



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 2750

DATE FILMED 1/16/91 CAMERA NO. 2

CAMERAMAN AS

21040813651

# Ohio Democratic Party

JAMES M. RUVOLO  
Chairman

Phone (614) 221-6563, Suite 1920, 88 East Broad Street, Columbus, Ohio

43215

RECEIVED  
FEDERAL ELECTION COMMISSION

88 OCT 28 AM 11:12

OGC-800



*Mr 2750*

October 27, 1988

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

**HAND DELIVERED**

88 OCT 28 AM 10:50

RECEIVED  
FEDERAL ELECTION COMMISSION

Dear Commissioners:

Enclosed please find a complaint against the Friends of Voinovich Committee.

I appreciate your prompt attention to this matter.

Sincerely,

*James M. Ruvolo*  
James M. Ruvolo  
Chairman

enclosures

21040313652



Get Involved! Check "Yes" for the Ohio Political Party Fund on Your Ohio Tax Return.



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

88 OCT 28 AM 10:50

THE FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C.

In the Matter of  
The Complaint of  
James M. Ruvolo, Chairman  
Ohio Democratic Party  
Suite 1920  
88 East Broad Street  
Columbus, Ohio 43215

against

Friends of Voinovich  
Vincent M. Panichi, Treasurer  
825 Hanna Bldg.  
1422 Euclid Avenue  
Cleveland, Ohio 44115

Complainant herein, James M. Ruvolo, Chairman of the Ohio Democratic Party, hereby requests that the Federal Election Commission investigate the activities of the Friends of Voinovich Committee, Vincent M. Panichi, Treasurer, with relation to the activities set forth below, which activities Complainant avers have violated Federal Election Campaign laws under 11 CFR Section 102.12(b) and 11 CFR Section 110.7(b)(4).

Statement of Facts

On or about October 26, 1988, the Friends of Voinovich Committee placed an advertisement in the Columbus Dispatch promoting George Voinovich for U.S. Senate (Attachment A). This advertisement included the name of the Republican candidate for President, George Bush and encouraged voters to elect Bush for President. The advertisement in the Columbus Dispatch carried the disclaimer, "Paid for by: Friends of Voinovich, 825 Hanna Bldg. 1422 Euclid Avenue, Cleveland, Ohio 44115."

Applicable Law

The Friends of Voinovich Committee has no authority on its own to advertise for the Presidential or Vice-Presidential Candidates.

The Friends of Voinovich Committee has no authority on its own to advertise for the Presidential or Vice-Presidential Candidates.

11 CFR 102.12(b) provides "No political committee may be designated as the principal campaign committee of more than one candidate." The Friends of Voinovich Committee is registered as the principal campaign committee for George Voinovich, the Republican candidate for U.S. Senate from Ohio. Therefore, The Friends of Voinovich can not also

9 1 0 4 0 3 1 3 6 5 3

serve as the principal campaign committee for the Republican Presidential or Vice-Presidential Candidates.

11 CFR Section 9003.2(a)(2) provides "To be eligible to receive payments under 11 CFR 9005, each Presidential and Vice Presidential candidate of a major party shall, under penalty of perjury, certify to the Commission: ... (2) That no contributions have been or will be accepted by the candidate or his or her authorized committee(s)..."

Since the Friends of Voinovich Committee is not the principal campaign committee for the Republican Presidential candidate, an ad paid for by Friends of Voinovich which promotes the election of George Bush to the office of President, constitutes a prohibited contribution to the Republican Presidential candidate. Therefore, the October 26th advertisement in the Columbus Dispatch which promoted the election of George Bush for President and which carried the disclaimer "Paid for by Friends of Voinovich", on its face constitutes a prohibited contribution to the Republican Presidential candidate.

In addition, 11 CFR 110.7(b)(4) prohibits independent expenditures for federal candidates by a State committee of a political party and local subordinate committees of a State committee. There are three exceptions to this prohibition, none of which permit newspaper advertising.

11 CFR 100.7(b) and 11 CFR 100.8(b) exempt certain activities from the terms "contribution" and "expenditure" respectively.

#### SLATE CARD EXEMPTION.

"The payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot, palm cards, or other printed listing(s) of three or more candidates for any public office for which an election is held in the State in which the committee is organized is not a contribution... This exemption shall not apply to costs incurred by such a committee with respect to the preparation and display of listing made on broadcasting station, or in newspapers, magazines, and similar types of general public political advertising such as billboards." 11 CFR 100.7 (b)(9), 11 CFR 100.8 (b)(10).

#### VOLUNTEER CAMPAIGN MATERIALS EXEMPTION

"The payment by a state or local committee of a political party of the costs of campaign materials... used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution, provided that the following conditions are met:

- (i) Such payment is not for costs incurred in connection with any broadcasting, newspaper, magazine, billboard... or similar type of general public communication or political advertising."

11 CFR 100.7(b)(15), 11 CFR 100.8(b)(16).

#### VOTER REGISTRATION AND GET OUT THE VOTE EXEMPTION

91040313654

"The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice-Presidential nominee(s) of that party, is not a contribution to such candidate(s) provided that the following conditions are met:

(i) Such payment is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising."

11 CFR 100.7(b)(17), 11 CFR 100.8(b)(18).

Under each exemption, advertisement by means of general public communication is strictly prohibited.

#### Violations

The facts set forth above establish reason to believe that the Friends of Voinovich Committee has violated 11 CFR 102.12(b) and 11 CFR 110.7(b)(4).

#### Relief Requested

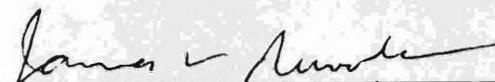
Complainant respectfully urges the Commission to take the following action.

1. Conduct an immediate FEC investigation to determine whether the Friends of Voinovich Committee has violated federal regulations.
2. Immediately order the Friends of Voinovich Committee and any affiliated committees to cease publication and any planned publication of advertisements which include the Presidential or Vice Presidential candidates in all prohibited means of general public communication.
3. Finally, the Commission should take other appropriate legal action that may be warranted as a result of the investigation requested by this complaint.

91040313655

Verification

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

  
\_\_\_\_\_  
James M. Ruvolo  
Chairman,  
Ohio Democratic Party



Subscribed and sworn to before me,  
this 27<sup>th</sup> day of October, 1988

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

**NANCE ECHENRODE AUSTIN**  
NOTARY PUBLIC - STATE OF OHIO  
MY COMMISSION EXPIRES AUGUST 5, 1989

21040813656

# Howard Metzenbaum is the Ringleader of Liberal Obstruction.

...Ronald Reagan, October 19, 1988

100% Liberal Howard Metzenbaum has fought President Ronald Reagan every step of the way.

"Metzenbaum makes Dukakis look like a dangerous right-winger."

The News-Herald, Oct. 16, 1988



"ATTACHMENT A"

---

**Metzenbaum has an extreme liberal record that he is trying to hide, and that is the real reason he has refused to debate George Voinovich.**

---

#### Metzenbaum votes:

- For high taxes - 22 votes for higher taxes out of your pocket.
- Against a balanced budget amendment - and against the Presidential Line-Item Veto.
- For liberal treatment of criminals - and against the death penalty.
- To sabotage America's strength - with votes against a strong national defense.

#### Senator "NO" Metzenbaum is making a "No-Man's Land" of Ohio...

- Ohio ranks a pathetic 37th in Federal money returned (to you).
- In just one year Metzenbaum cost Ohio taxpayers \$6 billion that could have served us all - for schools, roads, bridges, jobs, health care and so much more.
- Voinovich has a proven record in bringing Federal money back for local services... he will make Ohio #1.

---

**MILLIONAIRE Howard Metzenbaum is hiding in a TV studio... he thinks he can buy the election. Look at his record - not his commercials.**

---



**Keep America #1  
Make Ohio #1**

*Elect*  
**Voinovich - BUSH**  
U.S. Senate      President

**Vote smart for Ohio: VOINOVICH AND BUSH**

Paid for by: Friends of Voinovich • 525 Hanna Blvd. • 44222 Euclid Avenue • Cleveland, Ohio 44115

2  
1  
0  
4  
0  
3  
1  
3  
6  
5  
7

# KKK ordered to pay civil rights marchers

ATLANTA (AP) — The Ku Klux Klan and 12 individuals must pay about \$1 million to civil rights marchers who were pelted with rocks and bottles during a demonstration in mostly white Forsyth County, according to a verdict unsealed yesterday.

The activists marched into the county on Jan. 17, 1987, and were attacked by counter-demonstrators, many of them KKK members or sympathizers.

Named as defendants in the U.S. District Court lawsuit were the Southern White Knights of the KKK, the Invisible Empire Knights of the KKK and 12 individuals.

The jury reached its verdict Oct. 5, but Judge Charles A. Moyer Jr. ordered it sealed to give marchers who brought the lawsuit

time to decide whether to join Atlanta City Councilman Hosea Williams, who wanted to drop the lawsuit. He and three other plaintiffs dropped out during the trial and four others dropped out yesterday.

Williams, who helped organize the march and was among those who filed suit, urged toward the end of the trial that the lawsuit be dropped because it would impoverish the families of KKK members.

In a letter to those who filed with him, Williams said he had once talked to slain civil rights leader Martin Luther King Jr. and that King told him "Jesus wanted him not to sue the Klan."

The award gave \$50 each to the marchers in general damages. The rest was in punitive damages.



Joel Steinberg

AP photo

# Father's murder trial

## Lawyer beat his 6-year-old to death, pro

NEW YORK (AP) — Lisa Steinberg, the 6-year-old whose death last year elicited an outpouring of grief and rage, was a murder victim, brutally battered by the only father she ever knew, a prosecutor charged yesterday.

Joel Steinberg "beat Lisa so severely that he inflicted those injuries which caused her death," Assistant District Attorney Peter Casolaro said in a 30-minute statement at the start of Steinberg's murder trial.

Lisa was found unconscious in the Steinberg apartment Nov. 2, 1987, and died three days later.

Casolaro told the jury that the first-grader had bruises on her chest, legs, arms and neck, along with head injuries caused by "blunt-force trauma," when she arrived at the hospital Nov. 2. Police officers there noticed Steinberg's wounded, bleeding knuckles, he said.

Steinberg, 47, once a respected millionaire

defense lawyer, is charged with murder in the death of his daughter at birth from an unnamed father. He has denied ever knowing the child.

Steinberg's attorney argued that the jury to concentrate on client's morality, making an argument that the evidence would charge.

He called on the jury on the evidence and law on the evidence and law.

In an effort to understand testimony, London called she had spent the last 10 years and alluded to a "romantic relationship" with Nussbaum was that Lisa's death, but she was charged with providing

# Women grads give more, study finds

From Associated Press and staff reports

NORTHAMPTON, Mass. — A record-breaking year in gifts to Smith College bears out a study that found alumnae of women's schools give more to their alma maters than graduates of coeducational schools, fund-raisers said yesterday.

Graduates of the elite school donated \$17.1 million in fiscal 1987. With donations from friends, parents, corporations and foundations, Smith received a total of \$28 million for the year.

THE GIFTS are a record for a women's college and the envy of other schools.

"I applaud them," said Jeff Bradley, senior writer in development at Harvard University's undergraduate college, which last year received \$27.8 million from its 20,400 pre-1976 graduates.

But it was no surprise to another of the prestigious Seven Sisters schools, Mount Holyoke in South Hadley, Mass., which received \$18 million from its 21,000 alumnae and other donors in fiscal 1987.

"People have always said 'Women will not give. They cannot give. It's a man's decision where the money goes,'" said Eileen Elliott, director of annual giving at Mount Holyoke. "But women realize the value of their education and are going back to provide the same standard of excellence for the future."

A RECENT study by the Women's College Coalition of Washington, D.C., a private, non-profit group representing 70 schools, found that graduates of women's colleges are nearly twice as likely to give to their schools as are men and women graduates of coeducational schools.

In Columbus, The Ohio State University received \$10.76 million from 51,542 alumni during the 1987-88 school year, university officials said.

OSU received a total of \$63.9 million in donations, including \$29 million from corporations. In 1986-87, OSU ranked tenth in the nation in corporate support with \$22.4 million.

# Phony tale of mouse in beer nets jail term

JACKSONVILLE, Fla. (AP) — A man who claimed he found a mouse in a can of Coors beer pleaded guilty yesterday to pro-

Paid Political Advertising

Paid Political Advertising

# Howard Metzenbaum is the Ringleader of Liberal Obstruction.

...Ronald Reagan, October 19, 1988

100% Liberal Howard Metzenbaum has fought President Ronald Reagan every step of the way.

"Metzenbaum makes Dukakis look like a dangerous right-winger."

The News-Herald, Oct. 16, 1988



# Metzenbaum has an extreme liberal record he is trying to hide, and that is the real reason he has refused to debate George Voinovich

## Metzenbaum votes:

- For high taxes - 22 votes for higher taxes out of your pocket.
- Against a balanced budget amendment - and against the Presidential Line Item Veto.
- For liberal treatment of criminals - and against the death penalty.
- To sabotage America's strength - with votes against a strong national defense.

## Senator "NO" Metzenbaum is making a "No-Man's Land" of Ohio...

- Ohio ranks a pathetic 37th in Federal money returned (to you).
- In just one year Metzenbaum cost Ohio taxpayers \$6 billion that could have served us all - for schools, roads, bridges, jobs, health care and so much more.
- Voinovich has a proven record in bringing Federal money back for local jobs and industry. He will make Ohio #1.

91040813658

flm



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 31, 1988

SPECIAL DELIVERY

James M. Ruvoio, Chairman  
Ohio Democratic Party  
55 E. Broad Street  
Suite 1920  
Columbus, OH 43215

RE: MUR 2750

Dear Mr. Ruvoio:

This letter acknowledges receipt on October 25, 1988, of your complaint against Friends Of Voinovich and Vincent M. Paschi, as treasurer, alleging violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within 24 hours. You will be notified as soon as the Commission takes final action on your complaint. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Please be advised that this matter shall remain confidential in accordance with 2 U.S.C. Sections 437g(a)(4)(B) and 437g(a)(11)(C) unless the respondents notify the Commission in writing that they wish the matter to be made public.

Sincerely,

Lawrence A. Kelle  
General Counsel

By: [Signature]  
Rose G. Lerner  
Associate General Counsel

91040813659

Enclosure



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 31, 1988

SPECIAL DELIVERY

Vincent M. Panichi, Treasurer  
Friends Of Voinovich  
25201 Chagrin Blvd.  
#200  
Beachwood, OH 44122

RE: MUR 2750  
Friends Of Voinovich  
and Vincent M. Panichi,  
as treasurer

Dear Mr. Panichi:

This letter is to notify you that on October 28, 1988, the Federal Election Commission received a complaint which alleges that Friends Of Voinovich and you, as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2750. 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 Friends Of Voinovich 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. You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response, we have enclosed a pre-addressed, postage paid, special delivery envelope. If no response is received within 15 days, the Commission may take further action based on the available information.

The complaint may be dismissed by the Commission prior to the receipt of your response if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by overnight express mail.

This matter will remain confidential in accordance with Section 4372(a)(4)(B) and Section 4372(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public.

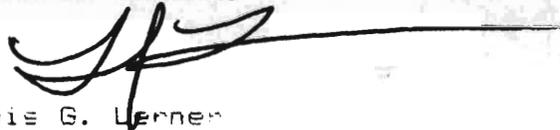
91040313660

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.

If you have any questions, please contact Franca Monarski at (202) 376-5690.

Sincerely,

Lawrence M. Noble  
General Counsel



By: Lois G. Lerner  
Associate General Counsel

Enclosures  
Complaint  
Procedures  
Envelope  
Form

21040313661

88 OCT 31 PM 3:28

SENSITIVE

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

**EXPEDITED FIRST GENERAL COUNSEL'S REPORT**

**Respondents:** Friends of Voinovich Committee, MUR: 2750  
and Vincent M. Panichi, as STAFF: Frania  
Treasurer Monarski

**Complainant:** Ohio Democratic Party  
James M. Ruvolo, Chairman

**SUMMARY OF ALLEGATIONS**

On October 28, 1988, the Commission received a complaint from James M. Ruvolo, the Chairman of the Ohio Democratic Party (the "Complainant"), alleging that the Friends of the Voinovich Committee (the "Committee"), the principal campaign committee of George Voinovich, a candidate for the U.S. Senate in Ohio, may have violated 2 U.S.C. § 441a(a)(1)(A) by making a contribution in excess of the limit to the George Bush campaign (see 2 U.S.C. § 432(e)(3)) and 2 U.S.C. § 434(a) by failing to report this contribution. The Complainant contends that on October 26, 1988, the Committee placed an advertisement in the Columbus Dispatch promoting Voinovich for Senate. This advertisement included the name of Republican candidate for President, George Bush and encouraged voters to elect Bush for President and Voinovich for Senator. Furthermore, the advertisement indicated that it was paid for by the Committee.

**PRELIMINARY ANALYSIS**

Pursuant to the Act, a principal campaign committee of a federal candidate may make up to \$1,000 in contributions to any candidate for federal office or an authorized committee. 2 U.S.C. § 441a(a)(1)(A). The term contribution does not

91040313662

include the payment by a candidate or authorized committee of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities. 2 U.S.C. § 431(8)(B)(xi). This exemption, however, does not include the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general political advertising. Id. From the complaint, it is unclear whether this coattail exemption applies to this advertisement.

**RECOMMENDATIONS**

The Office of General Counsel's initial review of the complaint indicates that the Committee may have violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution and 2 U.S.C. § 434(a) by failing to report the contribution if the coattail exemption does not apply. However, the Respondents must be given an opportunity to respond to the allegations before this Office can make a recommendation regarding this matter.

Lawrence M. Noble  
General Counsel

91040313663  
Date: 10/31/88

By:   
Lois G. Lerner  
Associate General Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

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

DATE: NOVEMBER 1, 1988

SUBJECT: MUR 2750  
FIRST GENERAL COUNSEL'S REPORT  
SIGNED OCTOBER 31, 1988

The above-captioned report was received in the Secretariat at 3:28 p.m. on Monday, October 31, 1988 and circulated to the Commission on a 24-hour no-objection basis at 4:00 p.m. on Monday, October 31, 1988.

There were no objections to the report.

21040313664

060#1027

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

**CIUNI & PANICHI**  
INC.  
CERTIFIED PUBLIC ACCOUNTANTS

November 10, 1988

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

Re: Friends of Voinovich  
Identification Number: C00208975

Gentlemen:

In response to your letter dated October 31, 1988, we are enclosing a Statement of Designation of Counsel.

If you have any questions, please contact us at your convenience.

Very truly yours,

CIUNI & PANICHI, INC.



Vincent M. Panichi  
Treasurer

VMP/cb  
Enclosure

cc: C. James Conrad  
Gordan M. Strauss

0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
C  
O  
N  
R  
A  
D

88 NOV 16 PM 4:37

**STATEMENT OF DESIGNATION OF COUNSEL**

**MUR** 2750

**NAME OF COUNSEL:** Gordon M. Strauss

**ADDRESS:** Smith & Schmacke, Inc.  
2900 Dubois Tower  
525 Walnut Street  
Cincinnati, Ohio 45202-3163

**TELEPHONE:** (513) 352-6635

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.

11/10/88  
**Date**

Vincent M. Panichi  
**Signature**

**RESPONDENT'S NAME:** Vincent M. Panichi

**ADDRESS:** 25201 Chagrin Blvd., Suite 200  
Beachwood, Ohio 44122

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

**BUSINESS PHONE:** (216) 831-7171

21040813666





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 25, 1988

Gordon M. Strauss  
Smith & Schnacke  
2900 DuBois Tower  
511 Walnut Street  
Cincinnati, OH 45202

RE: MUR 2750  
Friends of Voinovich

Dear Mr. Strauss:

This is in response to your letter dated November 21, 1988, which we received on November 22, 1988, requesting an extension until December 6, 1988 to respond to MUR 2750. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on December 6, 1988.

If you have any questions, please contact Frania Monarski, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

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

91040813668

06C1307

**SMITH & SCHNACKE**  
A LEGAL PROFESSIONAL ASSOCIATION

2900 DuBois Tower  
511 Walnut Street  
Cincinnati, Ohio 45202-3163  
(513) 352-6500

Telex 938003  
Cable "SMITHLAW"  
Telecopier (513) 352-6614  
or (513) 352-6514

Writer's Direct Dial Number  
(513) 352-6635

Other Offices Located In:  
Dayton, Ohio • Columbus, Ohio • Orlando, Florida

December 5, 1988

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

Re: MUR #2750; Friends of Voinovich

Dear Ms. Monarski:

This letter constitutes the response by Friends of Voinovich to the above-captioned MUR, as provided in 2 U.S.C. § 437g(a)(1). Friends of Voinovich, upon review of the facts alleged in the complaint, acknowledges that the expenditure noted in the complaint was made, and that such an expenditure could lead the Commission to the conclusion that there is "reason to believe that a person has committed, ... a violation of [the] Act." 2 U.S.C. § 437g(a)(2).

Friends of Voinovich will not dispute such a finding at this point in the proceeding, and requests hereby that the Commission enter immediately into "Pre-Probable Cause" conciliation negotiations with Friends of Voinovich in respect of this matter. It is the opinion of Friends of Voinovich that one or more legal theories might serve as a defense to the allegations, but in the interest of expediency and reasonableness, Friends of Voinovich desires to dispose of this matter as expeditiously as possible.

I shall be in Washington on December 15, 1988, testifying before the Commission in connection with its proposed allocation regulations, and I would like to take that opportunity to meet with you and discuss a settlement at that time. Please do not hesitate to call if you have any questions or any comments in respect of this.

Sincerely,



GORDON M. STRAUSS  
General Counsel  
Friends of Voinovich

GMS/rh

cc: C. James Conrad  
Vincent Panichi

88 DEC -8 PM 4:03

FEDERAL ELECTION COMMISSION

88 DEC -8 AM 11:21

FEDERAL ELECTION COMMISSION

91040813669

RECEIVED  
FEDERAL ELECTION COMMISSION

89 APR 25 AM 11:56

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

**SENSITIVE**  
**EXECUTIVE SESSION**  
MAY 02 1989

**FIRST GENERAL COUNSEL'S REPORT**

MUR 2750  
DATE COMPLAINT RECEIVED  
BY OGC: 10/28/88  
DATE OF NOTIFICATION TO  
RESPONDENTS: 10/31/88  
STAFF MEMBER: Frania Monarski

COMPLAINANT: James M. Ruvolo, Chairman  
Ohio Democratic Party

RESPONDENTS: Friends Of Voinovich and  
Vincent M. Panichi, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 432(e)(3)(A)  
2 U.S.C. § 434(b)  
2 U.S.C. § 441a(a)(1)(A)  
2 U.S.C. § 441d(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

**I. GENERATION OF MATTER**

On October 28, 1988, the Commission received a complaint from James M. Ruvolo, the Chairman of the Ohio Democratic Party (the "Complainant"), alleging that Friends of Voinovich (the "Committee"), the principal campaign committee of George Voinovich, a candidate for the U.S. Senate in Ohio, and Vincent M. Panichi, as treasurer, violated 2 U.S.C. § 441a(a)(1)(A) by making a contribution in excess of the limit to the George Bush campaign (see 2 U.S.C. § 432(e)(3)), and violated 2 U.S.C. § 434(b) by failing to report this contribution. The Complainant contends that on October 26, 1988, the Committee placed an advertisement in the Columbus Dispatch promoting Voinovich for Senate. This advertisement included the name of Republican

21040313670

candidate for President, George Bush, and encouraged voters to elect Bush for President and Voinovich for Senator. Furthermore, the advertisement stated that it was paid for by the Committee, however, did not indicate if it was authorized by George Bush or his authorized committee, Bush/Quayle '88.

On December 5, 1988, the Committee, through counsel, acknowledged a violation of the Federal Election Campaign Act of 1971, as amended (the "Act") and requested pre-probable cause conciliation prior to the Commission finding reason to believe that a violation of the Act occurred.

## II. FACTUAL AND LEGAL ANALYSIS

The Act provides that each candidate for federal office shall designate in writing a political committee to serve as his or her principal campaign committee. 2 U.S.C. § 432(e)(1). The primary role of a principal campaign committee under the Act is to further the election of a designated candidate by ensuring that the candidate's campaign activities are disclosed through one centralized committee and by informing contributors that their donations will be used to further the election of that candidate. The Act requires that no political committee which supports, or has supported more than one candidate may be designated as an authorized committee. 2 U.S.C. § 432(e)(3)(A). Pursuant to this section, the term "support" does not include a contribution of \$1,000 or less by an authorized committee to an authorized committee of another candidate. 2 U.S.C. § 432(e)(3)(B).

The Act further provides that a person may make up to \$1,000 in contributions to any candidate for federal office, or to his

21040313671

or her authorized committee. 2 U.S.C. § 441a(a)(1)(A). Pursuant to the Act, the term "person" includes a principal campaign committee of a federal candidate. 2 U.S.C. § 431(11). The term "contribution" refers to any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing a federal election. 2 U.S.C. § 431(8)(A)(i). Commission Regulations provide that "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A). In-kind contributions refer to the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods and services. Id. Examples of goods and services include, but are not limited to, securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.

The term "contribution", however, does not include the payment of the costs of certain specified campaign materials by a candidate, or his or her authorized committee, which include information on or reference to any other federal candidate. 2 U.S.C. § 431(8)(B)(xi). In order to fall within this "coattail" exemption, the campaign materials must be limited to items such as pins, bumper stickers, brochures and posters and must be used in connection with volunteer activities. Id. However, if the payment is for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising, it does not fall within the exemption and constitutes a contribution or

91040313672

expenditure under the Act (emphasis added). 11 C.F.R. §§ 100.7(b)(16) and 100.8(b)(17). Payment for this type of activity is, therefore, subject to contribution and expenditure limitations under the Act. Moreover, the treasurer of a political campaign committee is required to report all receipts and disbursements pursuant to 2 U.S.C. § 434(b).

In the instant matter, the Committee placed an advertisement in the Columbus Dispatch promoting Voinovich for Senate and Bush for President. The advertisement, which primarily focused on the Senatorial race and attacked Senator Howard Metzenbaum's record, also encouraged voters to "[v]ote smart for Ohio: Voinovich and Bush." Payment for this advertisement does not fall within the coattail exemption of the Act because it involved the use of a newspaper for political advertising. 2 U.S.C. § 431(8)(B)(xi). Therefore, a portion of the payment by the Committee for the advertisement constitutes a contribution to the Bush campaign. At this time, there is no information available to this Office to determine the cost of the advertisement at issue. If the portion of the cost of the advertisement allocable to Bush exceeds \$1,000, the Committee may be in violation of the contribution limits pursuant to 2 U.S.C. § 441a(a)(1)(A). This Office is proposing to send questions to the Committee to determine how many advertisements were purchased, the costs of those advertisements, the dates that the advertisements were published and whether the Committee coordinated these advertisements with George Bush or Bush/Quayle '88. Moreover, because it failed to report this advertisement as a contribution to the Bush campaign,

91040313673

the Committee may also be in violation of 2 U.S.C. § 434(b). Accordingly, this Office recommends that the Commission find reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer violated 2 U.S.C. § 434(b) by failing to report an in-kind contribution to Bush/Quayle '88 and 2 U.S.C. § 441a(a)(1)(A) by making an excessive in-kind contribution to Bush/Quayle '88; and approve the attached interrogatories and request for production of documents.

The Act also requires that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting, newspaper or any type of general public political advertising, the communication must clearly state, if it was paid for and authorized by the candidate, an authorized political committee of the candidate or agents of the candidate, that it has been paid for by such authorized political committee. 2 U.S.C. § 441d(a)(1). If the communication is paid for by other persons but authorized by a candidate or an authorized political committee of the candidate or its agents, it must clearly state that the communication was paid for by such other persons and authorized by such political committee. 2 U.S.C. § 441d(a)(2). Moreover, if the communication is not authorized by the candidate, an authorized political committee of the candidate or agents of the candidate, it must clearly state the name of the person who paid for the communication and indicate that it was not authorized by the candidate or candidate's committee. 2 U.S.C. § 441d(a)(3).

21040313674

On October 26, 1988, the Committee placed an advertisement in the Columbus Dispatch promoting Voinovich for Senate and Bush for President. The advertisement stated that it was paid for by the Committee, however, did not indicate whether or not it was authorized by George Bush or Bush/Quayle '88. Therefore, this Office recommends that the Commission find reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer, violated 2 U.S.C. § 441d(a) by not including the appropriate disclaimer on its newspaper advertisement promoting George Bush for President.

The Committee, through a counsel, requested pre-probable cause conciliation. Because further investigation is needed into this matter, this Office recommends that the Commission send the attached interrogatories to the Committee and decline to enter into pre-probable cause conciliation at this time.

**III. RECOMMENDATIONS**

1. Find reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A), and 441d(a).

2. Decline, at this time, to enter into conciliation with Friends of Voinovich and Vincent M. Panichi, as treasurer, prior to a finding of probable cause to believe.

91040613575

3. Approve the attached letter, Factual and Legal Analysis and proposed Interrogatories and Request for Production of Documents.

Lawrence M. Noble  
General Counsel

April 24, 1989  
Date

By: George F. Rishel  
Acting Associate General Counsel

Attachments

1. Response
2. Proposed letter, Factual and Legal Analysis, Interrogatories and Request for Production of Documents.

91040313676



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

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

DATE: APRIL 27, 1989

SUBJECT: OBJECTIONS TO MUR 2750 - FIRST G.C. REPORT  
SIGNED APRIL 24, 1989

The above-captioned document was circulated to the Commission on Tuesday, April 25, 1989 at 4:00 p.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>                    </u>
Commissioner Josefiak	<u>                    </u>
Commissioner McDonald	<u>                    </u>
Commissioner McGarry	<u>                    </u>
Commissioner Thomas	<u>X</u>

This matter will be placed on the meeting agenda for May 2, 1989.

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

21040313677

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Friends of Voinovich and ) MUR 2750  
Vincent M. Panichi, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of May 2, 1989, do hereby certify that the Commission decided by a vote of 5-0 to continue consideration of MUR 2750 at the executive session of May 9, 1989.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present at the time of the vote.

Attest:

5-3-89  
Date

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

21040313678

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Friends of Voinovich and ) MUR 2750  
Vincent M. Panichi, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of May 9, 1989, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2750:

1. Find reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A), and 441d(a).
2. Decline, at this time, to enter into conciliation with Friends of Voinovich and Vincent M. Panichi, as treasurer, prior to a finding of probable cause to believe.
3. Approve the letter, Factual and Legal Analysis and proposed Interrogatories and Request for Production of Documents as recommended in the General Counsel's report dated April 24, 1989, subject to amendment of the Interrogatories as agreed during the meeting discussion.

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

Attest:

5-10-89

Date

*Marjorie W. Emmons*

Marjorie W. Emmons  
Secretary of the Commission

21 J 40313579



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 15, 1989

Gordon M. Strauss  
Smith & Schnacke  
2900 DuBois Tower  
511 Walnut Street  
Cincinnati, OH 45202

RE: MUR 2750  
Friends of Voinovich and  
Vincent M. Panichi, as  
treasurer

Dear Mr. Strauss:

On October 31, 1988, the Federal Election Commission notified your clients, Friends of Voinovich and Vincent M. Panichi, 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 your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on May 9, 1989, found that there is reason to believe Friends of Voinovich and Vincent M. Panichi, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A) and 441d(a), provisions 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 your clients. 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 along with answers to the enclosed questions within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

91040313680

Gordon M. Strauss  
Page 2

The Commission has reviewed your request to enter into conciliation negotiations prior to a finding of probable cause to believe and determined to decline that request at this time because additional information is necessary. Once the Commission has reviewed the answers to the enclosed questions submitted by your clients and completed the investigation in this matter, it will reconsider your request to enter into conciliation prior to a finding of probable cause to believe.

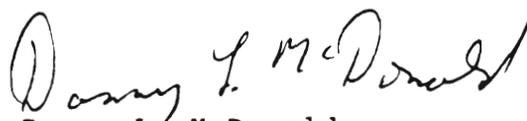
In the absence of any additional information demonstrating that no further action should be taken against Friends of Voinovich and Vincent M. Panichi, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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.

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 Frania Monarski, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

  
Danny L. McDonald  
Chairman

Enclosures  
Questions  
Factual and Legal Analysis

21040813681

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

)  
)  
) MUR 2750  
)

**INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS**

TO: Gordon M. Strauss  
Smith & Schnacke  
2900 DuBois Tower  
511 Walnut Street  
Cincinnati, OH 45202

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

91040313632

**INSTRUCTIONS**

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from August 1988 to November 1988.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

21040313683

**DEFINITIONS**

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

21040313684

**Interrogatories and Request  
for Production of Documents**

On October 26, 1988, Friends of Voinovich (the "Committee") and Vincent M. Panichi, as treasurer, placed an advertisement in the Columbus Dispatch promoting George Voinovich for Senate. The advertisement included the name of the Republican candidate for President, George Bush, and encouraged voters to elect Bush for President and Voinovich for Senator.

1. a. Describe in detail any discussions that took place between George Voinovich, his Committee and George Bush or his principal campaign committee, Bush/Quayle '88, with regard to the advertisement in question.

b. Include the dates of such discussions and identify each individual who participated in such discussions and his or her connection with either campaign committee.

c. Provide copies of any agreements, letters of understanding, or authorization that resulted from such discussions.

2. Provide copies of the advertisement at issue made by the Committee which also identified Presidential candidate, George Bush.

a. State the cost of producing and publishing the advertisement identified above.

b. State the dates and cities where the advertisement identified above appeared.

c. State whether the advertisement was made in cooperation or consultation with George Bush, his principal campaign committee, or any other agent of George Bush.

21040313635

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Friends of Voinovich      MUR 2750  
and Vincent M. Panichi,  
as treasurer

21040313686

The Federal Election Campaign Act of 1971, as amended (the "Act") provides that each candidate for federal office shall designate in writing a political committee to serve as his or her principal campaign committee. 2 U.S.C. § 432(e)(1). The primary role of a principal campaign committee under the Act is to further the election of a designated candidate by ensuring that the candidate's campaign activities are disclosed through one centralized committee and by informing contributors that their donations will be used to further the election of that candidate. The Act requires that no political committee which supports or has supported more than one candidate may be designated as an authorized committee. 2 U.S.C. § 432(e)(3)(A). Pursuant to this section, the term "support" does not include a contribution of \$1,000 or less by an authorized committee to an authorized committee of another candidate. 2 U.S.C. § 432(e)(3)(B).

The Act further provides that a person may make up to \$1,000 in contributions to any candidate for federal office, or to his or her authorized committee. 2 U.S.C. § 441a(a)(1)(A). Pursuant to the Act, the term "person" includes a principal campaign committee of a federal candidate. 2 U.S.C. § 431(11). The term "contribution" refers to any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing a federal election. 2 U.S.C.

§ 431(8)(A)(i). Commission Regulations provide that "anything of value" includes all in-kind contributions. 11 C.F.R.

§ 100.7(a)(1)(iii)(A). In-kind contributions refer to the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods and services. Id. Examples of goods and services include, but are not limited to, securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.

The term "contribution", however, does not include the payment of the costs of certain specified campaign materials by a candidate, or his or her authorized committee, which include information on or reference to any other federal candidate.

2 U.S.C. § 431(8)(B)(xi). In order to fall within this "coattail" exemption, the campaign materials must be limited to items such as pins, bumper stickers, brochures and posters and must be used in connection with volunteer activities. Id. However, if the payment is for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising, it does not fall within the exemption and constitutes a contribution or expenditure under the Act (emphasis added). 11 C.F.R.

§§ 100.7(b)(16) and 100.8(b)(17). Payment for this type of activity is, therefore, subject to contribution and expenditure limitations under the Act. Moreover, the treasurer of a political campaign committee is required to report all receipts and disbursements pursuant to 2 U.S.C. § 434(b).

91040313587

In the instant matter, Friends of Voinovich (the "Committee"), the principal campaign committee of George Voinovich, a candidate for the U.S. Senate in Ohio, and Vincent M. Panichi, as treasurer, placed an advertisement in the Columbus Dispatch on October 26, 1988 promoting Voinovich for Senate and Bush for President. The advertisement, which primarily focused on the Senatorial race and attacked Senator Howard Metzenbaum's record, also encouraged voters to "[v]ote smart for Ohio: Voinovich and Bush." Payment for this advertisement does not fall within the coattail exemption of the Act because it involved the use of a newspaper for political advertising. 2 U.S.C. § 431(8)(B)(xi). Therefore, a portion of the payment by the Committee for the advertisement constitutes a contribution to the Bush campaign. If the portion of the cost of the advertisement allocable to Bush exceeds \$1,000, the Committee is in violation of the contribution limits pursuant to 2 U.S.C. § 441a(a)(1)(A). Moreover, because it failed to report this advertisement as a contribution to the Bush campaign, the Committee is also in violation of 2 U.S.C. § 434(b). Therefore, there is reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer violated 2 U.S.C. § 434(b) by failing to report an in-kind contribution to Bush/Quayle '88 and 2 U.S.C. § 441a(a)(1)(A) by making an excessive in-kind contribution to Bush/Quayle '88.

The Act also requires that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified

91040313688

candidate through any broadcasting, newspaper or any type of general public political advertising, the communication must clearly state, if it was paid for and authorized by the candidate, an authorized political committee of the candidate or agents of the candidate, that it was paid for by such authorized political committee. 2 U.S.C. § 441d(a)(1). If the communication is paid for by other persons but authorized by a candidate or an authorized political committee of the candidate or its agents, it must clearly state that the communication was paid for by such other persons and authorized by such political committee. 2 U.S.C. § 441d(a)(2). Moreover, if the communication is not authorized by the candidate, an authorized political committee of the candidate or agents of the candidate, it must clearly state the name of the person who paid for the communication and indicate that it was not authorized by the candidate or candidate's committee. 2 U.S.C. § 441d(a)(3).

The advertisement at issue in this matter stated that it was paid for by the Committee, however, did not indicate whether or not it was authorized by George Bush or Bush/Quayle '88. Therefore, there is reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer, violated 2 U.S.C. § 441d(a) by not including the appropriate disclaimer on its newspaper advertisement promoting George Bush for President.

21040313689

06C 2950

# SMITH & SCHNACKE

A LEGAL PROFESSIONAL ASSOCIATION

2900 DuBois Tower  
511 Walnut Street  
Cincinnati, Ohio 45202-3163  
(513) 352-6500

Telex 938003  
Cable "SMITHLAW"  
Telecopier (513) 352-6614  
or (513) 352-6514

Writer's Direct Dial Number

(513) 352-6635

Other Offices Located In:  
Dayton, Ohio • Columbus, Ohio • Orlando, Florida

June 5, 1989

VIA FEDERAL EXPRESS

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

**HAND DELIVERED**

89 JUN -6 AM 10:12

FEDERAL ELECTION COMMISSION

Re: MUR #2750; Friends of Voinovich

Dear Ms. Monarski:

In our telephone conversation on Thursday, June 1, 1989, regarding Respondents' Responses to the Commission's Interrogatories, you indicated that if we were in need of an extension of time beyond today, Monday, that such a request must be in writing. This letter constitutes such a request. We anticipate that the Responses will be sent via Federal Express on Tuesday, June 6th and received by you on Wednesday, June 7th, 1989.

Additionally, as I informed you in our conversation, Peter Halbin, the custodian of the records relevant to the production of the advertisement, is out of town until Thursday, June 8th. Upon his return, we shall obtain the detailed responses regarding the advertisement and supplement the Interrogatories.

Thank you very much for your assistance in this matter.

Sincerely,



GORDON M. STRAUSS

89 JUN -6 AM 12:30

21040813690

GMS/kgb/AB2

cc: Vincent M. Panichi  
James Conrad

**HAND DELIVERED** 066296d  
RECEIVED  
FEDERAL ELECTION COMMISSION  
ADMINISTRATIVE SERVICES DIVISION

89 JUN -7 AM 10: 04

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 2750  
FRIENDS OF VOINOVICH )

Vincent M. Panichi, Treasurer  
825 Hanna Building  
1422 Euclid Avenue  
Cleveland, Ohio 44115

89 JUN -7 PM 12: 37

**RESPONDENT'S FIRST RESPONSES  
TO INTERROGATORIES AND  
REQUEST FOR PRODUCTION OF DOCUMENTS**

91040813691

1. (a) Describe in detail any discussions that took place between George Voinovich, his Committee and George Bush or his principal campaign committee, Bush/Quayle 1988, with regard to the advertisement in question.

There were no conversations or discussions between Friends of Voinovich and Bush-Quayle 1988 with regard to planning, coordinating or executing the advertisement in question (hereafter "Advertisement"), nor between George Bush and George Voinovich or any authorized agents of either campaign for these purposes.

(b) Include the dates of such discussions and identify each individual who participated in such discussions and his or her connection with either campaign committee.

None.

(c) Provide copies of any agreements, letters of understanding, or authorization that resulted from such discussions.

There were no agreements, letters of understanding between the committees, nor was there any authorization from the Bush-Quayle Committee.

2. Provide copies of the advertisement at issue made by the Committee which also identified Presidential candidate, George Bush.

One copy is attached. Other copies are in the custody of Friends of Voinovich's advertising consultant, Peter B. Halbin, who is currently out of town. Once the records are obtained, they will be supplied promptly.

(a) State the cost of producing and publishing the advertisement identified above.

The records are in the custody of Friends of Voinovich's advertising consultant, Peter B. Halbin, who is currently out of town. Once the records are obtained, they will be supplied promptly.

(b) State the dates and cities where the advertisement identified above appeared.

The records are in the custody of Friends of Voinovich's advertising consultant, Peter B. Halbin, who is currently out of town. Once the records are obtained, they will be supplied promptly.

(c) State whether the advertisement was made in cooperation or consultation with George Bush, his principal campaign committee, or any other agent of George Bush.

1) The Advertisement was not made in cooperation or consultation with George Bush. This was entirely a Friends of Voinovich project.

91540313692

2) The period of planning and execution of the Advertisement: October 17, 1988 - October 20, 1988

3) Friends of Voinovich personnel involved:

BUSINESS

HOME

Peter B. Halbin  
CEO  
Halbin Madigan Company  
140 Public Square  
Suite 200  
Cleveland, Ohio 44114  
(216) 621-7020

Peter B. Halbin  
1769 Middlehurst Road  
Cleveland Heights, Ohio  
44118  
(216) 932-9027

Connection with campaign:

Paid communications consultant for Voinovich campaign

BUSINESS

HOME

Paul Mifsud  
Executive Vice-President  
Voinovich Companies  
2450 Prospect Avenue  
Cleveland, Ohio 44115  
(216) 621-9200

Paul Mifsud  
2074 Ridgewood Road  
Medina, Ohio 44256  
(216) 239-2744

Connection with campaign:

Volunteer for Voinovich campaign

BUSINESS

HOME

James Conrad  
Executive Assistant to  
the Mayor's Office  
601 Lakeside Avenue  
Cleveland, Ohio 44114  
(216) 664-4033

James Conrad  
3366 Elsmere Road  
Shaker Heights, Ohio  
44120  
(216) 751-4284

Connection with campaign:

Campaign Manager for George Voinovich

4) There were no discussions between Friends of Voinovich and any officials or policy-making individuals of the Ohio or National Bush Committee regarding the

21040313693

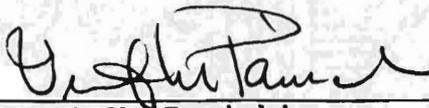
Advertisement. One of the people involved in developing the Advertisement's message, Paul Mifsud, also volunteered in the Bush campaign, but the fact that he was a volunteer in the Ohio Bush effort was not even considered or, quite frankly, in the final hectic days of the campaign even thought of. Mr. Mifsud had no authority to approve or to disapprove the Advertisement on Bush/Quayle 1988's behalf, and never purported to.

The idea to run the Advertisement promoting candidate Voinovich was conceived on or about October 17, 1988 by The Friends of Voinovich Committee. The sole reason for the Advertisement was to attempt to capitalize on George Bush's popularity in Ohio. There was never an intent an intent to promote George Bush's candidacy. In October, 1988, George Bush was substantially ahead in his race, and George Voinovich was substantially behind in his. The Advertisement was intended to promote George Voinovich's campaign by appealing to voters who were already committed to vote for George Bush, thereby attempting to "grab the coattails" of the more popular George Bush. The Advertisement was given final approval for publication by James Conrad on approximately October 20, 1988.

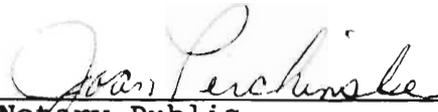
21040313594

STATE OF OHIO )  
 ) SS:  
COUNTY OF Cuyahoga )

Vincent M. Panichi, having been first duly sworn,  
deposes and says that he has read the foregoing Answers; and that  
the same are true to the best of his knowledge, information and  
belief.

  
\_\_\_\_\_  
Vincent M. Panichi  
Treasurer for Friends of Voinovich

SWORN TO AND SUBSCRIBED in my presence, this 6 of  
June, 1989.

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

JOAN PERCHINSKE  
Notary Public, State of Ohio  
Recorded in Cuyahoga Cty.  
My Comm. Expires 03-24-92

KBG:blp:AA7

21040813695

# Is the Kingleader of Liberal Obstruction.

...Ronald Reagan, October 19, 1988

100% Liberal Howard Metzenbaum has fought President Ronald Reagan every step of the way.

"Metzenbaum makes Dukakis look like a dangerous right-winger."

The News-Herald, Oct. 16, 1988



---

**Metzenbaum has an extreme liberal record that he is trying to hide, and that is the real reason he has refused to debate George Voinovich.**

---

#### Metzenbaum votes:

- For high taxes - 22 votes for higher taxes out of your pocket.
- Against a balanced budget amendment - and against the Presidential Line-Item Veto.
- For liberal treatment of criminals - and against the death penalty.
- To sabotage America's strength - with votes against a strong national defense.

#### Senator "NO" Metzenbaum is making a "No-Man's Land" of Ohio...

- Ohio ranks a pathetic 37th in Federal money returned (to you).
- In just one year Metzenbaum cost Ohio taxpayers \$6 billion that could have served us all - for schools, roads, bridges, jobs, health care and so much more.
- Voinovich has a proven record in bringing Federal money back for local services... he will make Ohio #1.

---

**MILLIONAIRE Howard Metzenbaum is hiding in a TV studio... he thinks he can buy the election. Look at his record - not his commercials.**

---



**Keep America #1  
Make Ohio #1**

*Elite*  
**Voinovich-BUSH**  
U.S. Senate      President

**Vote smart for Ohio: VOINOVICH AND BUSH**

91040313696

# KKK ordered to pay civil rights marchers

ATLANTA (AP) — The Ku Klux Klan and 12 individuals must pay about \$1 million to civil rights marchers who were pelted with rocks and bottles during a demonstration in mostly white Forsyth County, according to a verdict announced yesterday.

The activists marched into the county on Jan. 17, 1987, and were attacked by counter-demonstrators, many of them KKK members or sympathizers.

Named as defendants in the U.S. District Court lawsuit were the Southern White Knights of the KKK, the Invisible Empire Knights of the KKK and 12 individuals.

The jury reached its verdict Oct. 5, but Judge Charles A. Mayo Jr. ordered it sealed to give marchers who brought the lawsuit

time to decide whether to join Atlanta City Councilman Howard Williams, who wanted to drop the lawsuit. He and three other plaintiffs dropped out during the trial and four others dropped out yesterday.

Williams, who helped organize the march and was among those who filed suit, stepped toward the end of the trial that the lawsuit be dropped because it would impoverish the families of KKK members.

In a letter to those who filed with him, Williams said he had once talked to slain civil rights leader Martin Luther King Jr. and that King told him "Jesus wanted him not to sue the Klan."

The award gave \$50 each to the marchers in general damages. The rest was in punitive damages.



Joel Steinberg

# Father's murder trial Lawyer beat his 6-year-old to death, pr

NEW YORK (AP) — Leo Steinberg, the 6-year-old whose death last year elicited an outpouring of grief and rage, was a murder victim, brutally killed by the only father who ever knew, a prosecutor charged yesterday.

Joel Steinberg "beat Leo so severely that he inflicted those injuries which caused her death," Assistant District Attorney Peter Casolare said in a 30-minute statement at the start of Steinberg's murder trial.

Leo was found unconscious in the Steinberg courtroom Nov. 2, 1987, and died three days later.

Casolare told the jury that the first-grader had bruises on her chest, legs, arms and neck, along with head injuries caused by "blunt-force trauma," when she arrived at the hospital Nov. 2. Police officers there noticed Steinberg's wounded, bleeding daughter, he said.

Steinberg, 47, once a respected millionaire

defense lawyer, said the murder is the death of a child born from an act of violence. He has denied Steinberg's attorney's jury to concentrate on Leo's morality, making an argument that the murder charge.

He called on the jury to look at the evidence and Leo's death, Steinberg's attorney said in an effort to undermine testimony, which he said had spent the last year and a half in a "rumor mill."

Steinberg was charged with the murder of his 6-year-old daughter, but the charges will probably

# Women grads give more, study finds

*From Associated Press and staff reports*

NORTHAMPTON, Mass. — A record-breaking year in gifts to Smith College was out a study that found alumnae of women's schools give more to their alma maters than graduates of coeducational schools, fund-raisers said yesterday.

Graduates of the elite school donated \$17.1 million in fiscal 1987. With donations from friends, parents, corporations and foundations, Smith received a total of \$28 million for the year.

THE GIFTS are a record for a women's college and the envy of other schools.

"I applied them," said Jeff Bradley, senior writer in development at Harvard University's undergraduate college, which last year received \$27.8 million from its 20,400 pre-1976 graduates.

But it was no surprise to another of the prestigious Seven Sisters schools, Mount Holyoke in South Hadley, Mass., which received \$18 million from its 2,000 alumnae and other donors in fiscal 1987.

"People have always said: 'Women will not give. They cannot give. It's a man's domain where the money goes,'" said Ellen E. Holt, director of annual giving at Mount Holyoke. "But women realize the value of their education and are giving back to provide the same standard of excellence for the future."

A RECENT study by the Women's College Coalition of Washington, D.C., a private, non-profit group representing 70 schools, found that graduates of women's colleges are nearly twice as likely to give to their schools as are men and women graduates of coeducational schools.

In Columbus, The Ohio State University received \$10.75 million from 31,342 alumni during the 1987-88 school year, university officials said.

OSU received a total of \$639 million in donations, including \$26 million from corporations, in 1986-87. OSU ranked tenth in the nation in corporate support with \$22.4 million.

# Phony tale of mouse in beer nets jail term

JACKSONVILLE, Fla. (AP) — A man who claimed he found a mouse in a can of Coors beer pleaded guilty yesterday to pro-

Paid Political Advertising

Paid Political Advertising

# Howard Metzenbaum is the Ringleader of Liberal Obstruction.

...Ronald Reagan, October 19, 1988

100% Liberal Howard Metzenbaum has fought President Ronald Reagan every step of the way.

"Metzenbaum makes Dukakis look like a dangerous right-winger."  
The News-Herald, Oct. 16, 1988



# Metzenbaum has an extreme liberal record he is trying to hide, and that is the real reason he has refused to debate George Voinov

## Metzenbaum votes:

- For high taxes - 22 votes for higher taxes out of your pocket.
- Against a balanced budget amendment - and against the Presidential Inauguration.
- For liberal treatment of criminals - and against the death penalty.
- To sabotage America's strength - with votes against a strong national defense.

## Senator "NO" Metzenbaum is making a "No-Man's Land" of Ohio...

- Ohio ranks a pathetic 37th in Federal money returned (to you).
- In just one year Metzenbaum cost Ohio taxpayers \$6 billion that could have served us all - for schools, roads, bridges, jobs, health care and so much more.
- Voinovich has a proven record in bringing Federal money back for local jobs. Metzenbaum says he will make Ohio #1.

21040313697

RECEIVED  
ELECTION COMMISSION  
SECRETARIAT

09 JUN 20 AM 9:35

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Friends of Voinovich and )  
 )  
Vincent M. Panichi, as )  
 )  
treasurer )

MUR 2750

**SENSITIVE**

GENERAL COUNSEL'S REPORT

On October 28, 1988, James M. Ruvolo, the Chairman of the Ohio Democratic Party, submitted a complaint to the Commission alleging that Friends of Voinovich (the "Committee"), the principal campaign committee of George Voinovich, a candidate for the U.S. Senate in Ohio and Vincent M. Panichi, as treasurer, violated the Federal Election Campaign Act of 1971, as amended. In response to the complaint, the Committee requested pre-probable cause conciliation prior to the Commission finding reason to believe that a violation of the Act occurred. On May 9, 1989, the Commission found reason to believe that the Committee and Vincent M. Panichi, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A) and 441d(a) and approved a letter, Factual and Legal Analysis and Interrogatories to be sent to the Committee. The Commission also declined to enter into conciliation with the Committee at that time. On June 7, 1989, the Committee and its treasurer, through counsel, submitted a response to the Interrogatories and requested additional time to

91040313698

supplement their response. This Office will prepare a report to the Commission with appropriate recommendations once this additional information is received.

Lawrence M. Noble  
General Counsel

6-19-89  
Date

  
By: Lois G. Lerner  
Associate General Counsel

Staff Person: Frania Monarski

91 J 40 J 1 3 5 9 9

OGC 3130  
**HAND DELIVERED**

FEDERAL ELECTION COMMISSION  
ADMINISTRATIVE

**BEFORE THE FEDERAL ELECTION COMMISSION** 89 JUN 20 AM 9:58

In the Matter of )  
 )  
FRIENDS OF VOINOVICH )  
 )  
Vincent M. Panichi, Treasurer )  
825 Hanna Building )  
1422 Euclid Avenue )  
Cleveland, Ohio 44115 )

MUR 2750

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
89 JUN 19 PM 7:31

**RESPONDENT'S SUPPLEMENTAL RESPONSES  
TO INTERROGATORIES AND  
REQUEST FOR PRODUCTION OF DOCUMENTS**

Respondent submits herewith its Supplemental Responses to the Commission's Interrogatories and Request for Production of Documents. The answers appearing herein respond to the question noted above each (and highlighted by bold print.)

2. Provide copies of the advertisement at issue made by the Committee which also identifies Presidential candidate, George Bush.

a. A copy of the Advertisement is attached.

b. For the Commission's information, a copy of the Advertisement as subsequently amended is also attached. This subsequent advertisement was created after campaign officials were notified that the Advertisement constituted an alleged violation of the Federal Election Campaign Act. The amended version was published on November 7, 1988, and omitted all references to George Bush and the George Bush campaign.

(a) State the cost of producing and publishing the advertisement identified above.

October 26, 1988:

The Advertisement ran as 5-columns x 18" (90") ads in the following newspapers at a total cost of \$19,818.90:

21040813700

Columbus Dispatch.....\$ 5,435.10  
 Cincinnati Enquirer.....7,975.80  
 Canton Repository.....2,690.10  
 Springfield News-Sun.....2,360.70  
 Lima News.....1,357.20

TOTAL.....\$19,818.90

October 27, 1988:

The Advertisement ran as 5-columns x 18" (90)" ads in the following newspapers at a total cost of \$33,597.00

GREATER CLEVELAND NEWSPAPER NETWORK

Total 90" @ \$122.35 per inch combination rate.....\$ 11,011.50

CENTRAL OHIO NETWORK

Total 90" @ \$86.22 per inch combination rate..... 7,736.40

NORTHWEST OHIO NETWORK

Total 90" @ \$86.22 per inch combination rate..... 7,089.30

SOUTHWEST OHIO NETWORK

Total 90" @ \$86.22 per inch combination rate..... 7,759.80

TOTAL.....\$ 33,597.00

TOTAL COST FOR TWO (2) DAYS OF PUBLICATION.....\$ 53,415.90

TOTAL COST FOR PRODUCTION OF ADVERTISEMENT.....\$ 583.33

TOTAL COST OF ADVERTISEMENT.....\$ 53,999.23

(b) State the dates and cities where the advertisement identified above appeared.

OCTOBER 26, 1988:

Columbus Dispatch  
 Cincinnati Enquirer

21040313701

Canton Repository  
Springfield News-Sun  
Lima News

OCTOBER 27, 1988:

GREATER CLEVELAND NEWSPAPER NETWORK

Sandusky Register  
Warren Tribune Chronicle  
Conneaut News Herald  
Chardon Geauga Times Leader  
Ashtabula Star Beacon  
Elyria Chronicle  
Mansfield News-Journal,  
Lake County News Herald  
Lorain Journal  
Dover-New Philadelphia Times Reporter  
Massillon Evening Independent  
Medina County Gazette  
Norwalk Reflector

CENTRAL OHIO NETWORK

Bellefontaine Examiner  
Bucyrus Telegraph Forum  
Circleville Herald  
Coshocton Tribune  
Delaware Gazette  
London Madison Press  
Marion Star  
Marysville Journal Tribune  
Mount Vernon News  
Newark Advocate  
Washington Court House Record Herald  
Zanesville Times-Recorder

NORTHWEST OHIO NETWORK

Bellevue Gazette  
Bowling Green Sentinel  
Bryan Times  
Defiance Crescent News  
Delphos herald  
Findlay Courier  
Fostoria Review Times  
Napoleon Northwest Signal  
Port Clinton News Herald  
Tiffin Advertiser  
Upper Sandusky Chief Union  
Van Wert Times Bulletin

SOUTHWEST OHIO NETWORK

21040813702

Celina Standard  
Fairborn Herald  
Greenville Advocate  
Hamilton Journal  
Middletown Journal News  
Piqua Call  
Portsmouth Times  
St. Marys Leader  
Sidney News  
Troy News  
Urbana Citizen  
Wapakoneta News  
Wilmington News Journal  
Xenia Gazette

This Supplemental Response is intended solely to reply to the questions enumerated above. Respondent reaffirms all prior Responses to the Commission's Interrogatories and Request for Production of Documents, unless specifically amended or corrected herein.

31040813703

STATE OF OHIO

COUNTY OF CUYAHOGA

)  
)  
)

SS:

Vincent M. Panichi, having been first duly sworn, deposes and says that he has read the foregoing Answers; and that the same are true to the best of his knowledge, information and belief.

*Vincent M. Panichi*

Vincent M. Panichi  
Treasurer for Friends of Voinovich

SWORN TO AND SUBSCRIBED in my presence, this 19<sup>th</sup> of June, 1989.

*Kathryn M. Shankette*  
Notary Public

KATHRYN M. SHANKETTE, Notary Public  
My Commission Expires 1991

91040813704

George Voinovich says...

# Ohioans are interested in TRUTH Not distortions in TV campaign ads

## Metzenbaum Distortions:

- Says Voinovich favored freezing social security
- Says he saved social security
- Says he is a friend of workers
- Says he is a watchdog of Senate spending
- Says Cleveland lost 70,000 jobs under Voinovich
- Says Voinovich doesn't attend Board of Control Meetings
- Says Voinovich opposed 60-day plant closing notice
- Says he saved the Piedmont - U.S. Air hub at Dayton
- Says he saved farmers during drought by telephoning USDA Secretary Lyng
- Tries to link Voinovich to group using ill-conceived report criticizing Metzenbaum's ties to communist sympathizers
- Says he stands with John Glenn for a strong national defense

## Voinovich Truth:

- Voinovich has a plan to protect social security funds from politicians by removing it from the federal budget, where it can't be touched. His plan is being considered by the National Economic Commission.  
*Source: National Economic Commission*
- Metzenbaum voted to cut benefits for notch babies, freeze benefits for all recipients and missed the vote to save social security. *Source: Congressional Record*
- While a lawyer for the AFL-CIO, Metzenbaum made millions owning non-union parking lots and newspapers.  
*Source: The Plain Dealer*
- Metzenbaum has been rated one of the worst big-spenders in the Senate, has voted to add over \$1 trillion to the national debt, cast the deciding vote against the balanced budget amendment, and has spent over \$1.1 million in tax dollars sending newsletters to Ohio voters - more than any other Senator.  
*Source: Congressional Record and National Taxpayers Union*
- 20,000 new jobs have been created under Voinovich.  
*Source: Central Collection Agency*
- Non-attendance recommended and applauded by good government advocates.  
*Source: The Plain Dealer*
- Voinovich favored 60-day notice and urged President Reagan not to veto.  
*Source: Mailgram to President*
- U.S. Air President says Metzenbaum's statements are "untrue" and asked that commercial be withdrawn.  
*Source: Edwin Colodny letter*
- USDA Secretary Lyng said "Metzenbaum's claims in political advertising to have influenced his decision (are) misleading." *Source: USDA News Release*
- Voinovich denounced this report and has no connection to or control over these independent groups.  
*Source: The Plain Dealer*
- In this year alone, Metzenbaum cancelled John Glenn's vote for a strong national defense 7 times. He has voted against 3 of the last 6 defense budgets and opposes most major weapons systems. *Source: Congressional Record*

**Keep America #1  
Make Ohio #1**

*Elect*  
**Voinovich**  
U.S. Senate

**Vote smart for Ohio: VOINOVICH**

Printed by the Friends of Voinovich, 625 Market Bldg., 31422 Euclid Avenue - Cleveland, Ohio 44115.

21040313705

of col-  
ivity, on its  
a stu-  
admin-  
rd of

of the  
of the  
of the  
of the

LYNS  
999  
IS

Board  
Meeting

E

S.

Y

El

TS

LY

FF

st

2

# y to find hidden, unwanted elements

average American, that n eating 30 teaspoons of re equivalent of 1 and er sticks of margarine, e day. In a lifetime, the merican woman con- 00 pounds of fat, the ) pounds. Some people t amount.

professionals, includ- urgeon General C. Ev- Koop, are now iding that no more

than 30 percent of our calories come from fat. The suggested breakdown is:

□ 10 percent polyunsaturated fats, from such vegetable sources as safflower, sunflower, sesame, soybean or corn oil.

□ 10 percent monosaturated fats, such as olive, peanut or canola oil.

□ 10 percent saturated fats, from butter, lard, coconut oil,

palm kernel oil or palm oil, as well as hydrogenated vegetable shortenings and oils, and all foods made from them.

"People often ask us why we include 10 percent saturated fat if it raises cholesterol," Schneider says. "If you eat a normal diet, it's almost impossible to eliminate saturated fats totally, because they are in so many products. We just ask that people read the labels and limit the sat-

urated fats to 10 percent.

"Lots of products are now put- ting 'No Cholesterol' in big print on their packages," she says. "Well, some of the products never had it to begin with, like vegetable oil — you only get cho- lesterol from animal products. And some of the foods may not have cholesterol, but they are full of saturated or hydrogenated fats. You have to read the fine print, too."

6  
3  
7  
1  
3  
4  
2

## novich says...

# are interested in TRUTH rtions in TV campaign ads

tions:

**Voinovich Truth:**

zing

• Voinovich has a plan to protect social security funds from politicians by removing it from the federal budget, where it can't be touched. His plan is being considered by the National Economic Commission.

*Source: National Economic Commission*

y

• Metzenbaum voted to cut benefits for notch babies, freeze benefits for all recipients and missed the vote to save social security. *Source: Congressional Record*

's

• While a lawyer for the AFL-CIO, Metzenbaum made millions owning non-union parking lots and newspapers



# Oxford Talawanda school talks break down

OXFORD, Ohio (AP) — This southwestern Ohio town, home of Miami University, was hit by its first public school teachers' strike today when the Talawanda Education Association walked out in a contract dispute.

Dorothy Smith, chief negotiator from the Ohio Education Association,

said 190 teachers were involved in the strike against the 3,500-pupil district.

Teachers voted to strike eight years ago but a settlement was reached the morning of the strike.

Officials said they didn't expect this strike to last long.

"There has been some movement. We are looking for a short strike. We are closer than things look," said Bill Vollmer, president of the board of education.

"I'm glad to hear that," said Ms. Smith. "They gave us a final offer and said take it or leave it. So we left it," she said. "There is a point beyond which we cannot cross," she said. Asked if that had been reached,

she said, "Yes."

Both sides have agreed there will be no raises this year or next year if a 7.9-mill levy fails on pass Nov. 8. Meanwhile, the teachers are fighting cuts proposed cuts in benefits, including medical insurance, and a board demand for a seven-period

class day at the high school, up from six periods.

Vollmer said schools will remain open during the strike with substitute teachers in the classrooms. He said the board had more than 100 responses to newspaper advertisements.

## Japanese woman one passenger on jumbo jet

LONDON (AP) — A young Japanese woman had the trip of a lifetime on a flight from Tokyo to London — a choice of 353 seats, six movies, a gourmet menu and the exclusive attention of 15 cabin attendants.

British Airways said today that the woman, identified only as Mrs. Yamamoto, was the lone passenger on the 8,000-mile Flight 008, which arrived at Heathrow Airport Tuesday afternoon.

"The jumbo was delayed going into Tokyo and by the time it set off for London all the other passengers had been re-booked on to other flights," said a British Airways spokesman, who by custom was not identified.

"Mrs. Yamamoto had actually arrived early at the airport for another British Airways flight which was leaving later. But since she was here, she was offered the opportunity for the flight of a lifetime," the spokesman said.

"We had to come back empty because the jumbo was due back in Britain to get back into its schedule."

Mrs. Yamamoto, on her way to join her husband, who is studying at Salford College of Music, had paid the standard \$2,975 economy fare for the 11-hour trip. But she sat in business class, dined on poached salmon and watched Goldie Hawn in "Overboard."

The Daily Express estimated the flight cost at least \$22,750 — \$17,500 for fuel and \$5,250 in wages for the cabin attendants and six flight deck crew.

"We're certainly not aware of it ever happening before and I'm sure Mrs. Yamamoto saw British Airways in-flight service at its best," the spokesman said.

## Foreign student can't work in restaurant

CINCINNATI (AP) — A recent government crackdown on employers who knowingly hire illegal aliens has been highlighted by the arrest of a graduate student from Thailand for working at a restaurant he legally owns.

Trepon Dechsakulthorn was

arrested when his downtown restaurant was raided by U.S. Immigration and Naturalization Service officers.

The raid was part of a crackdown on employers who hire aliens with fake work permits or permanent resident permits.

# Howard Metzenbaum is the Ringleader of Liberal Obstruction

...Ronald Reagan, October 1988

100% Liberal Howard Metzenbaum has fought President Ronald Reagan every step of the way.

"Metzenbaum makes Dukakis look like a dangerous right-winger."

The News-Herald, Oct. 16, 1988

**Metzenbaum has an extreme position. He is trying to hide, and that is why he has refused to debate**

89 AUG 24 AM 11:05

BEFORE THE FEDERAL ELECTION COMMISSION

**SENSITIVE**

In the Matter of )  
 )  
Friends of Voinovich and ) MUR 2750  
 )  
Vincent M. Panichi, as )  
 )  
treasurer )

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 9, 1989, the Commission found reason to believe that Friends of Voinovich (the "Committee"), the principal campaign committee of George Voinovich, a former candidate for U.S. Senate in Ohio, and Vincent M. Panichi, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A) and 441d(a) in connection with newspaper advertisements promoting Voinovich for Senate and George Bush for President. Prior to the Commission's findings, the Committee, in its response to the complaint, acknowledged a violation of the Federal Election Campaign Act of 1971, as amended (the "Act") and requested pre-probable cause conciliation. Because further investigation into this matter was necessary, the Commission approved and sent interrogatories to the Committee and declined to enter into pre-probable cause conciliation at that time.

On June 7, 1989, the Committee, through counsel, submitted a response to the Commission's findings and answers to the interrogatories. On June 20, 1989, the Committee supplemented its response. In response to the Commission's interrogatories, the Committee states that the advertisement in question was entirely a Friends of Voinovich project developed on or about October 17, 1988. According to the Committee's response, the sole reason for the advertisement was to attempt to capitalize on

91040313709

Bush's popularity in Ohio. The Committee states that there was never an intent to promote Bush's candidacy. The Committee, through the advertisement, was attempting to "grab the coattails of the more popular George Bush." Committee's Response at 4.

The Committee placed the advertisement, promoting Voinovich and Bush, in fifty-six (56) local Ohio newspapers between October 26, 1988 and October 27, 1988. The total cost of the advertisement was \$53,999.23. The Committee states that there were no discussions between Friends of Voinovich and Bush/Quayle '88 in connection with planning, coordinating or executing the advertisement involved. Moreover, the Committee indicates that there were no conversations between George Bush and George Voinovich concerning this advertisement.

The Committee notes, however, that Paul Misfud, who was involved in developing the advertisement, was also a volunteer for the Bush Campaign in Ohio. The Committee further explains that Misfud had no authority and never purported to have authority to approve or disapprove of the advertisement on behalf of Bush/Quayle '88. Paul Misfud's participation in the development of the advertisement with Friends of Voinovich raises questions concerning the involvement of Bush/Quayle '88 in this advertisement. Therefore, this Office recommends that the Commission authorize a subpoena and order and send the attached interrogatories to Misfud to ascertain his connection with Friends of Voinovich and Bush/Quayle '88 and to determine the involvement of Bush/Quayle '88 in the production of the advertisement in question.

91040313710

II. RECOMMENDATIONS

1. Authorize the attached subpoena and order to Paul Misfud.
2. Approve the attached letter.

Lawrence M. Noble  
General Counsel

8/23/89  
Date

BY:   
Lois G. Lerner  
Associate General Counsel

Attachments

1. Responses of Friends of Voinovich
2. Subpoena/Order
3. Letter

Staff assigned: Frania Monarski

21040313711

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Friends of Voinovich and ) MUR 2750  
Vincent M. Panichi, as )  
treasurer )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 28, 1989, the Commission decided by a vote of 5-0 to take the following actions in MUR 2750:

1. Authorize the subpoena and order to Paul Misfud as recommended in the General Counsel's Report dated August 23, 1989.
2. Approve the letter as recommended in the General Counsel's Report dated August 23, 1989.

Commissioners Aikens, Elliott, Josefiak, McDonald and McGarry voted affirmatively for the decision. Commissioner Thomas did not cast a vote.

Attest:

August 28, 1989  
Date

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

Received in the Secretariat:	Thursday, August 24, 1989	11:05
Circulated to the Commission:	Thursday, August 24, 1989	4:00
Deadline for vote:	Monday, August 28, 1989	4:00

21540313712



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 6, 1989

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Paul Misfud  
Executive Vice-President  
Voinovich Companies  
2450 Prospect Avenue  
Cleveland, OH 44115

RE: MUR 2750

Dear Mr. Misfud:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached order and subpoena which requires you to provide certain information in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. However, you are required to submit the information with 15 days of your receipt of this subpoena and order. All answers to questions must be submitted under oath.

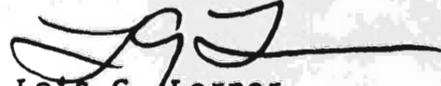
91040313713

Paul Misfud  
Page 2

If you have any questions, please contact Frania Monarski,  
the attorney assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
Subpoena and Order

21J40313714

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)  
)  
) MUR 2750  
)

SUBPOENA TO PRODUCE DOCUMENTS  
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Paul Misfud  
Executive Vice-President  
Voinovich Companies  
2450 Prospect Avenue  
Cleveland, OH 44115

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 15 days of receipt of this Order and Subpoena.

21040313715

WHEREFORE, the Chairman of the Federal Election Commission  
has hereunto set his hand in Washington, D.C. on this *6<sup>th</sup>* ,  
day of *September*, 1989.

*Danny L. McDonald*  
\_\_\_\_\_  
Danny L. McDonald, Chairman  
Federal Election Commission

ATTEST:

*Hilla Arnold*  
\_\_\_\_\_  
*for* Marjorie W. Emmons  
Secretary to the Commission

Attachments  
Document Request  
Questions

91040813716

**INSTRUCTIONS**

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from August 1988 to November 1988.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

91040313717

**DEFINITIONS**

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Paul Misfud to whom these discovery requests are addressed.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

21040313718

**Interrogatories and Request  
for Production of Documents**

Friends of Voinovich, the principal campaign committee of George Voinovich, a former candidate for U.S. Senate, placed an advertisement in local newspapers throughout Ohio between October 26, 1988 and October 27, 1988, promoting Voinovich for Senate and George Bush for President.

1. Describe in detail your position with Friends of Voinovich. Include the names of the persons to whom you reported and a description of your responsibilities.
2. Describe in detail your position with Bush/Quayle '88 in Ohio. Include the names of the persons to whom you reported and a description of your responsibilities.
3. Describe in detail your role in producing the advertisement described above.
4. Describe in detail any discussions that took place between you and Bush/Quayle '88 concerning the advertisement in question.
  - a. Include the dates of such discussions and identify each individual who participated in such discussions and his or her connection with Bush/Quayle '88.
  - b. Provide copies of any agreements, letters of understanding, or authorization that resulted from such discussions.
5. Produce copies of all documents relating to the above questions.

21040813719

OGC 4077

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

# Mifsud & Associates

2074 RIDGEWOOD ROAD MEDINA, OHIO 44256  
216/239-2744

09 SEP 21 PM 1:34

September 14, 1989

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

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
09 SEP 21 PM 4:07

RE: MUR 2750

Dear Mr. Noble,

Pursuant to your letter of 6 September, 1989 which I just received today, I am providing the following responses to your queries in the same order as you presented them to me (as attached):

1. I was a part-time, unpaid volunteer in the Cleveland office of the Voinovich for Senate Campaign during the last few weeks of the campaign. I had no specific responsibilities other than to assist whenever needed in grassroots organizational activities, event advance preparation, fundraising, and general advice regarding media message and placement. I reported to no single individual, making myself available and being of assistance to anyone who wanted my help.
2. I was an unpaid, part-time volunteer in the Ohio Bush campaign serving nominally as Ohio Vice Chairman, a delegate for Bush to the Republican National Convention, a member of the Ohio Steering Committee, and coordinator of the Ohio Nationalities for Bush/Quayle effort.

My primary interface was with Mr. James Nathanson, Executive Director of the Ohio Bush campaign. I had no specific responsibilities or task assignments other than to provide analysis and suggestions on the organizational efforts being utilized or contemplated by the campaign team for implementation in Ohio.

In one area, the Nationalities Committee, I was assigned the task of organizing the Committee and directing its direct mail and "Get out the Vote" efforts.

3. I had no production role regarding the referenced advertisement that was produced and placed by Peter Halbin in Cleveland.

21 J 4 0 3 1 3 7 2 0

I did participate in discussions with Jim Conrad (Campaign Manager) and Peter Halbin in the concept and development of a general media strategy of how to convince identified and committed Bush supporters that they should also support Voinovich for the Senate. This included the potential use of radio, TV and newsprint commercials, as well as in-state events featuring Bush and President Reagan whose popularity at that time in Ohio, was very high. In that role, I participated in the development of the message and theme and reviewed media alternatives for accomplishing the desired objective.

There was no consultation or coordination between the Bush and Voinovich committees. I must emphasize further that there never was an intent to promote Bush's candidacy for President, but rather the Voinovich committee's sole aim was to convince already committed Bush supporters to rally to the Voinovich cause. Obviously, that effort was a failure.

- 4. There were no discussions of any kind, that I am aware of, between the officials of Bush/Quayle '88 and the Voinovich for Senate Campaign.
  - A. None
  - B. None
- 5. I have no documents regarding any of the above questions in my possession.

I affirm that the above information is correct to the best of my knowledge and recollection.

Very truly yours,

Paul C. Mifsud

PCM/gdw

Attachment

State of Ohio

County of Cuyahoga

Sworn to before me this 18th day of September, 1989.

Notary

LUCILLE A. LIEBLEIN, Notary Public  
State of Ohio  
My commission expires March 5, 1992

21540313721

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 2750  
Friends of Voinovich and )  
Vincent M. Panichi, as treasurer )

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 9, 1989, the Commission found reason to believe Friends of Voinovich and Vincent M. Panichi, as treasurer, ("the Committee") violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A), and 441d based on a newspaper advertisement paid for by the Committee that advocated the election of George Voinovich to the U.S. Senate and George Bush as President. The Committee is the principal campaign committee (and therefore an authorized committee) of George Voinovich, the Republican candidate for the U.S. Senate from Ohio in the 1988 general election, as defined by 2 U.S.C. §§ 431(5) and 431(6). At that time the Commission also declined to enter into preprobable cause conciliation in order to complete an investigation of this matter, which was initiated by a complaint by James M. Ruvolo, chairman of the Ohio Democratic Party, filed on October 28, 1988.

On June 7, 1989, and June 20, 1989, the Committee filed its responses to the interrogatories and request for documents. On August 28, 1989, the Commission issued a subpoena to Paul Misfud. Misfud had been a volunteer worked in both the Voinovich campaign and the Ohio campaign for Bush/Quayle '88. Misfud filed his response to the subpoena on September 21, 1989.

21040313722

21040813723

## II. LEGAL AND FACTUAL ANALYSIS

### A. The Act and Regulations

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that a person may make up to \$1,000 in contributions to any candidate for federal office, or to his or her authorized committee. 2 U.S.C. § 441a(a)(1)(A). Under the Act, the term "person" includes a principal campaign committee of a federal candidate.<sup>1</sup> 2 U.S.C. § 431(11). Contribution is defined to include any gift, subscription, loan, advance, or

---

1. The Act further states that no political committee which supports or has supported more than one candidate may be designated as an authorized committee. 2 U.S.C. § 432(e)(3)(A). This provision, however, defines support as not including a contribution of \$1,000 or less by an authorized committee to the authorized committee of another candidate. 2 U.S.C. § 432(e)(3)(B). Thus, this provision in conjunction with Section 441a(a)(1) permits an authorized committee to contribute to other candidates for federal office, within the applicable limitations, in the same manner as any other person.

deposit of money or anything of value made by any person for the purpose of influencing a federal election. 2 U.S.C.

§ 431(8)(A)(i). Commission regulations explain that "anything of value" includes all in-kind contributions. 11 C.F.R.

§ 100.7(a)(1)(iii)(A). Expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B). Thus, the Act

distinguishes between payments that are made "totally independently of the candidate and his campaign" and those that are "prearranged or coordinated." Buckley v. Valeo, 424 U.S. 1, 47 (1976).<sup>2</sup>

The Act requires an authorized committee to report all disbursements for the reporting period in which they occur in certain categories. 2 U.S.C. § 434(b)(4). Contributions to other candidates are reportable as other disbursements. See 11 C.F.R. § 104.3(b)(4)(vi). Commission regulations provide that

---

2. Commission regulations explain that expenditures will not be considered independent if they are made through any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. 11 C.F.R. § 109.1(b)(4)(i). The regulations further explain that an expenditure will be presumed to be coordinated with the candidate when it is based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, or by the candidate's agents with a view toward having the expenditure made or when it is made by or through any person who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent. 11 C.F.R. § 109.1(b)(4)(i)(A) and (B).

2  
1  
0  
3  
1  
3  
7  
2  
4

"[e]xpenditures, including independent expenditures, made on behalf of more than one candidate shall be attributed to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably expected to be derived." 11 C.F.R.

§ 106.1(a). The regulations further provide that an "authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind (transfer) to the candidate on whose behalf the expenditure was made." 11 C.F.R. § 106.1(b).

The Act and regulations exclude from the definition of "contribution" and "expenditure" the payment of the costs of certain specified campaign materials by a candidate, or his or her authorized committee, which include information on or reference to any other federal candidate. 2 U.S.C.

§ 431(8)(B)(xi) and 11 C.F.R. §§ 100.7(b)(16) and 100.8(b)(17). Not only must the payments be limited to the costs of such items as pins, bumper stickers, brochures, and posters used in connection with volunteer activities, but the payments may not be used for the use of any broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public political advertising in order to qualify for this exemption.

The genesis of this "coattail" exemption appears to have been the advisory opinion request of the 1976 House campaign of Ed Koch. In the general election context, the Koch campaign asked whether the use of buttons that were imprinted with "Carter-Mondale-Koch" would constitute a contribution in-kind to the Carter campaign or an "expenditure" if done "without prior

21040813725

consultation." The Commission issued a response saying that under the facts presented, the purchase and distribution of the buttons would not be considered a contribution in-kind. See Response to AOR 1976-78.

Both the House and the Senate attempted to clarify this situation during the legislative proceedings lead up to the enactment of the 1979 amendments to the Act.

The report accompanying the Senate bill (S.1757) stated:

There was a large degree of uncertainty during the 1976 elections as to the extent a Senate or House candidate could mention and support his political party's Presidential nominee in the general election, without that support being classified as a prohibited in-kind contribution. The bill would amend the law to encourage the listing or mentioning of candidates with their party's Presidential nominee. Specifically, the value of listing or mentioning the name of any Presidential candidate in any Federal or non-Federal candidate's campaign material will not be a contribution where the purpose of such listing or mentioning is to promote the candidacy of such Federal or non-Federal candidate, and it is initiated by such Federal or non-Federal candidate.

FEC, Legislative History of Federal Election Campaign Act Amendments of 1979, 453 (1983) ("1979 Legislative History").

The report accompanying the House bill (H.5010), which was eventually enacted, stated:

Currently, if any candidate for any public office mentions a Federal candidate in any of his or her campaign literature or advertising, that candidate technically has made a contribution to the Federal candidate, the amount of which is determined by apportioning the cost of the campaign literature or advertising. The new provision corrects this problem. A payment by such candidate for campaign material which includes reference to a Federal candidate will not be considered a contribution to the Federal candidate so long as

- (1) the payment is made from the candidate's own campaign account;
- (2) the payment is made from funds subject to the

91040313726

limitations and prohibitions of the Act; and  
(3) the payment is used for campaign materials used in connection with volunteer activities and not for general public communication or political advertising.

The Committee considered and rejected a test that the funds be made for the purpose of influencing the election of the candidate making the expenditure. This test was rejected because it was thought to be both too difficult to administer and because it ignored the practical reality of the situation. If a candidate makes an expenditure from his or her campaign account, the possibility that it is not for the purpose of furthering his or her election is remote at best.

1979 Legislative History at 193-94.

**B. Factual Circumstances**

As noted, Friends of Voinovich is the principal campaign committee of George Voinovich, the Republican candidate for the U.S. Senate in Ohio in the 1988 general election. His Democratic opponent in the 1988 election was the incumbent, Senator Howard Metzenbaum. George Bush was the Republican candidate for President in the 1988 general election.

The Committee paid for and placed an advertisement that ran in 56 Ohio newspapers between October 26, 1988, and October 27, 1988, only a few days before the 1988 general election. The Committee expended a total of \$53,999.23 for the cost of producing and placing this advertisement. The advertisement itself consisted primarily of criticism of the record of Sen. Metzenbaum, including the prominent placement of a quotation attributed to President Reagan. The lower portion of the advertisement (approximately one-fifth of the total space), however, consisted of a photograph of George Bush and George Voinovich shaking hands. Next to the photograph were the statements: "Keep American #1. Make Ohio #1. Elect Voinovich

21040313727

U.S. Senate--Bush President. Vote smart for Ohio: Voinovich and Bush." The advertisement carried a disclaimer at the bottom stating that it had been paid for by Friends of Voinovich.

The Committee states:

The idea to run the Advertisement promoting candidate Voinovich was conceived on or about October 17, 1988, by The Friends of Voinovich Committee. The sole reason for the Advertisement was to attempt to capitalize on George Bush's popularity in Ohio. There was never an intent ... to promote George Bush's candidacy. In October, 1988, George Bush was substantially ahead in his race, and George Voinovich was substantially behind in his. The Advertisement was intended to promote George Voinovich's campaign by appealing to voters who were already committed to vote for George Bush, thereby attempting to "grab the coattails" of the more popular George Bush.

As the legislative history for the coattail exemption makes clear, Congress specifically rejected this type of intent as a factor in determining whether an expenditure would qualify for the exemption. Thus, the facts clearly establish that the portion of the costs of the advertisement attributable to George Bush do not qualify for the coattail exemption.

The next question is whether the costs attributable to George Bush should be considered a contribution in-kind or an independent expenditure on behalf of Bush. The language in the House and Senate reports relating to the 1979 amendments suggests that Congress viewed payments falling outside the exemption as constituting contributions in-kind rather than expenditures. That inference could also be drawn from the Commission's response to AOR 1976-78. Therefore, there is support for the position that payments falling outside the coattail exemption should be considered contributions in-kind, thus excluding the possibility

2  
1  
0  
4  
0  
3  
1  
3  
7  
2  
8

that an authorized committee may make independent expenditures on behalf of another candidate. We note, however, that this question was not directly and explicitly addressed in the legislative history or the advisory opinion.

In the view of this Office, that question need not be reached in this matter because the facts indicate that the advertisement by the Committee was not made "totally independently" of the Bush campaign. The Committee stated in its response that "[o]ne of the people involved in developing the Advertisement's message [was] Paul Misfud." Misfud, an executive vice president at the Voinovich Companies in Cleveland, was a part-time, unpaid volunteer in the Cleveland office of the Voinovich campaign during the last few weeks of the campaign and at the same time a part-time, unpaid volunteer in the Ohio Bush campaign. Misfud served nominally as Ohio Vice Chairman, a member of the Ohio Steering Committee, and coordinator of the Ohio Nationalities for Bush/Quayle. In this latter role, he stated that he "was assigned the task of organizing the Committee and directing its direct mail and 'Get-out the Vote' efforts." Thus, he was an "officer" of Bush/Quayle '88.

Nevertheless, Misfud states he had no production role in the advertisement. He does acknowledge, however, that he did participate in discussions with the campaign manager and the person who produced the advertisement "in the concept and development of a general media strategy of how to convince identified and committed Bush supporters that they should also support Voinovich for the Senate." He adds that this role

91040313729

included newsprint advertisements as well as events featuring Bush and President Reagan. He states that he "participated in the development of the message and theme and reviewed media alternatives for accomplishing the desired objective." As the Committee candidly acknowledges, the advertisement was designed to try to convince Bush supporters to also support Voinovich.

Both Misfud and the Committee contend there was no consultations or cooperation between the Voinovich and Bush campaigns regarding this advertisement. Nevertheless, despite these contentions, the facts show that Misfud was in a position to know the strategy of both the Bush and Voinovich campaigns in Ohio and that he participated in the development of the message used in the advertisement in question, which was designed to capitalize on Bush's popularity. Thus, it appears the advertisement was made "in concert with" the Bush campaign in Ohio and based on knowledge of its plans and strategy. Thus, we conclude that the portion of the payments for the advertisement that is attributable to the Bush candidacy were not made "totally independently" of the Bush campaign. Therefore, they should be considered in-kind contributions by the Voinovich Committee.

**C. Conclusion**

Accordingly, we recommend that the Commission now enter into conciliation with Friends of Voinovich prior to a finding of probable cause to believe.

Furthermore, we recommend that the Commission find reason to believe Bush/Quayle '88 violated 26 U.S.C. § 9003(b). Under the Presidential Election Campaign Fund Act, a presidential candidate

21040313730

may elect to receive public financing of his general election campaign. See generally 26 U.S.C. § 9001 et. seq., 11 C.F.R. § 9001.1 et. seq. In order to be eligible to receive public funds, the candidate must limit his spending to the amount of the federal grant and may not accept private contributions to defray qualified campaign expenses. 26 U.S.C. § 9003(b). As the analysis above lays out, the payments by the Voinovich Committee for the newspaper ads that advocated the election of both Voinovich and Bush were not made independently of the Bush campaign and, thus, constitute in-kind contributions to the Bush campaign. Accordingly, there is reason to believe Bush/Quayle '88 accepted these in-kind contributions in violation of 26 U.S.C. § 9003(b).

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

91040313751

**IV. RECOMMENDATIONS**

1. Enter into conciliation with Friends of Voinovich and Vincent M. Panichi, as treasurer, prior to a finding of probable cause to believe.
2. Approve the attached proposed conciliation agreement.
3. Find reason to believe that Bush/Quayle '88 and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b).
4. Approve the attached factual and legal analysis.
5. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

Date

10/13/88

BY:

  
Lois G. Lerner  
Associate General Counsel

**Attachments**

1. Proposed Conciliation Agreement
  2. Factual and Legal Analysis
- Staff assigned: Frania Monarski  
George F. Rishel  
Mary Taksar

21040813732



FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20461

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS *DH*  
COMMISSION SECRETARY

DATE: OCTOBER 12, 1990

SUBJECT: MUR 2750 - WITHDRAWAL AND RECIRCULATION OF  
GENERAL COUNSEL'S REPORT DATED  
OCTOBER 9, 1990.

The above-captioned document was circulated to the  
Commission on Wednesday, October 10, 1990 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	XXX _____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Thomas	XXX _____

This matter will be placed on the meeting agenda  
for TUESDAY, OCTOBER 16, 1990.

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

33373134031

OK/C

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2750
Friends of Voinovich and	)	
Vincent M. Panichi, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 16, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2750:

1. Enter into conciliation with Friends of Voinovich and Vincent M. Panichi, as treasurer, prior to a finding of probable cause to believe.
2. Approve the proposed conciliation agreement attached to the General Counsel's report dated October 9, 1990.
3. Find reason to believe that Bush/Quayle '88 and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b), but take no further action and close the file with respect to this violation.
4. Approve the appropriate Factual and Legal Analysis to be sent to Bush/Quayle '88 and J. Stanley Huckaby, as treasurer.

(continued)

91040813734

5. Approve appropriate letters pursuant to the actions noted above.

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

Attest:

10-19-90  
Date

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

91040813735



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 25, 1990

J. Stanley Huckaby, Treasurer  
Bush/Quayle '88  
228 S. Washington Street  
#200  
Alexandria, VA 22314

RE: MUR 2750  
Bush/Quayle '88 and  
J. Stanley Huckaby, as  
treasurer

Dear Mr. Huckaby:

On October 16, 1990, the Federal Election Commission found reason to believe that Bush/Quayle '88 ("Committee") and you, as treasurer, violated 26 U.S.C. § 9003(b), a provision of Chapter 95 of Title 26, U.S. Code. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file as it pertains to the Committee and you, as treasurer. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that accepting in-kind contributions appears to be a violation of 26 U.S.C. § 9003(b). You should take immediate steps to insure that this activity does not occur in the future.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

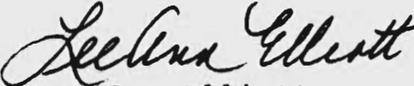
The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

21040313736

J. Stanley Huckaby  
Page 2

If you have any questions, please direct them to  
Mary Taksar, the staff member assigned to this matter, at (202)  
376-5690.

Sincerely,

  
Lee Ann Elliott  
Chairman

Enclosure  
Factual and Legal Analysis

21040313737

FEDERAL ELECTION COMMISSION,

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Bush/Quayle '88 and J. Stanley MUR: 2750  
Huckaby, as treasurer

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

Under the Presidential Election Campaign Fund Act, a presidential candidate may elect to receive public financing of his general election campaign. See generally 26 U.S.C. § 9001 et. seq., 11 C.F.R. § 9001.1 et. seq. In order to be eligible to receive public funds, the candidate must limit his spending to the amount of the federal grant and may not accept private contributions to defray qualified campaign expenses. 26 U.S.C. § 9003(b).

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that a person may make up to \$1,000 in contributions to any candidate for federal office, or to his or her authorized committee. 2 U.S.C. § 441a(a)(1)(A). Under the Act, the term "person" includes a principal campaign committee of a federal candidate.<sup>1</sup> 2 U.S.C. § 431(11). Contribution is

1. The Act further states that no political committee which supports or has supported more than one candidate may be designated as an authorized committee. 2 U.S.C. § 432(a)(3)(A). This provision, however, defines support as not including a contribution of \$1,000 or less by an authorized committee to the authorized committee of another candidate. 2 U.S.C. § 432(e)(3)(B). Thus, this provision in conjunction with Section 441a(a)(1) permits an authorized committee to contribute to other candidates for federal office, within the applicable limitations,

21340313738

defined to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing a federal election. 2 U.S.C.

§ 431(8)(A)(i). Commission regulations explain that "anything of value" includes all in-kind contributions. 11 C.F.R.

§ 100.7(a)(1)(iii)(A). Expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B). Thus, the Act

distinguishes between payments that are made "totally independently of the candidate and his campaign" and those that are "prearranged or coordinated." Buckley v. Valeo, 424 U.S. 1, 47 (1976).<sup>2</sup>

The Act requires an authorized committee to report all disbursements for the reporting period in which they occur in certain categories. 2 U.S.C. § 434(b)(4). Contributions to

---

(Footnote 1 continued from previous page)  
in the same manner as any other person.

2. Commission regulations explain that expenditures will not be considered independent if they are made through any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. 11 C.F.R. § 109.1(b)(4)(i). The regulations further explain that an expenditure will be presumed to be coordinated with the candidate when it is based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, or by the candidate's agents with a view toward having the expenditure made or when it is made by or through any person who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent. 11 C.F.R. § 109.1(b)(4)(i)(A) and (B).

91040313739

other candidates are reportable as other disbursements. See 11 C.F.R. § 104.3(b)(4)(vi). Commission regulations provide that "[e]xpenditures, including independent expenditures, made on behalf of more than one candidate shall be attributed to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably expected to be derived." 11 C.F.R.

§ 106.1(a). The regulations further provide that an "authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind (transfer) to the candidate on whose behalf the expenditure was made." 11 C.F.R. § 106.1(b).

The Act and regulations exclude from the definition of "contribution" and "expenditure" the payment of the costs of certain specified campaign materials by a candidate, or his or her authorized committee, which include information on or reference to any other federal candidate. 2 U.S.C.

§ 431(8)(B)(xi) and 11 C.F.R. §§ 100.7(b)(16) and 100.8(b)(17).

Not only must the payments be limited to the costs of such items as pins, bumper stickers, brochures, and posters used in connection with volunteer activities, but the payments may not be used for the use of any broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public political advertising in order to qualify for this exemption.

The genesis of this "coattail" exemption appears to have been the advisory opinion request of the 1976 House campaign of Ed Koch. In the general election context, the Koch campaign asked whether the use of buttons that were imprinted with

21040813740

"Carter-Mondale-Koch" would constitute a contribution in-kind to the Carter campaign or an "expenditure" if done "without prior consultation." The Commission issued a response saying that under the facts presented, the purchase and distribution of the buttons would not be considered a contribution in-kind. See Response to AOR 1976-78.

Both the House and the Senate attempted to clarify this situation during the legislative proceedings lead up to the enactment of the 1979 amendments to the Act.

The report accompanying the Senate bill (S.1757) stated:

There was a large degree of uncertainty during the 1976 elections as to the extent a Senate or House candidate could mention and support his political party's Presidential nominee in the general election, without that support being classified as a prohibited in-kind contribution. The bill would amend the law to encourage the listing or mentioning of candidates with their party's Presidential nominee. Specifically, the value of listing or mentioning the name of any Presidential candidate in any Federal or non-Federal candidate's campaign material will not be a contribution where the purpose of such listing or mentioning is to promote the candidacy of such Federal or non-Federal candidate, and it is initiated by such Federal or non-Federal candidate.

FEC, Legislative History of Federal Election Campaign Act Amendments of 1979, 453 (1983) ("1979 Legislative History").

The report accompanying the House bill (H.5010), which was eventually enacted, stated:

Currently, if any candidate for any public office mentions a Federal candidate in any of his or her campaign literature or advertising, that candidate technically has made a contribution to the Federal candidate, the amount of which is determined by apportioning the cost of the campaign literature or advertising. The new provision corrects this problem. A payment by such candidate for campaign material which includes reference to a Federal candidate will not be considered a contribution to the Federal candidate so

21 J 4 0 3 1 3 7 4 1

long as

- (1) the payment is made from the candidate's own campaign account;
- (2) the payment is made from funds subject to the limitations and prohibitions of the Act; and
- (3) the payment is used for campaign materials used in connection with volunteer activities and not for general public communication or political advertising.

The Committee considered and rejected a test that the funds be made for the purpose of influencing the election of the candidate making the expenditure. This test was rejected because it was thought to be both too difficult to administer and because it ignored the practical reality of the situation. If a candidate makes an expenditure from his or her campaign account, the possibility that it is not for the purpose of furthering his or her election is remote at best.

1979 Legislative History at 193-94.

Friends of Voinovich is the principal campaign committee of George Voinovich, the Republican candidate for the U.S. Senate in Ohio in the 1988 general election. His Democratic opponent in the 1988 election was the incumbent, Senator Howard Metzenbaum. George Bush was the Republican candidate for President in the 1988 general election.

The Voinovich Committee paid for and placed an advertisement that ran in 56 Ohio newspapers between October 26, 1988, and October 27, 1988, only a few days before the 1988 general election. The Committee expended a total of \$53,999.23 for the cost of producing and placing this advertisement. The advertisement itself consisted primarily of criticism of the record of Sen. Metzenbaum, including the prominent placement of a quotation attributed to President Reagan. The lower portion of the advertisement (approximately one-fifth of the total space), however, consisted of a photograph of George Bush and George Voinovich shaking hands. Next to the photograph were the

91040313742

statements: "Keep American #1. Make Ohio #1. Elect Voinovich U.S. Senate--Bush President. Vote smart for Ohio: Voinovich and Bush." The advertisement carried a disclaimer at the bottom stating that it had been paid for by Friends of Voinovich.

The Committee states:

The idea to run the Advertisement promoting candidate Voinovich was conceived on or about October 17, 1988, by The Friends of Voinovich Committee. The sole reason for the Advertisement was to attempt to capitalize on George Bush's popularity in Ohio. There was never an intent ... to promote George Bush's candidacy. In October, 1988, George Bush was substantially ahead in his race, and George Voinovich was substantially behind in his. The Advertisement was intended to promote George Voinovich's campaign by appealing to voters who were already committed to vote for George Bush, thereby attempting to "grab the coattails" of the more popular George Bush.

As the legislative history for the coattail exemption makes clear, Congress specifically rejected this type of intent as a factor in determining whether an expenditure would qualify for the exemption. Thus, the facts clearly establish that the portion of the costs of the advertisement attributable to George Bush do not qualify for the coattail exemption.

The next question is whether the costs attributable to George Bush should be considered a contribution in-kind or an independent expenditure on behalf of Bush. The language in the House and Senate reports relating to the 1979 amendments suggests that Congress viewed payments falling outside the exemption as constituting contributions in-kind rather than expenditures. That inference could also be drawn from the Commission's response to AOR 1976-78. Therefore, there is support for the position that payments falling outside the coattail exemption should be

2 1 0 4 0 3 1 3 7 4 3

considered contributions in-kind, thus excluding the possibility that an authorized committee may make independent expenditures on behalf of another candidate.

In this case, however, that question need not be reached because the facts indicate that the advertisement by the Committee was not made "totally independently" of the Bush campaign. The Committee stated that "[o]ne of the people involved in developing the Advertisement's message [was] Paul Misfud." Misfud, an executive vice president at the Voinovich Companies in Cleveland, was a part-time, unpaid volunteer in the Cleveland office of the Voinovich campaign during the last few weeks of the campaign and at the same time a part-time, unpaid volunteer in the Ohio Bush campaign. Misfud served nominally as Ohio Vice Chairman, a member of the Ohio Steering Committee, and coordinator of the Ohio Nationalities for Bush/Quayle. In this latter role, he stated that he "was assigned the task of organizing the Committee and directing its direct mail and 'Get-out the Vote' efforts." Thus, he was an "officer" of Bush/Quayle '88.

Nevertheless, Misfud states he had no production role in the advertisement. He does acknowledge, however, that he did participate in discussions with the campaign manager and the person who produced the advertisement "in the concept and development of a general media strategy of how to convince identified and committed Bush supporters that they should also support Voinovich for the Senate." He adds that this role included newsprint advertisements as well as events featuring

21,40313744

Bush and President Reagan. He states that he "participated in the development of the message and theme and reviewed media alternatives for accomplishing the desired objective." As the Committee candidly acknowledges, the advertisement was designed to try to convince Bush supporters to also support Voinovich.

Both Misfud and the Committee contend there was no consultations or cooperation between the Voinovich and Bush campaigns regarding this advertisement. Nevertheless, despite these contentions, the facts show that Misfud was in a position to know the strategy of both the Bush and Voinovich campaigns in Ohio and that he participated in the development of the message used in the advertisement in question, which was designed to capitalize on Bush's popularity. Thus, it appears the advertisement was made "in concert with" the Bush campaign in Ohio and based on knowledge of its plans and strategy. Thus, the portion of the payments for the advertisement that is attributable to the Bush candidacy were not made "totally independently" of the Bush campaign. Therefore, they should be considered in-kind contributions by the Voinovich Committee to Bush/Quayle '88.

Accordingly, there is reason to believe Bush/Quayle '88 accepted these in-kind contributions in violation of 26 U.S.C. § 9003(b). However, after considering the circumstances of this matter, the Commission also decided to take no further action with respect to 26 U.S.C. § 9003(b).

21 J 4 0 8 1 3 7 4 5



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 25, 1990

Gordon M. Strauss, Esq.  
Thompson, Hine and Flory  
2900 DuBois Tower  
511 Walnut Street  
Cincinnati, OH 45202

RE: MUR 2750  
Friends of Voinovich and  
Vincent M. Panichi, as  
treasurer

Dear Mr. Strauss:

On May 9, 1989, the Federal Election Commission found reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A), and 441d(a). At your request, on October 16, 1990, 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 client agrees 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.

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 Mary Taksar, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble  
General Counsel

Enclosure  
Conciliation Agreement

21040313746

06c 8614

WILEY, REIN & FIELDING

90 NOV 13 AM 11:01

1776 K STREET, N. W.  
WASHINGTON, D. C. 20006  
(202) 429-7000

JAN WITOLD BARAN  
(202) 429-7330

FACSIMILE  
(202) 429-7049  
TELEX 248349 WYRN UR

November 9, 1990

RECEIVED  
FEDERAL ELECTION COMMISSION  
90 NOV 13 PM 12:34

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

ATTN: Ms. Mary Taksar

Re: MUR 2750

Dear Mr. Noble:

This letter responds to the Federal Election Commission's October 25, 1990, letter to Bush-Quayle 88 ("the Committee") and J. Stanley Huckaby, as Treasurer. The Commission notified the Committee that there is Reason to Believe that the Committee violated 26 U.S.C. § 9003(b). The Commission also decided not to take further action against the Committee in Matter Under Review 2750. This was the first notice the Committee received regarding this Matter. While Bush-Quayle 88 does not object to the Commission's decision to take no further action against it, it objects to and disagrees with the Commission's finding of Reason to Believe for the reasons stated below.

The Factual and Legal Analysis approved by the Commission states that this Matter was generated based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. Factual and Legal Analysis, at 1. The Committee is aware that ordinarily the Commission does not provide a potential respondent in an internally-generated matter with notice of the investigation prior to the Commission's determination of Reason to Believe. See 2 U.S.C. § 437g(a)(2); 11 C.F.R. § 111.9. However, the text of the Factual and Legal Analysis provided to the Committee makes evident that the Commission

91040313747

WILEY, REIN & FIELDING

Lawrence M. Noble, Esq.  
November 9, 1990  
Page 2

notified other Respondents in this Matter prior to this stage of the proceeding and provided them with an opportunity to respond.

As a result, we can only deduce that this Matter was a complaint-generated Matter of which the Committee should have been notified, perhaps two years ago. See 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis contains numerous indications that the Voinovich Committee responded to an apparent complaint. It quotes twice from what appears to be the Voinovich Committee's Response to a Complaint in this Matter. Factual and Legal Analysis, at 6-7. Additionally, the Analysis repeatedly quotes Paul Misfud, an individual volunteer to the 1988 Voinovich campaign, who also appears to have responded to the allegations. Id. at 7-8. Based on the information that the Commission apparently received from these sources, the Commission determined that Misfud was an "officer" of the Bush-Quayle 88 Committee, that he was in a position to know the plans and strategy of the Bush campaign in Ohio, and that the Voinovich Committee therefore had made in-kind contributions to Bush-Quayle 88. Id. The Committee had no opportunity to address any of these conclusions and in fact disputes them.

Moreover, this is not a case where the allegations involving Bush-Quayle 88 surfaced only during the Commission's investigation. Rather, it is clear from the allegations and from the face of the Factual and Legal Analysis that Bush-Quayle 88, as the alleged beneficiary of an in-kind contribution by the Voinovich Committee, should have been afforded the same right to notice and the opportunity to respond as all other respondents. Bush-Quayle 88 has been prejudiced by the lack of opportunity to respond to the allegations which we believe are meritless.

Accordingly, it is our view that because the statute's and the Commission's procedures were not followed with respect to this Matter, the Commission's findings with respect to the Bush-Quayle 88 Committee and J. Stanley Huckaby, as Treasurer, are null and void.

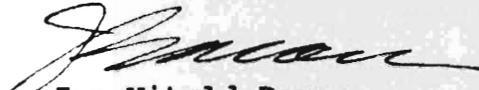
91040313748

WILEY, REIN & FIELDING

Lawrence M. Noble, Esq.  
November 9, 1990  
Page 3

I request that this letter be made part of the public record of this case.

Sincerely yours,

  
Jan Witold Baran

cc: Mr. J. Stanley Huckaby  
The Honorable Lee Ann Elliott  
The Honorable John Warren McGarry  
The Honorable Thomas J. Josefiak  
The Honorable Danny L. McDonald  
The Honorable Joan D. Aikens  
The Honorable Scott E. Thomas

91040313749



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 21, 1990

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Gordon M. Strauss, Esq.  
Thompson, Hine and Flory  
2900 DuBois Tower  
511 Walnut Street  
Cincinnati, OH 45202

RE: MUR 2750  
Friends of Voinovich and  
Vincent M. Panichi, as  
treasurer

Dear Mr. Strauss:

On October 25, 1990, you were notified that, at your request, the Federal Election Commission determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. On that same date you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. To date, you have not responded to the proposed agreement. The 30 day period for negotiations will soon expire. Unless we receive a response from you within ten days, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

Should you have any questions, please contact Mary Taksar, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: George F. Rishel  
Assistant General Counsel

21040813750

90 DEC 14 PM 3:20

BEFORE THE FEDERAL ELECTION COMMISSION

**SENSITIVE**

In the Matter of )  
Friends of Voinovich and ) MUR 2750  
Vincent M. Panichi, as treasurer )

**GENERAL COUNSEL'S REPORT**

**I. BACKGROUND**

Attached is a conciliation agreement which has been signed by Vincent M. Panichi, the treasurer of Friends of Voinovich.

The attached agreement contains no changes from the agreement approved by the Commission on October 16, 1990. A check for the civil penalty in the amount of three thousand and five hundred dollars (\$3,500) has been received.

**II. RECOMMENDATIONS**

1. Accept the attached conciliation agreement with Friends of Voinovich and Vincent M. Panichi, as treasurer.
2. Close the file.
3. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

Date 12/14/90

BY:   
Lois G. Lerner  
Associate General Counsel

Attachments

1. Conciliation Agreement
2. Photocopy of civil penalty check

Staff Assigned: Mary Taksar

21040313751

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Friends of Voinovich and Vincent ) MUR 2750  
M. Panichi, as treasurer. )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 19, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 2750:

1. Accept the conciliation agreement with Friends of Voinovich and Vincent M. Panichi, as treasurer.
2. Close the file.
3. Approve the appropriate letters, as recommended in the General Counsel's Report dated December 14, 1990.

Commissioners Aikens, Elliott, Josefiak, McDonald, and Thomas voted affirmatively for the decision; Commissioner McGarry did not cast a vote.

Attest:

12-19-90  
Date

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

Received in the Secretariat: Fri., Dec. 14, 1990 3:20 p.m.  
Circulated to the Commission: Mon., Dec. 17, 1990 11:00 a.m.  
Deadline for vote: Wed., Dec. 19, 1990 11:00 a.m.

dr

91040313752



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 27, 1990

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

**CLOSED**

James M. Ruvolo, Chairman  
Ohio Democratic Party  
Suite 1920  
88 East Broad Street  
Columbus, OH 43215

RE: MUR 2750

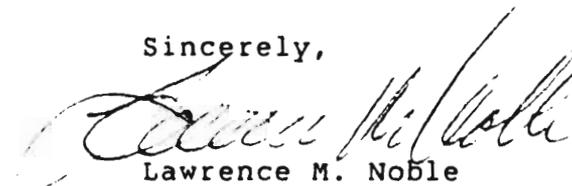
Dear Mr. Ruvolo:

This is in reference to the complaint you filed with the Federal Election Commission on October 28, 1988, concerning Friends of Voinovich and Vincent M. Panichi, as treasurer.

The Commission found that there was reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A), and 441d(a), provisions of the Federal Election Campaign Act of 1971, as amended, and conducted an investigation in this matter. On December 19, 1990, a conciliation agreement signed by the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on December 19, 1990. A copy of this agreement is enclosed for your information.

If you have any questions, please contact Mary Taksar, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

  
Lawrence M. Noble  
General Counsel

Enclosure  
Conciliation Agreement

91040313753



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 27, 1990

J. Stanley Huckaby, Treasurer  
Bush/Quayle '88  
228 S. Washington Street  
#200  
Alexandria, VA 22314

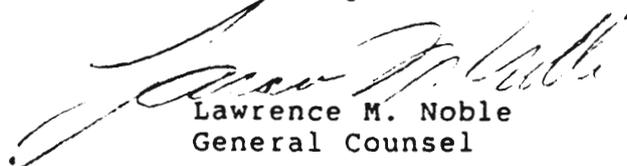
RE: MUR 2750  
Bush/Quayle '88 and  
J. Stanley Huckaby, as  
treasurer

Dear Mr. Huckaby:

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 Mary Taksar, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

  
Lawrence M. Noble  
General Counsel

91040313754



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 27, 1990

Gordon M. Strauss, Esq.  
Thompson, Hine & Flory  
2900 DuBois Tower  
511 Walnut Street  
Cincinnati, OH 45202

RE: MUR 2750  
Friends of Voinovich  
and Vincent M. Panichi,  
as treasurer

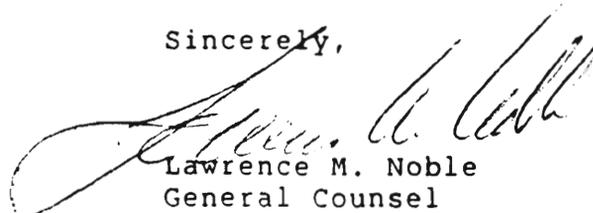
Dear Mr. Strauss:

On December 19, 1990, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 434(b), 441a(a)(1)(A), and 441d(a), provisions 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.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Mary Taksar, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,



Lawrence M. Noble  
General Counsel

Enclosure  
Conciliation Agreement

91040313755

OGC 8870

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

90 DEC -5 AM 10:34

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Friends of Voinovich and ) MUR 2750  
 )  
Vincent M. Panichi, as )  
 )  
treasurer )

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by James M. Ruvolo, Chairman of the Ohio Democratic Party. The Federal Election Commission ("Commission") found reason to believe that Friends of Voinovich and Vincent M. Panichi, as treasurer, ("Respondents") violated 2 U.S.C. §§ 434(b), 441a(a)(1)(A) and 441d(a).

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. Friends of Voinovich, the principal campaign committee of George Voinovich, the Republican candidate for the United States Senate in Ohio in the 1988 general election, is a political committee within the meaning of 2 U.S.C. § 431(4).

90 DEC -6 PM 4:57

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK

91040313756

2. Vincent M. Panichi is the treasurer of Friends of Voinovich.

3. George Bush was the Republican nominee for President of the United States in the 1988 general election. Bush/Quayle '88 was the principal campaign committee of George Bush.

4. Pursuant to 2 U.S.C. § 431(6), the term "authorized committee" refers to the principal campaign committee or any other political committee authorized by a candidate under 2 U.S.C. § 432(e)(1) to receive contributions or make expenditures on behalf of the candidate.

5. Pursuant to 2 U.S.C. § 441a(a)(1)(A), a person may make up to \$1,000 in contributions to any candidate for federal office or his or her authorized committee. Pursuant to the Act, the term "person" includes a principal campaign committee of a federal candidate. 2 U.S.C. § 431(11). The term "contribution" refers to any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing a federal election. 2 U.S.C. § 431(8)(A)(i). Pursuant to 11 C.F.R. § 100.7(a)(1)(iii)(A), "anything of value" includes all in-kind contributions. Pursuant to 2 U.S.C. § 432(e)(3)(A), no political committee which supports or has supported more than one federal candidate may be designated as an authorized committee. The term "support," pursuant to this section, does not include a contribution of \$1,000 or less by an authorized committee to an authorized committee of another candidate. 2 U.S.C. § 432(e)(3)(B).

91040813757

6. Pursuant to 2 U.S.C. § 441a(a)(7)(B), expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.

7. Pursuant to 2 U.S.C. § 431(8)(B)(xi), the term "contribution" does not include the payment of the costs of certain specified campaign materials by a candidate, or his or her authorized committee, which include information on or reference to any other federal candidate. In order to fall within this "coattail" exemption, the campaign materials must be limited to items such as pins, bumper stickers, brochures and posters and must be used in connection with volunteer activities. Payments for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising do not fall within the exemption and constitute contributions or expenditures under the Act. 11 C.F.R. §§ 100.7(b)(16) and 100.8(b)(17).

8. Pursuant to 11 C.F.R. § 106.1(a), expenditures made on behalf of more than one federal candidate shall be attributed to each candidate in proportion to, and shall be reported to reflect, the benefit reasonably expected to be derived from those expenditures. Pursuant to 11 C.F.R. § 106.1(b), an authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind (transfer) to the candidate on whose behalf the expenditure was made.

91040813758

9. Pursuant to 2 U.S.C. § 434(b), the treasurer of a political committee is required to report all receipts and disbursements.

10. Pursuant to 2 U.S.C. § 441d(a), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting, newspaper or any type of general public political advertising, the communication must clearly state who paid for the communication and whether or not it was authorized by the candidate, an authorized political committee of the candidate, or agents of the candidate.

11. Respondents placed advertisements in fifty-six (56) local Ohio newspapers between October 26, 1988 and October 27, 1988. The advertisements encouraged voters to "Elect Voinovich, U.S. Senate-Bush, President ... Vote smart for Ohio: Voinovich and Bush." The total cost of the advertisements was \$53,999.23. The advertisements stated that they were paid for by the Respondents, but did not indicate whether or not they were authorized by George Bush or his principal campaign committee. Pursuant to 11 C.F.R. § 106.1(a), approximately one-tenth of the costs of the production and placement of this advertisement was attributable to the candidacy of George Bush.

12. Paul Misfud was a part-time, unpaid volunteer with the Voinovich campaign and a part-time, unpaid volunteer with the Ohio Bush campaign in the weeks prior to the 1988 general election. In his role with the Ohio Bush campaign, Misfud served nominally as Ohio Vice Chairman, a member of the Ohio Steering

91040313759

Committee, and coordinator of the Ohio Nationalities for Bush/Quayle effort. In the latter role, he was assigned the task of organizing the Committee and directing its direct mail and get-out-the-vote efforts. In his role with the Voinovich campaign, Misfud participated in discussions with the campaign manager and a campaign consultant in the concept and development of general media strategy, including newsprint, of how to convince identified and committed Bush supporters to also support George Voinovich for the U.S. Senate. He participated in the development of the message and theme and reviewed media alternatives.

V. 1. Respondents made excessive in-kind contributions to the candidacy of George Bush, in violation of 2 U.S.C. § 441a(a)(1)(A).

2. Respondents failed to report the in-kind contributions to the candidacy of George Bush, in violation of 2 U.S.C. § 434(b).

3. Respondents did not include in the disclaimer on the newspaper advertisement a statement whether such advertisement was authorized by George Bush, in violation of 2 U.S.C. § 441d.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of three thousand, five hundred dollars (\$3,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

21040313760

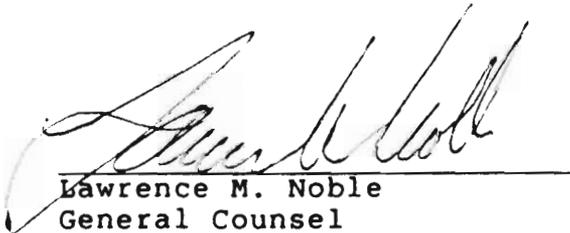
requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have 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 requirements contained in this agreement and to so notify the Commission.

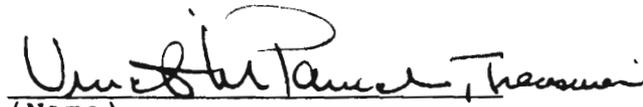
X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

  
Lawrence M. Noble  
General Counsel

12/27/90

FOR THE RESPONDENTS:

  
(Name)  
(Position)

Date 12-4-90

21040313761



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 2750

DATE FILMED 1/16/91 CAMERA NO. 2

CAMERAMAN AS

91040313762