ELECTION COMMISSION

N DC 20463

E BEGINNING OF MUR # 2771

D 11/28/90 CAMERA NO. 4

AS

06C# 908

88 NOV -4 PM 3:25

BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES

IN THE MATTER OF:	)	
	)	
John P. Vinich	)	
	)	
John P. Vinich for US Senate Committee	)	MUR 2771
	)	

I. INTRODUCTION

John P. Vinich's campaign in Wyoming for the United States Senate is accepting illegal contributions from labor unions and failing to report them. This failure to disclose seems a common problem for Vinich since two television ads paid for by the Democratic Senatorial Campaign Committee and benefitting his candidacy lack the proper disclaimer identifying Vinich's link to the commercials.

By this Complaint, the National Republican Senatorial Committee requests the Federal Election Commission (FEC) to investigate Vinich's failure to comply with the Federal Election Campaign Act (Act) and its most basic tenets requiring the full public disclosure of all electioneering activity. The FEC is

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empowered to make Vinich abide by the law pursuant to 2 U.S.C. 437g; 2 U.S.C. 441a(2); 2 U.S.C. 441b(a); 2 U.S.C. 441d, and 2 U.S.C. 434.

II. Violations of Law

A. Illegal Labor Union Contributions

As the photograph attached as Exhibit 1 demonstrates, John P. Vinich is using a United Steel Workers union hall as his Sweetwater County headquarters. However, a review of Vinich's FEC reports fails to show any rent being paid for the space. Since the headquarters is something of value to his campaign, its use constitutes a contribution under 2 U.S.C. 441b(b). Yet such direct contributions from labor unions are illegal. Id. Since Vinich has already received the maximum $10,000 contribution from the Steel Workers PAC (contributions on February 20, 1988 and September 9, 1988), this union space cannot be donated to his campaign.

Vinich is also violating the law by refusing to report this contribution of headquarter space. All federal candidates are required to report all contributions and disbursements. 2 U.S.C. 434. A review of Vinich's report shows he has not fulfilled this requirement.

This acceptance of illegal "soft money" contributions from unions is not surprising given that Vinich's campaign has been fueled almost solely by labor union PACS. A review of his FEC reports shows that 95 percent of his PAC contributions come from

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labor unions, which account for about 48 percent of all the campaign contributions he has received as of October 19, 1988.

The FEC must review the Vinich campaign to uncover exactly how much of his campaign is funded by unreported contributions from organized labor. In any event, Vinich should pay the cost of his Sweetwater County headquarters before the November 8, 1988 election in order to comply with the Act.

B. Acceptance of Contributions in Excess of the Legal Limit

The Act states that no multicandidate political action committee shall make contributions:

> (A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000.

2 U.S.C. 441a(2).

Yet the Vinich campaign has reported three contributions from the Committee on Letter Carriers Political Education, each in the amount of $5,000. These contributions, totalling $15,000, were reported by the Vinich campaign as received on October 4, 13, and 24, 1988. See Exhibit 2.

Again this violation is not surprising when the enormity of labor union PAC involvement in the Vinich campaign is considered. The FEC must review the Vinich campaign to determine if further contributions in violation of the law have been accepted, and should in any case compel the Vinich campaign to immediately return any and all illegal contributions.

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C. Sponsorship of Campaign Commercials

The Act states that all broadcast advertisements advocating the election or defeat of an identified candidate must include identification of the sponsor. This disclaimer:

> (1) if paid for and authorized by a candidate, and authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or
>
> (2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee.

2 U.S.C. 441d.

Two recent commercials advocating Vinich's election carried the disclaimer: "Paid for by the Democratic Senatorial Campaign Committee." See Exhibits 3 and 4. The DSCC is a political party committee. 11 C.F.R. 110.2(c)(2)(iii). Political party committees are prohibited from making independent expenditures. 11 C.F.R. 110.7(a)(5), (b)(4).

Accordingly, the disclaimer on these ads violates the Act. It is clear that the involvement of the Vinich campaign with these ads must be revealed to the public under the federal election laws. Either the Vinich campaign or the DSCC has violated the law. Vinich's reason for violating the law is self-evident from the campaign he has run. During the campaign, he effectively promised that he would not accept national Democrat money. By the airing of these ads he is breaking his promise.

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By failing to use the required disclaimer and violating 2 U.S.C. 441d, Vinich hopes to hide his broken promises to the people of Wyoming.

A second reason for Vinich's failure to disclose is that the ads unfairly distort the record of Vinich's opponent. By leaving his name off the disclaimer for approximately two weeks, perhaps Vinich is attempting to distance himself from the negative thrust of the ad, while still hoping that they do hurt his opponent.

The indifference of the Vinich campaign to compliance with federal election law on this matter was clearly displayed on October 21, 1988 when he brushed aside reporters' questions about the missing disclaimer, calling the issue "nitpicking." See Exhibit 5.

III. PRAYER FOR RELIEF

In order to rectify this situation and create a level playing field for the November 8, 1988 election, the FEC must act before the election. The only equitable remedy is for the FEC to require Vinich to pay the usual and normal charge for the labor union headquarters he is using and to require his campaign to admit publicly that they authorized the negative ads that are the subject of this Complaint.

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IV. VERIFICATION

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

Jann L. Olsten
Executive Director
National Republican Senatorial Committee
440 First Street, N.W.
Suite 600
Washington, D.C. 20001

Subscribed to and sworn to before me this 4 day of November 1988.

Notary Public

My Commission Expires:

July 14, 1992

9004030047739

EXHIBIT 1

(Attached)

0 4 0 3 0 1 7 4 0

United Steel Workers Of America
LOCAL - 13214
JOHN P. VINICH
U.S. SENATE
HEADQUARTERS

DEMOCRATIC SENATE CANDIDATE ADDRESSES

Following are the addresses of the three candidates (as of 6/16/88) seeking the Democratic nomination for the U.S. Senate.
Call them, write them, get involved in the campaign of your choice.
Call the State Party for updated information

PETER MAXFIELD FOR SENATE

Mailing address:	P.O. Box 370 Laramie, 82070
Headquarters:	211 Grand Avenue, Laramie
Campaign manager	Rick Frederick 742-5409
Press Secretary	Cynthia Chavez Kelly 742-5309
Field Director	Gene Ruckman 742-5434

LYNN SIMONS FOR SENATE

Mailing address:	P.O. Box 687 Cheyenne 82003
Headquarters:	2003 Central, Cheyenne 637-LYNN
Press Secretary	Erich Kirshner

JOHN VINICH FOR SENATE

Mailing address	P.O. Box 67 Hudson 82515; 332-9013
Campaign manager	Jim Roth
Cheyenne Headquarters	211 West 19th; 634-8752 County chair Halene Graves
Casper Headquarters	235 N. Wolcott 235-6500 County chair Sophie Irwin
Sweetwater Headquarters	720 2nd Street, Rock Springs 362-8514 County chair Raelynn Job

ITEMS FOR SALE FROM THE STATE OFFICE

We are pleased to offer the following items for sale. Please use form below.

Democrat on Board car window hangers. Red, white and blue with a Wyoming bucking horse motif. Each $1.

Cloisonné **Yellow Dog Democrat** lapel pins.Dark green with a yellow dog of course. Each $15.

Brass **Gov Ed** belt buckles. Features our popular former governor in profile with his signature. Each is numbered. **Special $25.**

Subscriptions to the ***Democratic Connection.*** Keep our newsletter coming to your door! $10 yearly.

The Connection will take advertising.

You can advertise your business, your candidate or yourself.

The *Connection* now reaches 1 in 3 Wyoming Democratic households.

Rates: Full page $250; Half page $175; quarter page $100; One eighth, $65; 1/16, $35. Payment for ads must come from an individual, campaign committee or PAC. State law prohibits us from taking corporate checks.

THE DEMOCRATIC CONNECTION NEEDS YOUR HELP

In order to keep the Connection coming to Wyoming Democrats, we are asking that you consider sending a $10. contribution for an annual subscription to help defray the many costs associated with putting out a quality newsletter.

So please, if you have not done so send your contribution to:

Wyoming Democratic Party
Box 1964
Casper, WY 82602

Return this form to Wyoming Democrats, Box 1964, Casper WY 82602

I am enclosing $_____ for the following:

#____Car hangers @ $1 #____Yellow Dog Democrat pins @ $15

#____Gov Ed belt buckles @ $25

#____Subscription to the ***Democratic Connection*** @ $10

Name _____

Address _____

City _____ ST ____ Zip _____

Check_____ Please charge to my ____Visa ____Mastercard

Number_____ Exp. date____/____

Signature_____

Phone (h)_____ Phone (o)_____

Pre-Gen[redacted]

EXHIBIT 2

SCHEDULE A — IT[redacted] RECEIPTS

Oct. 1 - Oct. 19, 1988

Use [illegible] schedules for [redacted] of the Dc[redacted]ary Pay

PAGE 1 OF 3

FEC LINE NUMBER 11(c)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (in Full)

John P. Vinich for U.S. Senate

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Sheet Metals Workers Int'l Assoc. 1750 New York Ave. N.W. Washington, D.C. 20006 Receipt For: [ ] Primary [X] General [ ] Other (specify):	Aggregate Year-to-Date $ 3,500.00	10-4-88	1,000.00
TBEW-COPE 1125 15th St. N.W. Washington, D.C. 20005 Receipt For: [ ] Primary [X] General [ ] Other (specify):	Aggregate Year-to-Date $ 2,500.00	10-4-88	2,500.00
Committee on Letter Carriers Political Education 100 Indiana Ave. NW. Washington, D.C. 20001 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Aggregate Year-to-Date $ 5,000.00	10-4-88	5,000.00
Committee on Political Action of the merican Postal Workers Union AFL-CIO 1300 L. St. N.W. Washington, D.C. 20005 Receipt For: [ ] Primary [X] General [ ] Other (specify):	Aggregate Year-to-Date $ 2,500.00	10-4-88	2,500.00
Carpenters Legislative Improvement Committee 101 Constitution Ave. N.W. Washington, D.C. 20001 Receipt For: [ ] Primary [X] General [ ] Other (specify):	Aggregate Year-to-Date $ 3,500.00	10-4-88	500.00
Senate Majority Fund 1211 Connecticut Ave., N.W. Suite 700 Washington, D.C. 20001 Receipt For: [ ] Primary [X] General [ ] Other (specify):	Aggregate Year-to-Date $ 5,000.00	10-5-88	5,000.00
Council for a Livable World 20 Park Plaza Boston, Mass. 02116 Receipt For: [ ] Primary [X] General [ ] Other (specify):	Aggregate Year-to-Date $ 600.00	10-5-88	"In Kind" See Line 17 600.00

SUBTOTAL of Receipts This Page (optional) 17,100.00

TOTAL This Period (last page this line number only) . . . . . .

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Pre-General

SCHEDULE A — ITEMIZED RECEIPTS

Oct. 1 - Oct. 19, 1988

PAGE 2 OF 3

FOR LINE NUMBER 11(c)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)
John P. Vinich for U.S. Senate

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Council for a Livable World 20 Park Plaza Boston, Mass. 02116 Receipt For: [ ] Primary [X] General [ ] Other (specify)	Occupation	10-5-88	4,400.00
	Aggregate Year-to-Date $ 5,000.00		
Drive Political Fund (Teamsters #307) 25 Louisiana Ave. N.W. Washington, D.C. 20001 Receipt For: [ ] Primary [X] General [ ] Other (specify)	Occupation	10-5-88	5,000.00
	Aggregate Year-to-Date $ 10,000.00		
Communications Workers of America COPE-PCC Local 7601 1929 K. St. N.W. Washington, D.C. 20006 Receipt For: [ ] Primary [X] General [ ] Other (specify)	Occupation	10-7-88	5,000.00
	Aggregate Year-to-Date $ 5,000.00		
Labors Investment in Voter Education ICWU Voluntary Live 1655 Market St. Akron, Ohio 44313 Receipt For: [ ] Primary [X] General [ ] Other (specify)	Occupation	10-7-88	200.00
	Aggregate Year-to-Date $ 200.00		
Responsible Citizens Political League 3 Research Place Rockville, MD. 20850 Receipt For: [ ] Primary [X] General [ ] Other (specify)	Occupation	10-13-88	500.00
	Aggregate Year-to-Date $ 1,000.00		
Seafarers Political Activity Donation 5201 Auth Way Camp Springs, MD. 20746 Receipt For: [ ] Primary [X] General [ ] Other (specify)	Occupation	10-13-88	5,000.00
	Aggregate Year-to-Date $ 5,000.00		
Committee on Letter Carriers Political Education 100 Indiana Ave. N.W. Washington, D.C. 20001 Receipt For: [ ] Primary [X] General [ ] Other (specify)	Occupation	10-13-88	5,000.00
	Aggregate Year-to-Date $ 5,000.00		

SUBTOTAL of Receipts This Page (optional) 25,100.00

TOTAL This Period (last page this line number only) .....

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John P. Vinich for U.S. Senate
P.O. Box 67
Hudson, Wyoming 82515
FEC ID Number C00221531

October 24, 1988

Secretary of the Senate
Office of Public Records
232 Hart Senate Office Building
Washington, D.C. 20510-7116

In accordance with FEC Regulation 104.5(f), the following receipts by the John P. Vinich for U.S. Senate Campaign Committee are hereby reported:

Contributed By	Date of Contribution	Amount
International Longshoreman and Warehouseman Union PAF 1188 Franklin St. San Francisco, CA. 94109	10-24-88	$1,000.00
Wyoming State Democratic Party P.O. Box 1964 Casper, WY. 82601	10-24-88	$5,000.00
Carpenters Legislative Improvement Committee 101 Constitution Ave. N.W. Washington, D.C. 20001	10-24-88	$1,000.00
Committee on Letter Carriers Political Education 100 Indiana Ave. N.W. Washington, D.C. 20001	10-24-88	$5,000.00
American Federation of Teachers COPE #2 555 New Jersey Ave. N.W. Washington, D.C. 20001	10-24-88	$5,000.00
Federal Express Political Action Committee 2005 Corporate Ave. Memphis, TN. 38132	10-24-88	$1,000.00

Respectfully Submitted,

Mabel R. Vinich

Mabel R. Vinich
Treasurer

RECEIVED
'88 OCT 25 AM 9:
SECRETARY OF STATE

cc: Secretary of State, Wyoming

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EXHIBIT 5

Wyoming State Tribune 10/22/88

Vinich: 'Liberal' Label Means Wallop Campaign Is Desperate

10/22/88 WST

John Vinich, the Democratic contender for Malcolm Wallop's U.S. Senate seat, said Friday that Wallop continues his effort to brand Vinich as a "liberal" because the Wallop campaign is desperate.

Vinich, in a Cheyenne news conference, responded to Wallop's endorsement from the National Rifle Association, Wallop's accusations about Vinich campaign commercials and the letters Wallop has sent out to Wyoming's senior citizens.

Vinich said Wallop is trying to divide the voters by playing up the liberal tag.

"He'll do anything he can to divide our people," Vinich said. "He hopes that by dividing our people he can slide through the cracks and win an election to a third term."

Vinich was asked to comment on Wallop's claim that some Vinich commercials were financed by the Democratic Senatorial Committee without the disclaimer required by the Federal Election Commission. Vinich said Wallop was nitpicking.

"Senator Wallop should go to the FEC and file his complaint," Vinich said. "Let him hire an attorney and go to work on it."

Vinich said Wallop has the worst voting record on senior-citizen issues of anyone in the Senate, yet he has sent mailers to Wyoming's elderly to show how great he is for them.

Vinich said the NRA endorsed Wallop in Cheyenne Friday only because it endorses incumbents as a general rule.

Vinich noted that he has an A-plus rating from the NRA, that he is a card-carrying member of that group and that he has hunted and fished all his life along the Wind River.

Vinich said he looks forward to Wednesday's debate with Wallop, to be broadcast to much of the state on K2 Television.

"On Oct. 26, we'll be face-to-face and we'll see what he has to say," Vinich commented.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1988

SPECIAL DELIVERY

Mr. Jack L. Dieter
Executive Director
National Republican Senatorial
Committee
[illegible] First Street, NW
Suite [illegible]
Washington, DC 20001

RE: MUR [illegible]

Dear Mr. Dieter:

[illegible]

Sincerely,

[illegible]

[illegible]

[illegible]

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1988

SPECIAL DELIVERY

Macie F. [illegible], Treasurer
John F. [illegible] For US
Senate Committee
[illegible]
[illegible], [illegible] 22015

RE: MUR 2771
John F. Vinich For US
Senate Committee and
Macel F. Vinich, as
Treasurer

Dear Ms. [illegible]:

[illegible]

[illegible]

[illegible]

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 Phillip Wise at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope
Form

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1988

SPECIAL DELIVERY

Mr. John F. Vinich
PO Box 67
Hudson, WY 82515

RE: MUR 2771
John F. Vinich

Dear Mr. Vinich:

This letter is to notify you that on November 4, 1988, the Federal Election Commission received a complaint which alleges that you 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 2771. Please refer to this number in all future correspondence.

[illegible]

[illegible]

[illegible]

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 Phillip Wise at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope
Form

90040804751

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1988

SPECIAL DELIVERY

Democratic Senatorial Campaign
Committee
[illegible] S. Capitol Street, SE
Washington, DC 20003

RE: MUR 2771
Democratic Senatorial
Campaign Committee

Gentlemen:

This letter is to notify you that on November 4, 1988, the Federal Election Commission received a complaint which alleges that the Democratic Senatorial Campaign Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended. [illegible]

[illegible]

[illegible]

[

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 Phillip Wise at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Brochure
Form

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1988

SPECIAL DELIVERY

United Steelworkers Of
America Political Action Fund
815 Providence Building
Duluth, MN 55802

RE: MUR 2771
United Steelworkers Of
America Political
Action Fund

Gentlemen:

[illegible]

[illegible]

[illegible]

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 Phillip Wise at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope
Form

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1988

SPECIAL DELIVERY

Committee On Letter Carriers
Political Education
100 Indiana Avenue, NW
Washington, DC 20001

RE: MUR 2771
Committee On Letter
Carriers Political
Education

Gentlemen:

[illegible]

[illegible]

[illegible]

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 Phillip Wise at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosures
Complaint
Procedures
Envelope
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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
88 NOV -9 AM 11:43

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

SENSITIVE

EXPEDITED FIRST GENERAL COUNSEL'S REPORT

MUR 2771
Date Complaint Received by OGC: November 4, 1988
Date of Notification to Respondents: November 7, 1988
Staff: Phillip L. Wise

COMPLAINANT: Jann L. Olsten
National Republican Senatorial Committee

RESPONDENTS: John P. Vinich
John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer
Democratic Senatorial Campaign Committee
Committee on Letter Carriers Political Education
United Steelworkers of America Political Action Fund

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. SUMMARY OF ALLEGATIONS

A complaint was received from the Executive Director of the National Republican Senatorial Committee, alleging that John P. Vinich, and John P. Vinich for U.S. Senate Committee (the "Committee") and Mabel L. Vinich, as treasurer, accepted illegal contributions from labor unions and failed to report said contributions; that the Committee accepted excessive contributions from political action committees ("PAC's"); and that two television ads paid for by the Democratic Senatorial Campaign Committee, benefitting Mr. Vinich's candidacy, lacked proper disclaimer identifying Vinich's link to the commercials.

II. PRELIMINARY LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441b(a) it is unlawful for any labor organizations to make a contribution or expenditure in connection with any federal election or for any political committee knowingly to accept or receive any contributions prohibited by this section.

Pursuant to 2 U.S.C. § 441a(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed $5,000.00.

Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section.

Pursuant to 2 U.S.C. § 441d(2) communications expressly advocating the election or defeat of a clearly identified candidate if paid for by another but authorized by the candidate, an authorized political committee, or its agents, shall clearly state that the communication is paid for by such other person, and authorized by the candidate or candidate's authorized committee.

A preliminary review of the reports filed by the Committee, and the information furnished by the Complainant reveals that various violation of the Act, as referenced above, may have occurred. Before this Office makes any recommendations in this

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matter it appears necessary to await the respondents' responses, and a more detailed review of the filed reports.

Lawrence M. Noble
General Counsel

Date 11/8/88

By: Lois G. Lerner
Associate General Counsel

90040304760

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MWE MARJORIE W. EMMONS/JOSHUA MCFADDEN JM

DATE: NOVEMBER 10, 1988

SUBJECT: MUR 2771
FIRST GENERAL COUNSEL'S REPORT
SIGNED NOVEMBER 8, 1988

The above-captioned report was received in the Secretariat at 11:43 a.m. on Wednesday, November 9, 1988 and circulated to the Commission on an expedited no-objection basis at 12:00 p.m. on Wednesday, November 9, 1988.

There were no objections to the report.

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RECEIVED
FEDERAL ELECTION COMMISSION
88 NOV 14 AM 11:23

COHEN, WEISS AND SIMON
COUNSELLORS AT LAW
330 WEST 42ND STREET
NEW YORK, N.Y. 10036-6901

(212) 563-4100
TELECOPIER (212) 695-5436

BRUCE H. SIMON
STANLEY M. BERMAN
ROBERT S. SAVELSON
STEPHEN B. MOLDOF
MICHAEL E. ABRAM
KEITH E. SECULAR
RICHARD N. GILBERG
PETER HERMAN
RICHARD M. SELTZER
JAMES L. LINSEY

BABETTE CECCOTTI
ANN E. O'SHEA
CHRISTOPHER N. SOURIS
JOHN S. BISHOP, II
STEPHEN PRESSER
SOPHIA E. DAVIS
MARGARET CARY
MARY E. VOGEL*
MICHAEL WINSTON

*D.C. ONLY

COUNSEL
HENRY WEISS
SAMUEL J. COHEN

November 10, 1988

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2771

Dear Mr. Noble:

This office is counsel to the Committee on Letter Carriers Political Education ("COLCPE"), a separate segregated fund established by the National Association of Letter Carriers, AFL-CIO. This letter constitutes COLCPE's response to your letter dated November 7, 1988, transmitting a copy of the complaint in the above matter. This letter was received by COLCPE on November 9, 1988. A duly executed statement by COLCPE designating us as counsel in this matter is enclosed.

The complaint alleges that COLCPE made contributions to candidate John P. Vinich's campaign in Wyoming for the United States Senate which totalled $15,000 thereby exceeding the monetary ceiling for contributions with respect to any election for federal office provided by the Federal Election Campaign Act, 2 U.S.C. §441a(a)(2)(A).

Our preliminary investigation of the facts indicates that the following took place. COLCPE did send three checks, for $5,000 each, to the "John P. Vinich for U.S. Senate" committee. The first check, dated September 27, 1988, was specifically designated for the retirement of debt incurred by the Vinich campaign in connection with the 1988 Democratic primary election. I enclose a photocopy of the check and check stub which confirms this designation. (Attachment 1). COLCPE also specifically designated this contribution as "Debt Retirement" in its October 20 monthly report to the Commission. (Attachment 2).

On or about October 5, 1988, COLCPE prepared and transmitted to the Vinich campaign a check for $5,000, designated for the 1988 general election. (Attachment 3). Since this was the first

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2 7 6 3 0 4 0 0 0 0

contribution by COLCPE to the Vinich campaign in connection with the general election, it did not exceed the statutory limit.

On or about October 12, 1988, COLCPE prepared and transmitted to the Vinich campaign a second $5,000 check designated for the 1988 general election. (Attachment 4). The preparation and transmittal of this check represented an inadvertent, clerical error. At the time the check was cut, the October 5 check had not been posted in the computer which COLCPE uses to keep track of its contributions.

On or about November 1, 1988, the Vinich campaign informed COLCPE by telephone that it had exceeded the contribution limit. By letter dated November 3, 1988, the Vinich campaign sent COLCPE a refund check in the amount of $5,000. (Attachment 5). This refund will be deposited in COLCPE's account and reported to the Commission in COLCPE's post-election report.

Finally, please be advised that COLCPE has taken appropriate steps to ensure that mistakes like the one that occurred here are not repeated. Under the procedure in effect in October, COLCPE checks were typed by hand by one group of employees and posted in the computer at a later time by a separate group of employees. Henceforth, all COLCPE checks will be prepared on the computer and posted automatically at the same time.

Based on the foregoing, COLCPE respectfully requests that the Commission take no action against it. It the Commission decides to proceed further, COLCPE requests the opportunity to enter into voluntary conciliation.

Please feel free to contact me if we can be of any further assistance.

Sincerely yours,

Keith E. Secular

KES/brd

2004030047763

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2771

NAME OF COUNSEL: Keith E. Secular, Esq.

ADDRESS: Cohen, Weiss and Simon
330 West 42nd Street
New York, NY 10036-6901

TELEPHONE: (212) 563-4100

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

Walter E. Coulard
Signature National Director, COLCPE

RESPONDENT'S NAME: COLCPE

ADDRESS: 100 Indiana Avenue, NW
Washington, D.C. 20001

HOME PHONE: N/A

BUSINESS PHONE: (202) 662-2878

9 1 0 4 0 3 0 4 7 5 4

COMMITTEE ON LETTER CARRIERS POLITICAL EDUCATION
100 INDIANA AVE., N.W.
WASHINGTON, D.C. 20001

FEC # C-0023580

NS&T BANK
WASHINGTON, D.C.

15-52
540

No. 005142

DATE 9/27/88

FIVE THOUSAND DOLLARS AND 00/100ths

AMOUNT
$5,000.00

PAY TO THE ORDER OF
John P. Vinich for U.S. Senate
PO Box 67
Hudson, WY 82515

NATIONAL DIRECTOR

NOT NEGOTIABLE

NATIONAL SECRETARY TREASURER OR MEMBER

COMMITTEE ON LETTER CARRIERS POLITICAL EDUCATION
100 INDIANA AVE., N.W. • WASHINGTON, D.C. 20001

Phone:
(202) 393-3695

The attached check is in payment of items described below
If not correct, please notify us promptly. No receipt desired

DATE	DESCRIPTION	AMOUNT
9/27/88	John P. Vinich for U.S. Senate WY61.7102.DET	$5,000.00
	[ ] GENERAL ELECTION [ ] PRIMARY ELECTION '88 [X] DEBT RETIREMENT [ ] OTHER	

4 0 3 0 1 7 5

ATTACHMENT 1

For Other Than An Authorized Committee
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1 [illegible] 23377
FLORENCE JOHNSON
COMMITTEE ON LETTER CARRIERS P
OLITICAL EDUCATION (LETTER CA
100 INDIANA AVE., N. W.
WASHINGTON DC 20001

2 FEC IDENTIFICATION NUMBER
C-0023580

3 [ ] This committee qualified as a multicandidate committee DURING THIS Reporting Period on _____ (date)

4. TYPE OF REPORT

(a) [ ] April 15 Quarterly Report
[ ] July 15 Quarterly Report
[ ] October 15 Quarterly Report
[ ] January 31 Year End Report
[ ] July 31 Mid Year Report (Non-election Year Only)
[ ] Termination Report

Monthly Report Due On
[ ] February 20 [ ] June 20 [X] October 20
[ ] March 20 [ ] July 20 [ ] November 20
[ ] April 20 [ ] August 20 [ ] December 20
[ ] May 20 [ ] September 20 [ ] January 31

[ ] Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____

[ ] Thirtieth day report following the General Election on _____ in the State of _____

(b) Is this Report an Amendment? [ ] YES [X] NO

SUMMARY

		COLUMN A This Period	COLUMN B Calendar Year-to-Date
5	Covering Period 9/1/88 through 9/30/88		
6	(a) Cash on Hand January 1, 1988		$ 499,583.73
	(b) Cash on Hand at Beginning of Reporting Period	$ 879,726.32	
	(c) Total Receipts (from Line 18)	$ 43,433.40	$1,368,268.99
	(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	$ 923,159.72	$1,867,852.72
7	Total Disbursements (from Line 28)	$ 428,799.33	$1,373,492.33
8	Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	$ 494,360.39	$ 494,360.39
9	Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	$ -0-	
10	Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	$ -0-	

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-376-3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete

Type or Print Name of Treasurer
FLORENCE M. JOHNSON

Signature of Treasurer: Florence M. Johnson

Date: 10/19/88

NOTE Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

FEC FORM 3X
(revised 4/87)

ATTACHMENT 2

90040030417756

SCHEDULE B ITEMIZED DISBURSEMENTS

Schedule(s) Category of the Detailed Summary Page

PAGE 15 OF 16

FOR LINE NUMBER 21

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (in Full)

COMMITTEE ON LETTER CARRIERS POLITICAL EDUCATION

Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
A. 05140 Pallone for Congress 540 Broadway, Room 190 Long Branch, NJ 07740	Contribution Disbursement for [ ] Primary [X] General [ ] Other (specify)	9/27/88	$ 5,000.00
B. 05141 Eric Tabor for Congress Committee PO Box 2052 Cedar Rapids, IA 52406	Contribution Disbursement for [ ] Primary [X] General [ ] Other (specify)	9/27/88	$ 5,000.00
C. 05142 John P. Vinich for U.S. Senate PO Box 67 Hudson, WY 82515	Contribution Disbursement for [ ] Primary [ ] General [X] Other (specify) Debt Retirement	9/27/88	$ 5,000.00
D. 05143 Impact 2,000 555 New Jersey Ave., N.W., #265 Washington, DC 20001	Contribution Disbursement for [ ] Primary [ ] General [X] Other (specify)	9/27/88	$ 5,000.00
E. 05144 Montana State AFL-CIO Cope PO Box 1176 Helena, MT 59624	Contribution Disbursement for [ ] Primary [ ] General [X] Other (specify)	9/27/88	$ 2,500.00
F. 05145 Idaho State Democ. Party - Fed Acct PO Box 445 Boise, ID 83701	Contribution Disbursement for [ ] Primary [ ] General [X] Other (specify)	9/27/88	$ 5,000.00
G. 05146 Victory '88 430 South Capitol St., S.E. Washington, DC 20003	Contribution Disbursement for [ ] Primary [ ] General [X] Other (specify)	9/27/88	$ 1,000.00
H. 05147 Dan Burton for Congress Committee Box 50593 Indianapolis, IN 46250	Contribution Disbursement for [ ] Primary [X] General [ ] Other (specify)	9/27/88	$ 3,500.00
I. 05148 Valley Education Fund PO Box 1188 Washington, DC 20012	Contribution Disbursement for [ ] Primary [ ] General [X] Other (specify)	9/27/88	$ 5,000.00

SUBTOTAL of Disbursements This Page (optional) .....

TOTAL This Period (last page this line number only) .....

P 1 J 4 0 3 0 4 7 6 7

COMMITTEE ON LETTER [redacted]ERS POLITICAL EDUCATION
100 INDIA[redacted] AVE., N.W.
WASHINGTON, D.C. 20001

FEC # C-0023580

NS& [redacted]
WASHING[redacted]

15-52
540

No. 005168

DATE 10/5/88

AMOUNT
$5,000.00

FIVE THOUSAND DOLLARS AND 00/100ths

PAY
TO THE
ORDER OF

John P. Vinich for U.S. Senate
PO Box 67
Hudson, WY 82515

NATIONAL DIRECTOR

NOT NEGOTIABLE

NATIONAL SECRETARY TREASURER OR MEMBER

COMMITTEE ON LETTER CARRIERS POLITICAL EDUCATION
100 INDIANA AVE., N.W • WASHINGTON, D C 20001

Phone
(202) 393-3695

The attached check is in payment of items described below
If not correct, please notify us promptly No receipt desired

DATE	DESCRIPTION	AMOUNT
10/5/88	John P. Vinich for U.S. Senate SYS1.7102.GEN	$5,000.00
	[X] GENERAL ELECTION '88 [ ] PRIMARY ELECTION [ ] DEBT RETIREMENT [ ] OTHER	

ATTACHMENT 3

COMMITTEE ON LETTER CARRIERS POLITICAL EDUCATION
100 INDIANA AVE., N.W.
WASHINGTON, D.C. 20001

FEC # C-00235580

NS&T BANK
WASHINGTON, D.C.

15-52
540

No. 005236

DATE 10/12/88

AMOUNT
$5,000.00

FIVE THOUSAND DOLLARS AND 00/100ths

PAY TO THE ORDER OF

John Vinich for Senate
PO Box 67
Hudson, WY 82515

NATIONAL DIRECTOR

NOT NEGOTIABLE

NATIONAL SECRETARY TREASURER OR MEMBER

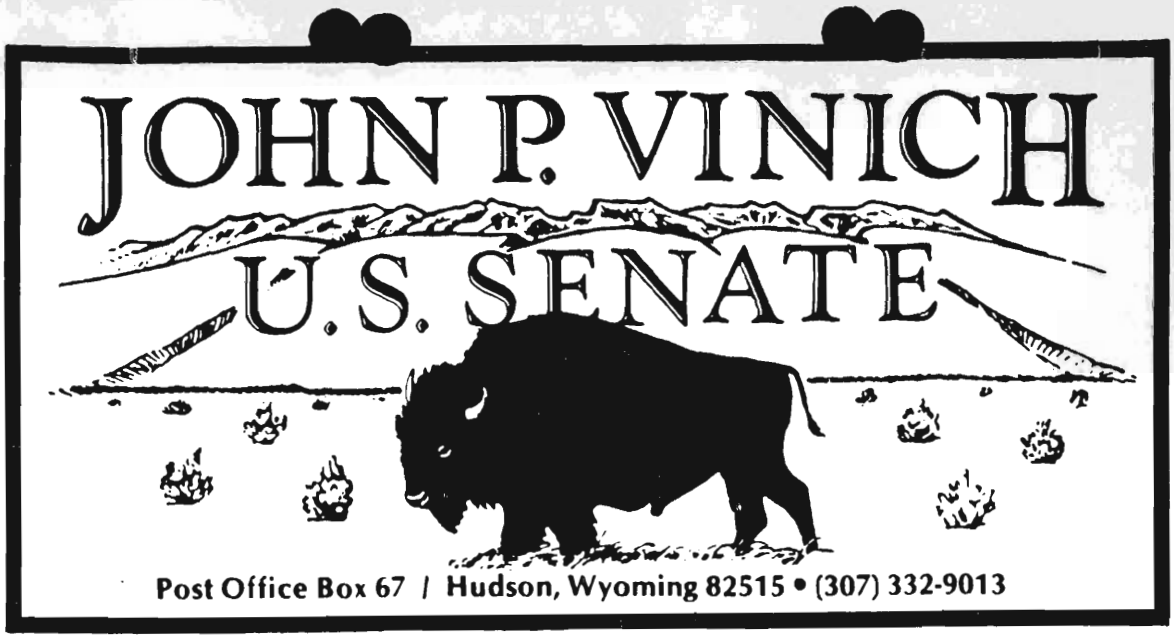
COMMITTEE ON LETTER CARRIERS POLITICAL EDUCATION
100 INDIANA AVE., N.W. • WASHINGTON, D.C. 20001

Phone
(202) 393-3695

The attached check is in payment of items described below
If not correct, please notify us promptly. No receipt desired

DATE	DESCRIPTION	AMOUNT
10/12/88	John Vinich for Senate WYS1.7102.GEN X GENERAL ELECTION '88 PRIMARY ELECTION DEBT RETIREMENT OTHER	$5,000.00

ATTACHMENT 4



November 3, 1988

Mr. George B. Gould
Committee on Letter Carriers
Political Education
100 Indiana Ave. N.W.
Washington, D.C. 20001

Dear Mr. Gould:

Enclosed is our check No. 1430 in the sum of $5,000.00. This represents the amout of your contributions in excess of $10,000.00.

We certainly do appreciate the contributions by your organization. Thank you very much.

Sincerely,

Mabel R. Vinich

Mabel R. Vinich
Treasurer

ATTACHMENT 5

Contributions not tax deductible. • Designed, produced and printed in Wyoming.
Words & Pictures

.nich

Wyoming 82515

RETURN RECEIPT
REQUESTED

P 246 425 358

HUDSON, WY
NOV
3
PM
1988
82515

Bernard Revel

Bernard Revel

Mr. George B. Gould
Committee on Letter Carriers
Political Education
100 Indiana Ave. N.W.
Washington, D.C. 20001

9 0 0 4 0 3 0 4 7 7 1

JOHN P. VINICH FOR U. S. SENATE 1430
P. O. BOX 67 332-9013
HUDSON, WY 82515

99-39/1023

Nov 3 1988

PAY TO THE ORDER OF Committee on Letters Political Education $ 5000.00

Five Thousand and no/100 DOLLARS

FIRST WYOMING BANK - Lander 307 332-4212
303 Main Street Lander Wyoming 82520

FOR Return of Contribution in excess of $5000 Mabel P. Vinich

⑈001430⑈ ⑆102300394⑆ 50 072 6⑈

P 040301772

Vinich

Wyoming 82515

RETURN RECEIPT
REQUESTED

CERTIFIED
P 246 425 358
MAIL

HUDSON, WY
NOV
3
PM
1988
82515

Bernard Revel
USA $1

Bernard Revel
USA $1

Mr. George B. Gould
Committee on Letter Carriers
Political Education
100 Indiana Ave. N.W.
Washington, D.C. 20001

OGC 1140

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

United Steelworkers of America

AFL-CIO-CLC

88 NOV 22 AM 9:11

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

November 17, 1988

88 NOV 22 AM 10:18

RECEIVED
FEDERAL ELECTION COMMISSION

Lawrence M. Noble, General Counsel
Lois G. Lerner, Associate General Counsel
Federal Election Commission
999 E. Street NW
Washington , D.C. 20463

Attention: Phillip Wise

Re: John P. Vinich for US Senate Committee
FEC MUR 2771
(Complaint by National Republican Senatorial Committee)

Dear Mr. Wise:

Please enter my appearance on behalf of the United Steelworkers of America Political Action Fund in the above-referenced matter.

On November 17, 1988, I received a copy of the FEC's notification of this matter which had been addressed to the United Steelworkers of America Political Action Fund at 609 Providence Building in Duluth, Minnesota. Apparently it was received in that office in Duluth on November 10, 1988. The United Steelworkers of America Political Action Fund, however, is headquartered at Five Gateway Center, Pittsburgh, Pennsylvania. You will be receiving, through separate mail, a statement of designation of counsel from the Treasurer of the USWA Political Action Fund.

In light of the fact that I did not receive the FEC General Counsel's notification until November 17th, I request that the time for submission by the United Steelworkers of America Political Action Fund of its response to the complaint in this matter be extended to December 1, 1988.

I also request that any inquiries for information, notices or other communications from the FEC to the United Steelworkers of America Political Action Fund regarding this matter be directed to me.

Very truly yours,

William H. Schmelling
Assistant General Counsel

WHS/hlr

PRINTED IN U.S.A.

40301773

OGC 1166

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 NOV 25 AM 10: 21

STA[redacted] OF DESIGNATION OF CO[redacted]

MUR 2771

NAME OF COUNSEL: William H. Schmelling

ADDRESS: Assistant General Counsel, USWA

One East Wacker Drive, Suite 1910

Chicago, Illinois 60601

TELEPHONE: (312) 467-1995

88 NOV 25 PM 1: 15

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

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.

11/23/88
Date

James N. McGeehan
Signature
James N. McGeehan, Treasurer-United Steelworkers of America Political Action Fund

RESPONDENT'S NAME: United Steelworkers of America Political Action Fund

ADDRESS: Five Gateway Center

Pittsburgh, PA. 15222*

HOME PHONE:

BUSINESS PHONE: (412) 562-2400

* The FEC's initial notification of this MUR was addressed to the respondent at 609 Providence Building, Duluth, MN. 55802

9004030477 4

UNITED STEELWORKERS OF AMERICA
ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

LEGAL DEPARTMENT

November 17, 1988

TO: James N. McGeehan

FROM: William H. Schmelling

SUBJECT: John P. Vinich for US Senate Committee
FEC MUR 2771
(Complaint by National Republican Committee)

The National Republican Senatorial Committee has filed a complaint with the Federal Election Commission concerning the use by the comittee for John P. Vinich, Demoratic candidate for U.S. Senate from Wyoming, of part of USWA 13214's building for a campaign office.

In fact, however, the use by candidate Vinich's campaign of that office was pursuant to a written lease which requires the campaign committee to pay the usual and normal charge for the use of that space and any related equipment.

A copy of my appearance letter is enclosed. In order for me to represent the USWA PAC in this matter, a statement of designation of counsel must be submitted to the Federal Election Commission.

Enclosed, please find such a statement of designation of counsel which I request that you sign and mail directly to the FEC in the enclosed envelope.

WHS/hlr

cc: Leon Lynch
Eldon Kirsch
Bernard Kleiman
Carl B. Frankel
Stan Loader
Sam Dawson

9004020775

OGC #1234

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 DEC -1 AM 11:09

United Steelworkers of America

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

November 30, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
88 DEC -1 PM 1:05

VIA EXPRESS MAIL

Lawrence M. Noble, General Counsel
Lois G. Lerner, Associate General Counsel
Federal Election Commission
999 E. Street NW
Washington, D.C. 20463

Attention: Phillip Wise

Re: John P. Vinich for US Senate Committee
FEC **MUR 2771**
(Complaint by National Republican Senatorial Committee)

Dear Mr. Wise:

It is my understanding that the FEC's Statement of Destination of Counsel Form, designating me as counsel for the United Steelworkers of America Political Action Fund in the above-referenced case, was mailed to your office on or about November 23, 1988. Thank you for informing me that the request which I made in my November 17, 1988 letter to you to extend the time for responding by the United Steelworkers of America Political Action Fund to the complaint in this case until December 1, 1988 was granted.

This is an initial response by the United Steelworkers of America Political Action Fund ("USWA PAC") to a notification from the Federal Election Commission that a complaint had been filed alleging violation of the Federal Election Campaign Act ("FECA") by the USWA PAC in relation to the use by the campaign of John P. Vinich of office space in a USWA building located in Rock Springs, Wyoming. Mr. Vinich was a candidate from Wyoming for the United States Senate in the November 8, 1988 election.

The charge, filed by the National Republican Senatorial Committee, a copy of which was enclosed with the FEC's November 7, 1988 notification, is totally without foundation in fact and has no basis under the law.

PRINTED IN U.S.A.

The use by the Vinich Campaign of one room in the basement of a hall owned by United Steelworkers of America, Local Union 13214 for the period from August 1 to November 9, 1988, was pursuant to a lease agreement entered into by USWA Local Union 13214 and Vinich For Senate Campaign Committee. A copy of that lease agreement is enclosed.

Please note that in the sixth paragraph of that lease agreement, USWA Local Union 13214 agreed "to invoice the [Vinich For Senate Campaign] Committee for the actual use of the facilities and equipment . . . in an amount based on the normal and usual rental charge for such facilities and equipment . . ." USWA Local Union 13214, in fact, has submitted a bill to the Vinich For Senate Campaign Committee. A copy of that billing statement is enclosed. Although USWA Local Union 13214 has a policy of allowing community service groups, religious groups and other non-profit organizations to use its union hall without any charge, a monthly rental rate of $50.00 was charged to the Vinich Campaign for its use of the one office room covered by the lease. That rate was based on the fact that USWA Local Union 13214 leases a two-room office suite to another tenant at the rate of $100.00 per month.

With regard to the use by the Vinich Campaign of telephones in its rented space within USWA 13214's hall, the Vinich Campaign had the telephone company reactivate a long existing jack within its rented office and made arrangements for the installation of its own telephone. It is our understanding that charges for such reactivation of the long existing telephone jack and for the use by the Vinich Campaign of that telephone have been or will be billed directly by the telephone company to the Vinich Campaign.

To the extent that volunteers or employees of the Vinich For Senate Campaign Committee used the telephones which ordinarily are used by USWA Local Union 13214 or the International Union of the United Steelworkers of America, when the billing statements from the telephone company for the months in question are received, those bills will be pro-rated based on the actual use by Vinich Campaign workers of such telephones and the Vinich Campaign will be billed for such use of USWA telephones and any related use by the Vinich Campaign of facilities within the hall outside of the office space rented to the Vinich Campaign.

9 9 4 0 3 0 4 7 7 7

Clearly, the above described arrangements in no way violate Section 441b(b) or any other provision of the Federal Election Campaign Act. Please contact me immediately if the above summarized description of the situation is not clear or if you require any additional information or documents from the USWA PAC.

Based on the actual facts as described in this letter and as evidenced by the enclosures, the USWA PAC requests that the General Counsel of the FEC recommend to the Commission that it find no reason to believe that there has been a violation of the FECA by the USWA PAC and that, accordingly, the complaint in this matter be dismissed.

Very truly yours,

William H. Schmelling

William H. Schmelling
Assistant General Counsel

WHS/hlr

cc: Lois G. Lerner, Associate General Counsel, FEC

9 0 4 0 3 0 1 7 7 8

UNITED STEELWORKERS OF AMERICA
AFL - CIO - CLC
LOCAL UNION 13214
POST OFFICE BOX 1315
ROCK SPRINGS, WYOMING 82901

November 18, 1988

Vinich for U.S. Senate
Campaign Committee
P.O. Box 67
Hudson, Wyoming 82515

Statement for use of Union Hall facilities, 720 - 2nd. St., Rock Springs, Wyoming, 82901, for period of 3 months, 9 days @ $50.00 per month, beginning August 1, 1988 and ended November 9, 1988.

Total due - - - - - - - $164.50

United Steelworkers of America
c/o Patrick T. Dock, Financial Secretary
1414 Elisabeth Way
Rock Springs, Wyoming 82901

9 7 7 7 0 0 4 0

AGREEME[illegible] THE USE OF LABOR ORGANIZ[illegible]
FACILITIES AND EQUIPMENT

1- The John P. Vinich for U.S. Senate Campaign Committee ("Committee") and USWA, Local Union 13214 ("labor organization") agree this 1st day of August, 1988 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2- Dates of use: From August 1, 1988 to November 9, 1988. ($50.00 per month)

3- Location of facilities to be used: 720 2nd Street, Rock Springs, Wyoming.

4- Description of facilities and equipment:

One room in the basement of the Union Hall, bathroom facilities, and periodic use of the main room upstairs.

5- Other (e.q., supplies, services): Periodic Use Of Telephone

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, at Post Office Box 67 - Hudson, Wyoming. 82515.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time. (60 to 90 days)

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

Signed:

Patrick R. Doak

Patrick R. Doak
Financial Secretary
Local Union 13214
USWA

Mabel R. Vinich Treasurer

Vinich For U.S. Senate
Campaign Committee
P.O. Box 67
Hudson, Wyoming. 82515

00040304780

00C 1264
RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
88 DEC -2 PM 3:05

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

December 2, 1988

88 DEC -5 AM 4:26
RECEIVED
FEDERAL ELECTION COMMISSION

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

Re: MUR 2771 - John Vinich for U.S. Senate Committee and Mabel Vinich, as Treasurer

Dear Ms Lerner:

Pursuant to our telephone conversation yesterday, this letter requests an extension of time to prepare a response to the notification by the Commission that a complaint had been filed against the above-referenced committee.

Due to the confusion immediately following the general election in Wyoming, this matter was only recently brought to our attention with a request that we prepare a response. The Wyoming election was an extremely close race, and during the period immediately following the election it was anticipated that a recount would be required. The Vinich campaign consisted solely of four individuals, all of whom were totally preoccupied by the effort to win the election. In the resulting confusion, it was not made clear that we would be asked to respond to this complaint. We have since clarified the matter and will be preparing a response. We have requested the necessary Designation of Counsel from the Vinich campaign and will forward it to you as soon as it is received.

It is, however, necessary for us to obtain certain factual information from members of the Vinich campaign. This will require an additional period of time. We request that the date for filing a response to the Commission's notification be set at Monday, December 12. This should allow us adequate time to collect the information necessary to prepare a response.

9 0 4 0 2 7 3 1

TELEX: 44-0277 PCSO UT • FACSIMILE (202) 223-2088
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

88 DEC -2 PM 3:05

I appreciate your understanding in this matter. If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

0484E

9 0 4 0 3 0 1 7 3 2

plm

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 9, 1988

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

RE: MUR 2771
Democratic Senatorial
Campaign Committee

John Vinich for U.S.
Senate Committee
and Mabel Vinich, as
treasurer

Dear Ms. Corley:

This is in response to your letter dated December 2, 1988, which we received on December 2, 1988, requesting an extension to respond to a complaint filed against your clients. 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 12, 1988.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois C. Lerner
Associate General Counsel

9004017733

06C 1296

PERKINS COIE

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

RECEIVED
FEDERAL ELECTION COMMISSION
88 DEC -7 PM 3:43

December 6, 1988

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

Re: MUR 2771 - Democratic Senatorial Campaign Committee

Dear Mr. Wise:

Thank you for providing me with a copy of the materials sent to the Democratic Senatorial Campaign Committee ("DSCC") in connection with MUR 2771. As I mentioned to you on the phone, DSCC was unaware that it had been named as a Respondent in this matter until our conversation.

Enclosed is a Designation of Counsel for this matter. Due to the fact that DSCC was unaware of its status as respondent until so recently, DSCC requests an extension of time within which it may respond to the notification that a Complaint was filed against it until Monday, December 12.

I have also enclosed a Designation of Counsel for the same matter from the John Vinich for U.S. Senate Committee.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Respondents

0497E

9 0 3 0 4 7 8 4

TELEX 440277 PCSO UI • FACSIMILE (202) 223-2088
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2771

NAME OF COUNSEL: Robert F. Bauer/Judith L. Corley

ADDRESS: Perkins Coie
1110 Vermont Ave., N.W., #1200
Washington, D.C. 20005

TELEPHONE: 202/887-9030

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.

12/7/88
Date

Albert McGuire
Signature
Albert McGuire
Executive Director

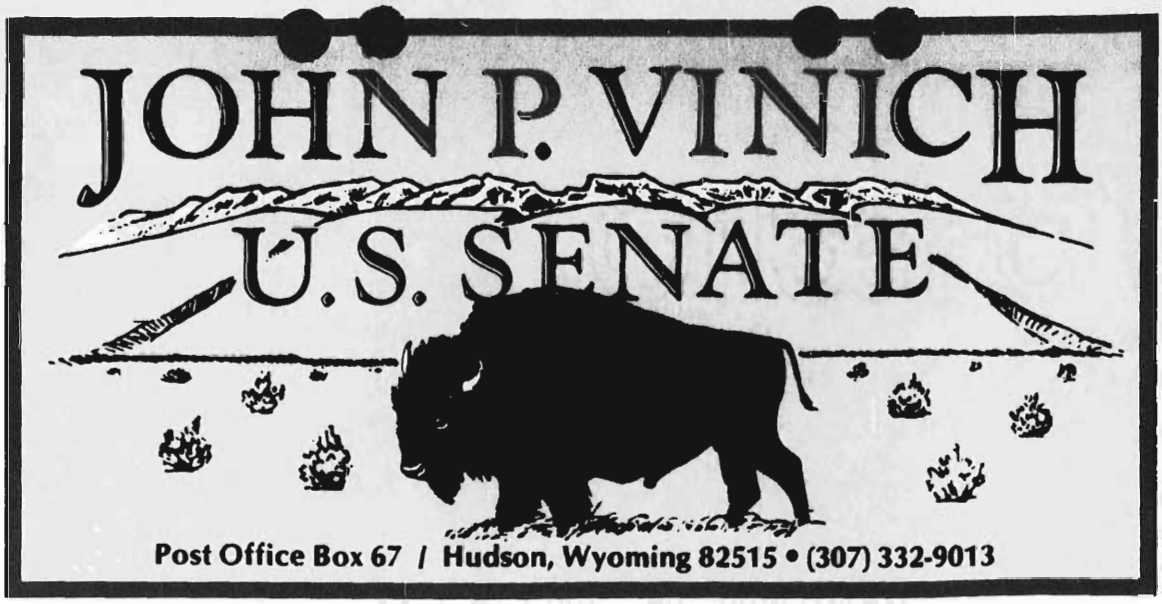
RESPONDENT'S NAME: Democratic Senatorial Campaign Committee

ADDRESS: 430 S. Capitol Street, S.E.
Washington, D.C. 20003

HOME PHONE:

BUSINESS PHONE: 202/224-2447

11040501735



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

Re: MUR 2771

Gentlemen:

We designate the following law firm to represent us in the matter of MUR 2771:

Robert F. Bauer and Judith L. Corley
Attorneys in law firm of Perkins & Coie
1110 Vermont Avenue NW, Suite 1200
Washington, D.C. 20005

The above law firm is authorized to receive documents from the Federal Election Commission.

Very truly yours,

John P. Vinich for U.S. Senate

By: Mabel R. Vinich
Mabel R. Vinich, Treasurer

GCIU

Contributions not tax deductible • Designed, produced and printed in Wyoming.
Paid for and authorized by the John P. Vinich for US Senate Committee.

Words & Pictures Advertising

06C 1332

PERKINS COIE

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

RECEIVED
FEDERAL ELECTION COMMISSION
88 DEC 12 PM 1:20

December 12, 1988

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

Re: MUR 2771 - Democratic Senatorial Campaign Committee

Attention: Philip M. Wise

Dear Mr. Noble:

The Democratic Senatorial Campaign Committee ("DSCC" or "Respondent") hereby replies through counsel to the Commission's notification that a complaint has been filed against it by the National Republican Senatorial Committee ("Complainant").

The Complaint makes three allegations of violations of the law against the John P. Vinich for United States Senate Committee. The first two allegations of violations do not involve the DSCC and, therefore, are not addressed here.

Complainant alleges that either the Vinich campaign or the DSCC has violated the campaign laws by failing to include an adequate disclaimer on advertising advocating John Vinich's election to the United States Senate. See Complaint at 4. The complaint cites to Exhibits 3 and 4. The materials provided by the Commission to the DSCC, however, do not appear to contain Exhibits 3 and 4, and DSCC cannot, therefore, reply to any relevant material they may contain. DSCC can address the larger point at this time.

The allegation is that, for a period of approximately two weeks, advertisements advocating John Vinich's election contained a disclaimer which read simply: "Paid for by the Democratic Senatorial Campaign Committee." The NRSC concludes that the disclaimer, under 2 U.S.C. § 441d, should have

TELEX: 44-0277 PCSO UI • FACSIMILE (202) 223-2088
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE

included an additional statement that the advertisement was "authorized by" the Vinich campaign.

The DSCC is a national party committee with delegated authority from the Democratic National Committe to make coordinated party expenditures under the provisions of 2 U.S.C. § 441a(d). As an agent of the DNC in making these coordinated party expenditures, the DSCC frequently pays for media advertising on behalf of Democratic Senate candidates around the country. In 1988, the DSCC paid for such media advertising in Wyoming in support of the John Vinich Senate campaign.

It is the policy and practice of the DSCC to recommend the inclusion of "authorized by" language in any candidate communication financed under 2 U.S.C. § 441a(d). Where this language has been omitted, the result is a function of mistake, not an intention to mislead the public.

In fact, the Complaint implicitly acknowledges that the "authorized by" language did not appear on these advertisements for a short period of time. On page 5 of the Complaint, Complainants note the advertisements offended the statute "by leaving his name [Vinich's] off the disclaimer <u>for approximately two weeks</u> . . . Thus, the Complainants concede this was the obvious result of error.

It is not in any event clear that the omission of "authorized by", with DSCC named simply as payor, offends the statute or regulation, noted by Complainant, that a party committee is precluded <u>as a matter of law</u> from making independent expenditures. 11 C.F.R. §§ 110.7(a)(5), (b)(4). The purpose of the "authorized by" language is to distinguish expenditures made in conjunction with the candidate's campaign from those which are independent from the candidate. Compare 11 C.F.R. § 110.11(a)(1)(ii), <u>with</u> § 110.11(a)(1)(iii). The authorization notice, therefore, serves little obvious purpose in the context of § 441a(d) activity by a party which cannot make "independent" expenditures.

Moreover, to the extent that the advertisement enables the public to identify the source of payment and investigate financial support of that source by review of FEC reports, this purpose is also fully -- indeed only -- served by inclusion of DSCC in the disclaimer. Only DSCC, not the candidate, reports a 441a(d) expenditure (on Schedule F); only DSCC's financial support is relevant to any inquiry into the monies used for such purposes. By contrast, a "contribution in-kind" by a non-party source funding a candidate communication is reported

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by both candidate and committee. The financial profile of each, as shown on their FEC reports, is in that case pertinent. That is not the case here.

This Complaint against the DSCC must be dismissed, as it has no basis in fact or in law.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

0494E

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OGC 1333

PERKINS COIE

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

RECEIVED FEDERAL ELECTION COMMISSION OFFICE
88 DEC 12 PM 1:20

December 12, 1988

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

Re: MUR 2771 - John P. Vinich for U.S. Senate Committee and Mabel R. Vinich, as Treasurer

Attention: Philip M. Wise

Dear Mr. Noble:

The John P. Vinich for U.S. Senate Committee ("the Committee"), and Mabel R. Vinich, as Treasurer (collectively referred to hereafter as "Respondents"), hereby reply through counsel to the Commission's notification that a complaint has been filed against them by the National Republican Senatorial Committee.

The Complaint has no basis in fact or law, and should be dismissed.

Use of Labor Facilities

The Complaint alleges that the Committee made use of office space in a union hall owned by the United Steelworkers and, as a result, accepted a prohibited contribution from a labor organization. The Complaint also alleges that the Committee failed to report this "contribution."

The Federal Election Commission regulations provide for the use of labor facilities by a candidate or a committee. 11 C.F.R. § 114.9(d). The regulations require simply that the committee reimburse the labor organization for the use of the facilities at the usual and normal charge, and that the reimbursement be made within a commercially reasonable time. Id.

In this case, the Committee signed a contract with the United Steelworkers Union for the use of one room in the union

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hall. A copy of the contract is attached. The contract provided that the Steelworkers would invoice the Committee for costs incurred in the use of the room at a rate of $50 per month, together with any other specific charges incurred by the Committee in connection with the use of the space. The Committee received an invoice from the Steelworkers for the use of the hall dated November 18, 1988. The Committee paid the invoice on November 22, 1988. The payment will be reported on the Committee's next report. The union charged the Committee $50 per month for the use of one room in the hall, which was a rate equivalent to that charged other organizations renting similar space in the union hall.

The Committee made separate arrangements for the installation and use of a phone in the space but has not yet been billed by the phone company for this service.

There was, therefore, no contribution made in connection with the use of the union hall. The Committee paid the usual and normal charge for the use of the space, and made its payment within a commercially reasonable time after having received the invoice in accordance with the written contract. Because there was no contribution, there was no failure to report the contribution.

Contributions from Labor Organization PAC

The Complaint also alleges that the Committee received excessive contributions from the Committee on Letter Carriers Political Education. In fact, the Committee did receive three $5,000 contributions from this committee. The first contribution, received on October 4, was designated for the primary election. The second contribution, received on October 13, was designated for the general election. The third contribution was received on October 24, a period between 20 days and 48 hours before the general election. Because the contribution was in excess of $1,000, the Committee reported the contribution immediately on its 48-hour report filed with the Federal Election Commission.

Upon further investigation, however, the Commitee discovered that the contribution, when aggregated with the prior two contributions, caused the Letter Carriers Committee to exceed its contribution limitations. The Committee refunded the excessive $5,000 on November 3, 1988. During the period between October 24 and Novmeber 3, the Committee had at all times at least $5,000 in cash on hand.

The Federal Election Commission regulations provide that if a committee receives a contribution which is in excess of the limits, it may deposit the contribution and then refund it within 60 days of its receipt by the Committee. 11 C.F.R. § 103.3(b)(3). The contribution received by the Committee which caused the Letter Carriers Committee to exceed its lawful contribution limitation was refunded within 10 days, well within the 60-day period set forth in the regulations. There was, therefore, no violation of the contribution limits and no acceptance of an illegal contribution.

Advertising Disclaimer

The Complaint contains an allegation that advertisements run by the Committee did not include an adequate disclaimer. The Commitee notes that the materials sent to the Committee by the FEC in connection with this Matter Under Review did not include Exhibits 3 and 4 referred to by Complainants in their Complaint. As a result, it would be impossible for the Committee to respond to the specific allegations set forth in this section of the Complaint. The Committee, nonetheless, endorses the position of the Democratic Senatorial Campaign Committee on this issue as set out in a separate filing.

Conclusion

The Complaint filed by the National Republican Senatorial Committee fails to allege any violation of law which can withstand the facts. The Commission must dismiss this Complaint without further action.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Respondents

0492E

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AGREEMENT FOR THE USE OF FACILITIES AND EQUIPMENT

1- The John P. Vinich for U.S. Senate Campaign Committee ("Committee") and USWA, Local Union 13214 ("labor organization") agree this 1st day of August, 1988 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2- Dates of use: From August 1, 1988 to November 9, 1988. ($50.00 per month)

3- Location of facilities to be used: 720 2nd Street, Rock Springs, Wyoming.

4- Description of facilities and equipment:

One room in the basement of the Union Hall, bathroom facilities, and periodic use of the main room upstairs.

5- Other (e.g., supplies, services): Periodic Use Of Telephone

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, at Post Office Box 67 - Hudson, Wyoming. 82515.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time. (60 to 90 days)

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

Signed:

Patrick R. Doak
Patrick R. Doak
Financial Secretary
Local Union 13214
USWA

Mabel R. Vinich Treasurer
Vinich For U.S. Senate
Campaign Committee
P.O. Box 67
Hudson, Wyoming. 82515

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Before the Federal Election Commission

MUR 2771

Respondents: John P. Vinich for U.S. Senate Committee and Mabel Vinich, as Treasurer

AFFIDAVIT OF MABEL VINICH

County of FREMONT,)
) ss.
State of Wyoming)

I, MABEL VINICH, being duly sworn according to law, hereby depose and state, as follows:

1. I have personal knowledge of the facts set forth herein, and if called to testify in this matter, I would testify as set forth herein.

2. I am the Treasurer of the John P. Vinich for U.S. Senate Campaign Committee (hereinafter referred to as "the Committee") during the 1988 primary and general elections.

3. As Treasurer, I have personal knowledge of the day-to-day operations and activities of the Committee.

00040374

4. In August, 1988, the Committee entered into a contract with the United Steelworkers Union, Local Union 13214, for the use of a portion of a union hall located in Rock Springs, Wyoming.

5. The terms of the contract provided that union would invoice the Committee for the actual costs for the use of the facilities at a rate of $50.00 per month. In addition, the union agreed to invoice the Committee for the usual and normal rental charge of any equipment used by the Committee, including telephone charges.

6. On November 18, 1988, the Committee received an invoice from the Steelworkers Union for the amount of $164.50. This invoice represented the costs of using the facilities in Rock Springs, Wyoming during the general election campaign period.

7. On November 22, 1988, the Committee paid the invoice.

8. Upon information and belief, the rate paid by the Committee was a rate equivalent to that charged other users of similar space in the union hall.

9. The Committee arranged for the installation of its own phone in the union hall and will be billed for such phone services separately from the union.

10. The Committee incurred no other expenses in connection with its use of the space in the union hall.

Mabel Vinich

Mabel Vinich

SUBSCRIBED AND SWORN TO BEFORE ME
this 7 day of November, 1988.

Mary Anne Robison

Notary Public

MARY ANNE ROBISON NOTARY PUBLIC
STATE OF WYOMING COUNTY OF FREMONT
MY COMMISSION EXPIRES MAY 26 1990

My Commission Expires:

5-26-90

0496E

06044491

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

89 JAN -3 AM 10: 31

United Steelworkers of America

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

December 29, 1988

Lawrence M. Noble, General Counsel
Lois G. Lerner, Associate General Counsel
Federal Election Commission
999 E. Street NW
Washington, D.C. 20463

Attention: Phillip Wise

Re: John P. Vinich for US Senate Committee
FEC **MUR 2771**
(Compliant by National Republican Senatorial Committee)

Dear Mr. Noble:

Please refer to my letter dated December 1, 1988, stating the position of United Steelworkers of America Political Action Committee in this matter.

I have been informed by representatives of the Steelworkers in Wyoming that the Vinich Campaign Committee paid $164.50 in rent charges on November 22, 1988 to the USWA, consistent with the lease agreement which was provided to you with my December 1, 1988 letter.

Enclosed please find a copy of an additional billing statement which was submitted by USWA Local 13214 to the John Vinich for U.S. Senate Campaign Committee, for telephone charges for the period September 29, 1988 through October 25, 1988, for the seven hours during which USWA telephones at the USWA Local Union 13214 Hall were used by the Vinich Campaign betweeen September 28 and October 26, 1988.

PRINTED IN U.S.A.

Also enclosed is a copy of a check, number 1534, from the John P. Vinich for U.S. Senate committee, dated December 20, 1988 payable to the USWA Local Union 13214 in the amount of $27.54, in payment for such use of USWA telephones during that time period.

It is my understanding that USWA Local Union 13214 has not received a billing statement from US West Communications (formerly Mountain Bell), for the period from October 26, 1988, through November 9, 1988. If USWA telephones were used by the Vinich Campaign during that period of time, another pro-rated billing statement will be submitted by USWA Local Union 13214 to the Vinich Campaign Committee for such use of the union's telephones.

This more recent information, which I am forwarding to you, further substantiates the USWA PAC's position that there is no reason to believe that there has been any violation of the FECA by the USWA PAC with regard to this matter and that, accordingly, the complaint should be dismissed.

Very truly yours,

William H. Schmelling

William H. Schmelling
Assistant General Counsel

WHS/hlr

cc: Lois Lerner, Associate General Counsel, FEC

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PERKINS COIE

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

December 12, 1988

USWA
DEC 1 : 1988
LEGAL DEPT.

William H. Schmelling
Assistant General Counsel
United Steelworkers of America
1 East Wacker Drive
Suite 1910
Chicago, IL 60601-1980

Dear Mr. Schmelling:

Thank you for sending the materials you prepared in connection with FEC MUR 2771 - John P. Vinich for U.S. Senate Committee.

I am enclosing for your files a copy of the submission we made on behalf of Mr. Vinich to the Federal Election Commission in the above-referenced matter.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

Judith L. Corley
Counsel for John P. Vinich
for U.S. Senate Committee

0515E

LEGAL DEPT.
DEC 1 3 1988
USWA

TELEX: 44-0277 PCSO UI • FACSIMILE (202) 223-2088
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE

PERKINS COIE

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

December 12, 1988

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

Re: MUR 2771 - Democratic Senatorial Campaign Committee

Attention: Philip M. Wise

Dear Mr. Noble:

The Democratic Senatorial Campaign Committee ("DSCC" or "Respondent") hereby replies through counsel to the Commission's notification that a complaint has been filed against it by the National Republican Senatorial Committee ("Complainant").

The Complaint makes three allegations of violations of the law against the John P. Vinich for United States Senate Committee. The first two allegations of violations do not involve the DSCC and, therefore, are not addressed here.

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The allegation is that, for a period of approximately two weeks, advertisements advocating John Vinich's election contained a disclaimer which read simply: "Paid for by the Democratic Senatorial Campaign Committee." The NRSC concludes that the disclaimer, under 2 U.S.C. § 441d, should have

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TELEX: 44-02[illegible] PCSO UI • FACSIMILE (202) 223-2088
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE

included an additional statement that the advertisement was "authorized by" the Vinich campaign.

The DSCC is a national party committee with delegated authority from the Democratic National Committe to make coordinated party expenditures under the provisions of 2 U.S.C. § 441a(d). As an agent of the DNC in making these coordinated party expenditures, the DSCC frequently pays for media advertising on behalf of Democratic Senate candidates around the country. In 1988, the DSCC paid for such media advertising in Wyoming in support of the John Vinich Senate campaign.

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Moreover, to the extent that the advertisement enables the public to identify the source of payment and investigate financial support of that source by review of FEC reports, this purpose is also fully -- indeed only -- served by inclusion of DSCC in the disclaimer. Only DSCC, not the candidate, reports a 441a(d) expenditure (on Schedule F); only DSCC's financial support is relevant to any inquiry into the monies used for such purposes. By contrast, a "contribution in-kind" by a non-party source funding a candidate communication is reported

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by both candidate and committee. The financial profile of each, as shown on their FEC reports, is in that case pertinent. That is not the case here.

This Complaint against the DSCC must be dismissed, as it has no basis in fact or in law.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

0494E

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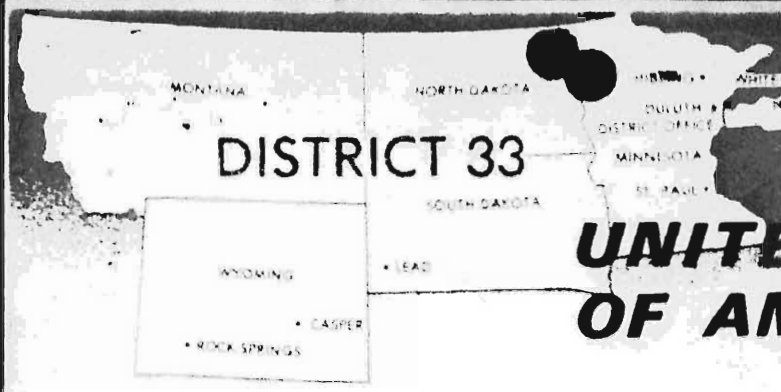
P.O. Box 1315
Rock Springs, Wyoming 82901
Telephone 307 382 3307



UNITED STEELWORKERS OF AMERICA

ELDON D. KIRSCH, Director DISTRICT 33
STAN LOADER, Staff Representative

LEGAL DEPT.
DEC 12 1988
USWA

LYNN WILLIAMS, President
GEORGE BECKER, Vice President Administration
LEON LYNCH, Vice President Human Affairs
EDGAR BALL, Secretary
JAMES McGEEHAN, Treasurer

December 7, 1988

Mr. William H. Schmelling, Assistant General Counsel
United Steelworkers Of America
One East Wacker Drive, Suite 1910
Chicago, Illinois. 60601-1980

Dear William:

Enclosed is a copy of the phone bill for the three phone lines Local Union 13214 placed in service during the recent election campaign.

We had three lines installed on September 29, 1988. This billing runs from September 29, until October 25th. Phone calling was made during the evening hours 6:00 P.M. until 8:30 P.M. There was a potential phone usage during this period of 142.5 hours (19 days X 2.5 hours = 47.5 hours per phone X 3 phones = 142.5 hours) (Weekdays only - excludes Saturdays and Sundays).

The vast amount of calling time was spent calling our membership. The total bill was $609.02. This includes installation charges, monthly charges, taxes and itemized long distant calls. All of the long distance calls were made to members of our Union. Subtracting the long distance charges, $48.36, leaves a balance of $560.66.

Dividing the $560.66 by 142.5 hours yields a cost factor of $3.94 per hour of usage. There was during this period of time, seven (7) hours of calling made from these phones to registered voters who were not members of our Union. Multiplying $3.94 per hour by 7 hours equals $27.54. This then is the amount we will bill the Vinich campaign for the use of our phones.

There will be one more phone bill covering the period between October 26, 1988 and November 9, 1988.

0 0 4 0 3 8 0 3

The Vinich campaign paid $164.50 rent charges with a check (#1514) issued on November 22, 1988.

Fraternally Yours,

Stan Loader

Stan Loader
Staff Representative
USWA - District 33

SL/al

cc: A. Battisti
P. Doak
R. Maldonado
M. Vinich

9 0 0 4 0 3 0 4 3 0 4

U S WEST COMMUNICATIONS
Formerly Mountain Bell

BILL DATE: OCT 25, 1988
ACCOUNT NUMBER: 307-382-5624-249B

ACCOUNT SUMMARY

PREVIOUS BILL	PAYMENTS	ADJUSTMENTS	PREVIOUS BALANCE DISREGARD IF PAID	
$.00	$.00	$.00		$.00

CURRENT CHARGES INCLUDING TAX		CURRENT CHARGES	$609.02
U S WEST COMMUNICATIONS	532.33		
U S WEST COMM UNREGULATED	76.69	TOTAL AMOUNT DUE	$609.02
TOTAL	$609.02		

* ANY AMOUNT LEFT UNPAID 30 DAYS AFTER BILL DATE IS SUBJECT TO A 1.2% LATE PAYMENT CHARGE. *

TIME IS RUNNING OUT TO GET INTO THE PHONE BOOK! SO IF YOU HAVE ANY CHANGES OR ADDITIONS TO MAKE IN YOUR HOME OR BUSINESS LISTING, CALL YOUR SERVICE REPRESENTATIVE NOW. THE FINAL CLOSING DATE FOR THE ROCK SPRINGS WHITE PAGES DIRECTORY IS: NOVEMBER 14, 1988.

ACCOUNT DETAIL

MONTHLY SERVICE CHARGES	92.16
ACCOUNT ACTIVITY	366.39
ITEMIZED CALLS	48.36
TAXES	25.42
US WEST COMMUNICATIONS TOTAL	$532.33

MONTHLY SERVICE - OCT 25 THRU NOV 24	72.48
CUSTOMER ACCESS SERVICE - INTERSTATE	18.00
MUNICIPAL CHARGE	1.68
US WEST COMMUNICATIONS SUBTOTAL OF MONTHLY SERVICE CHARGES	$92.16

ACCOUNT ACTIVITY

1 YOUR BILL DATE IS THE 25TH OF EACH MONTH. THE MONTHLY CHARGE FOR SERVICE IS BILLED IN ADVANCE

ONE CALL DOES IT ALL FOR YOUR REPAIR NEEDS. ASK YOUR SERVICE REP. ABOUT OUR NEW UNISTAR OFFERING. CALL 1-771-6404.

FOR BILL AND ORDER INQUIRIES CALL 1-771-6404

Retain this portion for your records. See reverse for information on this bill.

2 0 0 4 0 8 0 4 3 0 5

These charges are included in the total amount due.

U S WEST COMMUNICATIONS

UNITED STEEL WORKERS
LOCAL 13214
BILL DATE: OCT 25, 1988
ACCOUNT NUMBER: 307-382-5624-249B

2	CHARGE FOR MONTHLY SERVICE AT 24.16 FROM 9-29-88 TO 10-25-88		20.13
	1 TOUCH TONE SERVICE	2.20	
	1 PRIVATE BUSINESS LINE	21.96	
	TOTAL	24.16	
3	SERVICE CHARGE ON 9-29-88		10.75
	1 TOUCH TONE SERVICE		
4	CHARGE FOR SERVICE LINE CONNECTED ON 9-29-88		86.25
5	CHARGE FOR CUSTOMER ACCESS SERVICE-INTERSTATE AT 6.00 FROM 9-29-88 TO 10-25-88		5.00
6	CHARGE FOR MONTHLY SERVICE AT 24.16 FROM 9-29-88 TO 10-25-88		20.13
	1 TOUCH TONE SERVICE	2.20	
	1 ADDL LINE-PRI BUS FLAT	21.96	
	TOTAL	24.16	
7	SERVICE CHARGE ON 9-29-88		10.75
	1 TOUCH TONE SERVICE		
8	CHARGE FOR SERVICE LINE CONNECTED ON 9-29-88		86.25
9	CHARGE FOR CUSTOMER ACCESS SERVICE-INTERSTATE AT 6.00 FROM 9-29-88 TO 10-25-88		5.00
10	CHARGE FOR MONTHLY SERVICE AT 24.16 FROM 9-29-88 TO 10-25-88		20.13
	1 TOUCH TONE SERVICE	2.20	
	1 ADDL LINE-PRI BUS FLAT	21.96	
	TOTAL	24.16	
11	SERVICE CHARGE ON 9-29-88		10.75
	1 TOUCH TONE SERVICE		
12	CHARGE FOR SERVICE LINE CONNECTED ON 9-29-88		86.25
13	CHARGE FOR CUSTOMER ACCESS SERVICE-INTERSTATE AT 6.00 FROM 9-29-88 TO 10-25-88		5.00
	US WEST COMMUNICATIONS SUBTOTAL OF ACCOUNT ACTIVITY		$366.39

ITEMIZED CALLS

NO.	DATE	TIME	TO PLACE	TO AREA NUMBER	TYPE	MINUTES	AMOUNT
1	OCT 18	7:08P	MT VIEW WY	307 782-3122	E	1	.26
2	OCT 18	7:12P	LYMAN WY	307 787-3459	E	1	.26
3	OCT 18	7:13P	MT VIEW WY	307 782-6164	E	1	.26
4	OCT 18	7:17P	MT VIEW WY	307 782-6471	E	1	.26
5	OCT 18	7:20P	LYMAN WY	307 787-6338	E	1	.26
6	OCT 18	7:22P	MT VIEW WY	307 782-3781	E	1	.26
7	OCT 20	6:13P	MT VIEW WY	307 782-3326	E	2	.42
8	OCT 20	6:18P	GREENRIVER WY	307 875-6739	E	2	.23
9	OCT 20	6:23P	LYMAN WY	307 787-3774	E	1	.26
10	OCT 20	6:30P	GREENRIVER WY	307 875-8609	E	2	.23
11	OCT 20	6:36P	GREENRIVER WY	307 875-6760	E	2	.23
12	OCT 20	6:40P	MT VIEW WY	307 782-3420	E	1	.26
13	OCT 20	6:41P	LYMAN WY	307 787-3431	E	1	.26
14	OCT 20	6:43P	LYMAN WY	307 787-3166	E	3	.59
15	OCT 20	6:46P	GREENRIVER WY	307 875-4768	E	2	.23
16	OCT 20	6:51P	LYMAN WY	307 787-3781	E	2	.42
17	OCT 20	6:55P	MT VIEW WY	307 782-3849	E	1	.26
18	OCT 20	6:57P	GREENRIVER WY	307 875-4627	E	2	.23
19	OCT 20	7:00P	URIE WY	307 786-4615	E	1	.26
20	OCT 20	7:02P	GREENRIVER WY	307 875-3694	E	1	.14
21	OCT 20	7:05P	GREENRIVER WY	307 875-3437	E	2	.23
22	OCT 20	7:08P	GREENRIVER WY	307 875-3694	E	2	.23
23	OCT 20	7:18P	GREENRIVER WY	307 875-4722	E	1	.14
24	OCT 20	7:22P	MT VIEW WY	307 782-6494	E	2	.42
25	OCT 20	7:25P	GREENRIVER WY	307 875-4472	E	1	.14
26	OCT 20	7:28P	MT VIEW WY	307 782-6157	E	2	.42
27	OCT 20	7:34P	GREENRIVER WY	307 875-7393	E	1	.14
28	OCT 20	7:39P	GREENRIVER WY	307 875-3059	E	1	.14
29	OCT 20	7:40P	GREENRIVER WY	307 875-2735	E	1	.14
30	OCT 20	7:43P	GREENRIVER WY	307 875-4538	E	1	.14
31	OCT 20	7:44P	GREENRIVER WY	307 875-4667	E	1	.14

These charges are included in your total bill

U S WEST COMMUNICATIONS

UNITED STEEL WORKER
LOCAL 13214
BILL DATE: OCT 25, 1988
ACCOUNT NUMBER: 307-382-5624-249B

NO.	DATE	TIME	TO PLACE	TO AREA NUMBER	TYPE	MINUTES	AMOUNT
32	OCT 20	7:45P	GREENRIVER WY	307 875-2963	E	1	.14
33	OCT 21	6:17P	LYMAN WY	307 787-3839	E	1	.26
34	OCT 21	6:24P	GREENRIVER WY	307 875-6216	E	1	.14
35	OCT 21	6:30P	MT VIEW WY	307 782-6720	E	1	.26
36	OCT 21	6:33P	GREENRIVER WY	307 875-7564	E	1	.14
37	OCT 21	6:36P	MT VIEW WY	307 782-3172	E	1	.26
38	OCT 21	6:44P	MT VIEW WY	307 782-3154	E	1	.26
39	OCT 21	7:05P	MT VIEW WY	307 782-3172	E	2	.42
40	OCT 21	7:14P	URIE WY	307 786-4000	E	1	.26
41	OCT 21	7:31P	LYMAN WY	307 787-3100	E	3	.59
42	OCT 21	7:42P	MT VIEW WY	307 782-3765	E	1	.26
				SUBTOTAL		10.85	
	CALLS FROM 382-5633						
43	OCT 04	6:43P	GREENRIVER WY	307 875-8414	E	2	.23
44	OCT 18	6:58P	LYMAN WY	307 787-3269	E	1	.26
45	OCT 18	7:13P	MT VIEW WY	307 782-3448	E	1	.26
46	OCT 18	7:14P	MT VIEW WY	307 782-3175	E	1	.26
47	OCT 18	7:19P	MT VIEW WY	307 782-6166	E	2	.42
48	OCT 18	7:21P	LYMAN WY	307 787-3496	E	1	.26
49	OCT 18	7:22P	MT VIEW WY	307 782-3122	E	1	.26
50	OCT 19	6:16P	GREENRIVER WY	307 875-5349	E	1	.14
51	OCT 19	6:23P	GREENRIVER WY	307 875-7708	E	1	.14
52	OCT 19	6:25P	GREENRIVER WY	307 875-2154	E	1	.14
53	OCT 19	6:29P	MT VIEW WY	307 782-3818	E	1	.26
54	OCT 19	6:31P	GREENRIVER WY	307 875-7609	E	1	.14
55	OCT 19	6:34P	GREENRIVER WY	307 875-3388	E	1	.14
56	OCT 19	6:38P	GREENRIVER WY	307 875-5169	E	5	.48
57	OCT 19	6:44P	GREENRIVER WY	307 875-2193	E	1	.14
58	OCT 19	6:45P	URIE WY	307 786-4430	E	1	.26
59	OCT 19	6:46P	GREENRIVER WY	307 875-3583	E	1	.14
60	OCT 19	6:48P	MT VIEW WY	307 782-6319	E	1	.26
61	OCT 19	6:53P	GREENRIVER WY	307 875-6060	E	1	.14
62	OCT 19	6:54P	LYMAN WY	307 787-3783	E	1	.26
63	OCT 19	6:57P	GREENRIVER WY	307 875-4321	E	1	.14
64	OCT 19	6:59P	GREENRIVER WY	307 875-6484	E	1	.14
65	OCT 19	7:01P	LYMAN WY	307 787-3223	E	1	.26
66	OCT 19	7:03P	LYMAN WY	307 787-3103	E	1	.26
67	OCT 19	7:03P	LYMAN WY	307 787-3103	E	1	.26
68	OCT 19	7:12P	GREENRIVER WY	307 875-3590	E	5	.48
69	OCT 19	7:19P	GREENRIVER WY	307 875-3063	E	1	.14
70	OCT 19	7:21P	GREENRIVER WY	307 875-7252	E	1	.14
71	OCT 19	7:24P	MT VIEW WY	307 782-3124	E	1	.26
72	OCT 19	7:28P	MT VIEW WY	307 782-3463	E	1	.26
73	OCT 19	7:29P	GREENRIVER WY	307 875-6269	E	1	.14
74	OCT 19	7:31P	GREENRIVER WY	307 875-5349	E	1	.14
75	OCT 19	7:32P	URIE WY	307 786-4430	E	2	.42
76	OCT 19	7:42P	MT VIEW WY	307 782-3209	E	3	.59
77	OCT 20	6:38P	GREENRIVER WY	307 875-4412	E	1	.14
78	OCT 20	6:46P	GREENRIVER WY	307 875-2580	E	1	.14
79	OCT 20	6:48P	EVANSTON WY	307 789-3924	E	1	.27
80	OCT 20	6:54P	GREENRIVER WY	307 875-3401	E	1	.14
81	OCT 20	6:56P	URIE WY	307 786-4731	E	1	.26
82	OCT 20	6:57P	GREENRIVER WY	307 875-2557	E	1	.14
83	OCT 20	7:02P	MT VIEW WY	307 782-3423	E	1	.26
84	OCT 20	7:09P	GREENRIVER WY	307 875-5053	E	1	.14
85	OCT 20	7:13P	GREENRIVER WY	307 875-2580	E	2	.23
86	OCT 20	7:17P	GREENRIVER WY	307 875-7495	E	1	.14
87	OCT 20	7:18P	MT VIEW WY	307 782-3145	E	1	.26
88	OCT 20	7:20P	LYMAN WY	307 787-3839	E	1	.26
89	OCT 20	7:22P	GREENRIVER WY	307 875-2968	E	1	.14
90	OCT 20	7:23P	GREENRIVER WY	307 875-5092	E	1	.14
91	OCT 20	7:24P	MT VIEW WY	307 782-3318	E	1	.26
92	OCT 20	7:29P	URIE WY	307 786-2781	E	1	.26
93	OCT 20	7:30P	GREENRIVER WY	307 875-6216	E	1	.14
94	OCT 20	7:32P	GREENRIVER WY	307 875-2580	E	1	.14

These charges are included in the total amount due.

U S WEST COMMUNICATIONS

UNITED STEEL WORK[redacted]
LOCAL 13214
BILL DATE: OCT 25, 1988
ACCOUNT NUMBER: 307-382-5624-249B

NO.	DATE	TIME	TO PLACE	TO AREA NUMBER	TYPE	MINUTES	AMOUNT
95	OCT 20	7:33P	GREENRIVER WY	307 875-2399	E	1	.14
96	OCT 20	7:34P	GREENRIVER WY	307 875-5616	E	1	.14
97	OCT 20	7:35P	GREENRIVER WY	307 875-2580	E	1	.14
98	OCT 20	7:35P	GREENRIVER WY	307 875-7597	E	1	.14
99	OCT 20	7:39P	URIE WY	307 786-4596	E	1	.26
100	OCT 20	7:41P	GREENRIVER WY	307 875-5908	E	1	.14
101	OCT 20	7:43P	GREENRIVER WY	307 875-6101	E	1	.14
102	OCT 20	7:44P	GREENRIVER WY	307 875-2197	E	1	.14
103	OCT 20	7:45P	GREENRIVER WY	307 875-7564	E	1	.14
104	OCT 20	7:49P	MT VIEW WY	307 782-3172	E	1	.26
105	OCT 20	7:50P	GREENRIVER WY	307 875-4845	E	1	.14
106	OCT 20	7:51P	MT VIEW WY	307 782-3154	E	1	.26
107	OCT 20	7:52P	GREENRIVER WY	307 875-4497	E	1	.14
108	OCT 20	7:56P	GREENRIVER WY	307 875-5814	E	1	.14
109	OCT 20	7:59P	GREENRIVER WY	307 875-5883	E	1	.14
110	OCT 20	8:03P	GREENRIVER WY	307 875-4121	E	1	.14
111	OCT 20	8:05P	GREENRIVER WY	307 875-3076	E	1	.14
112	OCT 20	8:06P	GREENRIVER WY	307 875-7334	E	1	.14
113	OCT 20	8:09P	GREENRIVER WY	307 875-7256	E	1	.14
114	OCT 20	8:09P	LYMAN WY	307 787-3100	E	1	.26
115	OCT 20	8:12P	GREENRIVER WY	307 875-8123	E	1	.14
116	OCT 20	8:15P	LYMAN WY	307 787-6739	E	1	.26
117	OCT 20	8:15P	GREENRIVER WY	307 875-5063	E	1	.14
118	OCT 20	8:19P	GREENRIVER WY	307 875-7749	E	1	.14
119	OCT 21	6:12P	GREENRIVER WY	307 875-7262	E	2	.23
120	OCT 21	6:16P	EVANSTON WY	307 789-2482	E	1	.27
121	OCT 21	6:17P	LYMAN WY	307 787-6354	E	1	.26
122	OCT 21	6:25P	MT VIEW WY	307 782-3470	E	2	.42
123	OCT 21	6:28P	GREENRIVER WY	307 875-3957	E	2	.23
124	OCT 21	6:32P	MT VIEW WY	307 782-6171	E	1	.26
125	OCT 21	6:47P	MT VIEW WY	307 782-3593	E	1	.26
126	OCT 21	6:50P	MT VIEW WY	307 782-3326	E	1	.26
127	OCT 21	6:53P	MT VIEW WY	307 782-7061	E	1	.26
128	OCT 21	6:58P	MT VIEW WY	307 782-6732	E	1	.26
129	OCT 21	7:01P	MT VIEW WY	307 782-3945	E	1	.26
130	OCT 21	7:05P	GREENRIVER WY	307 872-3460	E	1	.14
131	OCT 21	7:13P	MT VIEW WY	307 782-3895	E	2	.42
132	OCT 21	7:17P	LYMAN WY	307 787-6325	E	2	.42
133	OCT 21	7:26P	MT VIEW WY	307 782-3454	E	1	.26
134	OCT 21	7:30P	URIE WY	307 786-4430	E	1	.26
135	OCT 21	7:32P	MT VIEW WY	307 782-6654	E	1	.26
136	OCT 21	7:39P	LYMAN WY	307 787-3223	E	1	.26
137	OCT 21	7:44P	MT VIEW WY	307 782-3463	E	3	.59
138	OCT 21	8:00P	LYMAN WY	307 787-3495	E	1	.26
139	OCT 21	8:09P	LYMAN WY	307 787-6791	E	1	.26
140	OCT 21	8:13P	LYMAN WY	307 787-3738	E	1	.26
				SUBTOTAL		22.00	
	CALLS FROM 382-5660						
141	OCT 19	6:21P	GREENRIVER WY	307 875-5650	E	1	.14
142	OCT 19	6:26P	GREENRIVER WY	307 875-3988	E	1	.14
143	OCT 19	6:29P	GREENRIVER WY	307 875-3880	E	1	.14
144	OCT 19	6:38P	GREENRIVER WY	307 875-6120	E	1	.14
145	OCT 19	6:41P	LYMAN WY	307 787-6737	E	1	.26
146	OCT 19	6:42P	LYMAN WY	307 787-3816	E	1	.26
147	OCT 19	6:46P	MT VIEW WY	307 782-3806	E	1	.26
148	OCT 19	6:51P	EVANSTON WY	307 789-2674	E	2	.46
149	OCT 19	6:53P	LYMAN WY	307 787-6390	E	1	.26
150	OCT 19	6:58P	MT VIEW WY	307 782-3262	E	1	.26
151	OCT 19	7:00P	LYMAN WY	307 787-3895	E	1	.26
152	OCT 19	7:02P	GREENRIVER WY	307 875-9028	E	1	.14
153	OCT 19	7:03P	MT VIEW WY	307 782-3839	E	1	.26
154	OCT 19	7:06P	GREENRIVER WY	307 875-5462	E	1	.14
155	OCT 19	7:07P	GREENRIVER WY	307 875-3957	E	1	.14
156	OCT 19	7:10P	GREENRIVER WY	307 875-7263	E	1	.14
157	OCT 19	7:14P	GREENRIVER WY	307 875-5126	E	1	.14

These charges are included in the total amount due.

U S WEST COMMUNICATIONS

UNITED STEEL WORKER
LOCAL 13214
BILL DATE: OCT 25, 1988
ACCOUNT NUMBER: 307-382-5624-249B

U S WEST COMMUNICATIONS PAGE 5

NO.	DATE	TIME	TO PLACE	TO AREA NUMBER	TYPE	MINUTES	AMOUNT
158	OCT 19	7:15P	MT VIEW WY	307 782-6171	E	1	.26
159	OCT 19	7:16P	LYMAN WY	307 787-3361	E	1	.26
160	OCT 19	7:18P	GREENRIVER WY	307 875-5018	E	1	.14
161	OCT 19	7:22P	GREENRIVER WY	307 875-3689	E	1	.14
162	OCT 19	7:26P	GREENRIVER WY	307 875-5809	E	1	.14
163	OCT 19	7:34P	GREENRIVER WY	307 875-7785	E	1	.14
164	OCT 19	7:38P	MT VIEW WY	307 782-3152	E	1	.26
165	OCT 19	7:42P	MT VIEW WY	307 782-3593	E	1	.26
166	OCT 19	7:44P	GREENRIVER WY	307 875-3049	E	1	.14
167	OCT 19	7:55P	MT VIEW WY	307 782-6355	E	2	.42
168	OCT 19	8:00P	GREENRIVER WY	307 875-8141	E	1	.14
169	OCT 19	8:04P	URIE WY	307 786-4668	E	1	.26
170	OCT 19	8:05P	GREENRIVER WY	307 875-6739	E	1	.14
171	OCT 19	8:07P	GREENRIVER WY	307 875-8756	E	1	.14
172	OCT 19	8:09P	GREENRIVER WY	307 875-7507	E	1	.14
173	OCT 19	8:11P	GREENRIVER WY	307 875-6427	E	3	.31
174	OCT 20	7:17P	GREENRIVER WY	307 875-4838	E	2	.23
175	OCT 20	7:19P	URIE WY	307 786-2253	E	1	.26
176	OCT 20	7:23P	LYMAN WY	307 787-3789	E	3	.59
177	OCT 20	7:31P	MT VIEW WY	307 782-3209	E	1	.26
178	OCT 20	7:33P	MT VIEW WY	307 782-7234	E	3	.59
179	OCT 20	7:36P	GREENRIVER WY	307 875-7106	E	1	.14
180	OCT 20	7:37P	GREENRIVER WY	307 875-2048	E	1	.14
181	OCT 20	7:40P	LYMAN WY	307 787-3200	E	4	.76
182	OCT 20	7:44P	MT VIEW WY	307 782-3829	E	2	.42
183	OCT 20	7:47P	GREENRIVER WY	307 875-5570	E	1	.14
184	OCT 20	7:55P	URIE WY	307 786-2478	E	1	.26
185	OCT 20	7:59P	GREENRIVER WY	307 875-4885	E	1	.14
186	OCT 20	8:02P	LYMAN WY	307 787-3746	E	1	.26
187	OCT 20	8:03P	LYMAN WY	307 787-3835	E	1	.26
188	OCT 20	8:04P	MT VIEW WY	307 782-6919	E	1	.26
189	OCT 20	8:06P	GREENRIVER WY	307 875-3959	E	2	.23
190	OCT 20	8:08P	LYMAN WY	307 787-6191	E	2	.42
191	OCT 20	8:11P	GREENRIVER WY	307 875-6846	E	1	.14
192	OCT 20	8:15P	GREENRIVER WY	307 875-4610	E	1	.14
193	OCT 20	8:17P	MT VIEW WY	307 782-6799	E	1	.26
194	OCT 20	8:19P	MT VIEW WY	307 782-7169	E	2	.42
195	OCT 20	8:21P	GREENRIVER WY	307 875-7489	E	1	.14
196	OCT 20	8:21P	GREENRIVER WY	307 875-6835	E	1	.14
197	OCT 20	8:24P	URIE WY	307 786-4857	E	2	.42
198	OCT 20	8:29P	GREENRIVER WY	307 875-6639	E	1	.14
199	OCT 20	8:30P	MT VIEW WY	307 782-3209	E	1	.26
200	OCT 20	8:35P	LYMAN WY	307 787-3808	E	1	.26
201	OCT 20	8:36P	GREENRIVER WY	307 875-7987	E	2	.23
202	OCT 21	7:15P	LYMAN WY	307 787-3746	E	1	.26
203	OCT 21	7:17P	MT VIEW WY	307 782-6799	E	2	.42
204	OCT 22	2:40P	GREENRIVER WY	307 875-4443	N	1	.09
				SUBTOTAL		15.51	

US WEST COMMUNICATIONS SUBTOTAL OF ITEMIZED CALLS $48.36

TAX SUMMARY

FEDERAL EXCISE TAX 6.47
STATE TAX 18.95

US WEST COMMUNICATIONS SUBTOTAL OF TAXES $25.42

US WEST COMMUNICATIONS CURRENT CHARGES $532.33

FOR BILL AND ORDER INQUIRIES CALL 1-771-6404

See reverse for information on this bill

1 CHG-PREMISES VISIT-DEREGULATED	20.00
2 ONE TIME CHARGE FOR WIRE MATERIAL	12.00
3 SERVICE CHARGE ON 9-29-88	41.00
1 TIME-INITIAL INCREMENT-NOR HRS	
U S WEST COMM UNREGULATED SUBTOTAL OF ACCOUNT ACTIVITY	$73.00

TAX SUMMARY

STATE TAX	2.95	
U S WEST COMM UNREGULATED SUBTOTAL OF TAXES		$2.95
U S WEST COMM UNREGULATED CURRENT CHARGES		$76.69

FOR BILL AND ORDER INQUIRIES CALL 1-771-6404

See reverse for information on this bill.

William:
This bill was sent to Finch on
12/14/88.

LEGAL DEPT.
DEC 23 1988
Stan USWA

0 0 4 0 3 0 4 3 1 1

UNITED STEELWORKERS OF AMERICA
AFL - CIO - CLC
LOCAL UNION 13214
POST OFFICE BOX 1318
ROCK SPRINGS, WYOMING 82901

John Vinich for U.S. Senate
Campaign Committee
P.O. Box 67
Hudson, Wyoming 82515

Attention: Mabel D. Vinich

Telephone Charges for period Sept. 29, 1988 - Oct. 25, 1988.

Total $27.54

70040380412

John P. Vinich for U. S. Senate
P. O. Box 67
Hudson, Wyoming 82515

#1534

Dec 20 1988

99-39
1023

PAY TO THE ORDER OF United Steelworkers - Local Union 13214 $ 27.54

Twenty-seven and 54/100 DOLLARS

FIRST WYOMING BANK - Lander 307/332-4313
303 Main Street, Lander, Wyoming 82520

FOR Telephone Charges

Mabel R. Vinich

⑆102300394⑆ 50 072 6⑈

OGC 2330

89 MAR 30 AM 9:56
RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE LAW TEAM

United Steelworkers of America

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

March 28, 1989

89 MAR 30 PM 3:02
RECEIVED
FEDERAL ELECTION COMMISSION

Lawrence M. Noble, General Counsel
Lois G. Lerner, Associate General Counsel
Federal Election Commission
999 E. Street NW
Washington, D.C. 20463

Attention: Phillip Wise

Re: John P. Vinich for US Senate Committee
FEC **MUR 2771**
(Compliant by National Republican Senatorial Committee)

Dear Mr. Wise:

I have tried unsuccessfully to reach you by telephone and I know that you have also attempted to return my calls, unsuccessfully.

The most recent submission which we made to you was on or about December 29, 1988. We have not received any requests for additional material or information from you or anyone else at the FEC since then.

I would appreciate it greatly if you would provide a brief report of the status of this case to me at your earliest convenience.

Very truly yours,

William H. Schmelling

WHS/hlr

cc: Lois Lerner, Associate General Counsel, FEC

4030414

PRINTED IN U.S.A.

RECEIVED
FEDERAL ELECTION COMMISSION
89 JUN 13 AM 9:41
SENSITIVE
EXECUTIVE SESSION
JUN 27 1989

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

FIRST GENERAL COUNSEL'S REPORT

MUR # 2771
DATE COMPLAINT RECEIVED
BY OGC: November 4, 1988
DATE OF NOTIFICATION TO
RESPONDENTS: November 7, 1988
STAFF MEMBER: Phillip L. Wise

COMPLAINANT: Jann L. Olsten

RESPONDENTS: John P. Vinich
John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer1/
Committee on Letter Carriers Political Education and Florence Johnson, as treasurer
United Steelworkers of America - Local Union 13214

RELEVANT STATUTES: 2 U.S.C. § 441b(a)
2 U.S.C. § 441a(a)(2)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 441d(a)
2 U.S.C. § 434(b)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES: None

I. GENERATION OF MATTER

Statement of the Case

A complaint was received from Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee, alleging that John P. Vinich, and John P. Vinich for U.S. Senate

1/ On January 31, 1989, the DSCC filed an amended Statement of Organization naming Mr. Smith as treasurer. At the time of notification of the complaint Robert A. Cholpak was treasurer. The DSCC has retained counsel in this matter and is, therefore, on notice of the complaint. See Attachment 4.

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Committee (the "Committee") and Mabel L. Vinich, as treasurer, accepted illegal contributions from labor unions and failed to report said contributions; that the Committee accepted excessive contributions from political action committees ("PAC's"); and that two television ads paid for by the Democratic Senatorial Campaign Committee, benefiting Mr. Vinich's candidacy, lacked proper disclaimers identifying Vinich's link to the commercials.

II. FACTUAL AND LEGAL ANALYSIS

A. Illegal Labor Union Contributions

Complainant alleges that the Committee's use of space in the United Steelworkers union hall, as a campaign headquarters, constitutes a violation of 2 U.S.C. § 441b(a). Complainant also asserts that reports filed by the Committee failed to indicate any rent being paid for the space.

Pursuant to 2 U.S.C. § 441b(a) it is unlawful for any labor organization to make a contribution or expenditure in connection with any federal election, or for any political committee knowingly to accept or receive any contributions prohibited by this section.

The Vinich Committee, through its counsel, responded to this allegation by a letter dated December 12, 1988. (Attachment 1). In this response the Committee asserted that this space used as a campaign headquarters, was rented to them at a rate of $50.00 per month, which was a rate equivalent to that charged other organizations renting similar space in the union hall. As

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evidence of this assertion the Committee furnished a signed lease agreement with the union for this office space. (Attachment 1 (c)). A copy of the bill received from USW for rent totalling $164.50 dated November 18, 1988. (Attachment 2(e)).

The Committee treasurer also furnished her signed Affidavit stating that the Committee paid for all services in connection with the rented space in the union hall. (Attachment 1(d)).

The United Steelworkers of America - Local Union 13214 ("USW") in its various responses from November 22, 1988 to January 3, 1989 (Attachment 2), also contended that the Vinich Committee rented the office space in the union hall. According to USW the Vinich Campaign paid $164.50 rent charges with a check (#1514) issued on November 22, 1988. (Attachment 2(j)). USW attached a copy of the lease agreement entered into with the Committee for use of the space as a campaign headquarters.

Pursuant to 11 C.F.R. § 114.9(d) persons who make any use of labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge. As defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.

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USW's response dated November 30, 1988 indicates that the $50 per month rental charged to the Vinich Campaign for its use of one office room was based on the fact that USW leased a two-room office suite to another tenant for $100 per month. (Attachment 2(c)). This appears to satisfy the "usual and normal charge" standard for the rental charge.

The lease furnished (Attachment 1(c)) shows that the parties made an agreement that a commercially reasonable time for payment would be 60 to 90 days for a lease extending from August 1 to November 9, 1988. USW did not bill the Vinich Committee until November 18, 1988, and the Committee did not tender payment until November 22, 1988. This payment was approximately 22 days more than the agreed upon 90 day maximum commercially reasonable time, using August 1, 1988 as the starting point. The commercially reasonable time requirement was apparently not adhered to; therefore, the use of the office space, which is something of value, appears to have resulted in the giving of an unlawful contribution by USW and the receiving of an unlawful contribution from a labor organization by the Vinich Committee in violation of 2 U.S.C. § 441b(a).

Regarding the use of telephones, USW asserted that the Vinich Campaign had the telephone company reactivate a long existing phone jack within the rented office and made arrangements for the installation of its own telephone. According to USW and the Vinich Committee the Vinich Campaign was

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to be billed directly by the telephone company for this reactivation and installation of telephones. (Attachments 1(f) and 2(C)). Documentation furnished by USW shows that telephone service to the union hall was supplied by U.S. WEST Communications. The 30 Day Post-General Report filed by the Committee indicates $5,749.33 paid to U.S. West Communications from October 20 through November 11, 1988. The Year End Report filed by the Committee shows a $3,305.11 payment to U.S. West Communications on December 28, 1988. Based on these reports it appears that the Committee paid for telephone service in the office space leased in the union hall. USW also furnished this Office with copies of bills for telephone services for using union telephones, a portion of which were assertedly paid for by the Committee. Attached to such bills was a check dated December 20, 1988 in the amount of $27.54 which represented the Committee's prorated share for use of telephones for calls to non-union personnel other than its calls on its own telephones. The $27.54 payment solely for committee use of labor union telephones does not satisfy the requirements of 11 C.F.R. § 114.9(d). This regulation not only requires payment for the calls but also payment for the use of the facility where the telephone is located, and use of any office furniture. See Advisory Opinion 1978-34 (use of corporate telephones). USW allowing the Vinich Committee use of its telephones without receiving payment which included an amount for use of its

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facility appears to be a violation of 2 U.S.C. § 441b(a) by both the USW and the Vinich Committee. (Attachment 2(i and s)).[2/]

The telephone bills furnished by USW shows that the billing date from the Telephone Company to USW was October 25, 1988. USW did not send a bill to the Vinich Committee for its prorated use of the telephones for the period September 29, 1988 to October 25, 1988 until December 17, 1988 almost two months after receiving the telephone bill. (Attachment 2(q)). The Vinich Committee paid its prorated share with a check dated December 20, 1988. (Attachment 2(s)). In addition, the Vinich Committee to date has not paid for or been billed for its prorated use of the union telephones from October 25, 1988 to November 9, 1988. USW allowing the Vinich Committee use of its telephones without payment within a commercially reasonable time appears to be a violation of 2 U.S.C. § 441b(a) by both USW and the Vinich Committee.

B. Reporting Violation

Pursuant to 2 U.S.C. § 434(b)(5)(A) each report shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to

2/ According to a letter from a District 13 staff representative to counsel for USW, the extra lines installed by the union during the election campaign were used primarily to call its own members. The expenses related to such communications would not be considered a contribution to a candidate pursuant to 2 U.S.C. § 441b(b)(2)(A). (Attachment 2(i)).

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meet an operating expense, together with the date, amount and purpose of such expenditure.

As noted above, the amount of $27.54 paid by the Committee for the use of NSW's phones does not include the value of the use of the facility wherein such telephone(s) was located. The Vinich Committee's failure to include in its reports the amount allegedly paid to USW for rent of the space in the union hall ($164.50), and the amounts paid for use of union telephones ($27.54), plus any additional amount for the facility use could aggregate in excess of $200. This appears to be a violation of 2 U.S.C. § 434(b)(5)(A), because the amounts involved would then meet the $200 threshold for itemizing such expenditures.

C. Excessive Contributions

Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000.00.

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As alleged by the Complainant, the reports filed by the Vinich Committee disclosed three contributions totaling $15,000 from the Committee On Letter Carriers Political Education ("COL"). These contributions were as follows:

1. October 4, 1988 $5,000 for the primary;
2. October 13, 1988 $5,000 for the general; and
3. October 24, 1988 $5,000

With regard to the third contribution, in its response COL states that by mistake it did send the Vinich Committee a $5,000.00 contribution on October 12, 1988. (Attachment 3). The Committee states that it was received on October 24. (Attachment 1). COL also contends that on November 1, 1988, the Vinich Committee telephoned and explained that this was an excessive contribution and returned the $5,000 to COL on November 3, 1988. As evidence of the refund, COL furnished a copy of a check from the Vinich Committee for $5,000.00 dated November 3, 1988. (Attachment 3(1)). Also attached was an envelope post-marked November 3, 1988.

In its response the Committee contended that as the October 24, 1988 contribution was received between 20 days and 48 hours before the general election, and that, because the contribution was in excess of $1,000, it was reported on the 48-hour report. In addition, according to the Committee, it aggregated the prior contributions by COL, discovered the excessive contribution, and refunded the excessive amount within 10 days. (Attachment 1).

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Based on the foregoing it appears that COL made an excessive contribution of $5,000.00 to the Vinich Committee in violation of 2 U.S.C. § 441a(a)(2)(A). The Committee refunded the excessive contribution within 10 days of receipt, well within the 60 day period for the alternative of refund under 11 C.F.R. § 103.3(b)(3); therefore, the Vinich Committee has not violated 2 U.S.C. § 441a(f).

D. Disclaimer

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, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication-
>
> (1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the communication has been paid for by such authorized political committee, or
>
> (2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;
>
> (3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

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The complaint indicates that two televised commercials advocating Vinich's election carried the disclaimer: "Paid for by the Democratic Senatorial Campaign Committee," however, there was no statement as to whether it was or was not authorized by Vinich or his committee as required by Section 441d(a)(2).

In its response the Democratic Senatorial Campaign Committee ("DSCC") acknowledges that the "authorized by" language did not appear in the complained of commercials through mistake. (Attachment 4). In addition, a review of the commercials clearly shows the lack of a complete disclaimer. Accordingly, it appears that DSCC has violated 2 U.S.C. § 441d(a)(2).

Recommendations

1. Find no reason to believe that John P. Vinich personally violated any provision of the Act or the Commission's Regulations as pertains to the complaint filed in this matter and close the file as it pertains to him.

2. Find no reason to believe that the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. § 441a(f).

3. Find reason to believe that John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. §§ 441b(a) and 434(b)(5)(A).

4. Find reason to believe that United Steelworkers of America - Local Union 13214 violated 2 U.S.C. § 441b(a).

5. Find reason to believe that the Committee On Letter Carriers Political Education and Florence Johnson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

6. Find reason to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).

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7. Approve the attached letters and Factual and Legal Analyses.

Lawrence M. Noble
General Counsel

6-12-89
Date

BY: LG Lerner
Lois G. Lerner
Associate General Counsel

Attachments

1. Response to Complaint by Vinich Committee
2. Response to Complaint by United Steelworkers of America Local Union 13214
3. Response to Complaint by Committee on Letter Carriers Political Education
4. Response to Complaint by Democratic Senatorial Campaign Committee
5. Proposed letters (4) and Factual and Legal Analyses (4)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS

DATE: JUNE 16, 1989

SUBJECT: OBJECTIONS to MUR 2771 - G.C. Report Signed June 12, 1989.

The above-captioned document was circulated to the Commission on Tuesday, June 13, 1989 at 4:00 p.m.

Objections have been received from the Commissioners as indicated by the name(s) checked:

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

This matter will be placed on the Executive Session agenda for Tuesday, June 27, 1989.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
John P. Vinich	)	
John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer	)	
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer	)	MUR 2771
Committee on Letter Carriers Political Education and Florence Johnson, as treasurer	)	
United Steelworkers of America - Local Union 13214	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of June 27, 1989, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 2771:

1. Find no reason to believe that John P. Vinich personally violated any provision of the Act or the Commission's Regulations as pertains to the complaint filed in this matter and close the file as it pertains to him.

2. Find no reason to believe that the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. § 441a(f).

(continued)

3. Find reason to believe that John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. §§ 441b(a) and 434(b)(5)(A).

4. Find reason to believe that United Steelworkers of America - Local Union 13214 violated 2 U.S.C. § 441b(a).

5. Find reason to believe that the Committee on Letter Carriers Political Education and Florence Johnson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

6. Find reason to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).

7. Approve the letters and Factual and Legal Analyses attached to the General Counsel's report dated June 12, 1989.

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

Attest:

6-29-89
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1989

Keith E. Secular, Esquire
Cohen, Weiss and Simon
330 West 42nd Street
New York, NY 10036-6901

RE: MUR 2771
Committee on Letter Carriers
Political Education and
Florence Johnson, as treasurer

Dear Mr. Secular:

On November 7, 1988, the Federal Election Commission notified your client, the Committee on Letter Carriers Political Education and Florence Johnson, 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 client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 27, 1989, found that there is reason to believe the Committee on Letter Carriers Political Education and Florence Johnson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

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

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 Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: **Committee on Letters Carriers Political Education and Florence Johnson, as treasurer** MUR 2771

Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal Office which, in the aggregate, exceed $5,000.00.

The reports filed by the John P. Vinich for U.S. Senate Committee disclosed three contributions totaling $15,000 from the Committee On Letter Carriers Political Education ("COL"). These contributions were as follows:

1. October 4, 1988 $5,000 for the primary;
2. October 13, 1988 $5,000 for the general; and
3. October 24, 1988 $5,000

The third contribution was excessive because in the aggregate it exceeded $5,000 for one election. Therefore, there is reason to believe the Committee on Letter Carriers Political Education and Florence Johnson, as treasurer violated 2 U.S.C. § 441a(a)(2)(A).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1989

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

RE: MUR 2771
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer

Dear Ms. Corley:

On November 7, 1988, the Federal Election Commission notified your clients, the Democratic Senatorial Campaign Committee and its 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 you, the Commission, on June 27, 1989, found that there is reason to believe the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

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

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 Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: **Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer** MUR 2771

A complaint was received from Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee, alleging that two television ads paid for by the Democratic Senatorial Campaign Committee, benefitting John P. Vinich's candidacy for U.S. Senate, lacked proper disclaimers identifying Vinich's link to the commercials.

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, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication-
>
> > (1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the communication has been paid for by such authorized political committee, or
> > (2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;

> (3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

The complaint indicates that two televised commercials advocating Vinich's election carried the disclaimer: "Paid for by the Democratic Senatorial Campaign Committee," however, there was no statement as to whether it was or was not authorized by Vinich or his committee.

In its response the Democratic Senatorial Campaign Committee ("DSCC") acknowledges that the "authorized by" language did not appear in the complained of commercials through mistake. In addition, a review of the commercials clearly shows the lack of a complete disclaimer. Therefore, there is reason to believe that Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1989

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

RE: MUR 2771
United Steelworkers of America-
Local 13214

Dear Mr. Schmelling::

On November 7, 1988, the Federal Election Commission notified your client 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 client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 27, 1989, found that there is reason to believe the United Steelworkers of America - Local 13214 violated 2 U.S.C. § 441b(a), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the United Steelworkers of America - Local 13214. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the United Steelworkers of America - Local 13214, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the

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General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

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 Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: United Steelworkers of America - Local Union 13214 MUR 2771

A complaint was received from Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee, alleging that John P. Vinich, and John P. Vinich for U.S. Senate Committee (the "Committee") and Mabel L. Vinich, as treasurer, accepted illegal contributions from labor unions.

Complainant alleges that the Committee's use of space in the United Steelworkers union hall, as a campaign headquarters, constitutes a violation of 2 U.S.C. § 441b(a). Complainant also asserts that reports filed by the Committee failed to indicate any rent being paid for the space.

Pursuant to 2 U.S.C. § 441b(a) it is unlawful for any labor organization to make a contribution or expenditure in connection with any federal election, or for any political committee knowingly to accept or receive any contributions prohibited by this section.

The United Steelworkers of America - Local Union 13214 ("USW") in its various responses from November 22, 1988 to January 3, 1989 contended that the Vinich Committee rented the office space in the union hall. According to USW the Vinich Campaign paid $164.50 rent charges with a check (#1514) issued on November 22, 1988. USW attached a copy of the lease agreement

entered into with the Committee for use of the space as a campaign headquarters.

Pursuant to 11 C.F.R. § 114.9(d) persons who make any use of labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge. As defined in 11 C.F.R. § 100.7(a)(1)(iii)(B) "usual and normal charge" for goods in the market from which they ordinarily would have been purchased at the time of the contribution.

USW's response dated November 30, 1988 indicates that the $50 per month rental charged to the Vinich Campaign for its use of one office room was based on the fact that USW leased a two-room office suite to another tenant for $100 per month. This appears to satisfy the "usual and normal charge standard.

The lease furnished shows that the parties made an agreement that a commercially reasonable time for payment would be 60 to 90 days. USW did not bill the Vinich Committee until November 18, 1988, and the Committee did not tender payment until November 22, 1988. This payment was approximately 22 days more than the agreed upon 90 day maximum commercially reasonable time. The commercially reasonable time requirement was not adhered to; therefore, the use of the office space, which is something of value, resulted in the giving of an unlawful contribution by USW to the Vinich Committee in violation of 2 U.S.C. § 441b(a).

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Regarding the use of telephones, USW asserted that the Vinich Campaign had the telephone company reactivate a long existing phone jack within the rented office and made arrangements for the installation of its own telephone. According to USW the Vinich Campaign was to be billed directly by the telephone company for this reactivation and installation of telephones. Documentation furnished by USW shows that telephone service to the union hall was supplied by U.S. WEST Communications. The 30 Day Post-General Report filed by the Committee indicates $5,749.33 paid to U.S. West Communications from October 20 through November 11, 1988. The Year End Report filed by the Committee shows a $3,305.11 payment to U.S. West Communications on December 28, 1988. Based on these reports it appears that the Committee paid for telephone service in the office space leased in the union hall. USW also furnished this Office with copies of bills for telephone services for using union telephones, a portion of which were assertedly paid for by the Committee. Attached to such bills was a check dated December 20, 1988 in the amount of $27.54 which represented the Committee's prorated share for use of telephones for calls to non-union personnel other than its calls on its own telephones. The $27.54 payment solely for committee use of labor union telephones does not satisfy the requirements of 11 C.F.R. § 114.9(d). This regulation not only requires payment for the calls but also payment for the use of the facility where the

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telephone is located, and use of any office furniture. See Advisory Opinion 1978-34 (use of corporate telephones). USW allowing the Vinich Committee use of its telephones without receiving payment which included an amount for use of its facility appears to be a violation of 2 U.S.C. § 441b(a).[1/]

The telephone bills furnished by USW shows that the billing date from the Telephone Company to USW was October 25, 1988. USW did not send a bill to the Vinich Committee for its prorated use of the telephones for the period September 29, 1988 to October 25, 1988 until December 17, 1988 almost two months after receiving the telephone bill. The Vinich Committee paid its prorated share with a check dated December 20, 1988. In addition, the Vinich Committee to date has not paid for or been billed for its prorated use of the union telephones from October 25, 1988 to November 9, 1988. USW allowing the Vinich Committee use of its telephones without paying for such service within a commercially reasonable time appears to be a violation of 2 U.S.C. § 441b(a).

Therefore, there is reason to believe United Steelworkers of America - Local Union 13214 violated 2 U.S.C. § 441b(a).

1/ According to a letter from a District 13 staff representative to counsel for USW, the extra lines installed by the union during the election campaign were used primarily to call its own members. The expenses related to such communications would not be considered a contribution to a candidate pursuant to 2 U.S.C. § 441b(b)(2)(A).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1989

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

RE: MUR 2771
John P. Vinich, John P. Vinich
for U.S. Senate Committee and
Mabel Vinich, as treasurer

Dear Ms. Corley:

On November 7, 1988, the Federal Election Commission notified your clients, John P. Vinich, John P. Vinich for U.S. Senate Committee and Mabel Vinich, 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 June 27, 1989, found that there is reason to believe the John P. Vinich Committee for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. §§ 441b(a) and 434(b)(5)(A), provisions of the Act. The Commission also found no reason to believe John P. Vinich personally violated any provision of the Act or Commission's Regulations as pertains to this matter; and no reason to believe that the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. § 441a(f). The Commission closed its file in this matter as it pertains to John Vinich. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

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

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

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

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

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 Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosure
Factual and Legal Analysis

2 0 4 0 8 0 4 3 4 3

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: John P. Vinich, John P. Vinich for Senate Committee and Mabel Vinich, as treasurer

MUR 2771

Statement of the Case

A complaint was received from Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee, alleging that John P. Vinich, and John P. Vinich for U.S. Senate Committee (the "Committee") and Mabel L. Vinich, as treasurer, accepted illegal contributions from labor unions and failed to report said contributions; that the Committee accepted excessive contributions from political action committees ("PAC's"); and that two television ads paid for by the Democratic Senatorial Campaign Committee, benefiting Mr. Vinich's candidacy, lacked proper disclaimers identifying Vinich's link to the commercials.

A. Illegal Labor Union Contributions

Complainant alleges that the Committee's use of space in the United Steelworkers union hall, as a campaign headquarters, constitutes a violation of 2 U.S.C. § 441b(a). Complainant also asserts that reports filed by the Committee failed to indicate any rent being paid for the space.

Pursuant to 2 U.S.C. § 441b(a) it is unlawful for any labor organization to make a contribution or expenditure in connection with any federal election, or for any political committee knowingly to accept or receive any contributions prohibited by this section.

The Vinich Committee, through its counsel, responded to this allegation by a letter dated December 12, 1988. In this response the Committee asserted that this space used as a campaign headquarters, was rented to them at a rate of $50.00 per month, which was a rate equivalent to that charged other organizations renting similar space in the union hall. As evidence of this assertion the Committee furnished a signed lease agreement with the union for this office space. A copy of the bill received from USW for rent totalling $164.50 dated November 18, 1988.

The Committee treasurer also furnished her signed Affidavit stating that the Committee paid for all services in connection with the rented space in the union hall.

The United Steelworkers of America - Local Union 13214 ("USW") stated that the Vinich Committee rented the office space in the union hall. According to USW the Vinich Campaign paid $164.50 rent charges with a check (#1514) issued on November 22, 1988. USW attached a copy of the lease agreement entered into with the Committee for use of the space as a campaign headquarters.

Pursuant to 11 C.F.R. § 114.9(d) persons who make any use of labor organization facilities, such as by using telephones or typewriters or borrowing office furniture, for activity in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge. As defined in

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11 C.F.R. § 100.7(a)(1)(iii)(B) "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.

USW further indicated that the $50 per month rental charged to the Vinich Campaign for its use of one office room was based on the fact that USW leased a two-room office suite to another tenant for $100 per month. This appears to satisfy the "usual and normal charge" standard for the rental charge.

The lease furnished shows that the parties made an agreement that a commercially reasonable time for payment would be 60 to 90 days for a lease extending from August 1 to November 9, 1988. USW did not bill the Vinich Committee until November 18, 1988, and the Committee did not tender payment until November 22, 1988. This payment was approximately 22 days more than the agreed upon 90 day maximum commercially reasonable time using August 1, 1988 as a starting point. The commercially reasonable time requirement was apparently not adhered to; therefore, the use of the office space, which is something of value, appears to have resulted in the receiving of an unlawful contribution from a labor organization by the Vinich Committee in violation of 2 U.S.C. § 441b(a).

Regarding the use of telephones, USW asserted that the Vinich Campaign had the telephone company reactivate a long existing phone jack within the rented office and made

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arrangements for the installation of its own telephone. According to the Vinich Committee, the Vinich Campaign was to be billed directly by the telephone company for this reactivation and installation of telephones. Documentation furnished by USW shows that telephone service to the union hall was supplied by U.S. WEST Communications. The 30 Day Post-General Report filed by the Committee indicates $5,749.33 paid to U.S. WEST Communications from October 20 through November 11, 1988. The Year End Report filed by the Committee shows a $3,305.11 payment to U.S. WEST Communications on December 28, 1988. Based on these reports it appears that the Committee paid for telephone service in the office space leased in the union hall. This Office was furnished with copies of bills for telephone services for using union telephones, a portion of which were assertedly paid for by the Committee. Attached to such bills was a check dated December 20, 1988 in the amount of $27.54 which represented the Committee's prorated share for use of telephones for calls to non-union personnel other than its calls on its own telephones. The $27.54 payment solely for committee use of labor union telephones does not satisfy the requirements of 11 C.F.R. § 114.9(d). This regulation not only requires payment for the calls but also payment for the use of the facility where the telephone is located, and use of any office furniture. See Advisory Opinion 1978-34 (use of corporate telephones). USW allowing the Vinich Committee use of its telephones without receiving payment which included an amount for use of its

9004030347

facility appears to be a violation of 2 U.S.C. § 441b(a).[1/]

The telephone bills show that the billing date from the Telephone Company to USW was October 25, 1988. USW did not send a bill to the Vinich Committee for its use of the telephones for the period September 29, 1988 to October 25, 1988 until December 17, 1988 almost two months after receiving the telephone bill. The Vinich Committee paid its prorated share with a check dated December 20, 1988. In addition, the Vinich Committee to date has not paid for or been billed for its prorated use of the union telephones from October 25, 1988 to November 9, 1988. USW allowing the Vinich Committee use of its telephones without payment within a commercially reasonable time appears to be a violation of 2 U.S.C. § 441b(a) by the Vinich Committee.

B. Reporting Violation

Pursuant to 2 U.S.C. § 434(b)(5)(A) each report shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of $200 made within in the calendar year by the reporting committee to meet an operating expense, together with the date, amount and purpose of such expenditure.

As noted above, the amount of $27.54 paid by the Committee for the use of USW's phones does not include the value of the use

1/ According to a letter from a District 13 staff representative to counsel for USW, the extra lines installed by the union during the election campaign were used primarily to call its own members. The expenses related to such communications would not be considered a contribution to a candidate pursuant to 2 U.S.C. § 441b(b)(2)(A).

of the facility wherein such telephone(s) was located. The Vinich Committee's failure to include in its reports the amount allegedly paid to USW for rent of the space in the union shall ($164.50), and the amounts paid for use of union telephones ($27.54), plus any additional amounts for the facility use could aggregate in excess of $200. This appears to be a violation of 2 U.S.C. § 434(b)(5)(A), because the amounts involved would then meet the $200 threshold for itemizing such expenditures.

C. Excessive Contributions

Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal Office which, in the aggregate, exceed $5,000.00.

As alleged by the Complainant the reports filed by the Vinich Committee disclosed three contributions totaling $15,000 from the Committee On Letter Carriers Political Education

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("COL"). These contributions were as follows:

1. October 4, 1988 $5,000 for the primary;
2. October 13, 1988 $5,000 for the general; and
3. October 24, 1988 $5,000

On November 1, 1988, the Vinich Committee telephoned COL and explained that this third contribution was an excessive contribution and returned the $5,000 to COL on November 3, 1988. A copy of a check from the Vinich Committee for $5,000.00 dated November 3, 1988 evidenced the refund. The attached envelope was post-marked November 3, 1988.

In its response the Committee contended that as the October 24, 1988 contribution was received between 20 days and 48 hours before the general election, and that, because the contribution was in excess of $1,000, it was reported on the 48-hour report. In addition, according to the Committee, it aggregated the prior contributions by COL, discovered the excessive contribution, and refunded the excessive amount within 10 days.

Based on the foregoing it appears that the Committee refunded the excessive contribution within 10 days of receipt, well within the 60 day period for the alternative of refund under 11 C.F.R. § 103.3(b)(3) therefore, the Vinich Committee has not violated 2 U.S.C. § 441a(f).

Therefore, there is reason to believe the Vinich Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. §§ 441b(a) and 434(b)(5)(A); and no reason to believe these respondents violated 2 U.S.C. § 441a(f).

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OGC 3507

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • ([redacted])

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUL 21 PM 3:39

July 21, 1989

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

Re: MUR 2771 - John Vinich for U.S. Senate and Mabel Vinich, as Treasurer

Dear Mr. Wise:

This is to request an extension of time of two weeks in order to respond to the Commission's finding of reason to believe in the above-referenced matter under review.

With summer vacation schedules and the logistics of coordinating the response with Respondents in Wyoming, our preparation of the response has tanek longer than anticipated. The additional two weeks will allow us to finalize the information-gathering and preparation of the response. With the extension, our response will now be due on August 9, 1989.

If you have any questions or need additional information, please contact one of the undersigned.

Very truly yours,

Judith L. Corley

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

TELEX 44-0277 PCSO UI • FACSIMILE (202) 223-2088
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE

OGC 3511

PERKINS COIE

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

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUL 21 PM 3:42

July 21, 1989

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

Re: MUR 2771 - Democratic Senatorial Campaign Committee and G. Wayne Smith, as Treasurer

Dear Mr. Wise:

This is to request an extension of time of two weeks in order to respond to the Commission's finding of reason to believe in the above-referenced matter under review.

With summer vacation schedules and the logistics of coordinating the response with Respondents in Wyoming, our preparation of the response has taken longer than anticipated. The additional two weeks will allow us to finalize the information-gathering and preparation of the response. With the extension, our response will now be due on August 9, 1989.

If you have any questions or need additional information, please contact one of the undersigned.

Very truly yours,

Judith L. Corley

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

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TELEX 440277 PERSO UI • FACSIMILE (202) 223-2088
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OGC 3519

United Steelworkers of America

AFL-CIO-CLC

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
89 JUL 24 AM 9:49

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

July 20, 1989

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUL 24 AM 3:41

Federal Election Commission
Office of the General Counsel
Lawrence M. Noble, General Counsel
Lois M. Lerner, Associate General Counsel
999 E. Street NW
Washington, D.C. 20463

Attention: Phillip L. Wise

Re: John P. Vinich for US Senate Committee
FEC MUR 2771
(Complaint by National Republican Senatorial Committee)

Dear Sir:

On July 12, 1989, this office received the FEC's July 6, 1989 notification that a reason to believe finding had been made by the Commission against United Steelworkers of America, Local Union 13214 in this matter. Accordingly, any factual or legal materials which United Steelworkers of America, Local Union 13214 might submit to the Federal Election Commission would be due on July 28, 1989.

This is to request a 15-day extension of time for such submission until August 12, 1989. Such additional time is needed because I must obtain additional factual matters from representatives of the United Steelworkers of America in Wyoming and because of the heavy burden of my pre-existing assignments.

Very truly yours,

William H. Schmelling

William H. Schmelling
Assistant General Counsel

WHS/hlr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 24, 1989

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, IL 60601-1980

RE: MUR 2771
United Steelworkers of
America-Local 13214

Dear Mr. Schmelling:

This is in response to your letter dated July 20, 1989, which we received on July 20, 1989 requesting an extension of 15 days until August 12, 1989 to respond to the Commission's reason to believe notification. 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 August 11, 1989.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9004030354

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1989

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

RE: MUR 2771
John P. Vinich for U.S.
Senate Committee and Mabel
Vinich, as treasurer

Dear Ms Corley:

This is in response to your letter dated July 21, 1989, which we received on July 21, 1989, requesting an extension of two weeks to respond to the Commission's reason to believe notification. 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 August 9, 1989.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9004030435 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1989

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

RE: MUR 2771
Democratic Senatorial
Campaign Committee and
G. Wayne Smith, as treasurer

Dear Ms Corley:

This is in response to your letter dated July 21, 1989, which we received on July 21, 1989, requesting an extension of two weeks to respond to the Commission's reason to believe notification. 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 August 9, 1989.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

89 JUL 31 AM 11:23

COHEN, WEISS AND SIMON
COUNSELLORS AT LAW
330 WEST 42ND STREET
NEW YORK, N.Y. 10036-6901

(212) 563-4100
TELECOPIER (212) 695 5436
DIRECT DIAL (212)

BRUCE H. SIMON
STANLEY M. BERMAN
ROBERT S. SAVELSON
STEPHEN B. MOLDOF
MICHAEL E. ABRAM
KEITH E. SECULAR
RICHARD N. GILBERG
PETER HERMAN
RICHARD M. SELTZER
JAMES L. LINSEY
JANI K. RACHELSON

BABETTE CECCOTTI
ANN E. O'SHEA
CHRISTOPHER N. SOURIS
STEPHEN PRESSER
SOPHIA E. DAVIS
MICHAEL L. WINSTON
SUSAN DAVIS
SUSAN A. RUSSELL
EARL R. PFEFFER
RICHARD B. MILLER
CATHARINE A. GRAD
GARY GORDON*

COUNSEL

HENRY WEISS
SAMUEL J. COHEN

*ADMITTED IN N.J. AND PA. ONLY

July 28, 1989

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 JUL 31 PM 4:06

Phillip L. Wise, Esq.
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2771
Committee on Letter Carriers
Political Education and
Florence Johnson, as treasurer

Dear Mr. Wise:

In accordance with Chairman McDonald's letter to me, dated July 6, 1989, respondents hereby request an opportunity to resolve this matter through pre-probable cause conciliation. Please contact me at your earliest convenience.

Sincerely yours,

Keith E. Secular

Keith E. Secular

KES/brd

United Steelworkers of America

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

06C3712
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 AUG -9 AM 10: 15

August 8, 1989

Federal Election Commission
Office of the General Counsel
Lawrence M. Noble, General Counsel
Lois M. Lerner, Associate General Counsel
999 E. Street NW
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 AUG -9 AM 11: 14

Attention: Phillip L. Wise

Re: John P. Vinich for US Senate Committee
FEC MUR 2771
(Complaint by National Republican Senatorial Committee)

Dear Sir:

This is to request an extension of time from August 12 to August 25, 1989 to submit a response on behalf of United Steelworkers of America, Local Union 13214 to the reason-to-believe finding which has been made against it by the Federal Election Commission in this matter.

Attached to this letter is one dated July 20, 1989 by which I requested an extension of time for filing this response until August 12, 1989. On July 26, 1989, my office was informed, in response to our telephone inquiry, July was informed, in response to our telephone inquiry, that that request had been granted and that written confirmation would be issued by your office. No written confirmation has been received to date; but I have been proceeding based on your July 26, 1989 telephone conversation with my office, with the intent to submit Local Union 13214's response by August 12th.

I have determined that in order to fully prepare Local Union 13214's response, it will be necessary for me to obtain information, and possibly an affidavit, from Patrick Doak, the Financial Secretary of USWA Local Union 13214.

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It was anticipated that Mr. Doak would return from his vacation by August 7, 1989; but I have now been informed that he will not be returning to Rock Springs until August 14, 1989.

From August 14 through August 18, 1989 I will be away from my office on a previously scheduled vacation myself. Accordingly, I will not be able to obtain the information I need from Mr. Doak until the week of August 21, 1989.

Your prompt consideration and response to this request for an extension of time until August 25, 1989 for submission of the response by USWA Local Union 13214 in this matter will be greatly appreciated.

Very truly yours,

William H. Schmelling
Assistant General Counsel

WHS/hlr

cc: Lois Lerner, Associate General Counsel

9004030359

United Steelworkers of A

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

July 20, 1989

Have Mr. Schmelling call P. Wise (202) 376-8200 Look if ok w/ 8/12 date is ok

7/26/89 Per Mr. Wise, yes. Will receive confirmation in the mail. Hh

Federal Election Commission
Office of the General Counsel
Lawrence M. Noble, General Counsel
Lois M. Lerner, Associate General Counsel
999 E. Street NW
Washington, D.C. 20463

Attention: Phillip L. Wise

Re: John P. Vinich for US Senate Committee
FEC MUR 2771
(Complaint by National Republican Senatorial Committee)

Dear Sir:

On July 12, 1989, this office received the FEC's July 6, 1989 notification that a reason to believe finding had been made by the Commission against United Steelworkers of America, Local Union 13214 in this matter. Accordingly, any factual or legal materials which United Steelworkers of America, Local Union 13214 might submit to the Federal Election Commission would be due on July 28, 1989.

This is to request a 15-day extension of time for such submission until August 12, 1989. Such additional time is needed because I must obtain additional factual matters from representatives of the United Steelworkers of America in Wyoming and because of the heavy burden of my pre-existing assignments.

Very truly yours,

William H. Schmelling

William H. Schmelling
Assistant General Counsel

WHS/hlr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 15, 1989

William H. Schmelling, Esq.
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

RE: MUR 2771
United Steelworkers of
America Local-13214

Dear Mr. Schmelling:

This is in response to your letter dated August 8, 1989, which we received on August 9, requesting an additional extension until August 25, 1989 to respond to the Commission's reason to believe notification. 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 August 25, 1989.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

90040030435 1

OGC 3722

PERKINS COIE

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

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 AUG -9 PM 2:17

August 8, 1989

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

Re: MUR 2771 - Democratic Senatorial Campaign Committee and G. Wayne Smith, as Treasurer

Attention: Phillip L. Wise

Dear Mr. Noble:

This is in response to your notification dated July 6, 1989, that the Federal Election Commission had found reason to believe that the Democratic Senatorial Campaign Committee ("DSCC") and G. Wayne Smith, as Treasurer ("Respondents"), had violated 2 U.S.C. § 441d(a)(2).

As noted in our earlier letter dated December 12, 1988, the DSCC never received a copy of the advertisements in question, and, therefore, is unable to verify whether or not the Commission's conclusions concerning the absence of the disclaimer language are correct. For purposes of this response, Respondents will, however, assume that the Commission has seen the advertisements as it states and that the full disclaimer does not appear.

The DSCC has acknowledged that its practice and policy is to recommend the inclusion of the "authorized by" language in any candidate communication financed under 2 U.S.C. § 441a(d). If the "authorized by" language does not appear in the advertisements in question, it was omitted by mistake.

The DSCC contends that this "mistake" is of little import. The advertisement in question apparently appeared for only a brief period of time. Furthermore, in view of the DSCC's financing of numerous advertisements for candidates all around the country during the election cycle, and the fact that this advertisement is the only one called to the Commission's attention as failing to contain the "authorized by" language demonstrates that the DSCC's policy and practice is, in fact, observed in the vast majority of cases.

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TELEX: 44-0277 PCSO UI • FACSIMILE (202) 223-2088
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE

The DSCC incorporates by reference its arguments from its December 12 letter regarding the need for the "authorized by" language in communications by a national party committee on behalf of one of its candidates. A party committee is precluded as a matter of law from making independent expenditures, i.e., those not authorized by a candidate. 11 C.F.R. §§ 110.7(a)(5), (b)(4). All expenditures by a national party committee on behalf of a candidate must, therefore, be presumed to be authorized by the candidate on whose behalf they are made. The "authorized by" language, therefore, serves little purpose in coordinated party expenditures under 2 U.S.C. § 441a(d).

Finally, the apparent purpose of the "authorized by" language in the disclaimer is to alert the public to the source of payment and the recipient of the benefit of such an advertisement. The public can then pursue additional information presumably in the FEC reports filed by the parties involved. In the case of coordinated party expenditures, however, the DSCC's reports would be the only ones on which the public would discover any disclosure related to this advertisement, since only party committees disclose Section 441a(d) expenditures. Thus, the absence of the "authorized by" language does not adversely affect the goals of full disclosure. This disclosure can be distinguished from a contribution in-kind which is disclosed by both the spending committee and the recipient candidate.

For these reasons, the Commission should close this case and take no further action.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

1136E

2004080483

OGC 3723

PERKINS COIE

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

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 AUG -9 PM 2:17

August 9, 1989

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

Attention: Phillip L. Wise

Re: MUR 2771 - John P. Vinich, John P. Vinich for Senate Committee, and Mabel Vinich, as Treasurer

Dear Mr. Noble:

This is in response to your notification dated July 6, 1989, that the Federal Election Commission had found reason to believe that John P. Vinich, John P. Vinich for Senate Committee ("the Committee"), and Mabel Vinich, as Treasurer (hereinafter referred to collectively as "Respondents") had violated various provisions of the Federal Election Campaign Act. Respondents will reply to each of the findings below.

Labor Union Contributions

The FEC found reason to believe that the Respondents accepted illegal labor union contributions from the United Steelworkers ("USW") in two instances. First, the Commission finds a violation in the payment by the Vinich campaign of $164.50 for rent for the use of space in USW's headquarters between August 1 and November 9, 1988.[1/] The Commission alleges that because the Committee did not pay the $164.50

1/ In fact, the Committee did not occupy the space identified in the lease until around October 1, 1988.

until November 22, 1988, the payment was not made in a "commercially reasonable time."

The lease between the Committee and USW provides that USW will invoice the Committee for the use of the facilities and then states the following:

> The Committee agrees to reimburse the labor organization for the use of the labor organization's facilities within a commercially reasonable time (60 to 90 days).

Since the term "commercially reasonable time" is not a defined term within the statute or the Commission's regulations, the understanding of the parties to the contract should govern. It is obvious that the parties considered payment within a commercially reasonable time to be within 60 to 90 days of the date that the invoice was sent to the Committee. Nothing in the statute or regulation suggests, much less states, that this interpretation is impermissible. The union's invoice, as the Commission notes, was sent on November 18, 1988, and was paid by the Committee four days later.

Under this interpretation, it is clear that the Committee paid its rent within the commercially reasonable time provided for in the contract. There was no contribution to the Committee by USW.

The Commission also finds that the Vinich Committee accepted an illegal labor organization contribution when it used union telephones for calls made by the Committee. This use, totaling $27.54, is found to be a violation because this pro rata portion of the telephone bill paid by the Committee does not include any amount for the overhead costs for the use of the labor organization's facility.[2/]

2/ The General Counsel's report also states that "USW did not send a bill to the Vinich Committee for its use of the telephones . . . until December 17, 1988, almost two months after receiving the telephone bill." We have assumed that this factor did not enter into the Commission's decision to find a violation under this set of facts. The receipt of the phone bill, the computation of the amount owed, and the preparation of an invoice to the Committee was wholly within the control of USW. The FEC itself notes that the Committee paid its prorated share with a check dated December 20, 1988, three days after the date of the invoice from USW.

The lease between USW and the Committee included the use of:

> one room in the basement of the union hall, bathroom facilities, and periodic use of the main room upstairs.

The "main room upstairs" is where the union phones used by the Committee are located. The rent paid by the Committee, thus,covered the overhead costs for the "periodic use" of these phones.3/

Finally, the Commission notes that the Committee has not yet been billed for or paid for the use of USW's telephones during the period October 25, 1988, through November 9, 1988. It is our understanding from conversations with the union's counsel that the original bill covered this period as well.

The Commission should find that there was no violation of 2 U.S.C. § 441b and should take no further action against the Committee on this matter.

Reporting Violation

The Commission also found reason to believe that the Vinich Committee did not adequately disclose its payments to USW. The Commission finds that the $27.54 and the $164.50 paid by the Committee to USW, when added to alleged unpaid overhead costs for the use of the union telephones, would cause the expenditures by the Vinich Committee to the USW to exceed $200. Thus, the Vinich Committee was found to have violated the itemization requirement for such expenditures.

As noted above, because the lease provided for the payment of overhead for the use of the phones, there were no additional payments required by the Committee. The total amount paid to USW did not exceed $200, and did not, therefore, need to be itemized. The Commission should find that there was no violation of 2 U.S.C. § 434(b)(5)(A) and should take no further action on this finding.

3/ It is Respondents' understanding that the union facility is owned by the labor organization free and clear -- they pay no rent or mortgage on the building. The only overhead expenses for the building are utilities, which are minimal. We have been told by a representative of USW that an affidavit to this effect will be submitted with their response.

Based on the information above, the Commission should dismiss this case and take no further action.

If you have any questions or need additional information, please contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

1137E

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 AUG 17 AM 9:39

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Committee on Letter Carriers Political Education and Florence Johnson, as treasurer	)	MUR 2771

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose from a complaint filed by Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee, in which he alleged that the reports filed by the John P. Vinich for U.S. Senate Committee disclosed three contributions totaling $15,000 from the Committee On Letter Carriers Political Education ("COL").

On June 27, 1989, the Commission found reason to believe that the Committee on Letter Carriers Political Education and Florence Johnson, as treasurer violated 2 U.S.C. § 441A(A)(2)(A). Notification of the Commission's finding was mailed to COL on July 6, 1989. By letter dated July 28, 1989, counsel for COL requested to enter into pre-probable cause conciliation. (Attachment 1).

II. ANALYSIS

Pursuant to 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceeds $5,000.

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As alleged by the complainant, the reports filed by the John P. Vinich for U.S. Senate Committee disclosed three contributions totaling $15,000 from the Committee On Letter Carriers Political Education. These contributions were as follows:

1. October 4, 1988 $5,000 for the primary;
2. October 13, 1988 $5,000 for the general; and
3. October 24, 1988 $5,000

The third contribution was excessive because in the aggregate it exceeded $5,000 for one election, therefore in violation of Section 441a(a)(2)(A).

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Enter into conciliation with the Committee On Letter Carriers Political Education and Florence Johnson, as treasurer, prior to a finding of probable cause to believe.

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2. Approve the attached proposed conciliation agreement and letter.

Lawrence M. Noble
General Counsel

Date 6/16/89

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Request for conciliation
2. Proposed Conciliation Agreement and letter

Staff assigned: Phillip L. Wise

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2771
Committee on Letter Carriers	)	
Political Education and	)	
Florence Johnson, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 22, 1989, the Commission decided by a vote of 5-0 to take the following actions in MUR 2771:

1. Enter into conciliation with the Committee On Letter Carriers Political Education and Florence Johnson, as treasurer, prior to a finding of probable cause to believe.

2. Approve the proposed conciliation agreement and letter, as recommended in the General Counsel's Report dated August 16, 1989.

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

Attest:

8-22-89
Date

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

Received in the Secretariat: Thursday, August 17, 1989 at 9:39 a.m.
Circulated to the Commission: Thursday, August 17, 1989 at 4:00 p.m.
Deadline for vote: Monday, August 21, 1989 at 4:00 p.m.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 25, 1989

Keith E. Secular, Esquire
Cohen, Weiss and Simon
330 West 42nd Street
New York, NY 10036-6901

RE: MUR 2771
Committee On Letter Carriers Political Education and Florence Johnson, as treasurer

Dear Mr. Secular:

On August 22, 1989, the Federal Election Commission found reason to believe that the Committee On Letter Carriers Education and Florence Johnson, as treasurer, violated 2 U.S.C. § 441a (a)(2)(A). At your request, on August 22, 1989, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

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

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 Phillip Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

OGC 3869

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

United Steelworkers of America

AFL-CIO-CLC

89 AUG 28 AM 10: 16

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

89 AUG 29 AM 12: 49

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 AUG 28 AM 12: 49

August 25, 1989

VIA TELECOPIER /FAX

Lawrence M. Noble, General Counsel
Lois G. Lerner, Associate General Counsel
Federal Election Commission
999 E. Street NW
Washington, D.C. 20463

Attention: Phillip Wise

Re: John P. Vinich for US Senate Committee
FEC **MUR 2771**
(Complaint by National Republican Senatorial Committee)

Dear Mr. Noble:

This letter is part of a response by United Steelworkers of America Local Union 13214 ("USWA Local Union 13214") to the notification dated July 6, 1989 from the Chairman of the Federal Election Commission ("FEC") that the Commission had found that USWA Local Union 13214 had violated 2 U.S.C. § 441b(a), a reason to believe provision of the Federal Election Campaign Act, in relation to the use by the John P. Vinich for US Senate Committee (the "Vinich Committee") of space within the building owned by USWA Local Union 13214 in Rock Springs, Wyoming prior to the November 9, 1988 General Election. Also in response to the Commission's reason to believe finding, there is being submitted to you directly by Patrick Doak, the Financial Secretary of USWA Local Union 13214, his affidavit concerning this matter. An unsigned copy of that affidavit is attached to this letter.

Thank you for granting my request that USWA Local Union 13214 be permitted until August 25, 1989 to submit its response.

PRINTED IN U.S.A.

According to the Factual and Legal Analysis which was attached to the Commission's July 6, 1989 notification, the basis of the Commission's reason to believe finding is that USWA Local Union 13214 made an unlawful contribution of "something of value" to the Vinich Committee through the use of the Local Union's facilities in two instances. Although the Commission found that the rent of $164.50 which was charged by USWA Local Union 13214 under the terms of a lease between it and the Vinich Committee appears to have satisfied the "usual and normal charge" standard under FEC Regulation § 100.7(a)(1)(iii)(B), because payment of such rent was not made until November 22, 1988, the Commission concluded that the payment was not made in a "commercially reasonable time."

Under the terms of the lease agreement between USWA Local Union 13214 and the Vinich Committee, payment of rent was to be made, following submission of an invoice from the Local Union to the Vinich Committee, within a commercially reasonable time (60 to 90 days). As is indicated in the attached affidavit of Patrick R. Doak, he is the Financial Secretary of USWA Local Union 13214, and in that capacity signed the lease agreement, a copy of which is attached to his affidavit as Appendix A, between the Local Union and the Vinich Committee. Not only has Mr. Doak been the Local Union Financial Secretary, since April, 1979, he also served as President of the USWA Local Union 13214 for three terms prior to 1979. In those capacities Mr. Doak has become familiar with the use by USWA Local Union 13214 of its building, located at 7020 2ND Street, in Rock Springs, Wyoming. It is owned free and clear by USWA Local Union 13214, which makes no rent or mortgage payments for its own building. (Doak Affidavit Paragraphs 2 and 3).

In paragraph seven of his affidavit, USWA Local Union 13214 Financial Secretary Doak states that, in entering into the lease with the Vinich Committee, it was the parties' understanding that following the termination of the lease, on or about

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November 9, 1988, USWA Local Union 13214 would submit an invoice to the Vinich Committee for the two or three months' rent. It also was the parties' understanding that the "commercially reasonable time" of 60 to 90 days for payment of such invoiced rent or other costs would run from when USWA Local Union 13214 submitted its invoice to the Committee.

Attached to the affidavit of Patrick Doak as Appendix B is a copy of the invoice for rent during the period of three months and nine days in the amount of $164.50. It was submitted to the Vinich Committee on or about November 18, 1988 and was paid by that Committee on November 22, 1988.

The term "commercially reasonable time" is not a defined term within the Federal Election Campaign Act or any of the FEC's regulations. Accordingly, the understanding of the parties to a lease agreement such as Appendix A attached to the affidavit of Mr. Doak should govern. Nothing in either the Federal Election Campaign Act or any regulations of the FEC could form the basis for a finding that the interpretation of the parties of the term "commercially reasonable time" in such a lease is impermissible. Since the Vinich Committee paid its rent within four days of when the invoice of USWA Local Union 13214 was submitted to it, it certainly was within the commercially reasonable time provided for in the contract. Thus, there was no contribution of anything of value to the Vinich Committee by USWA Local Union 13214 with regard to the timing of the payment of such rent.

Under the Factual and Legal Analysis upon which the Commission's reason to believe finding is based, the FEC also found that USWA Local Union 13214 illegally gave the Vinich Committee "something of value" because in billing the Vinich Committee in the amount of $27.54 for the occasional use by the Committee of telephones of the Local Union, which telephones were located

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in a room other than the primary office room rented by the Vinich Committee, USWA Local Union 13214 failed to include a charge for overhead costs for the use of the room in which such telephones were located. The Commission cites its regulation found in 11 C.F.R. § 114.9(d).

In fact, however, those particular telephones which were used for twelve hours or less during the term of the lease by the Vinich Committee were located in a meeting hall on the second floor of the building owned by the Local Union. As is stated by Local Union 13214 Finanical Secretary Doak in his affidavit, that room is referred to in the lease between the Vinich Committee and the Local Union as the "main room upstairs". Such periodic use of that "main room upstairs" is explicitly permitted under the terms of the parties' lease, without any additional charge (Doak Affidavit Pars. 5 & 9). This was consistent with the practice of Local Union 13214 to permit other local unions, various civic groups, clubs or other organizations to use its "main room upstairs" without charge (Doak Affidavit ¶ 6).

The rent paid by the Vinich Committee, accordingly, covered any periodic use which may have been made by the Committee attendant with its use of USWA telephone equipment located in that room. Thus it was not necessary for Local Union 13214 to add any overhead cost to the $27.54 bill which it submitted to the Vinich Committee for its pro rata share of the costs of that telephone equipment. The requirements of FEC regulations § 114.9(d), therefore, were met.

In the Factual and Legal Analysis which formed a basis for the Commission's reason to believe finding, it is noted that USWA Local Union 13214 did not send a bill to the Vinich Committee for its prorated use of telephones for the period of September 29, 1988 to October 25, 1988 until December 17,

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1988. It is not clear, but it appears that the Commission views such timing of the billing for the Vinich Committee's $27.54 share of the costs of those telephones as not "within a commercially reasonable time" as used in 2 U.S.C. § 441b(a).

Under the terms of the USWA lease to the Vinich Committee, it was the parties' understanding that no billing or invoicing would occur until the termination of the lease on or about November 9, 1988. Detailed and somewhat confusing bills from U.S. WEST Communications for various telephone services supplied to USWA Local Union 13214 were not received until on or about November 7, 1988. (Doak Affidavit ¶10). As Financial Secretary of the Local Union, Patrick Doak paid all of those telephone bills on or about November 14, 1988. Although the billing date on those bills was October 25, 1988, they covered the period until the scheduled termination of the telephone service on November 22, 1988. As stated by Local Union Financial Secretary Doak, in the context of his regular employment and other services to the Local Union and its members, it required substantial calculating, recalculating and discussion for the Local Union to arrive at an hourly billing rate to charge the Vinich Committee for its approximately twelve hours of use of the USWA telephone equipment in the "main room upstairs".

When such calculations were completed, the Vinich Committee was billed by the Local Union on or about December 17, 1988 for its estimated pro rata share of the costs of the use of the telephones and service. The amount of the bill was $27.54. Upon receipt in January, 1989, of additional statements and a refund from the telephone company, USWA Local Union 13214 realized that it had made a substantial overpayment on its October 25,1988 bills from U.S. WEST Communication and, that in turn, Local Union 13214 had also overcharged the Vinich Committee. (Doak Affidavit ¶10). Thus, after the Local Union 13214's December 17, 1988 billing of $27.54 to the Vinich Committee for use of USWA telephones, no additional billing was necessary.

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The Vinich Committee paid its prorated share of such telephone services with a check dated December 20, 1988. This is only three days after it was billed and well within any commercially reasonable time for such payment. Accordingly, there was no violation in the use of USWA telephones by the Vinich Committee or in its payment for such telephone services.

On the basis of the information supplied with this letter and in the affidavit of USWA Local Union 13214 Financial Secretary Patrick Doak, the Commission should dismiss this case and take no further action.

Please do not hesitate to contact me if you have any questions or require additional information concerning this matter.

Very truly yours,

William H. Schmelling

William H. Schmelling
Assistant General Counsel

WHS/hlr

cc: Lois G. Lerner, Associate General Counsel, FEC

State of Wyoming)
)SS
County of Sweetwater)

AFFIDAVIT OF PATRICK R. DOAK

PATRICK R. DOAK, being first duly sworn, on oath deposes and says:

1. My name is Patrick R. Doak. I reside at 1414 Palisades Way, in Rock Springs, Wyoming. I am 51 years old and I am personally familiar with the matters set forth in this affidavit.

2. Since April, 1979, I have served as the Financial Secretary for United Steelworkers of America, Local Union 13214. Prior to becoming the Financial Secretary, I served three terms as Local Union President and have otherwise been active within the Local Union most of my adult life. I am familiar with the use of the building which is owned by USWA Local Union 13214 and which is located at 7020 - 2ND Street, in Rock Springs, Wyoming.

3. That building is owned free and clear by USWA Local Union 13214. We pay no rent and have no mortgage obligations on that building. The only costs incurred by Local Union 13214 in maintaining its building is for utilities, which are relatively low.

4. Attached to this affidavit as Appendix A, is a copy of the lease agreement which I signed, on behalf of the lessor, United Steelworkers of America Local Union 13214. It was signed

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on behalf of the Vinich for US Senate Campaign Committee, as lessee, by its Treasurer, Mabel P. Vinich. Although the dates of use specified under Item 2 in the lease were from August 1 through November 9, 1988; no one from the Vinich Committee actually used the office or other facilities until early October, 1988.

5. By its terms, that lease provided for the use by the Committee of a one room office, the use of the basement of the building and the "periodic use of the main room upstairs."

6. The term "main room upstairs" in the lease refers to the main second floor meeting hall in our Local Union 13214 building. That room is used by other local unions, various civic groups, clubs or other organizations without charge. Accordingly, its periodic use by the Vinich Committee was permitted without any additional charge, under the terms of the lease.

7. Regarding billing and payment of rent under the lease, we provided as follows:

> "The Labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, at Post Office Box 67 - Hudson, Wyoming 82515.
>
> The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time. (60 to 90 days)."

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It was the parties' understanding that under those provisions Local Union 13214 would submit an invoice to the Vinich Committee following the termination of the lease on November 9, 1988. It was also our understanding that the "commercially reasonable time" of 60 to 90 days for payment of such invoiced rent or other costs would run from when Local Union 13214 submitted its invoice to the Committee.

8. Attached to this affidavit as Appendix B is a copy of the invoice, for three months and nine days, in the amount of $164.50, which we submitted to the Vinich Committee on or about November 18, 1988. It was paid by that Committee on November 22, 1988, well before 60 to 90 days from the invoiced date.

9. "Periodic use" by the Vinich Committee of the "main room upstairs" our meeting hall, was permitted under the terms of the lease, consistent with our usual practice, without any additional charge. The only such "periodic use" of that main room was for making telephone calls during approximately twelve hours between mid October and November 9, 1988 on Local Union 13214 telephone equipment in that "main room". Such telephone use was in addition to any calls which were made by the Vinich Committee on its own telephone equipment which it had installed in the actual office room covered by the lease. To the best of my knowledge, United Steelworkers of America Local Union 13214 incurred no cost or expense and was not billed in any way by the telephone company for the use by the Vinich Campaign

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Committee of such telephone equipment in its own leased office room.

10. The telephone equipment and service in the "main room upstairs" was installed on or about September 29, 1988 primarily for communications between the USWA and its members. On or about November 7, 1988, the initial bills for those telephones and service were received by me as the Financial Secretary of the Local Union. I paid them on or about November 14, 1988, unaware at the time that those initial bills also covered the period beyond the October 25, 1988 date of the bill until November 22, 1988, when the additional service was scheduled to be disconnected. A portion of those initial bills, $48.36, was for long distance calls, chargeable only to the USWA itself. Nonetheless between my regular employment and my other services to Local Union 13214 and its members, it took quite a bit of calculating, recalculating and discussion to arrive at an hourly billing rate to charge the Vinich Committee for its twelve hours of use of the USWA telephone in the "main room upstairs". Eventually we arrived at such an hourly rate and billed the Vinich Committee, on or about December 17, 1988 for its pro-rata use of the telephones and service in the amount of $27.54. Upon the later receipt of additional statements and a refund from the telephone company, however, we realized that not only had Local Union 13214 overpaid the telephone company, we had also overcharged the Vinich Committee, which had paid the initial pro-rata statement from us on or

about December 20, 1988. The amount of the overcharge to the Vinich Committee from the Local Union for telephone services was $3.58.

11. The initial payment in the amount of $27.54 by the Vinich Committee, which includes the $3.50 over payment was, in fact for the full period of telephone use of equipment in the "main room upstairs" by the Vinich Committee.

Further affiant sayeth not.

_____
PATRICK R. DOAK

Signed and Sworn to before
me this _____day of
August, 1989.

_____
Notary Public

AGREEMENT [redacted] USE OF LABOR ORGANIZATION [redacted]
FACILITIES AND EQUIPMENT

1- The John P. Vinich for U.S. Senate Campaign Committee ("Committee") and USWA, Local Union 13214 ("labor organization") agree this 1st day of August, 1988 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2- Dates of use: From August 1, 1988 to November 9, 1988. ($50.00 per month)

3- Location of facilities to be used: 720 2nd Street, Rock Springs, Wyoming

4- Description of facilities and equipment:

One room in the basement of the Union Hall, bathroom facilities, and periodic use of the main room upstairs.

5- Other (e.q., supplies, services): Periodic Use Of Telephone

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, at Post Office Box 67 - Hudson, Wyoming. 8251

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time. (60 to 90 days)

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

Signed:

Patrick R. Doak
Patrick R. Doak
Financial Secretary
Local Union 13214
USWA

Mabel R. Vinich Treas.
Vinich For U.S. Senate
Campaign Committee
P.O. Box 67
Hudson, Wyoming. 82515

APPENDIX A

40304384

UNITED STEELWORKERS OF AMERICA
AFL - CIO - CLC
LOCAL UNION 13214
POST OFFICE BOX 1315
ROCK SPRINGS, WYOMING 82901

November 18, 1968

Vinich for U.S. Senate
Campaign Committee
P.O. Box 67
Hudson, Wyoming 82515

Statement for use of Union Hall facilities, 720 - 2nd. St., Rock Springs, Wyoming, 82901, for period of 3 months, 9 days @ $50.00 per month, beginning August 1, 1968 and ended November 9, 1968.

Total due - - - - - - - $164.50

United Steelworkers of America
c/o Patrick T. Dock, Financial Secret
1414 Dissadse Ay
Rock Springs, Wyoming 82901

APPENDIX B

OGC 3868

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

89 AUG 28 AM 10:15

Patrick R. Doak, Financial Secretary
USWA Local Union 13214
1414 Palisades Way
Rock Springs, Wyoming 82901

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 AUG 28 AM 10:50

August 24, 1989

VIA EXPRESS MAIL

Lawrence M. Noble, General Counsel
Lois G. Lerner, Associate General Counsel
Federal Election Commission
999 E. Street NW
Washington, D.C. 20463

Attention: Phillip Wise

Re: John P. Vinich for US Senate Committee
FEC **MUR 2771**
(Complaint by National Republican Senatorial Committee)

Dear Mr. Noble:

Enclosed please find my affidavit which is being submitted as part of the response by United Steelworkers of America Local Union 13214 to your notification dated July 6, 1989 that the Federal Election Commission had found reason to believe that USWA Local Union 13214 had violated a provision of the Federal Election Campaign Act.

It is my understanding that the response by USWA Local Union 13214 also includes a letter which you should be receiving from William H. Schmelling, Assistant General Counsel of the United Steelworkers of America.

Very truly yours,

Patrick R. Doak

Patrick R. Doak, Financial Secretary
USWA Local Union 13214

PRD/hlr

Enclosures

cc: William H. Schmelling, Esquire

9010403836

State of Wyoming)
)SS
County of Sweetwater)

AFFIDAVIT OF PATRICK R. DOAK

PATRICK R. DOAK, being first duly sworn, on oath deposes and says:

1. My name is Patrick R. Doak. I reside at 1414 Palisades Way, in Rock Springs, Wyoming. I am 51 years old and I am personally familiar with the matters set forth in this affidavit.

2. Since April, 1979 I have served as the Financial Secretary for United Steelworkers of America, Local Union 13214. Prior to becoming the Financial Secretary, I served three terms as Local Union President and have otherwise been active within the Local Union most of my adult life. I am familiar with the use of the building which is owned by USWA Local Union 13214 and which is located at 7020 - 2ND Street, in Rock Springs, Wyoming.

3. That building is owned free and clear by USWA Local Union 13214. We pay no rent and have no mortgage obligations on that building. The only costs incurred by Local Union 13214 in maintaining its building is for utilities, which are relatively low.

4. Attached to this affidavit as Appendix A, is a copy of the lease agreement which I signed, on behalf of the lessor, United Steelworkers of America Local Union 13214. It was signed

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on behalf of the Vinich for US Senate Campaign Committee, as lessee, by its Treasurer, Mabel P. Vinich. Although the dates of use specified under Item 2 in the lease were from August 1 through November 9, 1988; no one from the Vinich Committee actually used the office or other facilities until early October, 1988.

5. By its terms, that lease provided for the use by the Committee of a one room office, the use of the basement of the building and the "periodic use of the main room upstairs."

6. The term "main room upstairs" in the lease refers to the main second floor meeting hall in our Local Union 13214 building. That room is used by other local unions, various civic groups, clubs or other organizations without charge. Accordingly, its periodic use by the Vinich Committee was permitted, without any additional charge, under the terms of the lease.

7. Regarding billing and payment of rent under the lease, we provided as follows:

> "The Labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities AND equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, at Post Office Box 67 - Hudson, Wyoming 82515.
>
> The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time. (60 to 90 days)."

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It was the parties' understanding that under those provisions Local Union 13214 would submit an invoice to the Vinich Committee following the termination of the lease on November 9, 1988. It was also our understanding that the "commercially reasonable time" of 60 to 90 days for payment of such invoiced rent or other costs would run from when Local Union 13214 submitted its invoice to the Committee.

8. Attached to this affidavit as Appendix B is a copy of the invoice, for three months and nine days, in the amount of $164.50, which we submitted to the Vinich Committee on or about November 18, 1988. It was paid by that Committee on November 22, 1988, well before 60 to 90 days from the invoiced date.

9. "Periodic use" by the Vinich Committee of the 'main room upstairs" our meeting hall, was permitted under the terms of the lease, consistent with our usual practice, without any additional charge. The only such "periodic use" of that main room was for making telephone calls during approximately twelve hours between mid October and November 9, 1988 on Local Union 13214 telephone equipment in that "main room". Such telephone use was in addition to any calls which were made by the Vinich Committee on its own telephone equipment which it had installed in the actual office room covered by the lease. To the best of my knowledge, United Steelworkers of America Local Union 13214 incurred no cost or expense and was not billed in any way by the telephone company for the use by the Vinich Campaign

Committee of such telephone equipment in its own leased office room.

10. The telephone equipment and service in the "main room upstairs" was installed on or about September 29, 1988 primarily for communications between the USWA and its members. On or about November 7, 1988, the initial bills for those telephones and service were received by me as the Financial Secretary of the Local Union. I paid them on or about November 14, 1988, unaware at the time that those initial bills also covered the period beyond the October 25, 1988 date of the bill until November 22, 1988, when the additional service was scheduled to be disconnected. A portion of those initial bills, $48.36, was for long distance calls, chargeable only to the USWA itself. Nonetheless, between my regular employment and my other services to Local Union 13214 and its members, it took quite a bit of calculating, recalculating and discussion to arrive at an hourly billing rate to charge the Vinich Committee for its twelve hours of use of the USWA telephone in the "main room upstairs". Eventually we arrived at such an hourly rate and billed the Vinich Committee, on or about December 17, 1988 for its pro-rata use of the telephones and service in the amount of $27.54. Upon the later receipt of additional statements and a refund from the telephone company, however, we realized that not only had Local Union 13214 overpaid the telephone company, we had also overcharged the Vinich Committee, which had paid the initial pro-rata statement from us on or

about December 20, 1988. The amount of the overcharge to the Vinich Committee from the Local Union for telephone services was $3.58.

11. The initial payment in the amount of $27.54 by the Vinich Committee, which includes the $3.50 over payment was, in fact for the full period of telephone use of equipment in the "main room upstairs" by the Vinich Committee.

Further affiant sayeth not.

Patrick R. Doak
PATRICK R. DOAK

Signed and Sworn to before me this 25th day of August, 1989.

Alice E. Fielberg
Notary Public

My Commission Expires Sept. 24, 1991

AGREEMENT FOR THE USE OF LABOR ORGANIZATION
FACILITIES AND EQUIPMENT

1- The John P. Vinich for U.S. Senate Campaign Committee ("Committee") and USWA, Local Union 13214 ("labor organization") agree this 1st day of August, 1988 that for the consideration set forth below, the Committee will use the following facilities and equipment of the labor organization on the dates indicated:

2- Dates of use: From August 1, 1988 to November 9, 1988. ($50.00 per month)

3- Location of facilities to be used: 720 2nd Street, Rock Springs, Wyoming.

4- Description of facilities and equipment:

One room in the basement of the Union Hall, bathroom facilities, and periodic use of the main room upstairs.

5- Other (e.q., supplies, services): Periodic Use Of Telephone

The labor organization agrees to invoice the Committee for the actual use of the facilities and equipment set forth above in an amount based on the normal and usual rental charge for such facilities and equipment in this community and including any actual telephone charges incurred by the Committee. The invoice will also include billing for the cost of any supplies provided to the Committee. The labor organization will promptly provide its invoice to the Committee, at Post Office Box 67 - Hudson, Wyoming. 82515.

The Committee agrees to reimburse the labor organization for use of the labor organization's facilities within a commercially reasonable time. (60 to 90 days)

The undersigned Committee representative is authorized to sign this Agreement on behalf of the Committee.

Signed:

Patrick R. Doak
Patrick R. Doak
Financial Secretary
Local Union 13214
USWA

Mabel L. Vinich, Treasurer
Vinich For U.S. Senate
Campaign Committee
P.O. Box 67
Hudson, Wyoming. 82515

APPENDIX A

90040304392

UNITED STEELWORKERS OF AMERICA
AFL-CIO-CLC
LOCAL UNION 13214
POST OFFICE BOX 1318
ROCK SPRINGS, WYOMING 82901

November 18, 1988

Vinich for U.S. Senate
Campaign Committee
P.O. Box 67
Hudson, Wyoming 82515

Statement for use of Union Hall facilities, 790 - 2nd. St., Rock Springs, Wyoming, 82901, for period of 3 months, 9 days @ $50.00 per month, beginning August 1, 1988 and ended November 9, 1988.

Total due - - - - - - - $164.50

United Steelworkers of America
c/o Patrick T. Dock, Financial Secretary
1414 Dissuade Ly
Rock Springs, Wyoming 82901

APPENDIX B

RECEIVED
FEDERAL ELECTION COMMISSION
89 OCT 17 P 4:09

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Committee On Letter Carriers	)	MUR 2771
Political Education and Florence	)	
Johnson, as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by the counsel for the Committee On Letter Carriers Political Education and Florence Johnson, as treasurer.

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II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the Committee on Letter Carriers Political Education and Florence Johnson, as treasurer.

2. Close the file as pertains to the Committee On Letter Carriers Political Education and Florence Johnson, as treasurer.

3. Approve the attached letter.

10/17/85
Date

Lawrence M. Noble
General Counsel

Attachments
1. Conciliation Agreement
2. Letter to Respondent

Staff Assigned: Phillip L. Wise

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Committee On Letter Carriers Political Education and Florence Johnson, as treasurer	)	MUR 2771

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 20, 1989, the Commission decided by a vote of 5-0 to take the following actions in MUR 2771:

1. Accept the conciliation agreement with the Committee on Letter Carriers Political Education and Florence Johnson, as treasurer, as recommended in the General Counsel's Report dated October 17, 1989.

2. Close the file as it pertains to the Committee on Letter Carriers Political Education and Florence Johnson, as treasurer.

3. Approve the letter as recommended in the General Counsel's Report dated October 17, 1989.

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

Attest:

Oct. 23, 1989
Date

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

Received in the Secretariat:	Tuesday,	October 17, 1989	4:09
Circulated to the Commission:	Wednesday,	October 18, 1989	11:00
Deadline for vote:	Friday,	October 20, 1989	11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 27, 1989

Keith E. Secular, Esquire
Cohen, Weiss and Simon
330 West 42nd Street
New York, NY 10036-6901

RE: MUR 2771
Committee On Letter Carriers
Political Education and
Florence Johnson, as treasurer

Dear Mr. Secular:

On October 20, 1989, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of a violation of 2 U.S.C. § 441a(a)(2)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to your clients. This matter will become a part of the public record within 30 days after it has been closed with respect to all other respondents involved. 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.

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

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

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Committee On Letter Carriers Political Education and Florence Johnson, as treasurer	))))	MUR 2771

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee. The Federal Election Commission ("Commission") found reason to believe that the Committee On Letter Carriers Political Education and Florence Johnson, as treasurer ("Respondents") violated 2 U.S.C. § 441a(a)(2)(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. Committee On Letter Carriers Political Education is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Florence Johnson is the treasurer of the Committee On Letter Carriers Political Education.

3. 2 U.S.C. § 441a(a)(2)(A) provides that no multicandidate political committee shall make contributions to any candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceeds $5,000.

4. The reports filed by the John P. Vinich for U.S. Senate Committee disclosed three contributions totaling $15,000 from the Committee On Letter Carriers Political Education. These contributions were as follows:

a. October 4, 1988 $5,000 for the primary;
b. October 13, 1988 $5,000 for the general; and
c. October 24, 1988 $5,000

The third contribution was excessive because in the aggregate it exceeded $5,000 for one election. On November 3, 1988, the Vinich Committee mailed the Respondents a refund in the amount of $5,000.

5. Respondents contend that the preparation and transmittal of the October 24, 1988 contribution represented an inadvertent, clerical error, because at the time the check was cut, the October 5 check had not been posted in the computer which Respondent uses to keep track of its contributions.

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V. Respondent made an excessive contribution to the John P. Vinich for U.S. Senate Committee, in violation of 2 U.S.C. § 441a(a)(2)(A).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of seven hundred fifty dollars ($750.00), 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 requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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

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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

BY: _____ 10-26-89
Lois G. Lerner
Associate General Counsel
Date

FOR THE RESPONDENTS:

_____ 9/20/89
(Name)
(Position)
Date

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RECEIVED
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89 OCT 18 AM 11:22

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer	)	MUR 2771
	)	
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer	)	
	)	
United Steelworkers of America Local Union 13214	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose from a complaint filed by Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee, in which he alleged that John P. Vinich for U.S. Senate Committee (the "Vinich Committee") and Mabel L. Vinich, as treasurer, accepted illegal contributions from labor unions and failed to report said contributions; that the Vinich Committee accepted excessive contributions from political action committees; and that two television ads paid for by the Democratic Senatorial Campaign Committee ("DSCC"), benefiting Mr. Vinich's candidacy, lacked proper disclaimers.

On June 27, 1989, the Commission found reason to believe that John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. §§ 441b(a) and 434(b)(5)(A); that United Steelworkers of America - Local Union 13214 ("US"), violated 2 U.S.C. § 441b(a); and that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).

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Counsel for the Vinich Committee and DSCC requested an extension of time until August 9, 1989 to respond to the Commission's reason to believe findings. Counsel for USW requested an extension to respond until August 25, 1989. Both request were granted by this Office.

On August 9, 1989 the Commission received responses from the Vinich Committee (Attachment 1) and DSCC (Attachment 2). Counsel on behalf of the Vinich Committee requested that the Commission dismiss this case and take no further action. Counsel on behalf of DSCC requested that the Commission close this case and take no further action.

On August 25, 1989 the Commission received USW's response. (Attachment 3). Counsel on behalf of USW requested that the Commission dismiss this case and take no further action. In addition on August 28, 1989 USW's Financial Secretary filed an affidavit with the Commission. (Attachment 4).

II. ANALYSIS

A. Illegal Labor Union Contributions

Pursuant to 2 U.S.C. § 441b(a) it is unlawful for any labor organization to make a contribution or expenditure in connection with any federal election, or for any political committee knowingly to accept or receive any contributions prohibited by this section.

The Commission found reason to believe that USW and the Vinich Committee violated 2 U.S.C. § 441b(a) with regard to the failure to pay rent for use of office space in the union hall within a commercially reasonable time; with regard to the

failure to pay for use of the facility when using union telephones for which payment of $27.54 only covered calls made; and with regard to failure to pay for its prorated use of union telephones in a commercially reasonable time.

Both the Vinich Committee and USW indicate that payment of rent was not to be made until submission of an invoice by USW to the Vinich Committee. Counsel for each contends that the time period for what they considered commercially reasonable would start only after the Vinich Committee received the invoice from USW. And since the contract required payment within 60 to 90 days after the invoice was sent to the Vinich Committee, counsel therefore contends the commercially reasonable requirement would be satisfied by paying within that time period.

The Act nor the Commission's Regulations defines commercially reasonable; however, to accept the Respondents' contention that whatever the parties agree to would be commercially reasonable would effectively nullify this requirement.

The lease agreement entered into by the Vinich Committee and USW specifically calls for rent in the amount of $50.00 per month for the period from August 1 to November 9, 1988. Without any invoice the Vinich Committee knew what amount was due and should have tendered such amount either at the beginning of the leasing period, each month, or between 60 to 90 days after signing the lease. In addition there appears to be no logical excuse for USW not submitting an invoice to the Vinich Committee in a timely fashion because it also knew what the

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amount would be when the lease was signed. Therefore, it was not commercially reasonable for the Vinich Committee to tender payment approximately 112 days after having notice of the rental amount. The Vinich Committee's failure to pay rent in a commercially reasonable manner, and USW's allowing such use without payment in a commercially reasonable fashion resulted in the giving of an unlawful contribution by USW and knowing acceptance of an unlawful contribution from a labor organization by the Vinich Committee both in violation of 2 U.S.C. § 441b(a).

With regard to the $27.54 prorated amount paid for telephone calls made on union telephones in a room other than the office space rented to the Vinich Committee, Counsel for the Vinich Committee and Counsel for USW both assert an additional payment for use of this additional room was unnecessary because the phone was located in the main room upstairs, which the Vinich Committee contracted to use in the lease agreement, therefore, payment of the rent included payment for use of this room.

A review of the lease indicates that the Vinich Committee was authorized to use the main room upstairs. The Vinich Committee, USW, and the Financial Secretary for USW, in his affidavit, all contend that the telephone used for the calls was located in this main room. In light of this new information it appears that no additional amount was required for facility use when the Vinich Committee used the union telephone to make the $27.54 worth of calls.

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With regard to failure of USW to bill or the Vinich Committee to pay for use of the union telephones from October 25, 1988 to November 9, 1988, the Financial Secretary for USW contends that this amount was paid by the Vinich Committee because he had over-charged them on the original bill mailed to them on December 17, 1988, which was paid with a check dated December 20, 1988.

B. **Reporting Violations**

Pursuant to 2 U.S.C. § 434(b)(5)(A) each report shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of $200.00 within the calendar year is made by the reporting committee to meet an operating expense, together with the date, amount and purpose of such expenditure.

As noted in A above, the amount of $27.54 paid by the Vinich Committee for the use of USW's telephones does not include an amount for use of the facility wherein such telephone is located. These amounts when added to the $164.50 rent appeared to meet the $200.00 threshold for itemizing such expenditures. The Vinich Committee did not report these expenditures, therefore The Commission found reason to believe that the Vinich Committee violated 2 U.S.C. § 434(b)(5)(A).

The Vinich Committee, USW, and the Financial Secretary for USW all assert that no additional amount was necessary for facility use when using union telephones to make the $27.54

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worth of calls because the lease covered this use and was paid for pursuant thereto. Based on this information it appears the amounts did not meet the $200.00 threshold for reporting. Accordingly this Office recommends the Commission take no further action as pertains 2 U.S.C. § 434(b)(5)(A).

C. **Disclaimer**

On June 27, 1989 the Commission found reason to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2) with regard to two televised commercials advocating Vinich's election carrying the disclaimer: "Paid for by the Democratic Senatorial Campaign Committee." There was no statement as to whether it was or was not authorized by Vinich or his committee as required by 2 U.S.C. § 441d(a)(2).

In its response to the Commission's reason to believe notification DSCC asserts that its status as a national party committee precludes it as a matter of law from making independent expenditures, therefore, the authorization notice serves little purpose with regard to activity by a party which cannot make "independent" expenditures.

2 U.S.C § 441d(a)(2) does not contain any exception to compliance for national party committees, therefore, DSCC's request, that the Commission take no further action should be denied.

In view of the foregoing analysis, in this report, the Office of the General Counsel will proceed to brief.

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III. RECOMMENDATIONS

1. Take no further action as requested by the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, with regard to 2 U.S.C. § 434(b)(5)(A).

2. Reject the request of the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, to take no further action with regard to a violation of 2 U.S.C. § 441b(a) and proceed to the next stage of the enforcement process.

3. Reject the request of the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, to take no further action with regard to a violation of 2 U.S.C. § 441d(a)(2) and proceed to the next stage of the enforcement process.

4. Reject the request of the United Steelworkers of America Local Union 13214, to take no further action with regard to a violation of 2 U.S.C. § 441b(a) and proceed to the next stage of the enforcement process.

5. Approve the attached letters.

10/17/87
Date

Lawrence M. Noble
General Counsel

Attachments
1. Vinich Committee's response
2. DSCC's response
3. USW's response
4. Affidavit
5. Letters to Respondents (3)

Staff Assigned: Phillip L. Wise

9030400909

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES R. HARRIS DRH
COMMISSION SECRETARY

DATE: OCTOBER 23, 1989

SUBJECT: MUR 2771 - GENERAL COUNSEL'S REPORT
DATED OCTOBER 17, 1989
(JOHN P. VINICH FOR U.S. SENATE CMTE.
& MABEL VINICH, AS TREASURER)

The above-captioned document was circulated to the Commission on Wednesday, October 18, 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	
Commissioner Elliott	
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	XXXX

This matter will be placed on the meeting agenda for Tuesday, October 31, 1989 at 10:00 a.m.

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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2771
John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer	)	
	)	
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer	)	
	)	
United Steelworkers of America Local Union 13214	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary of the Federal Election Commission executive session on October 31, 1989, do hereby certify that the Commission took the following actions in MUR 2771:

1. Decided by a vote of 6-0 to take no further action as requested by the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, with regard to 2 U.S.C. § 434(b)(5)(A).

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

2. Decided by a vote of 6-0 to reject recommendation 2 in the General Counsel's report dated October 17, 1989, and instead take no further action with respect to the violation of 2 U.S.C. § 441b(a) by the John P. Vinich for U.S. Senate Committee and Mable Vinich, as treasurer.

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

(continued)

3. Decided by a vote of 6-0 to reject the request of the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, to take no further action with regard to a violation of 2 U.S.C. § 441d(a)(2) and proceed to the next stage of the enforcement process.

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

4. Decided by a vote of 6-0 to

   a) Reject recommendation 4 in the General Counsel's report dated October 17, 1989, and instead take no further action with regard to a violation of 2 U.S.C § 441b(a) by the United Steelworkers of America Local Union 13214; and

   b) Direct the Offfice of General Counsel to send appropriate letters pursuant to the above-noted actions.

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

Attest:

Marjorie W. Emmons

October 31, 1989

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 9, 1989

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

RE: MUR 2771
Democratic Senatorial
Campaign Committee and
G. Wayne Smith, as treasurer

Dear Ms. Corley:

On July 6, 1989 you on behalf of your clients were notified that the Federal Election Commission found reason to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2). On August 9, 1989, you submitted a response to the Commission's reason to believe finding and requested that the Commission take no further action with regard to your clients in this matter.

The Commission has considered this request and determined to decline your clients' request to take no further action. The Commission has also determined to move on to the next stage in the enforcement process.

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

Sincerely,

Lawrence M. Noble
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 9, 1989

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

RE: MUR 2771
John P. Vinich for U.S.
Senate Committee and
Mabel Vinich, as treasurer

Dear Ms. Corley:

On July 6, 1989 you on behalf of your clients were notified that the Federal Election Commission found reason to believe that the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. §§ 441b(a) and 434(b)(5)(A). On August 9, 1989, you submitted a response to the Commission's reason to believe finding and requested that the Commission take no further action with regard to your clients in this matter.

On October 31, 1989, the Commission has decided to take no further action as pertains to a violation of 2 U.S.C. §§ 434(b)(5)(A) and 441b(a). On the above date the Commission also decided to close its file as it pertains to the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer.

The Commission reminds you that the lease agreement entered into by the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, and the United Steelworkers of America Local Union 13214 calls for rent in the amount of $50.00 per month for the period from August 1 to November 9, 1988. Without any invoice the committee knew what amount was due and should have tendered such amount in a commercially reasonable time. The committee not paying until it received an invoice is not commercially reasonable, therefore appears to be a violation of 2 U.S.C. § 441b(a). Your clients 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.

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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.

If you have any questions, please contact Phillip L. Wise, the Attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9004083215

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 9, 1989

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

RE: MUR 2771
United Steelworkers of
America-Local Union 13214

Dear Mr. Schmelling:

On July 6, 1989 you on behalf of your clients were notified that the Federal Election Commission found reason to believe that the United Steelworkers of America-Local Union 13214, violated 2 U.S.C. § 441b(a). On August 25, 1989, you submitted a response to the Commission's reason to believe finding and requested that the Commission take no further action with regard to your clients in this matter.

On October 31, 1989, the Commission decided to take no further action as pertains to a violation of 2 U.S.C. § 441b(a). On the above date the Commission also decided to close its file as it pertains to the United Steelworkers of America-Local Union 13214.

The Commission reminds you that the lease agreement entered into by the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, and the United Steelworkers of America Local Union 13214 calls for rent in the amount of $50.00 per month for the period from August 1 to November 9, 1988. Without any invoice the committee knew what amount was due and should have tendered such amount in a commercially reasonable time. The committee not paying until it received an invoice is not commercially reasonable, therefore appears to be a violation of 2 U.S.C. § 441b(a). Your clients 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.

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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.

If you have any questions, please contact Phillip L. Wise, the Attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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RECEIVED
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MAIL ROOM
89 NOV -9 AM 9:38

COHEN, WEISS AND SIMON
COUNSELLORS AT LAW
330 WEST 42ND STREET
NEW YORK, N.Y. 10036-6901

(212) 563-4100
TELECOPIER (212) 695-5436
DIRECT DIAL (212)

BRUCE H. SIMON
STANLEY M. BERMAN
ROBERT S. SAVELSON
STEPHEN B. MOLDOF
MICHAEL E. ABRAM
KEITH E. SECULAR
RICHARD N. GILBERG
PETER HERMAN
RICHARD M. SELTZER
JAMES L. LINSEY
JANI K. RACHELSON

BABETTE CECCOTTI
ANN E. O'SHEA
CHRISTOPHER N. SOURIS
STEPHEN PRESSER
SOPHIA E. DAVIS
MICHAEL L. WINSTON
SUSAN DAVIS
SUSAN A. RUSSELL
EARL R. PFEFFER
RICHARD B. MILLER
CATHARINE A. GRAD
GARY GORDON*

COUNSEL

HENRY WEISS
SAMUEL J. COHEN

*ADMITTED IN N.J. AND PA. ONLY

November 7, 1989

Phillip Wise, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 NOV 16 PM 4:00

Re: MUR 2771
Committee on Letter Carriers
Political Education and
Florence Johnson, as treasurer

Dear Mr. Wise:

In accordance with paragraphs VI and IX, of the conciliation agreement in the above matter, I enclose a check from the Committee on Letter Carriers Political Education in the amount of $750, the civil penalty specified in the agreement.

This payment satisfies respondents' obligation under the agreement so that this matter is now closed.

Sincerely,

Keith E. Secular

Keith E. Secular

KES/brd

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FEDERAL ELECTION COMMISSION
SECRETARIAT

90 JAN 11 PM 4:07

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer	)	MUR 2771
	)	

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, based on the assessment of the information presently available.

1/11/90
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
SECRETARIAT

90 JAN 23 AM 10: 31

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

January 22, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2771

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe were mailed on January 22, 1990. Following receipt of the respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments
1. Brief
2. Letter to respondent

Staff person: Phillip L. Wise

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 JAN 23 AM 10:31

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 22, 1990

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

RE: MUR 2771
Democratic Senatorial
Campaign Committee
and G. Wayne Smith, as
treasurer

Dear Ms. Corley:

Based on a complaint filed with the Federal Election Commission on November 4, 1988, the Commission, on June 7, 1989, found that there was reason to believe your clients, violated 2 U.S.C. § 441d(a)(2), and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

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Should you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2771
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter arose from a complaint filed by Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee, in which he alleged that two television ads paid for by the Democratic Senatorial Campaign Committee ("DSCC"), benefiting John P. Vinich's candidacy for the United States Senate, lacked proper disclaimers.

On June 27, 1989, the Commission found reason to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2) with regard to two televised commercials advocating Vinich's election carrying the disclaimer: "Paid for by the Democratic Senatorial Campaign Committee." There was no statement as to whether it was or was not authorized by Vinich or his committee as required by 2 U.S.C. § 441d(a)(2).

II. ANALYSIS

Pursuant to 2 U.S.C. § 441d(a)(2), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising

facility, direct mailing, or any other type of general public political advertising, such communication, if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee.

DSCC reported the following 2 U.S.C. § 441a(d) expenditures as among those made on behalf of the John Vinich campaign:

Payee	Purpose	Date	Amount
Squier-Eskew Communications	Media	10/05/88	$17,597.75
Squier-Eskew Communications	Media	10/12/88	10,593.60
The Illustrator	Media	10/14/88	13,000.00
Harriman Communications Center	Media	10/19/88	2,033.35
Greer & Associates	Media	10/21/88	12,000.00

One commercial paid for by the DSCC, advocating the election of John Vinich, indicated that even though jobs are leaving Wyoming, Senator Malcolm Wallop is portraying the economic news as good. This commercial goes on to point out that industry is on its back; however, foreign uranium is being imported and that senior citizens cannot make ends meet; however, Senator Wallop voted to cut social security. In addition, the commercial stated that Senator Wallop has been in Washington too long. The commercial also asserted that to John Vinich our economy is first priority. The disclaimer at the end of this commercial stated, "Paid for by the Democratic Senatorial Campaign Committee." There was no statement as to whether the commercial was or was not authorized by the candidate or his committee.

9004030049924

The next commercial asserted that Senator Wallop's head is in the sand. It also indicated that Wyoming needed someone who will fight for our jobs. The commercial claimed that John Vinich would make sure public works jobs went to Wyoming worker. The commercial asserted, "we have enough ostriches in Washington." The disclaimer at the end of this commercial also stated, "Paid for by the Democratic Senatorial Campaign Committee." There, again, was no statement as to whether the commercial was or was not authorized by the candidate or his committee.

In its response, to the Commission's reason to believe notification, DSCC asserted that its status as a national party committee precludes it as a matter of law from making independent expenditures. DSCC pointed out that it paid for media advertising, in Wyoming, in support of the John Vinich Senate campaign. Furthermore, only DSCC, not the candidate, reports a 441a(d) expenditure on Schedule F. Therefore, the DSCC argued that the authorization notice serves little purpose with regard to activity by a party which cannot make "independent" expenditures. DSCC is of the opinion that "all expenditures by a national party committee on behalf of a candidate must, therefore, be presumed to be authorized by the candidate on whose behalf they are made."

Section 441d(a)(2) does not contain any exception, for party committees, with respect to the authorized or not authorized requirement when making 441a(d) expenditures. Therefore, the General Counsel recommends that the Commission

find probable cause to believe that DSCC and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).[1]

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).

1/22/90
Date

Lawrence M. Noble
General Counsel

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1. The Campaign Guide For Political Party Committees, dated March 1984 at pages 12 to 13, explains what is required in disclaimers when the communication is authorized and not authorized by the candidate. This edition of the Campaign Guide was operative when the violation occurred.

OGC 5352

PERKINS COIE

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

February 8, 1990

90 FEB -8 PM 3:00

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL

BY HAND DELIVERY

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

Re: MUR 2771 - Democratic Senatorial Campaign Committee and G. Wayne Smith, as Treasurer

Dear Mr. Wise:

This is in response to your letter dated January 22, 1990, regarding the General Counsel's recommendation of a finding of probable cause in the above-referenced Matter Under Review. Respondents request an extension of time of 20 days to prepare a response. With the extension of time, the response would be filed on February 26, 1990.

As I mentioned to you in our phone conversation today, I returned from vacation only today. Your letter arrived in my absence. The additional time is requested to allow adequate time to consult with the Respondent and to prepare the response.

If you have any questions, please contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Respondents

0345b/84

TELEX 44-0277 PCSO UT • FACSIMILE (202) 223-2088
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE

0009554

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 15, 1990

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

RE: MUR 2771
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer

Dear Mr. Bauer and Ms. Corley:

This is in response to your letter dated February 8, 1990, which we received on that date, requesting an extension of 20 days. 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 February 26, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

OGC 5535

PERKINS COIE

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

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FEDERAL ELECTION COMMISSION
MAIL ROOM

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February 26, 1990

HAND DELIVERED

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

Enclosed are three copies of the Democratic Senatorial Campaign Committee brief in response to the Office of General Counsel's recommendation of a Finding of Probable Cause in MUR 2771.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondent

RECEIVED
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OFFICE OF GENERAL COUNSEL

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TELEX: 44-0277 PCSO UI • FACSIMILE (202) 223-2088
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PERKINS COIE

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

February 26, 1990

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

Attention: Philip M. Wise

Re: MUR 2771 - Democratic Senatorial Campaign Committee and G. Wayne Smith, as Treasurer

Dear Mr. Noble:

The Democratic Senatorial Campaign Committee ("DSCC") hereby replies through counsel to your recommendation that the Commission find probable cause that a violation has occurred in this Matter Under Review. The pursuit of this matter by the Commission would constitute a wholly unwarranted diversion of the Commission's time and resources.

BACKGROUND

This matter was generated when a complaint was filed three days before the 1988 general election by the National Republican Senatorial Committee ("NRSC") against the Democratic senate candidate in Wyoming and the Democratic Senatorial Campaign Committee. Of the three allegations made in the complaint, two have been dismissed by the Commission and the third, the subject of this response, is equally lacking in merit.

The NRSC alleged that advertisements run in connection with John Vinich's senatorial campaign did not contain an adequate disclaimer under 2 U.S.C. § 441d.[1/] The complaint did not

1/ As stated in all Respondent's prior responses, DSCC has never seen the advertisements in question. Neither videotapes nor transcripts of the advertisements were provided to the DSCC.

allege a complete failure to place a disclaimer on the advertisements in question. Rather, the complaint alleged that while the advertisement's disclaimer stated clearly that the DSCC had paid for the ad, the disclaimer should also have included language to the effect that the advertisement was "authorized by" the Democratic senatorial candidate.

DISCUSSION

The DSCC has consistently argued that, assuming the allegations in the complaint are correct and the "authorized by" language does not appear on the ads in question, its omission was the result of simple human error which ran counter to DSCC "policy" on disclaimer compliance. The error, moreover, produced no cognizable harm to statutory -- as distinguished from DSCC policy -- enforcement, and thus did not warrant further action by the Commission. While these arguments have proven unavailing when made to the General Counsel, they remain valid. They will be renewed here so that there is no question that the Commission mistakes DSCC's position.

DSCC Policy on Disclaimers

As has been noted in each of the Respondent's prior responses, it is the policy of the DSCC to include the "authorized by" language in disclaimers placed on candidate media paid for by the DSCC. As a national party committee, the DSCC makes frequent payments under Section 441a(d) authority for media advertising on behalf of Democratic senate candidates all around the country. This complaint, the only one received against the Committee for a disclaimer violation, demonstrates the success of the DSCC's policy in this matter.

This policy, which is still in effect for DSCC advertising, is intended to achieve uniformity in DSCC disclaimers and assist the staff in maintaining compliance. The policy has been successfully followed. And, even assuming that the "authorized by" disclaimer did not appear on the specific Vinich ads in questions, the lapse was brief in nature. The complaint acknowledges that the ads in question were on the air only "for approximately two weeks."

DSCC "Policy" and the Law

The fact that the disclaimer was incomplete worked no harm to the public or clear violation under the statute. As has been noted in prior responses, a party committee is precluded as a matter of law from making independent expenditures. 11 C.F.R. §§ 110.7(a)(5), (b)(4). To qualify as an independent

expenditure, an activity must be undertaken without cooperation or consultation with a candidate's committee. 11 C.F.R. § 109.1(a). The very nature of Section 441a(d) expenditures is exactly the opposite. The statutory provision allowing national and state party committees to make coordinated party expenditures on behalf of their candidates was designed specifically to allow party committees to become more involved in their candidates' campaign.

The purpose of the "authorized by" language in the disclaimer regulation is to make this distinction. Compare 11 C.F.R. § 110.11(a)(1)(ii) with § 110.11(a)(1)(iii). When a communication is an independent expenditure, it, by definition, cannot be authorized by the candidate, since such expenditures cannot, by definition, be made with a candidate's cooperation or consent. The regulation distinguishes these independent expenditures, those not authorized by a candidate, from expenditures that are made with the candidate's consent and cooperation, such as Section 441a(d) expenditures or in-kind contributions.[2/]

Thus, where an expenditure is a coordinated party expenditure, the "authorized by" language serves little purpose. The presumption is clear that a national party committee spending on behalf of its senatorial campaign committee is doing so with the consent and cooperation and, most likely, in consultation with, the candidate's own committee. The Commission has recognized a similar presumption in spending by the candidate's own campaign committee. The disclaimer used by a candidate may state simply "paid for by" since it is presumed that if the candidate's committee pays for the communication that it has authorized it.

The public was not misinformed by the DSCC's disclaimer that it "paid for" the advertisement. There is no additional information that would be provided to the public by the addition of the words "authorized by."

In fact, an argument can be made that the public would be misled by the addition of the words "authorized by." One of the main purposes of the disclaimer requirements must be to inform the public as to who was responsible for a communication. Presumably, the public can use this information to identify the source of payment and to investigate the financial support of that source through a review of FEC public disclosure documents. In the case of a Section 441a(d)

2/ Coordinated party expenditures may consist, of course, in party payment of expenses incurred by the candidate.

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expenditure, the only FEC reports that will contain any information on the expenditure are those of the DSCC. A candidate does not report any information on his or her report related to the party's spending.

Compare this, in turn, to a contribution in-kind by a non-party source. In this case, the payment for the in-kind contribution, as well as its receipt, is reported. The public disclosure reports of both the contributor and the candidate are important to the public in this case. The "authorized by" language, therefore, serves a purpose of notifying the public of this dual report availability.

CONCLUSION

The General Counsel's report recommending the finding of probable cause notes the DSCC's previous use of these arguments, but states that there is no exception for party committees "with respect to the authorized or not authorized requirement when making 441a(d) expenditures." This reading of the statute ignores the larger question that the Commission must always ask: What is the purpose of seeking a "violation" in this legal context and on these facts? If the answer is deterrence, then DSCC's policy on disclaimers and record of compliance refutes the argument. If, instead, the purpose is punishment, punishment here is meted out in a vain search of an offense -- since the error has produced no obvious harm to the public and is without impact on real concerns of statutory enforcement. In recommending a finding of probable cause in this case, the General Counsel's office has lost sight of these questions.

Any further pursuit of this matter is fruitless. The Commission should take no further action.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

1583E

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 2, 1990

HAND DELIVERED

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

RE: MUR 2771
Democratic Senatorial
Campaign Committee
and G. Wayne Smith, as
treasurer

Dear Mr. Bauer and Ms. Corley:

This letter is in response to the statement in your response to the General Counsel's brief that the Democratic Senatorial Campaign Committee has never received a videotape or transcript of the advertisements in question. This Office has reviewed our files and discovered that the videotape which contains the advertisements at issue in this matter may have inadvertently not been copied and sent to the respondent.

Enclosed herewith is a videotaped copy of the advertisements. Considering these circumstances, you may have 15 days from the receipt of this videotape to file any supplemental response.

Should you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Videotape

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90 MAR 26 PM 4:07

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2771
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer	)	

SENSITIVE
EXECUTIVE SESSION
APR 3 1990

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose from a complaint filed by Jann L. Olsten, the Executive Director of the National Republican Senatorial Committee, in which he alleged that two television ads paid for by the Democratic Senatorial Campaign Committee ("DSCC"), benefiting John P. Vinich's candidacy for the United States Senate, lacked proper disclaimers.

On June 27, 1989, the Commission found reason to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2) with regard to two televised commercials advocating Vinich's election carrying the disclaimer: "Paid for by the Democratic Senatorial Campaign Committee." There was no statement as to whether it was or was not authorized by Vinich or his committee as required by 2 U.S.C. § 441d(a)(2).

In its response, to the Commission's reason to believe notification, DSCC asserted that its status as a national party committee precludes it as a matter of law from making independent expenditures. DSCC pointed out that it paid for media advertising, in Wyoming, in support of the John Vinich Senate campaign. Furthermore, only DSCC, not the candidate,

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reports a 441a(d) expenditure on Schedule F. Therefore, the DSCC argued that the authorization notice serves little purpose with regard to activity by a party which cannot make "independent" expenditures. DSCC is of the opinion that "all expenditures by a national party committee on behalf of a candidate must, therefore, be presumed to be authorized by the candidate on whose behalf they are made."

On January 22, 1990, this Office mailed respondent's counsel the General Counsel's Brief. This brief informed counsel that the General Counsel intended to recommend that the Commission find probable cause to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2). On February 8, 1990, respondent requested an extension of 20 days to respond to this brief. This extension was granted until February 26, 1990. On February 26, 1990, respondent filed its response. (Attachment 1). This response was a reaffirmation of respondent's response to the Commission's reason to believe notification.

II. ANALYSIS

This Office relies on its analysis set forth in the General Counsel's Brief signed January 22, 1990.

Pursuant to 2 U.S.C. § 441d(a)(2), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public

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

DSCC reported the following 2 U.S.C. § 441a(d) expenditures as among those made on behalf of the John Vinich campaign:

Payee	Purpose	Date	Amount
Squier-Eskew Communications	Media	10/05/88	$17,597.75
Squier-Eskew Communications	Media	10/12/88	10,593.60
The Illustrator	Media	10/14/88	13,000.00
Harriman Communications Center	Media	10/19/88	2,033.35
Greer & Associates	Media	10/21/88	12,000.00

One commercial paid for by the DSCC, advocating the election of John Vinich, indicated that even though jobs are leaving Wyoming, Senator Malcolm Wallop is portraying the economic news as good. This commercial goes on to point out that industry is on its back; however, foreign uranium is being imported and that senior citizens cannot make ends meet; however, Senator Wallop voted to cut social security. In addition, the commercial stated that Senator Wallop has been in Washington too long. The commercial also asserted that to John Vinich our economy is first priority. The disclaimer at the end of this commercial stated, "Paid for by the Democratic Senatorial Campaign Committee." There was no statement as to whether the commercial was or was not authorized by the candidate or his committee.

The next commercial asserted that Senator Wallop's head is

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in the sand. It also indicated that Wyoming needed someone who will fight for our jobs. The commercial claimed that John Vinich would make sure public works jobs went to Wyoming workers. The commercial asserted, "we have enough ostriches in Washington." The disclaimer at the end of this commercial also stated, "Paid for by the Democratic Senatorial Campaign Committee." There, again, was no statement as to whether the commercial was or was not authorized by the candidate or his committee.[1]

Section 441d(a)(2) does not contain any exception, for party committees, with respect to the authorized or not authorized requirement when making 441a(d) expenditures. Therefore, the General Counsel recommends that the Commission find probable cause to believe that DSCC and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).[2]

---

1. This Office reviewed its files and discovered that the videotape which contains the advertisements at issue in this matter may have inadvertently not been copied and sent to the respondents. Accordingly, on March 2, 1990, this videotape was copied and hand delivered to the respondents' counsel. Considering these circumstances counsel was given 15 days to respond to the videotape. On March 16, 1990, in a telephone conversation with a staff member from this Office, respondents' counsel said they have reviewed the videotape and that it does not contain the complete disclaimer. However they do not wish to file a supplemental response.

2. The Campaign Guide For Political Party Committees, dated March 1984 at pages 12 to 13, explains what is required in disclaimers when the communication is authorized and not authorized by the candidate. "If a communication is authorized by the candidate's campaign, the notice must identify the committee that paid for the communication and state that it was authorized by the candidate or the candidate's committee." "If a communication advocates the election or defeat of a candidate but is not authorized by the candidate's campaign, the notice must identify the committee that paid for the communication and

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

III. RECOMMENDATIONS

1. Find probable cause to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).

2. Approve the attached conciliation agreement and letter.

3/26/90
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Response to brief
2. Conciliation Agreement
3. Letter

Staff person: Phillip L. Wise

9004080429 39

(Footnote 2 continued from previous page)
state that it was not authorized by any candidate or candidate's committee." This edition of the Campaign Guide was operative when the violation occurred.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2771
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 3, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2771:

1. Find probable cause to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2).

2. Approve the conciliation agreement and letter attached to the General Counsel's report dated March 26, 1990.

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

Attest:

4-5-90
Date

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

90040012940

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 9, 1990

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

RE: MUR 2771
Democratic Senatorial
Campaign Committee
and G. Wayne Smith, as
treasurer

Dear Mr. Bauer and Ms. Corley:

On April 3, 1990, the Federal Election Commission found that there is probable cause to believe your clients, violated 2 U.S.C. § 441d(a)(2), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with two television ads paid for by the Democratic Senatorial Campaign Committee, benefiting John P. Vinich's candidacy for the United States Senate, which lacked proper disclaimers.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

90040049941

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

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9000401242

PERKINS COIE

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

June 4, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUN -5 PM 3:37

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

Attention: Philip M. Wise

Re: MUR 2771 - Democratic Senatorial Campaign Committee and G. Wayne Smith, as Treasurer

Dear Mr. Noble:

The Democratic Senatorial Campaign Committee ("DSCC") hereby replies through counsel to the Commission's finding of probable cause that a violation has occurred in this Matter Under Review.

This response incorporates by reference the prior statements made by the DSCC on this Matter Under Review. Although the Federal Election Commission has apparently rejected the DSCC's arguments, the DSCC remains firmly of the view that there is no violation here, other than in the most technical sense, that would warrant such a finding. The DSCC believes that the FEC should devote its time and resources to the serious and substantial efforts to circumvent the Federal Election Campaign Act ("FECA"), called to its attention through complaints and the courts.

There is simply no purpose in the FEC's pursuit of this type of violation. The actions of the DSCC involve no contribution limit violations, no inaccurate reporting issues, no misleading of the public; in short, no harm to the real concerns of the FECA. The DSCC continues to believe that the FEC is completely misguided in its pursuit of this case.

Nonetheless, the DSCC does not seek for itself or the Commission additional waste of time or resources in pursuing this matter. The DSCC is willing to settle this case with the understanding that it still believes that no violation worth pursuing has occurred.

4 0 3 0 4 9 9 4 3

9004080442 44

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

1855E

United Steelworkers of America

AFL-CIO-CLC

ONE EAST WACKER DRIVE
SUITE 1910
CHICAGO, ILLINOIS 60601-1980
(312) 467-1995

90 AUG 13 PM 12:39

August 10, 1990

MUR 2771

Phillip L. Wise, Esquire
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Wise:

Enclosed please find a copy of a letter dated November 9, 1989 from FEC General Counsel Lawrence Noble to me.

In addition to informing us that the Commission had decided to take no further action on the charge as far as it pertained to United Steelworkers of America Local Union 13214, he stated on the second page of that letter that:

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

9004080049945

Our records do not show that any notice concerning the closing of the entire file having been closed has been received in this office. Please send me a copy of any such notification or let me know whether the file has not been closed.

Very truly yours,

William H. Schmelling
Assistant General Counsel

WHS/hlr

cc: Lawrence M. Noble, General Counsel
Federal Election Commission

DICTATED BUT NOT READ

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 20, 1990

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

RE: MUR 2771
United Steelworkers of
America-Local Union 13214

Dear Mr. Schmelling:

This correspondence is in response to your letter dated August 10, 1990, which was received in this Office on August 13, 1990. In that letter you requested information on the status of MUR 2771. On October 31, 1989, the Commission decided to take no further action as pertains to a violation of 2 U.S.C. § 441b(a) by the United Steelworkers of America-Local Union 13214. The Commission also decided to close its file as it pertains to your client.

As you were previously informed 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. The entire file has not been closed.

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.

If you have any questions, please contact Phillip L. Wise, the Attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

9004080049947

PERKINS COIE

A Law Partnership Including Professional Corporations
1110 Vermont Avenue, N.W. • Washington, D.C. 20005 • (202) 887-0030

August 15, 1990

90 AUG 16 PM 12:38

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

Attention: Philip M. Wise

Re: MUR 2771- Democratic Senatorial Campaign Committee and G. Wayne Smith, as Treasurer

Dear Mr. Noble:

The DSCC today submits the following evidence to demonstrate that at least three of the five § 441a(d) expenditures identified by the Commission were unrelated to the two commercials in question in this Matter Under Review. While we have been unable to obtain specific documentation, a fourth expenditure was related only in part to the two ads in question.

As stated in the attached sworn affidavit of Anita Dunn, Communications Director of the DSCC, the ads in question in MUR 2771, entitled "Profound" and "Birds," were produced for the Vinich campaign by the consulting firm of Greer, Margolis and

Telex 440277 Perkins • Facsimile (202) 223-2088
Anchorage • Bellevue • Los Angeles • Portland • Seattle

90040080949

Mitchell[1/]. The two payments by the DSCC to Squier-Eskew Communications (10/5/88 for $17,597.75 and 10/12/88 for $10,593.60) were related to media services provided to the Vinich campaign, but the invoices were for consulting and production services for ads other than the two identified by the FEC. Attached are copies of the invoices submitted by Squier-Eskew, which show that the services were rendered in connection with ads entitled "Hometown," "Economy," "Stand-Up" and "Accomplishments."

In addition, the Commission identified a payment by the DSCC to the Harriman Communications Center in the amount of $2,033.35. The attached invoice shows that this invoice related to an advertisement produced by Squier-Eskew, "The Economy," and was not one of the two ads produced by Greer, Margolis and Mitchell that are in question in this Matter Under Review.

Finally, the payment identified by the Commission to The Illustrator (10/14/88 for $13,000) represents media time-buys during the period immediately preceding the general election. While it is possible that some of the spots purchased with this time-buy were used to run the two Greer Margolis ads, the spots were also used to run other ads produced by the Vinich campaign and unrelated to the DSCC-produced ads. It is impossible two years after the election, however, to reconstruct which ads ran during which spots. The time-buyer has stated that it would be necessary to go to each of the stations where the ads were run to try to reconstruct the actual purchases at the source.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

1/ The DSCC has copies of the ads which reflect these titles, as well as the production credits for Greer Margolis on a trailer not shown when the ads were broadcast. If the Commission would like to view this version of the ads, DSCC would be happy to provide copies.

2074E

9004024249

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 2771

Respondent: Democratic Senatorial Campaign Committee and G. Wayne Smith, as Treasurer

AFFIDAVIT OF ANITA DUNN

I, ANITA DUNN, being duly sworn according to law, hereby depose and state as follows:

1. I have personal knowledge of the facts set forth herein and if called to testify in this matter, I would testify as set forth herein.

2. I am the Communications Director of the Democratic Senatorial Campaign Committee ("DSCC"). During the 1988 election cycle, I also was the Communications Director of the DSCC.

3. As Communications Director, I was familiar with and informed about aspects of the media programs of Democratic senate campaigns, including John Vinich's campaign in Wyoming.

5. The two advertisements for the Vinich campaign identified by the Commission in MUR 2771 are entitled "Profound" and "Birds."

6. Both ads were produced for the Vinich campaign by Greer, Margolis and Mitchell.

7. The § 441a(d) expenditures cited by the Federal Election Commission ("FEC") to Squire-Eskew Communications (10/5/88 - $17,597.75 and 10/12/88 - $10,593.60) were for production and consulting services on commercials other than the two identified by the FEC in MUR 2771.

8. The § 441a(d) expenditure cited by the FEC to the Harriman Communications Center (10/19/88 - $2,033.35) was for production of a commercial (entitled "The Economy") other than the two identified by the FEC in MUR 2771.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the Laws of the United States of America that the foregoing is true and correct. Executed this 14 day of [illegible], 1990.

Anita Dunn

Anita Dunn

2072E

9104080049951

SQUIER·ESKEW
COMMUNICATIONS

Invoice

September 27, 1988

Ms. Paige Gardner
DSCC
430 S. Capitol Street, S.E.
Washington, D.C. 20003

RE: John Vinich for U.S. Senate

STATEMENT OF ACCOUNT/VINICH FOR SENATE

Consulting Invoice: (see attached)	$ 10,000.00
Production Estimate: (see attached)	$ 3,550.00
Travel/Shoot Invoice: (see attached)	$ 4,047.75
Total Due:	$ 17,597.75

Due upon receipt.

Thank you.

511 2ND Street, NE Washington, D.C. 20002
202 547-4970

SQUIER-ESKEW
COMMUNICATIONS

Invoice

September 27, 1988

Ms. Paige Gardner
DSCC
430 S. Capitol Street, S.E.
Washington, D.C. 20003

RE: John Vinich for U.S. Senate

PRODUCTION ESTIMATE

Production Estimate:	$ 3,550.00

Estimate for narrating, editing, music composition, video finishing, dubbing and distributing the spot, "Hometown," as well as producing an animated tag ending.

Total Due:	$ 3,550.00

Due upon receipt.

Thank you.

511 2ND Street, NE Washington, D.C. 20002
202 547-4970

SQUIER·ESKEW
COMMUNICATIONS

Invoice

October 11, 1988

Ms. Paige Gardner
DSCC
430 S. Capitol Street, SE
Washington, DC 20003

RE: John Vinich for U.S. Senate

STATEMENT OF ACCOUNT/VINICH FOR SENATE

Production Estimate: (see attached)	$ 10,173.60
Production Invoice: (see attached)	$ 420.00
Total:	$ 10,593.60

Due upon receipt.

Thank you.

511 2ND Street, NE Washington, D.C. 20002
202 547-4970

SQUIER·ESKEW
COMMUNICATIONS

Invoice

October 11, 1988

Ms. Paige Gardner
DSCC
430 S. Capitol Street, SE
Washington, DC 20003

RE: John Vinich for U.S. Senate

PRODUCTION ESTIMATE

Production Estimate: $10,173.60

Estimates for narrating, editing, music composition, video finishing, dubbing and distributing the spots, "Economy", "Stand-Up", and "Accomplishments."

Total Due: $10,173.60

Due upon receipt.

Thank you.

511 2ND Street, NE Washington, D.C. 20002
202 547-4970

Harriman
Communications
Center

SOLD TO:
VINICH FOR SENATE
P.O. BOX 67
HUDSON, WY 82515

FOR:
"THE ECONOMY"

INVOICE #: 00001228
ORDER #: S1016

INVOICE DATE: 10/17/88
ORDER DATE : 10/06/88

QUAN	UNITS	DESCRIPTION	UNIT PRICE	TOTAL
4.25	HRS	EDITING 1" TO 1"	225.000	956.25
3.00	HRS	ADD (1 CHANNEL)	150.000	450.00
3.00	MIN	1" MASTER STOCK	4.000	12.00
1.00	EA	1 SPOT 1" DUB	25.000	25.00
30.00	MIN	TIME-CODE BURN-IN	1.000	30.00
THERE IS A 30 MINUTE LIMIT ON TIME-CODE BURN-INS.				
1.00	EA	5-MIN 3/4" RAW STOCK	10.000	10.00
(10/05/88)				
1.00	HRS	EDITING 1" TO 1"	225.000	225.00
1.00	EA	1 SPOT 1" DUB	50.000	50.00
1.00	EA	5-MIN 3/4" DUB	40.000	40.00
1.00	EA	5-MIN 3/4" DUB	40.000	40.00
2.00	EA	15-MIN VHS DUB	40.000	80.00
100% SURCHARGE ADDED FOR RUSH WITH LESS THAN 24 HOURS NOTICE				
(10/06/88)				

Ref 441ADWY
78842 -700
742088 70XX
Rp1

1.5% / MONTH INTEREST ON INVOICES 60 DAYS OVERDUE

NON-TAXABLE	TAXABLE	SALES TAX	FREIGHT	MISCELLANEOUS
.00	1918.25	115.10	.00	.00

INVOICE TOTAL 2033.35

430 South Capitol Street, Washington, D.C. 20003/(202) 485-3400

00040030049956

PERKINS COIE

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

September 6, 1990

90 SEP -6 PM 4:38

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

Attention: Philip M. Wise

Re: MUR 2771 - Democratic Senatorial Campaign Committee and G. Wayne Smith, as Treasurer

Dear Mr. Noble:

9004080049957

The perfect example, involving the DSCC's counterpart in the national party committee structure, the National Republican Senatorial Committee ("NRSC"), is the "bundling" MUR that the Commission recently released to the public record. Even disregarding that the issues in this case are currently being litigated in the courts, the FEC found that the NRSC exceeded contribution limits by a massive amount: over $500,000. The fine imposed was $20,000, not even four percent of the total dollar amount of the violation. Yet this case involves substantial and significant violations of the Act: excessive

contributions to candidates and the failure to report these contributions. Furthermore, this violation was only one of a pattern of abuses found against the NRSC in other MURs.

In MUR 2771, by contrast, the DSCC's violation is technical at best. All of the funds remotely connected to the violation were reported on DSCC's FEC reports and were well within the appropriate limits imposed by statute. This was the first time that DSCC had ever been found to have violated the disclaimer regulations. And the violation was not a total failure to include a disclaimer on the advertisement, but rather the omission of the "authorized by" language.

The DSCC has now convincingly shown that the majority of the $55,000 expenditures made on behalf of John Vinich's campaign were not related to the advertisements questioned by the Commission in this Matter Under Review. Of the original $55,000 noted by the Commission, only $12,000, related to the services provided by Greer Margolis, are clearly connected with the advertisements in question. In addition, the DSCC has conceded that some portion of the disbursement for $13,000 to the timebuyer, The Illustrator, may have been related to these advertisements. Even if 75 percent of this $13,000 expenditure, which is highly unlikely, were related to the ads, the total expenditures by the DSCC would be only approximately $22,000.

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Should you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondent

9004080049 59

0073m

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2771
Democratic Senatorial Campaign	)	
Committee and G. Wayne Smith, as	)	
treasurer	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by G. Wayne Smith, treasurer of the Democratic Senatorial Campaign Committee ("DSCC").

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer.

9 0 0 0 4 0 0 3 0 4 9 7 6 0

2. Close the file.

3. Approve the appropriate letters.

10/30/90
Date

Lawrence M. Noble
General Counsel

Attachments
1. Conciliation Agreement
2. Photocopy of civil penalty check date 10/24/90
3. Photocopy of civil penalty check date 05/31/90

Staff Assigned: Phillip L. Wise

9 3 0 4 0 9 2 6 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 2771
	)	
Democratic Senatorial Campaign	)	
Committee and G. Wayne Smith,	)	
as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 2, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 2771:

1. Accept the conciliation agreement with Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer.

2. Close the file.

3. Approve the appropriate letters, as recommended in the General Counsel's Report dated October 30, 1990.

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

Attest:

11-2-90
Date

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

Received in the Secretariat: Wednesday, Oct. 31, 1990 11:18 a.m.
Circulated to the Commission: Wednesday, Oct. 31, 1990 4:00 p.m.
Deadline for vote: Friday, Nov. 2, 1990 4:00 p.m.

dr

40804962

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 8, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jann L. Olsten, Executive Director
National Republican Senatorial Committee
440 First Street, N.W.
Washington, D.C. 20001

RE: MUR 2771
John P. Vinich,
John P. Vinich for U.S. Senate Committee and
Mabel Vinich, as treasurer,
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer,
Committee on Letter Carriers Political Education and Florence Johnson, as treasurer, and United Steelworkers of America - Local Union 13214

Dear Mr. Olsten:

This is in reference to the complaint you filed with the Federal Election Commission on November 4, 1988, concerning the above referenced respondents.

After conducting an investigation in this matter, the Commission made the following findings:

1. Found that there was probable cause to believe the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441d(a)(2). On November 2, 1990, a conciliation agreement signed by the respondents was accepted by the Commission, thereby concluding the matter.

2. Found reason to believe that the United Steelworkers of America-Local Union 13214 violated 2 U.S.C. § 441b(a), but took no further action and closed the file as it pertains to this respondent;

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3. Found reason to believe that the John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer, violated 2 U.S.C. §§ 441b(a) and 434(b)(5)(A), but took no further action and closed the file as it pertains to these respondents;

4. Found reason to believe that the Committee on Letter Carriers Political Education and Florence Johnson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A). On October 20, 1989, a conciliation agreement signed by the respondents was accepted by the Commission, thereby concluding the matter as it pertained to these respondents; and

5. Found no reason to believe that John P. Vinich personally violated any provisions of the Act or the Commission's Regulations as pertains to the complaint filed in this matter and closed the file as it pertains to him.

The Commission closed the file in this matter on November 2, 1990. Copies of the conciliation agreements are enclosed for your information. If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures
Conciliation Agreements

9004080049964

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 8, 1990

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

RE: MUR 2771
John P. Vinich, John P. Vinich for U.S. Senate Committee and Mabel Vinich, as treasurer

Dear Mr. Bauer and Ms. Corley:

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 Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

9 0 0 4 0 8 0 4 2 9 6 5

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 8, 1990

Keith E. Secular, Esquire
Cohen, Weiss and Simon
330 West 42nd Street
New York, NY 10036-6901

RE: MUR 2771
Committee on Letter Carriers
Political Education and
Florence Johnson, as
treasurer

Dear Mr. Secular:

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 Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

90040308049956

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 8, 1990

CLOSED

William H. Schmelling, Esquire
United Steelworkers of America
One East Wacker Drive
Suite 1910
Chicago, Illinois 60601-1980

RE: MUR 2771
United Steelworkers of
America-Local Union 13214

Dear Mr. Schmelling:

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 Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

2040807957

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 8, 1990

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

RE: MUR 2771
Democratic Senatorial
Campaign Committee
and G. Wayne Smith, as
treasurer

Dear Mr. Bauer and Ms. Corley:

On November 2, 1990, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of a violation of 2 U.S.C. § 441d(a)(2), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel. Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

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

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

4030429368

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer	)	MUR 2771
	)	
	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Jann L. Olsten, the Executive Director of the National Republican Senatorial Campaign Committee. An investigation was conducted, and the Federal Election Commission ("Commission") found probable cause to believe that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer ("Respondents") violated 2 U.S.C. § 441d(a)(2).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

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

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

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

1. The Democratic Senatorial Campaign Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

2. G. Wayne Smith is the treasurer of the Democratic Senatorial Campaign Committee.

3. Pursuant to 2 U.S.C. § 441d(a)(2), whenever any

person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication, if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee.

4. DSCC reported the following 2 U.S.C. § 441a(d) expenditures as among those made on behalf of the John Vinich campaign:

Payee	Purpose	Date	Amount
Squier-Eskew Communications	Media	10/05/88	$17,597.75
Squier-Eskew Communications	Media	10/12/88	10,593.60
The Illustrator	Media	10/14/88	13,000.00
Harriman Communications Center	Media	10/19/88	2,033.35
Greer & Associates	Media	10/21/88	12,000.00

5. One commercial advocating the election of John Vinich, indicated that even though jobs are leaving Wyoming, Senator Malcolm Wallop is portraying the economic news as good. This commercial goes on to point out that industry is on its back; however, foreign uranium is being imported and that senior citizens cannot make ends meet; however, Senator Wallop voted to cut social security. In addition, the commercial stated that Senator Wallop has been in Washington too long. The commercial also asserted that to John Vinich our economy is first priority.

The disclaimer at the end of this commercial stated, "Paid for by the Democratic Senatorial Campaign Committee." There was no statement as to whether the commercial was or was not authorized by the candidate or his committee.

6. The second commercial asserted that Senator Wallop's head is in the sand. It also indicated that Wyoming needed someone who will fight for our jobs. The commercial claimed that John Vinich would make sure public works jobs went to Wyoming workers. The commercial asserted, "we have enough ostriches in Washington." The disclaimer at the end of this commercial also stated, "Paid for by the Democratic Senatorial Campaign Committee." There, again, was no statement as to whether the commercial was or was not authorized by the candidate or his committee.

7. Respondents contend that the $12,000.00 paid to Greer & Associates and an unknown portion of the $13,000.00 paid to The Illustrator were the expenditures made with regard to the two commercials which lacked the complete disclaimers.

V. Respondents paid for two television commercials advocating the election of John Vinich to the United States Senate in which the disclaimers failed to include a statement as to whether they were or were not authorized by the candidate or his committee in violation of 2 U.S.C. § 441d(a)(2).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of One Thousand dollars ($1,000.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a

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

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

IX. Respondents shall have no more than thirty (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.

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FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

11/7/90
Date

FOR THE RESPONDENTS:

H Wayne Smith
(Name)
(Position)
TREASURER, DSCC

October 18, 1990
Date

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2771

DATE FILMED 11/28/90 CAMERA NO. 4

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