R. § 100.7(b)(15)
11 C.F.R. § 100.7(b)(16)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On September 9, 1988, John M. Stuckey, Jr., Chairman of the Georgia Republican Party ("Complainant"), filed a complaint alleging the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer (the "Committee"), and Honto Restaurant, Inc. ("Honto Restaurant"), were in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 16, 1988, the respondents were notified of the complaint.

Responses were received from all the respondents. The Committee filed its response on October 6, 1988. Honto Restaurant filed its response on October 8, 1988. On October 19,

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1988, the Complainant filed a request to withdraw the complaint. On October 26, 1988, in response to the Complainant's request, the Commission approved a letter to the Complainant, as recommended in the General Counsel's memorandum to the Commission dated October 24, 1988.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

Ben Jones was the Democratic candidate for Congress in the Fourth Congressional District of Georgia in the 1988 general election. The Committee is his designated principal campaign committee. The allegations center on door-hangers and surprise party invitations distributed on behalf of Ben Jones.

The complaint alleged that a door-hanger was distributed which expressly advocated the election of Jones but lacked a disclaimer as required under 2 U.S.C. § 441d(a). The complaint also alleged that in late July 1988, an invitation was mailed inviting its recipients to a surprise birthday and dinner in honor of Ben Jones on Sunday, August 28, 1988 at Honto Restaurant. This invitation did not list the Committee as its sponsor, nor did it contain a disclaimer as required under 2 U.S.C. § 441d(a).¹ Finally, the Complainant alleged that since there was no sponsor listed on the party invitation, the

1. The Complainant also alleged that the invitation failed to include a disclosure notice that contributions for gifts to the Committee are not deductible as charitable contributions for Federal income tax purposes. The Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) set forth that disclosure requirement for committees classified under 28 U.S.C. § 527. A review of this legislation and its legislative history, however, does not reveal any Federal Election Commission enforcement authority in this area.

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Committee may have accepted a corporate contribution from Honto Restaurant for the cost of the party, a violation of 2 U.S.C. § 441b(a) by both the Committee and Honto Restaurant. Copies of both the door-hanger and invitation were appended to the complaint.

B. Legal Analysis

1. Failure to Include an Authorization Notice

Under 2 U.S.C. § 441d(a), when an expenditure is made for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, such communication

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

The Door-Hanger

It appears the Committee was required to have an authorization notice on the door-hanger under 2 U.S.C. § 441d(a). The door-hanger distributed by the Committee expressly advocated the election of Ben Jones to Congress. The face of the door-hanger details what is apparently Jones' campaign agenda. Below that and in what is designed to come across as Jones' own penmanship, is the statement: "I'll be a mainstream, responsive, independent, and above all, effective representative on your behalf." Jones' name is signed below. In its response, the

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Committee states that approximately 2,000 copies of this door-hanger were distributed by the Committee during the primary campaign, presumably by a house to house canvassing operation, and that all costs associated with the literature were in fact paid by the Committee.

The Act provides an exemption from the disclaimer requirement to expenditures for similar campaign materials made by State or local committees of a political party distributed by volunteers on behalf of a candidate. 2 U.S.C. § 431(9)(B)(viii). This exemption, however, does not apply to expenditures made on behalf of a candidate by his authorized committee. No other exemption is applicable which would have allowed the Committee to forego the disclaimer requirement under these circumstances.

The Committee states that the omission of a disclaimer was an unintentional oversight. Time constraints had led to the printing without final review. According to the Committee, a policy of more careful review of campaign literature was instituted following this incident. Furthermore, the Committee affixed a disclaimer to the 4,000 remaining door-hangers. These mitigating circumstances, however, do not negate the allegation that a violation has occurred.

The "Surprise Party"

The invitation to the party at Honto Restaurant solicits \$50 contributions, payable by check or credit card, to attend what is evidently a fundraiser on behalf of Jones. The amount paid to attend a fundraiser by a political committee is a contribution. 11 C.F.R. § 100.7(b)(2). The party took place on August 28,

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1988, after Ben Jones defeated two other candidates in the Democratic primary, and before the general election. No political committee or affiliation is mentioned on the invitation.

In its response, the Committee states that the Committee paid for all expenses for the event, including the cost of printing and mailing the invitations, although volunteers handled the arrangements outside of the campaign headquarters in order to maintain the element of surprise for Jones. According to the response, the invitations did not bear a disclaimer due to the Committee's failure to inform the volunteers of its necessity. The Committee states that approximately 4,000 invitations were distributed, the "vast bulk" of them by a mailing to the Committee's volunteer and contributor mailing list.

The term "direct mailing" is not defined as in 2 U.S.C. § 441d(a). The Commission has not previously interpreted "direct mailing", as it pertains to Section 441d(a), to include a candidate committee's distribution to its own mailing list. The term "direct mail" is defined, however, in 11 C.F.R. §§ 100.7(b)(15) and 100.7(b)(16). Both those sections' definition of direct mail would not include a mailing by a Committee to its own volunteer and contributor mailing list. The use of an official list of eligible voters provided by a county department of elections does not constitute a direct mailing. See Advisory Opinion 1988-40.

The information provided by the Committee, however, does not make it clear how the Committee developed the mailing list for

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the fundraiser. The list may have been developed by the Committee's purchase of a commercial list for use in soliciting contributions with resulting new contributors being added to the Committee's own contributor mailing list. A mailing of this sort could be viewed as a "direct mailing" or "other type of general public political advertising" under 2 U.S.C. § 441d(a).

The Committee also does not explain what it means by the term "vast bulk." Accordingly, this Office is not aware how many of the 4,000 invitations were mailed to persons not on the Committee's contributor mailing list.

Therefore, this Office recommends that the Commission find reason to believe the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, violated 2 U.S.C. § 441d(a) by failing to include an authorization notice on either the door-hanger or the surprise party fundraiser invitations.

2. Corporate Contribution

Under 2 U.S.C. § 441b(a), it is unlawful for a corporation to make a contribution or expenditure in connection with a federal election, and for a candidate or political committee to accept or receive knowingly a contribution from a corporation. The cost of printing party invitations and the cost of the party itself would constitute a violation of 2 U.S.C. § 441b(a) if the Committee accepted those from a corporation, such as Honto Restaurant.

A review of the Committee's October 1988 Quarterly Report, covering the period July 21, 1988 to September 30, 1988 indicates

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three disbursements by the Committee to Honto Restaurant in August 1988 totaling \$5,300. The purpose of the disbursements was listed as "catering." This report corroborates the response of Honto Restaurant, which states that "[i]t charged and received in excess of Five Thousand Dollars (\$5,000) for services rendered and food furnished for [a] private party" for Ben Jones. Honto Restaurant further responded that it did not donate any food, services or cash at any time to Ben Jones or any organizations that may be affiliated with his election efforts.

It appears Honto Restaurant did accommodate a request for a party for Ben Jones, but charged and received compensation in full for services rendered from the Committee. Furthermore, there is no evidence that Honto Restaurant or any other corporation donated food, services or cash for this event, or in any way contributed the cost of printing the invitations.

Therefore, this Office recommends that the Commission find no reason to believe that that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, and Honto Restaurant, Inc. violated 2 U.S.C. § 441b(a).

III. RECOMMENDATIONS

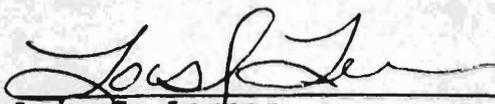
1. Find no reason to believe that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, violated 2 U.S.C. § 441b(a).
2. Find no reason to believe that Honto Restaurant, Inc. violated 2 U.S.C. § 441b(a).
3. Find reason to believe that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, violated 2 U.S.C. § 441d(a).

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4. Approve the attached letters, interrogatories and factual and legal analysis.

Lawrence M. Noble
General Counsel

Date 3/3/89

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Response of the Ben Jones for Congress Committee
2. Response of Honto Restaurant, Inc.
3. Proposed letters (2), interrogatories and factual and legal analysis

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: MARCH 7, 1989

SUBJECT: MUR 2692 - First General Counsel's Report
Signed March 3, 1989.

The above-captioned document was circulated to the Commission on Monday, March 6, 1989 at 11:00 a.m.

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

- Commissioner Aikens _____
- Commissioner Elliott _____ XX
- Commissioner Josefiak _____ XX
- Commissioner McDonald _____
- Commissioner McGarry _____
- Commissioner Thomas _____

This matter will be placed on the meeting agenda for Tuesday, March 14, 1989.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: MARCH 8, 1989

SUBJECT: OBJECTIONS TO MUR 2692 - FIRST G.C. REPORT
SIGNED MARCH 3, 1989

The above-captioned document was circulated to the
Commission on Monday, March 6, 1989 at 11:00 a.m.

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

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

This matter will be placed on the meeting agenda
for March 14, 1989.

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)
)
Ben Jones for Congress Committee) MUR 2692
and Joseph L. Schulman, as)
treasurer)
Honto Restaurant, Inc.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of March 14, 1989, do hereby certify that the Commission took the following actions in MUR 2692:

1. Find no reason to believe that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, violated 2 U.S.C. § 441b(a).
2. Find no reason to believe that Honto Restaurant, Inc. violated 2 U.S.C. § 441b(a).
3. Find reason to believe that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, violated 2 U.S.C. § 441d(a).

(continued)

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Federal Election Commission
Certification for MUR 2692
March 14, 1989

Page 2

4. Approve the letters, interrogatories and factual and legal analysis attached to the General Counsel's report dated March 3, 1989.

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

Attest:

3-15-89

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 22, 1989

Joseph L. Schulman, Treasurer
Ben Jones for Congress Committee
P.O. Box 1888
Decatur, GA 30031

RE: MUR 2692
Ben Jones for Congress and
Joseph L. Schulman, as
treasurer

Dear Mr. Schulman:

On September 16, 1988, the Federal Election Commission notified the Ben Jones for Congress Committee ("Committee") 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 March 14, 1989, found that there is reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 441d(a), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. On March 14, 1989, the Commission further found that there is no reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 441b(a).

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 along with answers to the enclosed questions to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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.

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Joseph L. Schulman, Treasurer
Page 2

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.

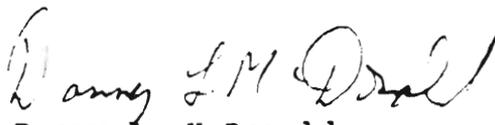
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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 Kenneth E. Kellner, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,


Danny L. McDonald
Chairman

Enclosure

Designation of Counsel Form
Factual & Legal Analysis
Interrogatories and Request for Production of Documents

cc: Ben Lewis Jones

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 22, 1989

Alvin T. Wong, Esquire
Salem & Wong
Suite 320, Buckhead Centre
2970 Peachtree Road, N.W.
Atlanta, GA 30305

RE: MUR 2692
Honto Restaurant, Inc.

Dear Mr. Wong:

On September 16, 1988, the Federal Election Commission notified your client, Honto Restaurant, Inc., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 14, 1989, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Honto Restaurant, Inc. violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter as it pertains to Honto Restaurant, Inc.

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

Lois G. Lerner

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FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

TERRY & MCGREGOR

ATTORNEYS AT LAW

89 APR 13 AM 10:21

ROBERT D. TERRY
SCOTT A. MCGREGOR

SUITE 300, FIRST NATIONAL BANK BUILDING
315 WEST PONCE DE LEON AVENUE
DECATUR, GEORGIA 30030
404/370-1000

April 12, 1989

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

Re: MUR 2692

Dear Mr. Kellner:

This is in response to your letter of March 22, 1989, received by the Ben Jones for Congress Committee on March 29, 1989, relating to the above-referenced proceeding.

Answers to the Interrogatories included with your letter are enclosed herein. Names of persons who assisted with the formulation of answers and who can furnish testimony concerning the answers are included parenthetically after each response.

The Committee takes the position that the manner of distribution of the surprise party invitations was such that it was not a direct mailing or other general public political advertising. The very nature of the event, a surprise birthday party, would have precluded such an appeal. The invitations were therefore mailed to the campaign's mailing list and delivered to a few other individuals who expressed an interest in attending when told about the event.

The Committee admits that approximately 2,000 door-hangers were distributed without the required disclaimer. However, the Committee feels that the inadvertence of the omission, the lack of intent to deceive anyone as to the source of the communication, the small portion of the campaign's total literature distribution that the door-hangers represented, the remedial measures the campaign took upon learning of the problem to prevent a reoccurrence, the Committee's cooperation during this investigation and the lack of any previous noncompliance should serve to mitigate any action which might otherwise be taken against the Committee.

The Committee further believes that Joseph Schulman, as Treasurer, should not be held accountable for any actions which are the subject of this complaint. Mr. Schulman was in no way responsible for the omission of any required disclaimers, nor was he responsible for the design or distribution of the affected literature.

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ADMINISTRATIVE DIVISION

Finally, please consider this letter as a formal request to proceed with pre-probable cause conciliation in this matter.

Should you require further information or clarification, please do not hesitate to call.

Very truly yours,



Robert D. Terry

cc: Joseph L. Schulman
Bettie Sleeth

/bp

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ANSWERS TO INTERROGATORIES

1. The total cost for printing of the door-hangers was approximately \$295.53. (The total number printed was 6,000 at a cost of \$886.60. However, only about 2,000 were actually distributed without the disclaimer. The door-hangers were distributed by volunteers at no cost. (Bettie Sleeth, Carol Blanton)

The total cost for printing the surprise party invitations and envelopes was \$965.10. The total cost of mailing the invitations was approximately \$937.50. (An exact figure is unavailable due to uncertainty as to the exact number mailed. However, 3,750 were printed, and all except approximately 50 were mailed.) (Bettie Sleeth, Carol Blanton)

Copies of the relevant invoices are enclosed. (Carol Blanton)

2. The Committee became aware that the door-hanger and invitation did not contain the disclaimer when it learned of the complaint filed by the Georgia Republican Party. The exact date of this awareness is believed to be August 31, 1988. Neither group of recipients have been informed that the Committee funded the distributions of literature. (Robert D. Terry)

3. a. The volunteer and contributor list was developed over the course of the 1986 and 1988 campaigns as a compilation of individuals who either 1) made financial contributions, 2) volunteered to help out with the campaign, or 3) contacted the campaign to express an interest in the candidate's candidacy. Almost all of the persons on the list initiated their first contact with the campaign; however, some of the names were undoubtedly referrals from volunteers and contributors, and some of the names were obtained through volunteers' door-to-door canvassing of selected registered voters (obtained from an official list of registered voters provided by the county elections board), but only if this contact resulted in an expression of interest in helping, or receiving more information about, the campaign. In addition, a small number of the names on the list were 1) elected officials representing a portion of the Congressional District (names obtained from free, public lists) or 2) persons active in the local or state Democratic Party organizations (names obtained without charge from the respective party organizations). (Robert D. Terry, Bettie Sleeth)

b. The Committee never rented, purchased or otherwise used names from any commercial list in creating the volunteer and contributor mailing list. The list began as a small list of party activists and friends of the candidate, and grew as the campaign progressed through 1986 and 1988, and as more people became aware of the campaign and wanted to help it succeed or get more information

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about it. (Robert D. Terry)

c. The number of people who received invitations who were not on the volunteer and contributor list was very small - perhaps fifty. These recipients were either 1) friends of the candidate or campaign staff who expressed an interest in attending the party when told about it, or 2) persons who volunteered to help with the campaign or expressed an interest in it after the mailing to the list had occurred. Most, if not all, of these invitations were delivered by hand. Because it was desired that the element of surprise be maintained, invitations were not freely distributed at the campaign headquarters or otherwise distributed in any "public" manner. No invitations were mailed to any persons not on the volunteer and contributor list, except possibly in isolated instances to persons described in this paragraph. (Robert D. Terry, Bettie Sleeth)

d. The fundraiser raised approximately \$9,500.00. (It is impossible to determine an exact amount raised by this mailing, since the financial records were not always accurately coded to reflect the reason for a particular contribution. This figure has been determined based upon an estimate of the number of attendees and the estimated number of free or reduced price admissions.) After the cost of catering and invitations totaling approximately \$7,202.60, the net amount raised was approximately \$2,297.40. (Bettie Sleeth)

4. Copies of relevant invoices for printing costs are enclosed.

Identification of persons referred to above:

Carol Blanton
Craftsmen Graphics
374 Maynard Terrace S.E., Ste. 228
Atlanta, GA 30316

(Printer for the campaign)

Bettie Sleeth
1051 South Millard Way
Stone Mountain, GA 30088

(Political director for campaign; presently, campaign coordinator)

Robert D. Terry
Suite 300
315 West Ponce de Leon Avenue
Decatur, GA 30030

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1245 McLendon Avenue, N.E.
Atlanta, GA 30307

(Campaign manager; presently, attorney with Terry & McGregor)

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FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

89 APR 14 AM 10: 08

TERRY & MCGREGOR

ATTORNEYS AT LAW

SUITE 300, FIRST NATIONAL BANK BUILDING

315 WEST PONCE DE LEON AVENUE

DECATUR, GEORGIA 30030

404/370-1000

ROBERT D. TERRY
SCOTT A. MCGREGOR

April 13, 1989

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

Re: MUR 2692

Dear Mr. Kellner:

As we discussed, enclosed is the designation of counsel executed by Bettie Sleeth as Campaign Coordinator for the Ben Jones for Congress Committee.

Please call me if you have any questions or require additional information.

Very truly yours,



Robert D. Terry

/bp (enclosure)

RECEIVED
FEDERAL ELECTION COMMISSION
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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2692

NAME OF COUNSEL: Robert D. Terry

ADDRESS: Suite 300, 315 West Ponce-de Leon Ave.
Decatur, GA 30030

TELEPHONE: (404) 370-1000

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Ben Jones for Congress Committee

April 12, 1989
Date

By Bettie Sleeth
Signature
Bettie Sleeth
Campaign Coordinator

RESPONDENT'S NAME: Ben Jones for Congress Committee

ADDRESS: P. O. Box 1888
Decatur, GA 30031

HOME PHONE: (404) 879-1990

BUSINESS PHONE: (404) 879-1990

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89 JUN 13 AM 9:40

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Ben Jones for Congress Committee) MUR 2692
and Joseph L. Schulman, as)
treasurer)

SENSITIVE
EXECUTIVE SESSION

JUN 27 1989

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On March 14, 1989, the Commission found, on the basis of information provided in a complaint and information provided by the respondents, that there was reason to believe that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, (the "Committee") violated 2 U.S.C. § 441d(a) for distributing both a door-hanger and a solicitation in the form of a surprise party invitation without disclaimers. On the same date, the Commission further found no reason to believe that the Committee and Honto Restaurant violated 2 U.S.C. § 441b(a).

Responses to interrogatories propounded by the Commission to the Committee were received on April 13, 1989 (Attachment 1).

II. ANALYSIS

Prior to the receipt of the Committee's responses to the interrogatories, it was unclear how the Committee developed the mailing list for the fundraiser. The list may have been developed by the Committee's purchase of a commercial list for use in soliciting contributions with resulting new contributors being added to the Committee's own mailing list.

In addition, in its response to the complaint, the Committee had stated that the "vast bulk" of the surprise party invitations

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were distributed by a mailing to the Committee's volunteer and contributor mailing list. The Committee did not explain what it meant by the term "vast bulk." Accordingly, it was not known how many of the 4,000 invitations were mailed to persons not on the Committee's own contributor mailing list.

The Committee has since disclosed that the volunteer and contributor list was developed over the course of the 1986 and 1988 campaigns as a compilation of individuals who either (1) made financial contributions, (2) were volunteers to the campaign, or (3) contacted the campaign to express an interest in the candidate's candidacy. In addition, a small number of names on the list were elected officials or persons active in the local or state Democratic Party organizations whose names were obtained without charge from free public lists or Democratic Party organizations. The Committee further stated that in creating the list, the Committee never rented, purchased or otherwise used names from any commercial list.

The Committee also stated that the number of people who received invitations who were not on the volunteer and contributor list was "perhaps fifty", out of approximately 3,700 mailed. These other recipients were said to be either friends of the candidate, campaign staff or persons who volunteered to help with the campaign or expressed an interest in it after the mailing had occurred. Furthermore, most of these special invitations were said to have been delivered by hand.

In light of the information provided by the Committee set forth above, it appears that the distribution of the invitations

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by the Committee did not constitute "direct mail" subject to the disclaimer requirements of 2 U.S.C. § 441d(a). See Statement of Reasons in MUR 2756.

The Committee also distributed 2,000 door-hangers which expressly advocated the election of Jones to Congress in the Fourth Congressional District of Georgia, but failed to contain a disclaimer. All costs associated with the door-hanger were paid by the Committee. The Committee has stated that the omission of a disclaimer was an unintentional oversight and that a disclaimer was later affixed to the remaining 4,000 door-hangers. Time constraints had led to the initial printing without the disclaimer. According to the Committee, a policy of more careful review of campaign literature was instituted following this incident.

The Committee paid a total of \$295.53 for the printing of the door-hangers which were distributed without a disclaimer. Furthermore, the door-hangers were distributed by volunteers at no cost to the Committee.

The Committee has requested pre-probable cause conciliation. In light of the information provided by the Committee regarding the surprise party, the relatively small amount spent by the Committee for the door-hangers, and the Committee's efforts to insure future campaign materials would contain a disclaimer, however, this Office recommends that the Commission take no further action against the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, and close the file in this matter.

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III. RECOMMENDATIONS

1. Decline to enter into pre-probable cause conciliation with the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer.
2. Take no further action against the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer.
3. Close the file.
4. Approve the attached letters.

Lawrence M. Noble
General Counsel

6-12-89
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Response to interrogatories
2. Proposed letters (2)

Staff assigned: Kenneth Kellner

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Ben Jones for Congress Committee) MUR 2692
and Joseph L. Schulman, as)
treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of June 27, 1989, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2692:

1. Decline to enter into pre-probable cause conciliation with the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer.
2. Take no further action against the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer.
3. Close the file.
4. Approve the letters attached to the General Counsel's report dated June 12, 1989.

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

Attest:

6-29-89

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

89040755158



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 5, 1989

Robert D. Terry, Esq.
315 West Ponce de Leon Ave.
Suite 300
Decatur, Georgia 30030

RE: MUR 2692
Ben Jones for Congress
Committee and Joseph L.
Schulman, as treasurer

Dear Mr. Terry:

On March 22, 1989, your clients were notified that the Federal Election Commission found reason to believe that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, violated 2 U.S.C. § 441d(a). On April 13, 1989, you submitted a response to the Commission's reason to believe findings in this matter.

After considering the circumstances of the matter, the Commission determined on June 27, 1989, to take no further action against the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, and closed the file. The file will be made part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

The Commission reminds you that failure to place an authorization notice on certain campaign materials appears to be a violation of 2 U.S.C. § 441d(a). Your clients should take immediate steps to insure that this activity does not occur in the future.

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Robert D. Terry, Esq.
Page 2

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

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

89040755160



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 5, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John M. Stuckey, Jr., Chairman
Georgia Republican Party
1776 Peachtree Street, NW
Suite 500-S
Atlanta, Georgia 30309

RE: MUR 2692

Dear Mr. Stuckey:

This is in reference to the complaint you filed with the Federal Election Commission on September 9, 1988, concerning alleged violations of 2 U.S.C. §§ 441d(a) and 441b(a) by the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, and a violation of 2 U.S.C. § 441b(a) by Honto Restaurant.

Based on that complaint, on March 14, 1989, the Commission found that there was no reason to believe that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, and Honto Restaurant violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended. The Commission further found, however, that there was reason to believe that the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, violated 2 U.S.C. § 441d(a), and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against the Ben Jones for Congress Committee and Joseph L. Schulman, as treasurer, and closed the file in this matter on June 27, 1989. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

89040755161

John M. Stuckey
Page 2

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

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

89040755162



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2692

DATE FILMED 7/21/89 CAMERA NO. 4

CAMERAMAN AS

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