FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2783

DATE FILMED 4/13/89 CAMERA NO. 4

CAMERAMAN AS

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OGC 998

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 NOV 10 PM 12:21

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
88 NOV 10 PM 2:54

Mr. Robert L. Beale
4507 Lakeridge Terrace West
Reno, NV 89509

Dear Mr. Beale:

This is to acknowledge receipt of your letter, which we received on October 24, 1988. Your letter was not properly sworn to.

You must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. A statement by the notary that the complaint was sworn to and subscribed before them will be sufficient. Additionally, the jurat should appear on the document itself. We are sorry, but we are not certain that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a complaint action unless all the statutory requirements are fulfilled. See 2 U.S.C. Section 437g.

If you have any questions concerning this letter, please contact Mr. [illegible] at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

8 7 0 4 0 7 4 9 9 2 0

ROBERT L. SEALE
[redacted]37 Lakeridge Terrace We[redacted]
Reno, NV 89509

MUR 2783

Federal Election Commission
999 E. Street, NW
Washington, DC 20463

Attn: General Council

Gentlemen:

This is a formal request for the Federal Elections Commission to inquire into apparent violations of the Federal election laws by the Washoe County Democratic Party and the Nevada Assembly Democratic Caucus.

The Washoe County Democratic Party and the Nevada Assembly Democratic Caucus appear to be in violation of Federal Election Laws by having distributed a campaign brochure advocating the election of Federal Candidates without having registered as an FEC reporting entity as required at 11CFR 100.5(c). I have enclosed copies of the original mailings for your use. These committees have not registered with the Federal Elections Commission as is required by 11CFR 102.1.

I believe these committees have not maintained segregated Bank accounts and have as a result used corporate contributions to produce these campaign brochures which; both, advocates the election of Mike Dukakis for President, Richard Bryan for U. S. Senate and Jim Spoo for Congress, and is being used as a fund raiser for those candidates. It is also my belief that anonymous cash contributions in excess of $50 have been made to these committees.

These committees are required to maintain segregated accounts as described in 11CFR102.1(c), and are prohibited from accepting anonymous cash contributions as described in 11CFR110.4(c)(3).

There is also no disclosure as to who paid for the brochure as is required by FEC regulations at 11CFR110.11(a)(i).

I am concerned that these committees have systematically ignored the laws of the Federal Elections Commission, and specifically that their failure to register with the Federal Elections Commission is an effort to avoid the scrutiny of the FEC.

Very truly yours,

Robert L. Seale

Robert L. Seale

STATE OF NEVADA)
) ss:
COUNTY OF WASHOE)

Subscribed and sworn to before me this 7th day of November, 1988.

Bettye E. Catalano
Notary Public

BETTYE E CATALANO
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES OCT 16, 1992

8 2 0 4 0 7 4 2 9 2 1

AN INVITATION TO JOIN THE WINNING TEAM FROM THE WASHOE COUNTY DEMOCRATIC PARTY

STRONG and on the move

WASHOE COUNTY DEMOCRATIC PARTY

CUT HERE

THE DEMOCRATS: STRONG and on the *move.*

☑ YES, I WANT TO JOIN THE DEMOCRATIC TEAM.

I'D LIKE TO: (check one or more)

- ☐ Take a yard sign
- ☐ Do neighborhood canvassing
- ☐ Do telephoning
- ☐ Do office work
- ☐ Join the Washoe County Central Committee ($20 dues)

FOR: (check one or more)

- ☐ DUKAKIS ☐ BRYAN
- ☐ SPOO ☐ EVANS
- ☐ WASHOE COUNTY DEMOCRATIC PARTY

Please have someone contact me.

NAME

ADDRESS (Give both street and mailing address if different)

CITY ZIP

HOME PHONE WORK PHONE

The best time to contact me is _____ at (home/work).

YOU CAN MAIL THIS CARD OR STOP BY WASHOE COUNTY DEMOCRATIC PARTY HEADQUARTERS, 300 S. WELLS.

HEADQUARTERS PHONE 323-8683

IN COOPERATION WITH THE ASSEMBLY DEMOCRATIC CAUCUS

STRONG

and on the *move.*

JOIN THE **WINNING** TEAM. JOIN THE DEMOCRATS TODAY.

RICHARD BRYAN
FOR U.S. SENATE

"The Bryan agenda is a vision for the future."

MIKE DUKAKIS
FOR PRESIDENT

"This election is not about ideology but is about competence, strong leadership, and building the best."

JIM SPOO
FOR CONGRESS

"Jim Spoo: A record of turning ideas into action."

JAN EVANS
FOR ASSEMBLY

"Jan Evans: The experience to do the job. The honesty to do it right."

FROM

AFFIX STAMP HERE

TO

WASHOE COUNTY DEMOCRATIC PARTY

STRONG and on the *move*

P.O. Box 21373

RENO, NEVADA 89515-1373

3 2 0 4 0 7 4 2 9 2 6

DEMOCRATIC PARTY
OF WASHOE COUNTY
POST OFFICE BOX 21373
RENO, NEVADA 89515-1373

BULK RAT
U.S. POSTA
PAID
RENO, NV 89
PERMIT NO. 2

RLS

AN INVITATION TO JOIN THE WINNING TEAM.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 18, 1988

Robert L. Seale
4837 Lakeridge Terrace West
Reno, Nevada 89509

Re: MUR 2783

Dear Mr. Seale:

This letter acknowledges receipt on November 10, 1988, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Washoe County Democratic Party and the Nevada Assembly Democratic Caucus. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2783. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202)376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

8 7 0 4 0 7 4 2 9 2 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 18, 1988

Washoe County Democratic Party
300 South Wells Avenue
Reno, Nevada 89502

RE: MUR 2783

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the Washoe County Democratic Party may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2783. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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

8 4 0 4 0 7 4 2 9 2 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 18, 1988

Nevada Assembly Democratic Caucus
462 Court Street
Reno, Nevada 89501

RE: MUR 2783

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the Nevada Assembly Democratic Caucus may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2783. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

8 9 0 4 0 7 4 2 9 3 0

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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

39044029931

OGC#12-61

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FEDERAL ELECTION COMMISSION
MAIL ROOM

88 DEC -5 AM 1:56

Mon 2783

Assembly Democratic Caucus

• 706 Bracken Avenue
Las Vegas, Nevada 89104
388-7788
• 462 Court Street
Reno, Nevada 89501
329-8310

November 30, 1988

88 DEC -5 AM 4:31

Lois G. Lerner, Esq.
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms Lerner:

I am in receipt of your letter of November 18, 1988, containing a complaint from Robert L. Seale. In that complaint, Mr. Seale incorrectly alleges, under oath, that the Assembly Democratic Caucus (ADC) "...distributed a campaign brochure advocating the election of federal candidates..." I also believe he is incorrect in his allegation that the brochure was "...used as a fund raiser..." for federal candidates. As you can see from its contents, the brochure was not designed for fund raising purposes, and to the best of my knowledge it was not used for any such purpose.

In addition, Mr. Seale alleges that it is his belief that "anonymous cash contributions in excess of $50 have been made to...the ADC." That allegation is incorrect. The ADC does not accept anonymous contributions in any amount in any form.

As you can see from the Affidavit attached hereto, the ADC did not distribute such a brochure. The brochure at issue was conceived during a discussion between the undersigned and the Washoe County Democratic Party with the express purpose of assisting in the election of Democrats to the Nevada Assembly through voter registration and GOTV.

Please turn to page 2

32040749932

The only actions taken by the ADC in connection with the brochure about which Mr. Seale complains were to provide art work and advice regarding printing to the Washoe County Democratic Party for what the ADC understood a brochure which was designed to assist Democratic Candidates for the Nevada State Assembly, and the sole purpose of the ADC in providing that assistance was to further the election of those Assembly candidates. It was the understanding of the ADC that the brochures would be used only in precincts targeted by the ADC as swing precincts affecting elections to the Nevada Assembly. The ADC neither paid for the printing of the brochure, nor for its mailing, if it was mailed.

It is also my belief that the brochure at issue was, to any extent that it may have been intended by anyone to affect any federal election, a coordinated party expenditure authorized pursuant to 2 USC Section 441a(d). As such, given the pro rata distribution of the value of services provided by the ADC in connection with the brochure, the amount attributable to any candidate for federal office would be de minimus, and certainly, in aggregate, would not approach the threshhold contribution level required before a committee must file with the FEC.

The brochure may also have constituted exempt campaign materials to the extent that it was not distributed by direct mail. I simply do not know the extent, since the ADC was not involved in the distribution of the brochure, other than the work mentioned above. As you can see from the brochure itself, however, it was clearly designed not as a mailer, but for passing out door to door.

Frankly, it is not the purpose, or desire, of the ADC to affect races for federal office. We are an organization designed and existant for only one purpose; to elect Democrats to the Nevada Assembly. Mr. Seale, the former treasurer of the Republican Party of Nevada should be cognizant of those facts, and could easily have dispelled any ignorance on his part by a telephone call to the undersigned.

Given the facts stated above, I hope that the FEC will dismiss Mr. Seale's complaint against the ADC without the necessity of further action on our part. If we have, as I do not for a moment believe, in any way unintentionally violated your regulations, we would be delighted to take any reasonable corrective action.

Please turn to page 3

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If the Commissioners decide, Ms. Lerner, that this complaint has any merit, please contact our counsel, Evan Wallach of the law firm of Lionel Sawyer & Collins. His address is:

300 South 4th Street
Suite 1700
Las Vegas NV 89101

I look forward to a speedy resolution of this matter and will await your answer.

Sincerely,

Gary Gray
Executive Director

State of Nevada) ss
County of Clark)

Gary Gray, having first been duly sworn and under oath, did appear before me this 1 day of ~~November~~ December, 1988, and subscribe to the above document.

Donna DeTommaso
Notary Public

Donna Detommaso
Notary Public-State of Nevada
CLARK COUNTY
My Appointment Expires Sept 21, 1990

8 3 0 4 0 7 4 2 9 3 4

STATE OF NEVADA)
)
COUNTY OF CLARK)

AFFIDAVIT

Gary Gray, being first duly sworn deposes and states that:

1) He is the Executive Director of the Assembly Democratic Caucus (ADC), an organization the sole purpose of which is to elect and support Democratic members of the Nevada Assembly.

2) As part of his duties, he is the only person empowered to enter into contracts on behalf of the ADC.

3) Attached hereto as Exhibits 1, 2 and 3 are true and correct copies of invoices in the amount of $331.25, which represents the sum total of expenditures by the ADC in connection with the brochure at issue in MUR 2783. That brochure was not distributed by the ADC.

4) If called upon to testify in this matter, he could testify to the above stated facts of his own personal knowledge, except for those matters stated upon information and belief which he well and truly believes.

GARY GRAY

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public, on this the 1 day of December, 1988.

Donna DeTommaso
Notary Public in and for the
State of Nevada

Donna Detommaso
Notary Public-State of Nevada
CLARK CO.
My Appointment Expires [illegible], 1988

8 / 18/88

BILL TO: ASSEMBLY DEMOCRATIC CAUCUS
CLIENT: GARY GRAY

INVOICE#: 004-08-1888

PROJECT: WASHOE COUNTY MEDALLION PIECE 8/13	
PRODUCTION: 3½ hrs.	$ 87.50
SCREEN:	5.00
	$ 92.50
PROJECT: WASHOE COUNTY MEDALLION PIECE 8/15	
PRODUCTION: 2 hrs.	$ 50.00
CAMERA: ~~1 acetate~~	8.50
3 positive	12.75
2 reverse	10.00
	$ 81.25
PROJECT: MEDALLION PIECE 8/16	
PRODUCTION: 2 hrs.	$ 50.00

TOTAL FOR INVOICE# 004-08-1888: $223.75

Thank you.

9 9 0 4 0 7 4 2 9 3 6

SEPTEMBER 6, 1988

BILL TO: DEMOCRATIC CAUCUS
CLIENT: GARY GRAY

INVOICE#: 007-09-0688

PROJECT: WASHOE WALK 8/30/88
PRODUCTION: 2 hrs. $ 50.00
ACETATE OVERLAY: 4 @ 5.00 ea. $ 20.00

SHAY
SAMPAGA
SADER
SHEERIN

TOTAL: $ 70.00

PROJECT: WASHOE WALK 9/1/88
PRODUCTION: 1 hr. & delivery to Harris $ 25.00

TOTAL TO DATE: $ 95.00 ÷ 4 = $ 23.75

8 9 0 4 0 7 4 9 3 7

8/29/88

BILL TO: DEMOCRATIC CAUCUS
CLIENT: GARY GRAY

INVOICE#: 006-08-2988

PROJECT: SCHOOL PIECE 8/22 production; 1 hr.	$ 25.00
PROJECT: WATER, WATER 8/22 production; ½ hr.	$ 12.50
PROJECT: WATER,WATER DRAWING 8/23 production; 2½ hrs. camera; 1½ stat.	$ 62.50 12.75 --- $ 75.25
PROJECT: STRONG & ON THE MOVE 8/23 production; ½ hr. (changes)	$ 12.50

TOTAL: $100.25

Thank you.

3 3 0 4 0 7 4 0 2 3 8

MUR 2783

NAME OF COUNSEL: Evan J. Wallach

ADDRESS: Lionel Sawyer & Collins
300 So. 4th St. #1700
Las Vegas, NV 89101

TELEPHONE: (702) 383-8832

RECEIVED
FEDERAL ELECTION COMMISSION
88 DEC -5 AM 1:56

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.

30 Nov '88
Date

Signature

RESPONDENT'S NAME: Nevada Assembly Democratic Caucus

ADDRESS: 462 Court Street / 706 Bracken Ave
Reno, NV 89501 / Las Vegas, NV 89104

HOME PHONE: Reno 329-8310

BUSINESS PHONE: L.V. 399-7788

* Please direct all communications to both offices.

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06C1267

RECEIVED
FEDERAL ELECTION COMMISSION

88 DEC -5 AM 9:26

BECKLEY, SINGLETON, DE LANOY, JEMISON & LIST, CHTD.

A PROFESSIONAL LAW CORPORATION

50 WEST LIBERTY STREET
SECOND FLOOR
RENO, NEVADA 89501
(702) 323-8866
TELECOPIER (702) 323-5523

DRAKE DE LANOY
REX A. JEMISON
ROBERT LIST
MARK C. SCOTT, JR
JACK C. CHERRY
J. MITCHELL COBEAGA
RENE C. ARCENEAUX
ALAN J. LEFEBVRE
SHERMAN B. MAYOR
ROLAND K. MARTIN, JR
B. ALAN MC KISSICK
DAVID BARRON
FRANNY A. FORSMAN
BRUCE A. LESLIE
GREG W. MARSH
C. ERIC FUNSTON
WILLIAM B. PALMER II
PATRICIA L. BROWN
DANIEL F. POLSENBERG
JOSEPH J. VAN WALRAVEN

ROBERT F. SAINT-AUBIN
CHARLES R. ZEH
ROBERT AARON CALLAWAY
BRUCE SCOTT DICKINSON
STEPHEN S. KENT
LARY G. LAMOREUX
RANDAL A. DeSHAZER
RICHARD G. CAMPBELL, JR.
R. VAUGHN GOURLEY
ELLEN J. WINOGRAD
CAROL R. DAVIS
JUDITH L. LAMSON
KEITH J. TIERNEY
J. MICHAEL OAKES
NILE LEATHAM
ELIZABETH GOFF GONZALEZ
DONNA MENDOZA MITCHELL
JOSEPH J. BONGIOVI III
RICHARD J. PYATT
THOMAS J. VIVONE
SANDRA O. WILSON
BONNIE A. BULLA
ADRIENNE C. COBB

OF COUNSEL
WILLIAM SINGLETON
ROBERT J. MILLER
GEORGE T. MORSE III

LAS VEGAS OFFICE
411 EAST BONNEVILLE AVENUE
LAS VEGAS, NEVADA 89101
(702) 385-3373
TELECOPIER (702) 385-9447

LAS VEGAS TAX DEPARTMENT
803 S. SIXTH ST
P.O. BOX 1420
LAS VEGAS, NEVADA 89101
(702) 384-4404

December 2, 1988

88 DEC -5 AM 4:26

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

Dear Ms. Kramer:

This is to confirm the conversation my secretary had with Mr. Anderson of your office yesterday wherein the necessity of an extension of time to respond to the MUR 2783 was requested.

More specifically, I need the additional time because the matter was only recently brought to my attention, I am not completely familiar with the Federal regulations and statutes regarding the election laws and therefore need to familiarize myself with them before responding, and in addition, it would appear that some investigation into the facts and circumstances of this matter are required before an adequate response can be formulated.

Accordingly, I am requesting an additional twenty (20) days, running from December 5, 1988 as the time within which to respond to the charges made by the Republican Party against the Washoe County Democratic Party.

Thank you.

Sincerely,

Charles R. Zeh, Esq.

CRZ:rkn

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Tlm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 7, 1988

Charles R. Zeh, Esq.
Beckley, Singleton, De Lanoy,
Jemison & List, CHTD.
50 West Liberty Street
Second Floor
Reno, Nevada 89501

RE: MUR 2783
Washoe County
Democratic
Party

Dear Mr. Zeh:

This is in response to your letter dated December 2, 1988, which we received on December 5, 1988, requesting an extension of 20 days to respond to notice of a complaint filed in the above captioned matter. 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 27, 1988.

Enclosed is a designation of counsel form. Commission regulations at 11 C.F.R. § 111.23 require that the Respondent designate counsel in writing. If notifications are to be sent to you as counsel, please have the Respondent complete and sign the form and return it to us as soon as possible.

If you have any questions, please contact George Rishel, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

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GCC#1478

BECKLEY, SINGLETON, DE LANOY, JEMISON & LIST, CHTD.

A PROFESSIONAL LAW CORPORATION

50 WEST LIBERTY STREET
SECOND FLOOR
RENO, NEVADA 89501
(702) 323-8866
TELECOPIER (702) 323-5523

DRAKE DE LANOY
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RICHARD J. PYATT
THOMAS J. VIVONE
SANDRA O. WILSON
BONNIE A. BULLA
ADRIENNE C. COBB

W. BRUCE BECKLEY (1915-1986)

OF COUNSEL
WILLIAM SINGLETON
ROBERT J. MILLER
GEORGE T. MORSE III

LAS VEGAS OFFICE
411 EAST BONNEVILLE AVENUE
LAS VEGAS, NEVADA 89101
(702) 385-3373
TELECOPIER (702) 385-9447

LAS VEGAS TAX DEPARTMENT
803 S. SIXTH ST.
P.O. BOX 1420
LAS VEGAS, NEVADA 89101
(702) 384-4404

December 27, 1988

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

Re: MUR -2783

Dear Mr. Brown:

Pursuant to our telephone conversation of this date, I am enclosing the Statement of Designation of Counsel in the above-referenced matter.

Thank you for your cooperation and information with regard to the request for an extension of time. We will be forwarding that request to the Election Commissioners as soon as I have been able to contact Mr. Zeh.

Sincerely,

Roni Nicora

Roni Nicora
Secretary to Charles R. Zeh

rkn
Enclosure

88 DEC 30 AM 9:03
RECEIVED FEDERAL ELECTION COMMISSION
88 DEC 30 PM 1:09

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2733

NAME OF COUNSEL: CHARLES R. ZEH, ESQ.
Beckley, Singleton, DeLanoy, Jemison & List, Chtd.

ADDRESS: 50 W. Liberty Street
Second Floor
Reno, NV 89501

TELEPHONE: (702) 323-8866

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.

Dec 5, 1988
Date

Joan Kruse
Signature, Chairperson

RESPONDENT'S NAME: Washoe County Democratic Party

ADDRESS: P. O. Box 21373
Reno, NV 89515

HOME PHONE: (702) 825-8121

BUSINESS PHONE: (702) 323-8683

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900031 066 1506

RECEIVED
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89 JAN -5 AM 10:51

BECKLEY, SINGLETON, DE LANOY, JEMISON & LIST, CHTD.

A PROFESSIONAL LAW CORPORATION

50 WEST LIBERTY STREET
SECOND FLOOR
RENO, NEVADA 89501
(702) 323-8866
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DRAKE DE LANOY
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BONNIE A. BULLA
ADRIENNE C. COBB

W. BRUCE BECKLEY (1915-1986)

OF COUNSEL
WILLIAM SINGLETON
ROBERT J. MILLER

LAS VEGAS OFFICE
411 EAST BONNEVILLE AVENUE
LAS VEGAS, NEVADA 89101
(702) 385-3373
TELECOPIER (702) 385-9447

LAS VEGAS TAX DEPARTMENT
803 S. SIXTH ST.
P.O. BOX 1420
LAS VEGAS, NEVADA 89101
(702) 384-4404

January 4, 1989

89 JAN -5 PM 3:25

Lois G. Lerner, Esq.
Associate General Counsel
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

ATTENTION: **JIM BROWN**

Re: MUR 2783

Dear Ms. Lerner:

Enclosed please find the Washoe County Democratic Party response to Mr. Seale's complaint against it, referenced in your letter of November 18, 1988. With this letter, I am also asking for additional time, up to and including the present to submit, by virtue of the enclosed, the Washoe County Democratic Party response.

This is the second request for additional time, the additional time is required because of the illness of counsel. While I have not been sick and missed a day of work due to illness for over two years, it seems that I chose the holidays and the time a response was required on behalf of the Washoe County Democratic Party to become sick, the result of which is that I have only now been able to complete the Washoe County Democratic Party response and have it forwarded to you.

I trust that the Commission will grant the extension since it is not posited for reasons of delay and it is not the fault of the Washoe County Democratic Party that the additional time was needed.

Thank you.

Sincerely,

Charles R. Zeh, Esq.

CRZ:rkn
Enclosures

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DEMOCRATIC PARTY OF WASHOE COUNTY

Joan Kruse, Chair
Jim Van Winkle, Vice Chair
Sam Lumpe, Secretary
Al Wittenberg, Treasurer

January 4, 1989

Lois G. Lerner, Esq.
Associate General Counsel
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

ATTENTION: **JIM BROWN**

Re: MUR 2783

Dear Ms. Lerner:

The Washoe County Democratic Party joins in the response, dated November 30, 1988, of the Nevada Assembly Democratic Caucus (ADC) to the complaint from Robert L. Seale, referenced in your letter of November 18, 1988. As noted by the ADC, Mr. Seale incorrectly alleges, under oath, that the Washoe County Democratic Party "...distributed a campaign brochure advocating the election of federal candidates...." Mr. Seale incorrectly claims, further, that the brochure was "...used as a fund raiser..." for federal candidates. The Washoe County Democratic Party unequivocally denies any wrongdoing, as alleged by Mr. Seale.

Attached is a copy of the brochure the subject of Mr. Seale's accusations. The brochure was prepared in conjunction with the Washoe County Democratic Party Get-Out-The-Vote Campaign and Voter Registration Drive aimed directly at impacting upon local, state democratic assembly races. A separate brochure was prepared for each State Democratic Assembly candidate for each district in Washoe County, featuring the photograph of the particular State Democratic Assembly candidate for the particular district the subject of the Voter Registration and Get-Out-The-Vote campaign drive.

The particular brochure enclosed contains the photograph of Jan Evans, a State Democratic Assembly candidate. For the district where Assembly candidate Ken Haller ran, for example, the brochure contained Mr. Haller's photo.

Post Office Box 21373 • Reno, Nevada 89515-1373 • (702) 825-8686

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The brochure was distributed in two ways. First, it was hand delivered when Washoe County democratic volunteers walked precincts with the local, State Assembly candidates. The brochures were supplied to the State Assembly candidates for distribution by the candidates and his/her volunteers. The brochures were distributed through these precinct walks as a part of the candidate's effort in conjunction with the Washoe County Democratic Party, to register Washoe County Democratic voters, to get out the vote on behalf of the local State Assembly candidate distributing the brochure, and to increase membership in the Washoe County Democratic Party.
Secondly, the brochure was also mailed to targeted, existing Democratic households in Washoe County, together with a cover letter. This letter asked if there were any new members of the household, who had not yet registered as Washoe County democrats. The thrust here was to register more democrats in Washoe County and to request further that they join the Washoe County Democratic Party and become dues paying members.

The use of the brochure and its contents, thus, should make clear the following:

1. The brochure was not designed for fund raising purposes.

2. To the best of my knowledge, the brochure was never used for fund raising purposes on behalf of any candidates.

3. To the best of my knowledge, the only solicitation was in connection with the effort to recruit new members to the Washoe County Democratic Party (note the specific reference, <u>only</u>, to Washoe County dues of $20.00).

4. The brochures were used, to the best of my knowledge, as a tool to attract voters for State Democratic Assembly candidates.

5. The brochure was used, to the best of my knowledge, as a part of the Party's Voter Registration Drive.

6. The brochure was used, to the best of my knowledge, as a Get-Out-The-Vote campaign tool for local, State Democratic Assembly

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candidates in Washoe County.

7. The brochure was used, to the best of my knowledge, to recruit new members and volunteers to the Washoe County Democratic Party and to urge that they become dues paying members of the Washoe County Democratic Party.

8. To the best of my knowledge, the brochure was never used to recruit money other than on behalf of the Washoe County Democratic Party in the form of party dues (the $20.00 figure).

9. To the extent that the brochures were mailed, to the best of my knowledge, the brochures were mailed for use only in precincts targeted by the ADC as swing precincts effecting elections to the State of Nevada Assembly.

Finally, while not admitting that the brochure was ever intended for use, to the best of my knowledge, to effect any Federal election, I believe, also, that the brochure at issue was a co-ordinated party expenditure authorized pursuant to 2 U.S.C. §441a(d). As such, given the cost of the brochure, the use of local party campaign volunteers to distribute the brochure and the like, the amount attributable to any candidate for Federal office was diminimus and certainly, in the aggregate, would not approach the threshold contribution levels under the FEC.

Finally, Mr. Seale alleges that it is his belief "...anonymous cash contributions in excess of $50 have been made to..." the Washoe County Democratic Party. Like the ADC, the Washoe County Democratic Party does not accept anonymous cash contributions in excess of $50.00.

Based upon the foregoing, it is requested that the FEC dismiss Mr. Seale's complaint against the Washoe County Democratic Party as being without merit and without the necessity of further action on the part of the Washoe County Democratic Party. If the Washoe County Democratic Party has unintentionally violated the regulations of the FEC, the Washoe County Democratic Party would be delighted to take any reasonable corrective action. As indicated above, however, the Washoe County Democratic Party

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the Washoe County Democratic Party does not believe that there has been any wrongdoing, whether intentional or unintentional, involved in the conduct challenged by Mr. Seale.

In the event, however, the Commissioners decide that Mr. Seale's complaint requires further action, please contact our counsel, Charles R. Zeh, Esq. of the law firm of Beckley, Singleton, DeLanoy, Jemison & List, Chtd. His address is:

50 West Liberty
Reno, NV 89502

The Washoe County Democratic Party looks forward to a speedy resolution of this matter.

Sincerely,

Joan Kruse

Joan Kruse, Chairperson
Washoe County Democratic Party

STATE OF NEVADA)
: ss.
COUNTY OF WASHOE)

JOAN KRUSE, having first been duly sworn and under oath, did appear before me this 4th day of January, 1989, and subscribe to the above document.

Rhona K. Nicora
NOTARY PUBLIC

JK:rkn
Enclosure

RHONA K. NICORA
Notary Public State of Nevada
Appointment Recorded In Washoe County
MY APPOINTMENT EXPIRES FEB. 11, 1991

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AN INVITATION TO JOIN

THE WINNING TEAM FROM THE WASHOE COUNTY DEMOCRATIC PARTY

STRONG

and on the move

WASHOE COUNTY DEMOCRATIC PARTY

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THE DEMOCRATS: STRONG and on the *move.*

☑ YES, I WANT TO JOIN THE DEMOCRATIC TEAM.

I'D LIKE TO: (check one or more)

- ☐ Take a yard sign
- ☐ Do neighborhood canvassing
- ☐ Do telephoning
- ☐ Do office work
- ☐ Join the Washoe County Central Committee ($20 dues)

FOR: (check one or more)

- ☐ DUKAKIS ☐ BRYAN
- ☐ SPOO ☐ EVANS
- ☐ WASHOE COUNTY DEMOCRATIC PARTY

Please have someone contact me.

NAME _____

ADDRESS (Give both street and mailing address if different) _____

CITY _____ ZIP _____

HOME PHONE _____ WORK PHONE _____

The best time to contact me is _____ at (home/work).

YOU CAN MAIL THIS CARD OR STOP BY WASHOE COUNTY DEMOCRATIC PARTY HEADQUARTERS, 300 S. WELLS.

HEADQUARTERS PHONE 323-8683

IN COOPERATION WITH THE ASSEMBLY DEMOCRATIC CAUCUS

STRONG
and on the *move.*

JOIN THE **WINNING** TEAM.
JOIN THE DEMOCRATS TODAY.

MIKE DUKAKIS
FOR PRESIDENT

"This election is not about ideology but is about competence, strong leadership, and building the best."

RICHARD BRYAN
FOR U.S. SENATE

"The Bryan agenda is a vision for the future."

JIM SPOO
FOR CONGRESS

"Jim Spoo: A record of turning ideas into action."

JAN EVANS
FOR ASSEMBLY

"Jan Evans: The experience to do the job. The honesty to do it right."

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FROM

AFFIX STAMP HERE

TO

WASHOE COUNTY DEMOCRATIC PARTY

STRONG and on the *move*

P.O. Box 21373

RENO, NEVADA 89515-1373

DEMOCRATIC PARTY
OF WASHOE COUNTY
POST OFFICE BOX 21373
RENO, NEVADA 89515-1373

BULK RA
U.S. POST
PAID
RENO, NV 8
PERMIT NO

RLS

AN INVITATION TO JOIN THE WINNING TEAM.

BECKLEY, SINGLETON, DE LANOY, JEMISON & LIST, CHTD.

A PROFESSIONAL LAW CORPORATION

50 WEST LIBERTY STREET
SECOND FLOOR
RENO, NEVADA 89501
(702) 323-5666
TELECOPIER (702) 323-5523

DRAKE DE LANOY
REX A. JEMISON
ROBERT LIST
MARK C. SCOTT, JR.
JACK F. CHERRY
J. MITCHELL FITZPATRICK
RENE C. ARCENEAUX
ALAN J. LEFEBVRE
SHERMAN B. MAYOR
HOWARD R. HARTMAN, JR.
H. ALAN MCKISSICK
DAVID BARRON
FRANNY A. FORSMAN
BRUCE A. LESLIE
GREG W. MARSH
C. ERIC FUNSTON
WILLIAM B. PALMER II
PATRICIA L. BROWN
DANIEL F. HOLSENBERG
JOSEPH J. VAN WALRAVEN

ROBERT F. SAINT-AUBIN
CHARLES R. ZEH
ROBERT AARON CALLAWAY
BRUCE SCOTT DICKINSON
STEPHEN S. KENT
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RICHARD G. CAMPBELL, JR.
R. VAUGHN GOURLEY
ELLEN J. WINOGRAD
CAROL R. DAVIS
JUDITH L. LAMSON
J. MICHAEL OAKES
NILE LEATHAM
ELIZABETH GOFF GONZALEZ
DONNA M. NDUNA MITCHELL
JOSEPH J. BONGIOVI III
RICHARD J. RYATT
PAUL S. LYCHUK
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TIMOTHY R. TITOLO
ROBERT F. EGLET

W. BRUCE BECKLEY (1915-1986)

OF COUNSEL
WILLIAM SINGLETON
ROBERT J. MILLER
GEORGE T. MORSE III*
*ADMITTED IN TEXAS ONLY

LAS VEGAS OFFICE
411 EAST BONNEVILLE AVENUE
LAS VEGAS, NEVADA 89101
(702) 382-3373
TELECOPIER (702) 385-9447

LAS VEGAS TAX DEPARTMENT
803 S. SIXTH ST.
P.O. BOX 1420
LAS VEGAS, NEVADA 89101
(702) 384-4404

February 24, 1989

FEB 27 PM 12:25

James Brown
General Counsel's Office
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

Re: MUR 2783

Dear Mr. Brown:

Reference our phone conversation of February 10, 1989, in connection with the charge listed above. I indicated that I had not personally inspected the books of the Washoe County Democratic Party. I am informed, however, that the brochure the subject of the above-referenced matter was printed at a cost of $1,677.92. Payment was made on or about September 2, 1988. A portion of the brochures was mailed on September 30, 1988 at a cost of $330.76. The total out of pocket cost of the brochure, thus, comes to $2,008.68.

As I explained, further, there are ten state assembly districts within Washoe County. I am further informed of the following as set forth below. Distribution of the brochures was divided equally amongst the assembly candidates in ten state assembly districts. The Assembly Democratic caucus pinpointed precincts within each district which had a high concentration of democratic voters. Within those districts, in turn, the brochure was hand delivered or mailed to households already believed to have at

least one registered democrat residing therein. Eighty percent of the brochures were hand delivered.

The hand-delivered brochures were distributed through the assembly candidates for the respective district. Volunteers walking on behalf of the candidate, I am advised, did the actual distribution, together with the assembly candidate, his or herself.

Distribution of the brochure was entirely generated by the local, assembly races at issue in the specific assembly district. As indicated in previous correspondence, the brochure was changed, by district, to feature the particular democratic assembly candidate from the district within which the brochure was being distributed.

As I indicated by phone, also, I am informed that the Washoe County Democratic Party had a budget last year of approximately $48,000.00. Of this amount, I am informed that approximately $10,500.00 consisted of corporate contributions or donations from individuals in excess of $50.00. I am informed, further, that the remaining balance of the $48,000.00 figure or approximately $37,500.00 consisted of individual contributions and dues in amounts of $50.00 or less. There were sufficient funds to pay for the entire out-of-pocket costs of the brochure out of these "smaller," $50.00 or less amounts.

The list of Washoe County Democratic registered voters was self-generated, I am informed. The list was not, in other words, purchased from any professional source for providing mailing lists.

From the foregoing, it is obvious first that the absolute amount in question here is a "diminimus" figure. Assuming, without admitting, that there was some collateral benefit inuring to the Federal candidates, the benefit, if any, derived, must be commensurately reduced by the amount of space accorded the Federal candidates versus the space devoted the State candidates and the Washoe County Democratic Party portion. The focus of the brochure was also upon the local candidate and Washoe County Party recruitment. Finally, the state or local emphasis was amplified by virtue of its distribution primarily by local candidates and volunteers working on their behalf. If a cost benefit analysis were then to be assigned, a figure which is clearly "de minimus" should be reduced to an even smaller amount

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when the collateral benefit, if any, to the Federal candidate is compared to the local emphasis in this manner.

Should you have any questions please don't hesitate to contact me.

Thank you.

Sincerely,

Charles R. Zeh, Esq.

CRZ:rkn

cc: Joan Kruse
Al Wittenberg

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RECEIVED
FEDERAL ELECTION COMMISSION
89 MAR -9 PM 3:58

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

SENSITIVE
EXECUTIVE SESSION
MAR 28 1989

FIRST GENERAL COUNSEL'S REPORT

MUR 2783
DATE COMPLAINT RECEIVED BY OGC: November 10, 1988
DATE OF NOTIFICATION TO RESPONDENTS: November 18, 1988
STAFF MEMBER: J. Albert Brown
George F. Rishel

COMPLAINANT: Robert L. Seale

RESPONDENTS: Washoe County Democratic Party and its treasurer

Assembly Democratic Caucus and its treasurer

RELEVANT STATUTES:
2 U.S.C. § 431(4)
2 U.S.C. § 431(8)(B)(v), (x), (xi), and (xii)
2 U.S.C. § 431(9)(B)(iv), (viii), and (ix)
2 U.S.C. § 432(c)(2)
2 U.S.C. § 433
2 U.S.C. § 434
2 U.S.C. § 441b
2 U.S.C. § 441d
2 U.S.C. § 441g
11 C.F.R. § 100.5(c)
11 C.F.R. § 102.5(b)
11 C.F.R. § 110.4(c)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed on November 16, 1988, by Robert L. Seale against the Washoe County Democratic Party and the Assembly Democratic Caucus (the "Respondents"). The Washoe County Democratic Party (the "Party") filed its response on January 4, 1989. On February 24, 1989, the Party filed a supplemental response. The Assembly Democratic Caucus

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(the "Caucus") filed its response on December 5, 1988. See Attachment 1.

II. FACTUAL AND LEGAL ANALYSIS

The allegations in the complaint relate to the preparation and distribution of a brochure that includes photographs and information on three candidates for federal office (Michael Dukakis for President, Richard Bryan for Senate, and Jim Spoo for Congress) as well as a candidate for the Nevada State Assembly. The complaint alleges that the two Respondent committees have failed to register and report, have not maintained separate accounts and have used corporate contributions to produce the brochure which also raised funds for the federal candidates, have accepted anonymous cash contributions in excess of $50, and have failed to include on the brochure a disclaimer disclosing who had paid for it.

A. Relevant Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that any organization or group of persons that receives more than $1,000 in contributions in any calendar year or makes more than $1,000 in expenditures in any calendar year becomes a political committee that must register and report pursuant to 2 U.S.C. §§ 433 and 434. It further provides that any local committee of a political party becomes a political committee under the Act if it does any of the following:

(1) receives contributions aggregating in excess of $5,000 in any calendar year;

(2) makes payments exempted from the definition of

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contribution and expenditure aggregating in excess of $5,000 in any calendar year; or

(3) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year.

2 U.S.C. § 431(4).

The Act excludes from the definition of contribution and expenditure the following payments relevant to party committees:

(1) payments by state or local political party committees for the preparation, display, mailing, or other distribution of a slate card, sample ballot, or other printed listing of three or more candidates for public office (2 U.S.C. §§ 431(8)(B)(v) and 431(9)(B)(iv));

(2) payments by state or local political party committees for campaign materials (such as brochures) used by the committee in connection with volunteer activities on behalf of nominees of the party (2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii)); and

(3) payments by state or local political party committees for the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President (2 U.S.C. §§ 431(8)(B)(xii) and 4319(9)(B)(ix)).

Commission regulations provide that for state and local political party committees that make contributions or expenditures or exempt payments but do not cross the threshold for political committee status, such committees may either (1) establish a separate account into which only funds permissible under the Act are deposited and from which its contributions,

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expenditures, or exempt payments are made or (2) demonstrate by a reasonable accounting method that whenever it has made a contribution, expenditure, or exempt payment, it had sufficient permissible funds in its account to make such payment. 11 C.F.R. § 102.5(b). The Act specifically prohibits any corporation whatever from making any contribution or expenditure, directly or indirectly, in connection with a federal election. 2 U.S.C. § 441b.

The Act requires a committee treasurer to keep a record of the name and address of any person who makes a contribution in excess of $50. 2 U.S.C. § 432(c)(2). The Act prohibits any person from making a cash contribution in excess of $100. 2 U.S.C. § 441g. Commission regulations explain that any committee receiving an anonymous cash contribution in excess of $50 shall promptly dispose of the portion in excess of $50. 11 C.F.R. § 110.4(c).

The Act further provides that 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 shall contain the appropriate disclaimer that identifies who paid for the communication and whether or not it was authorized by any candidate. 2 U.S.C. § 441d.

Both the Assembly Democratic Caucus and the Washoe County

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Democratic Party argue that any portion of the costs of this brochure allocable to federal elections should be treated as a coordinated party expenditure. First, this section is not applicable to these committees with respect to the presidential candidate because state and local party committees as well as nonparty committees are given no coordinated party expenditure authority with respect to such candidates. Second, as it applied to candidates for the U.S. Senate and House, the coordinated party expenditure section refers to expenditures on behalf of the party nominees. Therefore, it is more appropriate to first consider whether the costs for the brochure allocable to federal candidates would constitute an expenditure under the Act or be exempt from such definition.

A. Legal Analysis

1. Preparation and Distribution of the Brochure

The subject brochure consists of four panels. The first panel carries a symbol and name of the Washoe County Democratic Party and the slogans: (1) "The winning team from the Washoe County Democratic Party" and (2) "Strong and on the move." The second panel is a form that indicates a person wants to join the Democratic team and provides a place for them to check whether they want to take a yard sign, do neighborhood canvassing, do telephoning, do office work, and/or join the Washoe County Central Committee with $20 dues. It also contains a place for the person to indicate if he or she wants to work on behalf of Dukakis, Bryan, Spoo, Evans, and/or the Washoe County Democratic Party. There is a place for the person to fill in his or her

name, address, and telephone numbers. The panel instructs the person to mail the card to the Washoe County Democratic Party headquarters or to deliver it there in person. It also notes that the brochure is "in cooperation with the Assembly Democratic Caucus."

The third panel urges the reader to "Join the winning team. Join the Democrats today." It contains the photographs of four candidates, which are identified as: Mike Dukakis for President, Richard Bryan for U.S. Senate, Jim Spoo for Congress, and Jan Evans for Assembly. Adjacent to each candidate's photograph is a quotation from their campaign messages. The fourth panel is an envelope front addressed to the Washoe County Democratic Party. The complaint also provided a copy of the front of an envelope with the return address to the Washoe County Democratic Party. The bulk mailing permit number was not evident on the copy submitted with the complaint.

In its response, the Assembly Democratic Caucus states that it coordinated with the Washoe County Democratic Party in the preparation of the brochure and provided the artwork for it. The Caucus attached copies of invoices that show it paid a total of $331.25 for the artwork. It states that it did not pay for the printing of the brochure or its mailing, if it was mailed. It further states that the primary purpose of the brochure was to assist Democratic candidates for the Nevada State Assembly. In a telephone conservation with staff of this Office on January 30, 1989, counsel for the Assembly Democratic Caucus said that it was not a party committee, but an independent committee organized to

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support Democratic candidates for the State Assembly.

The Washoe County Democratic Party responds that the brochure was prepared in conjunction with its voter registration and get-out-the-vote activities aimed primarily at local, State Assembly races. It states that a separate brochure was prepared for each Assembly candidate for each of 10 districts in Washoe County with the photograph of the candidates. It explains that the brochure was distributed in two ways: (1) hand delivered by volunteers who walked the precincts with the candidates with a quantity of the brochures being supplied to each candidate and his or her volunteers; and (2) mailed to targeted, existing Democratic households in the county with a cover letter seeking to determine if any members of the household needed to register to vote. It further explains that the mailings were made only in precincts targeted by the Assembly Democratic Caucus as swing precincts affecting elections to the State Assembly. Both the Assembly Democratic Caucus and the Washoe County Democratic Party deny the brochure was used to raise funds for federal candidates. The Party points out that the only request for funds in the brochure was asking persons whether they wished to join the Washoe County Central Committee with $20 dues.

In its supplemental response, counsel for the Party states that the brochure was printed at a cost of $1,677.92 plus $330.76 for mailing a portion of them for a total disbursement of $2,008.68. Counsel states that approximately 80 percent of the brochures were hand delivered by volunteers for assembly candidates. The remaining 20 percent were "mailed to households

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already believed to have at least on registered democrat residing therein." He stated the list of registered voters was "self-generated" and was not "purchased from any professional source for providing mailing lists." He further stated that the Party's $48,000 budget for 1988 included approximately $10,500 in corporate contributions or donations from individuals in excess of $50 while the remaining $37,500 consisted of donations from individuals of $50 or less.

As noted, the payment by a state or local party committee for campaign materials distributed in connection with volunteer activities is exempt from the definitions of contribution and expenditure. Based on the supplemental response, it appears that 80 percent of the cost or $1,606.94 would qualify for this exemption. This amount is well below the $5,000 threshold for exempt payments to qualify for political committee status. Because the remaining portion of $401.74 is less than the $1,000 expenditure threshold, it is not necessary to discuss whether any other exemptions may apply to this portion or what the appropriate allocation between federal and nonfederal candidates should be. Furthermore, counsel's supplemental response shows that the Party had sufficient funds from permissible sources to pay for the entire cost of the brochure and its mailing.

Accordingly, this Office recommends the Commission find no reason to believe the Washoe County Democratic Party violated 2 U.S.C. §§ 433, 434, and 441b.

As noted, the Assembly Democratic Caucus does not claim to be a party committee. Therefore, the exemptions to the definition

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of contribution and expenditure are not available to it. Nevertheless, its payment of $331.25 for the artwork for this brochure, although an in-kind gift of a thing of value to the Washoe County Democratic Party, was less than the $1,000 threshold for political committee status. Accordingly, this Office recommends that the Commission find no reason to believe the Assembly Democratic Caucus violated 2 U.S.C. §§ 433 and 434.

With regard to whether the Assembly Democratic Caucus had sufficient permissible funds in its account at the time it made its payments for the artwork, we note that in a phone conversation with staff of this Office on January 31, 1989, counsel for the Caucus stated that it accepted both corporate and union contributions as well as contributions from individuals in amounts less than $1,000. We further note that the complaint offers no evidence that impermissible funds were used but merely makes the allegation that such were used. Therefore, based on these circumstances and the amount involved, this Office recommends the Commission find no reason to believe the Assembly Democratic Caucus violated 2 U.S.C. § 441b.

2. **Anonymous Cash Contributions**

The complaint also alleged that the Respondents had accepted anonymous cash contributions in excess of $50. The Assembly Democratic Caucus responded that it "does not accept anonymous contributions in any amount in any form." The Washoe County Democratic Party stated that it "does not accept anonymous cash contributions in excess of $50.00." In any event, the provisions of the Act regarding anonymous contributions and cash

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contributions would apply only if the Respondents were political committees under the Act. Accordingly, this Office recommends the Commission find no reason to believe the Assembly Democratic Caucus and the Washoe County Democratic Party violated 2 U.S.C. §§ 432(c)(2) and 441g.

3. **Disclaimer**

The brochure does not appear to solicit contributions as they are defined by the Act. First, the request for $20 dues to the Party, either by itself or in the context of the brochure, was not a request for a gift of money for the purpose of influencing federal elections. Second, the Party did not qualify as a political committee under the Act at the time this request was made. The subject brochure does expressly advocate the election of three clearly identified federal candidates. Nevertheless, it did not specifically state who paid for it and whether or not it was authorized by the federal candidates identified in it.

As previously discussed, 80 percent of the brochures were distributed by volunteers by hand so that the costs associated with this portion do not constitute an expenditure under the Act. The remaining 20 percent were mailed to selected households identified as having at least one registered Democrat. Counsel stated the list was "self-generated" and was not purchased. The portion of the cost attributable to federal candidates included in this mailing would be less than $401.74. Furthermore, the Party was prominently identified as the publisher of the brochure and the Assembly Democratic Caucus's participation was noted. Accordingly, this Office recommends the Commission find

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reason to believe the Washoe County Democratic Party violated 2 U.S.C. § 441d and take no further action.

III. **RECOMMENDATIONS**

1. Find no reason to believe the Washoe County Democratic Party and its treasurer violated 2 U.S.C. §§ 432(c)(2), 433, 434, 441b, and 441g.

2. Find reason to believe the Washoe County Democratic Party and its treasurer violated 2 U.S.C. § 441d and take no further action.

3.. Find no reason to believe the Assembly Democratic Caucus and its treasurer violated 2 U.S.C. §§ 432(c)(2). 433, 434, 441b, and 441g.

4. Approve the attached letters.

5. Close the file.

Lawrence M. Noble
General Counsel

3-8-89
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Complaint and Responses
2. Proposed letters (3)

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN
COMMISSION SECRETARY

DATE: MARCH 15, 1989

SUBJECT: OBJECTIONS TO MUR 2783 - FIRST G. C. REPORT SINGED MARCH 8, 1989

The above-captioned document was circulated to the Commission on Friday, March 10, 1989 at 12:00 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	X
Commissioner Thomas	X

This matter will be placed on the meeting agenda for March 28, 1989.

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

89040742969

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Washoe County Democratic Party	)	
and its treasurer	)	MUR 2783
	)	
Assembly Democratic Caucus	)	
and its treasurer	)	

CERTIFICATION

I, Hilda Arnold, recording secretary for the Federal Election Commission executive session on March 28, 1989, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 2783:

1. Find no reason to believe the Washoe County Democratic Party and its treasurer violated 2 U.S.C. §§ 432(c)(2), 433, 434, 441b, and 441g.

2. Find reason to believe the Washoe County Democratic Party and its treasurer violated 2 U.S.C. § 441d and take no further action.

3. Find no reason to believe the Assembly Democratic Caucus and its treasurer violated 2 U.S.C. §§ 432(c)(2), 433, 434, 441b, and 441g.

4. Approve the letters as recommended in the General Counsel's report dated March 8, 1989.

5. Close the file.

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

Attest:

March 29, 1989
Date

Hilda Arnold
Hilda Arnold
Administrative Assistant

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Pkm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 1989

Charles R. Zeh, Esquire
Beckley, Singleton, De Lanoy
Jemison & List, Chtd.
50 West Liberty Street, Second Floor
Reno, NV 89501

RE: MUR 2783
Washoe County Democratic
Party and its treasurer

Dear Mr. Zeh:

On November 18, 1988, the Federal Election Commission notified the Washoe County Democratic Party of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On March 28, 1989, the Commission found, on the basis of the information in the complaint, and information provided by you that there is no reason to believe the Washoe County Democratic Party and its treasurer violated 2 U.S.C. §§ 432(c)(2), 433, 434, 441b and 441g.

The Commission also found reason to believe that the Washoe County Democratic Party and its treasurer violated 2 U.S.C. § 441d, a provision of the Act. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The General Counsel's Report, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that the expenditure for a communication that expressly advocates the election of a clearly identified federal candidate and is disseminated by direct mail or any other type of general public political advertising without an appropriate disclaimer stating who paid for the communication and whether it was authorized by any candidate appears to be a violation of 2 U.S.C. § 441d. The Washoe County Democratic Party should take immediate steps to insure that this activity does not occur in the future.

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The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please direct them to Jim Brown, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald

Danny L. McDonald
Chairman

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert L. Seale
4837 Lakeridge Terrace West
Reno, NV 89509

RE: MUR 2783

Dear Mr. Seale:

On March 28, 1989, the Federal Election Commission reviewed the allegations of your complaint dated November 10, 1988, and found that on the basis of the information provided in your complaint, and information provided by the Washoe County Democratic Party and the Assembly Democratic Caucus, there is no reason to believe the Washoe County Democratic Party and its treasurer violated 2 U.S.C. §§ 432(c)(2), 433, 434, 441b, and 441g and no reason to believe the Assembly Democratic Caucus and its treasurer violated 2 U.S.C. §§ 432(c)(2), 433, 434, 441b and 441g.

The Commission also found that there was reason to believe the Washoe County Democratic Caucus and its treasurer violated 2 U.S.C. § 441d, a provision of the Federal Election Campaign Act of 1971, as amended. However, after considering the circumstances of this matter, the Commission determined to take no further action against the Washoe County Democratic Party and its treasurer, and closed the file in this matter. This matter will become part of the public record within 30 days.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner by HJR
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 3, 1989

Gary Gray, Executive Director
Assembly Democratic Caucus
462 Court Street
Reno, NV 89501

RE: MUR 2783
Assembly Democratic Caucus
and its treasurer

Dear Mr. Gray:

On November 18, 1988, the Federal Election Commission notified the Assembly Democratic Caucus and you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 28, 1989, the Commission found, on the basis of the information in the complaint, and information provided by you that there is no reason to believe the Assembly Democratic Caucus and its treasurer violated 2 U.S.C. §§ 432(c)(2), 433, 434, 441b, and 441g. Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner by HOR
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

THIS IS THE END OF MUR # 2783

DATE FILMED 4/13/89 CAMERA NO. 4

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