



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20461

THIS IS THE BEGINNING OF MUR # 2889

DATE FILMED 8/27/93 CAMERA NO. 4

CAMERAMAN SES

93040953355

06C 2728

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

89 MAY 11 AM 11:41

604 S. 11th
Laramie, WY 82070

May 8, 1989

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

Dear Mr. Noble:

Enclosed please find my complaint regarding certain election activities which took place during Wyoming's special Congressional election.

I have followed the guidelines set forth in the Federal Election Commission's brochure on filing complaints to the best of my ability. I hope the information provided is sufficient to begin your investigative process. Please do not hesitate to call if I can be of further assistance.

Thank you very much for your attention to this matter.

Sincerely,

Sarah Gorin
Sarah Gorin

93040953356

89 MAY 11 PM 2:20

RECEIVED
FEDERAL ELECTION COMMISSION

COMPLAINT - FEDERAL ELECTION COMMISSION
RE: Wyoming Special Congressional Election

May 8, 1989

Full name and address of person filing complaint:

Sarah Gorin
604 S. 11th
Laramie, Wyoming 82070
(307) 745-8594

Specific Violation under the Commission's Jurisdiction:

(1) Evidence available to me suggests that the Good Government Group (identified below) raised and spent more than \$1,000 in compiling, printing, and distributing the attached flyer, which clearly advocates the election or defeat of a candidate.

(A) The flyer carries no disclaimer.

(B) The Good Government Group is not registered as a PAC either with the Wyoming Secretary of State's Office or the Federal Election Commission.

I have seen this flyer myself, and personally received reports of distribution of hundreds of copies in Laramie, Sweetwater, Fremont, Natrona, and Sheridan Counties. I understand from news reports that it was probably distributed in other counties as well.

(2) Evidence available to me suggests that Wyoming Votes with Pride (identified below) raised and spent more than \$1,000 in producing and airing radio advertisements which, although they purported to be nonpartisan, misrepresented the views of one candidate in an attempt to influence voters.

Wyoming Votes with Pride is not registered as a PAC either with the Wyoming Secretary of State's Office of the Federal Election Commission.

I did not hear these advertisements myself, but received information from Ms. Kathleen Talboom, 304 Polk Street, Rock Springs, Wyoming, 82901, 307/382-6656 (home), 307/382-9445 (work), who not only heard the advertisements but also taped them, and investigated the amount and schedule of the buy.

Documentation of the buy would be available from the following radio stations where Ms. Talboom determined the ads were placed; there may be others.

KUGR, Green River, Wyoming (Al Harris, manager; 307/875-6666)
QQSW, Rock Springs, Wyoming (John Collins, manager; 307/382-5244)
KSIT, Rock Springs, Wyoming (Charles Reeves, manager; 307/362-7034)
KEVA, Evanston, Wyoming (Roger Jensen, manager; 307/789-9101)

In addition, Ms. Talboom questioned an individual (Charles Barrett) associated with the Good Government Group and determined there may be a connection between the Good Government Group and Wyoming Votes with Pride.

93040953357

COMPLAINT - FEDERAL ELECTION COMMISSION
Sarah Gorin, Laramie, Wyoming
May 8, 1989

page 2

(3) Evidence available to me suggests that the Wyoming Rural Electric Association (WREA) improperly paid for the printing and distribution of an article in their newsletter, the "Wyoming Rural Electric News" (copy attached), favoring the election of a candidate. Although there is a PAC called "ACRE" representing rural electric interests, there is no disclaimer on the article stating that ACRE paid for the printing and distribution; the WREA itself is not a PAC. This newsletter went to approximately 38,000 rural electric customers in Wyoming.

I am not a rural electric customer myself, but additional information on this article may be obtained from Stephen Oxley, Consumer Representative Staff, Wyoming Public Service Commission, Herschler Building, Cheyenne, WY 82002. The Wyoming Public Service Commission received several written complaints from rural electric customers; I have attached a copy of one such complaint.

Identification of Persons, Committees, or Groups Alleged to have Committed a Violation:

Good Government Group
P.O. Box 2592
Cody, Wyoming 82414
(307) 645-3156

Peter E. Waldron, Chairman; Ms. Talboom spoke with a man named Charles Barrett

Wyoming Votes with Pride
John Herbst
P.O. Box 122
Casper, Wyoming 82602
(307) 266-0820

Wyoming Rural Electric Association
340 West "B" Street, Suite 101
Casper, WY 82601
(307) 234-6152
Gale Eisenhauer, editor, Wyoming Rural Electric News

5-8-89

Sarah Gorin

Kendra Joss



Commission expires 3/23/93

Good Government Group
P.O. Box 2592
Cody, WY 82414
(307) 645-3156

Dear Friend of the Family:

Recently, the Candidates Polling Service (CPS) mailed an issues position survey to the two major candidates -- Craig Thomas (R) and John Vinich (D) -- running for the congressional seat vacated by Wyoming's Dick Cheney who was appointed to President Bush's cabinet.

Mr. Thomas immediately replied to the survey. Mr. Vinich, on the other hand, **REFUSED TO RESPOND** to the survey. Apparently, Mr. Vinich is of the opinion that the public has no right to know where he stands on issues important to the family.

Knowing where a candidate stands on the issues before an election will often tell us how he'll vote on legislation protecting the family, parental rights, the spread of obscenity, and supporting traditional Wyoming family values.

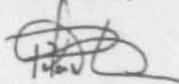
Fortunately, CPS with diligent research was able to determine many of Mr. Vinich's issue positions from news media accounts, campaign literature, and speeches. We compiled the **Pro-Family Voter Report Card** and the **Scoreboard Alert** from this information.

We know where both major candidates stand on many specific issues of concern to Wyoming families. **Now I am asking you to help me spread The Pro-Family Voter Report Card and Scoreboard Alert among your friends, neighbors, relatives and church members.** Copy the **Alert** and/or **Report Card** or share it on the phone.

I have found that if a candidate does not support our issue positions during the campaign, he won't support them when he is in office.

Vote for the candidate you believe will be most supportive of your family values...and take a friend to the polls with you on April 26th.

Sincerely,



Peter E. Waldron
Chairman

P.S.--This upcoming **April 26th special election** in Wyoming is the most important congressional election in the U.S. this year! Voice your Wyoming values for the betterment of our nation **by voting on Election Day.**

VOTE WEDNESDAY APRIL 26th!!

23040953359

PRO-FAMILY VOTER REPORT CARD

For more information or
to order more Report
Cards Call 307-645-3156.



Pro-Family

Crime

1. Providing for a 3 year imprisonment for any prisoner escaping from a county jail.
2. Allow a Judge to determine whether criminals should be in county jails or prisons. This would help overcrowding.
3. Increasing the number of penitentiaries.
4. Providing a surcharge on fines for any person convicted of driving under the influence of liquor.
5. Legalizing gambling and the lottery.

	Vinich	Thomas	Pro-Family
	Oppose	Support	Support
	Support	Oppose	Oppose

Drugs & Substance Abuse

1. Federal law legalizing marijuana.
2. Strengthening penalties and procedures for testing drivers under the influence of alcohol.

	*RTA Oppose	Oppose Support	Oppose Support
--	----------------	-------------------	-------------------

Family Values

1. To overturn Roe vs Wade.
2. To provide birth control contraceptive services and devices to minors in public schools.
3. Passage of the Equal Rights Amendment.
4. Abortion on demand.

	Oppose Support	Support Oppose	Support Oppose
	Support	Oppose	Oppose
	Support	Oppose	Oppose

Economics

1. Balance budget amendment.
2. Right to Work.

	Oppose Oppose	Support Support	Support Support
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Special Congressional Election is Wednesday April 26.

(This is an educational non-partisan paper comparing the two leading candidates' positions on Pro-Family values. This is not an endorsement of any candidate or party. The above information was taken from interviews, newspaper reports and surveys sent to each candidate.)

*RTA - (Refused to Answer)

93040953360

Rural Electric Leader Vies for Cheney's House Seat

THOMAS RUNS FOR U.S. CONGRESS

The general stereotype of a congressman is a distant unreachable politician who is off in Washington and unavailable to the people of his state. However, Wyoming rural electric consumers can take pleasure in knowing that a long-time friend and advocate of the rural electric co-ops is running for the U.S. Congress seat vacated when Dick Cheney was selected by the Bush Administration and Secretary of Defense.

Craig Thomas, general manager of the Wyoming Rural Electric Association for 14 years, the Republican candidate for the remainder of a two-year term, has served with distinction for the WREA, representing rural residents.

Thomas knows Wyoming and rural issues from first-hand experience. Born and raised near Cody, he first attended a two-room Wapiti school. His family operated a rural resort on the Yellowstone Highway 25 miles east of town. After graduating from Cody High School and UW, he served for four years in the Marine Corps, achieving the rank of Captain.

Returning to Wyoming after his



WREA leader Craig Thomas, a Wyoming native, is no stranger to ranch work.

military service, Thomas became involved in community and business affairs. Beginning as a claims adjuster for Farm Bureau Insurance Companies, he rose to become Executive Vice President of the Wyoming Farm Bureau and a key official in the American Farm Bureau before joining the Wyoming Rural

Electric team.

Rural electric leaders speak highly of their association with Thomas. Jimmie Key, president of the board of directors of Wyoming Rural Telecommunications (the rural electric affiliate that provides satellite descrambling service to rural people) and past president of WREA, specifically praises Thomas for his ability to get things done. "Several years ago when many people around the country were just talking about providing a package of descrambled satellite TV programming through a non-profit organization, Craig didn't just talk about it. He made it happen in Wyoming. Now there are more than 1,200 subscribers who are getting a service they didn't have before. Craig does more than make noise about helping people, he has good ideas, he works with people, knows

how to organize and he gets it done." Thomas has also been elected three times to the Wyoming House of Representatives. At the State Capitol, he won the respect of his colleagues and was elected Chairman of the House Republican Conference after only two terms in office. Thomas also serves on the



Rural electric statewide manager, and a candidate for the U.S. Congress, Craig Thomas visits with rancher Harold Josendel, a former president of the Wyoming Wool Grower and Stock Grower Associations.

Craig Thomas, with his wife Susan, a special education teacher at Kelly Walsh High School in Casper.

Legislative Appropriations Committee. In the 1989 session he spearheaded a package of reorganization bills to improve the efficiency of Wyoming state government.

Key cites another area where Thomas has worked hard for the people in the state. In the last session of the legislature, the people in Sheridan and Johnson counties asked Thomas to sponsor a bill that would help keep electric rates down by making a state agency more accountable for its actions. "Craig not only introduced the bill, he shepherded it through the entire confusing legislative process. And he did the kind of leg work it took and also found strong co-sponsors who all worked with him for us and got the bill passed. It wouldn't have happened without his commitment."

Many people throughout Wyoming also know Thomas from a more personal side. He and his wife, Susan, a special education teacher at Kelly Walsh High School in Casper, together demonstrate their strong personal commitment to helping mentally and physically handicapped youngsters. Thomas has been a leading advocate, sponsoring many official and charitable events. He has served as president of the Wyoming Special Olympics group and as chairman of the Developmental Disabilities Council.

Rural people have long been impressed

with his strong record of advocacy and support for agriculture, including his positions on the UW Agriculture College Advisory Council and the Farm Bureau.

Thomas says he'll continue to be a strong advocate for rural electric users if the voters send him to Washington. He promises to work to hold down taxes, inflation, unemployment and interest rates through sound economic policies and reduction of the federal deficit.

Fellow legislators in Cheyenne speak knowingly of Thomas' repeated refusal to support uneconomic and wasteful projects, despite enormous pressures from local special-interest groups.

Thomas is presently on leave from the WREA to campaign. As this congressional campaign has developed, the right-to-work issue has emerged as a key factor. Thomas champions the right to work in his campaign speeches and advertisements. He argues that compulsory unionism costs jobs and causes inflation in all commodities and services, including utilities.

"The federal government should continue to allow states and individuals to ban forced unionsim, and Wyoming workers must remain free to choose whether or not to join a labor group," Thomas says.

The economy in Wyoming is a great concern to Thomas. "Jobs for Wyoming will be my first priority in Washington,"

he said recently. "Nothing can be allowed to stand in the way of economic revitalization in our state. President Bush committed himself to creating millions more new jobs during his Administration. I will work to redeem that promise and return Wyoming to prosperity, working with Senators Simpson and Wallop and Governor Sullivan."

Thomas has already been assured by House Republican leaders in Congress of a seat on the Interior Committee, which hears federal land, water and power management issues relating to Wyoming and the Intermountain region.

The course of this short congressional race has been an interesting one for Thomas. He's refused to run a negative campaign. "I have clear differences with my opponent, but I will run and win this campaign on the important issues like creating jobs, holding down taxes and inflation, protecting workers' freedom of choice and curbing drug abuse."

The outcome of the election is yet to be seen, but in Craig Thomas, rural Wyoming people have the opportunity to elect a congressman who has deep roots growing next to theirs.

RANDALL T. COX
Box 311
Buffalo, Wyoming 82834

April 20, 1989

Wyoming Rural Electric Association
340 West B. Street
Suite 101
Casper, Wyoming 82601

Dear WREA:

I am a member of Sheridan-Johnson Rural Electric Association. I recently received volume 35, number 9 of Wyoming Rural Electric News, published by the Wyoming Rural Electric Association. That issue contained a two page story on Craig Thomas, which was clearly intended to influence or attempt to influence the selection, nomination, or election of an individual to a federal public office. The issue did not contain any balanced discussion, comparison of views and positions of different candidates or otherwise attempt to present a balanced view of the upcoming congressional election; the story is a biased, one-sided, clear endorsement of the candidacy of Craig Thomas.

It is my understanding that Sheridan-Johnson REA, a non-profit, tax exempt cooperative, contributes funds collected from rate payers and members such as myself to the Wyoming Rural Electric Association to fund Wyoming REA's activities, including printing and mailing the newsletter. It appears to me that member funds have been used to pay for the printing and distribution of the Craig Thomas story, to persons other than members of the WREA.

I want you to know that I, as a member of Sheridan-Johnson REA, object to use of rural electric funds to endorse any candidate for public office or to attempt to influence the election of any individual to a public office. I am also concerned that this irresponsible action may endanger the tax exemption of the Wyoming REA and possibly that of members, such as Sheridan-Johnson REA, whose funds have been used for unabashed endorsement of a candidate for election to public office.

93040953363

WREA
April 20, 1989
Page 2

I hereby request that you immediately furnish me with answers to the following questions:

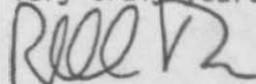
1. Did Craig Thomas or his political campaign pay for the writing, photography, layout, printing and mailing of pages 5 and 6 of Volume 35, Number 9, Wyoming Rural Electric News?
2. What was the cost of writing, photography, layout, printing and distribution of pages 5 and 6 of Wyoming Rural Electric News, May 1989 issue, Volume 35, Number 9?
3. From what source of funds did Wyoming REA make payments for writing, photography, layout, printing and distribution of pages 5 and 6 of the May 1989 Wyoming Rural Electric News, Volume 35, Number 9?
4. Is Wyoming Rural Electric Association an organization exempt from Federal Income Tax; and if so, under what subsection of Section 501 of the Internal Revenue Code?
5. Is Wyoming Rural Electric Association a political organization as defined at Section 527 of the Internal Revenue Code?
6. Has the Wyoming Rural Electric Association reported, or will Wyoming REA report, the expenses of preparing, printing and distributing the two page article headed "Thomas Runs for U.S. Congress" as a campaign contribution to the Craig Thomas for Congress Campaign, to the Wyoming Secretary of State or the Federal Election Commission?
7. Has the Wyoming Rural Electric Association obtained a ruling from the Internal Revenue Service that the writing, printing and distribution of the two page story "Thomas Runs for U.S. Congress" in the May 1989 issue of the Rural Electric News is or is not within the definition of "exempt function" defined at Section 527(e)(2) of the Internal Revenue Code?
8. Does the WREA contend that the distribution of the "Thomas Runs for U.S. Congress" story was a communication by WREA directly with its own members on behalf of a particular candidate?

93040953364

WREA
April 20, 1989
Page 3

Your prompt responses to these questions will be very much appreciated. I am sure that your officers share my concern that the Wyoming Rural Electric Association and local rural electric cooperatives in Wyoming should not endanger their tax exempt status or risk assessment of fines by the Federal Election Commission by improper endorsement of candidates for public office.

Very truly yours,



Randall T. Cox

RTC/jg

cc: Wyoming Public Service Commission

93040953365



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

May 18, 1989

Ms. Sarah Gorin
604 S. 11th
Laramie, WY 82070

Dear Ms. Gorin:

This is to acknowledge receipt of your letter, which we received on May 11, 1989. 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 her will be sufficient. We are sorry for the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. Section 437g.

If you have any questions concerning this matter, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in cursive script, reading "George F. Rishel", is written over the typed name.

By: George F. Rishel
Acting Associate General
Counsel

93040953366

06C 2855
RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
89 MAY 25 AM 10:45
mm 2849

604 S. 11th
Laramie, WY 82070

May 22, 1989

RECEIVED
FEDERAL ELECTION COMMISSION
MAY 25 PM 12:09

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

Dear Mr. Noble:

Enclosed please find the second version of my complaint regarding activities which took place during the recent special Congressional election in Wyoming.

As instructed by the May 18, 1989, letter I received from George F. Rishel, Acting Associate General Counsel, I have added a paragraph stating, "I hereby affirm that the contents of this complaint are true to the best of my knowledge," subscribed to and affirmed before a notary public. (I have used the word "affirm" rather than "swear", it being the practice of the Religious Society of Friends, to which I belong, not to swear oaths.) I hope this will meet the statutory requirements so you may proceed with a compliance action.

Please apprise me if there is any additional information required. Thank you very much for your assistance.

Sincerely,

Sarah Gorin

Sarah Gorin

93040953367

COMPLAINT - FEDERAL ELECTION COMMISSION
RE: Wyoming Special Congressional Election

May 22, 1989

Full name and address of person filing complaint:

Sarah Gorin
604 S. 11th
Laramie, Wyoming 82070
(307) 745-8594

Specific Violation under the Commission's Jurisdiction:

(1) Evidence available to me suggests that the Good Government Group (identified below) raised and spent more than \$1,000 in compiling, printing, and distributing the attached flyer, which clearly advocates the election or defeat of a candidate.

(A) The flyer carries no disclaimer.

(B) The Good Government Group is not registered as a PAC either with the Wyoming Secretary of State's Office or the Federal Election Commission.

I have seen this flyer myself, and personally received reports of distribution of hundreds of copies in Laramie, Sweetwater, Fremont, Natrona, and Sheridan Counties. I understand from news reports that it was probably distributed in other counties as well.

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Documentation of the buy would be available from the following radio stations where Ms. Talboom determined the ads were placed; there may be others.

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KSIT, Rock Springs, Wyoming (Charles Reeves, manager; 307/362-7034)
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In addition, Ms. Talboom questioned an individual (Charles Barrett) associated with the Good Government Group and determined there may be a connection between the Good Government Group and Wyoming Votes with Pride.

23040953368

COMPLAINT - FEDERAL ELECTION COMMISSION
Sarah Gorin, Laramie, Wyoming
May 22, 1989

page 2

(3) Evidence available to me suggests that the Wyoming Rural Electric Association (WREA) improperly paid for the printing and distribution of an article in their newsletter, the "Wyoming Rural Electric News" (copy attached), favoring the election of a candidate. Although there is a PAC called "ACRE" representing rural electric interests, there is no disclaimer on the article stating that ACRE paid for the printing and distribution; the WREA itself is not a PAC. This newsletter went to approximately 38,000 rural electric customers in Wyoming.

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Cody, Wyoming 82414
(307) 645-3156

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Wyoming Votes with Pride
John Herbst
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(307) 266-0820

Wyoming Rural Electric Association
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Casper, WY 82601
(307) 234-6152
Gale Eisenhauer, editor, Wyoming Rural Electric News

93040953369

COMPLAINT - FEDERAL ELECTION COMMISSION
Sarah Gorin, Laramie, Wyoming
May 22, 1989

page 3

I hereby affirm that the contents of this complaint are true to the best of my knowledge.

Sarah Gorin
Sarah Gorin

May 22, 1989
Date

Subscribed and affirmed before me this 22nd day of May, 1989.

Kendra Joss
Notary Public



93040953370

PRO-FAMILY VOTER REPORT CARD

For more information or
to order more Report
Cards Call 307-645-3156.

Good Government Group
P.O. Box 2592
Cody, WY 82414
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	Vinich	Thomas	Pro-Family
Providing for a 3 year imprisonment for any prisoner escaping from a county jail.	Oppose	Support	Support
2. Allow a Judge to determine whether criminals should be in county jails or prisons. This would help overcrowding.	Oppose	Support	Support
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Drugs & Substance Abuse			
1. Federal law legalizing marijuana.	* RTA	Oppose	Oppose
2. Strengthening penalties and procedures for testing drivers under the influence of alcohol.	Oppose	Support	Support
Family Values			
1. Overturn Roe vs Wade.	Oppose	Support	Support
2. Provide birth control contraceptive services and devices to minors in public schools.	Support	Oppose	Oppose
3. Passage of the Equal Rights Amendment.	Support	Oppose	Oppose
4. Abortion on demand.	Support	Oppose	Oppose
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1. Balance budget amendment.	Oppose	Support	Support
2. Right to Work.	Oppose	Support	Support

Special Congressional Election is Wednesday April 26.

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Chairman

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*RTA - (Refused to Answer)

1 7 3 3 5 6 0 4 0 8 0 4 0 9 3 3 1 VOTE WEDNESDAY APRIL 26th!!

Rural Electric Leader Vies for Cheney's House Seat

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Craig Thomas, with his wife Susan, a special education teacher at Kelly Walsh High School in Casper.

2 3 0 4 0 9 5 3 3 7 3
Legislative Appropriations Committee. In the 1989 session he spearheaded a package of reorganization bills to improve the efficiency of Wyoming state government.

Key cites another area where Thomas has worked hard for the people in the state. In the last session of the legislature, the people in Sheridan and Johnson counties asked Thomas to sponsor a bill that would help keep electric rates down by making a state agency more accountable for its actions. "Craig not only introduced the bill, he shepherded it through the entire confusing legislative process. And he did the kind of leg work it took and also found strong co-sponsors who all worked with him for us and got the bill passed. It wouldn't have happened without his commitment."

Many people throughout Wyoming also know Thomas from a more personal side. He and his wife, Susan, a special education teacher at Kelly Walsh High School in Casper, together demonstrate their strong personal commitment to helping mentally and physically handicapped youngsters. Thomas has been a leading advocate, sponsoring many official and charitable events. He has served as president of the Wyoming Special Olympics group and as chairman of the Developmental Disabilities Council.

Rural people have long been impressed

with his strong record of advocacy and support for agriculture, including his positions on the UW Agriculture College Advisory Council and the Farm Bureau.

Thomas says he'll continue to be a strong advocate for rural electric users if the voters send him to Washington. He promises to work to hold down taxes, inflation, unemployment and interest rates through sound economic policies and reduction of the federal deficit.

Fellow legislators in Cheyenne speak knowingly of Thomas' repeated refusal to support uneconomic and wasteful projects, despite enormous pressures from local special-interest groups.

Thomas is presently on leave from the WREA to campaign. As this congressional campaign has developed, the right-to-work issue has emerged as a key factor. Thomas champions the right to work in his campaign speeches and advertisements. He argues that compulsory unionism costs jobs and causes inflation in all commodities and services, including utilities.

"The federal government should continue to allow states and individuals to ban forced unionsim, and Wyoming workers must remain free to choose whether or not to join a labor group," Thomas says.

The economy in Wyoming is a great concern to Thomas. "Jobs for Wyoming will be my first priority in Washington,"

he said recently. "Nothing can be allowed to stand in the way of economic revitalization in our state. President Bush committed himself to creating millions more new jobs during his Administration. I will work to redeem that promise and return Wyoming to prosperity, working with Senators Simpson and Wallop and Governor Sullivan."

Thomas has already been assured by House Republican leaders in Congress of a seat on the Interior Committee, which hears federal land, water and power management issues relating to Wyoming and the Intermountain region.

Thoe course of this short congressional race has been an interesting one for Thomas. He's refused to run a negative campaign. "I have clear differences with my opponent, but I will run and win this campaign on the important issues like creating jobs, holding down taxes and inflation, protecting workers' freedom of choice and curbing drug abuse."

The outcome of the election is yet to be seen, but in Craig Thomas, rural Wyoming people have the opportunity to elect a congressman who has deep roots growing next to theirs.

RANDALL T. COX
Box 311
Buffalo, Wyoming 82834

April 20, 1989

Wyoming Rural Electric Association
340 West B. Street
Suite 101
Casper, Wyoming 82601

Dear WREA:

I am a member of Sheridan-Johnson Rural Electric Association. I recently received volume 35, number 9 of Wyoming Rural Electric News, published by the Wyoming Rural Electric Association. That issue contained a two page story on Craig Thomas, which was clearly intended to influence or attempt to influence the selection, nomination, or election of an individual to a federal public office. The issue did not contain any balanced discussion, comparison of views and positions of different candidates or otherwise attempt to present a balanced view of the upcoming congressional election; the story is a biased, one-sided, clear endorsement of the candidacy of Craig Thomas.

It is my understanding that Sheridan-Johnson REA, a non-profit, tax exempt cooperative, contributes funds collected from rate payers and members such as myself to the Wyoming Rural Electric Association to fund Wyoming REA's activities, including printing and mailing the newsletter. It appears to me that member funds have been used to pay for the printing and distribution of the Craig Thomas story, to persons other than members of the WREA.

I want you to know that I, as a member of Sheridan-Johnson REA, object to use of rural electric funds to endorse any candidate for public office or to attempt to influence the election of any individual to a public office. I am also concerned that this irresponsible action may endanger the tax exemption of the Wyoming REA and possibly that of members, such as Sheridan-Johnson REA, whose funds have been used for unabashed endorsement of a candidate for election to public office.

93040953374

WREA
April 20, 1989
Page 2

I hereby request that you immediately furnish me with answers to the following questions:

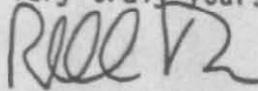
1. Did Craig Thomas or his political campaign pay for the writing, photography, layout, printing and mailing of pages 5 and 6 of Volume 35, Number 9, Wyoming Rural Electric News?
2. What was the cost of writing, photography, layout, printing and distribution of pages 5 and 6 of Wyoming Rural Electric News, May 1989 issue, Volume 35, Number 9?
3. From what source of funds did Wyoming REA make payments for writing, photography, layout, printing and distribution of pages 5 and 6 of the May 1989 Wyoming Rural Electric News, Volume 35, Number 9?
4. Is Wyoming Rural Electric Association an organization exempt from Federal Income Tax; and if so, under what subsection of Section 501 of the Internal Revenue Code?
5. Is Wyoming Rural Electric Association a political organization as defined at Section 527 of the Internal Revenue Code?
6. Has the Wyoming Rural Electric Association reported, or will Wyoming REA report, the expenses of preparing, printing and distributing the two page article headed "Thomas Runs for U.S. Congress" as a campaign contribution to the Craig Thomas for Congress Campaign, to the Wyoming Secretary of State or the Federal Election Commission?
7. Has the Wyoming Rural Electric Association obtained a ruling from the Internal Revenue Service that the writing, printing and distribution of the two page story "Thomas Runs for U.S. Congress" in the May 1989 issue of the Rural Electric News is or is not within the definition of "exempt function" defined at Section 527(e)(2) of the Internal Revenue Code?
8. Does the WREA contend that the distribution of the "Thomas Runs for U.S. Congress" story was a communication by WREA directly with its own members on behalf of a particular candidate?

93040953375

WREA
April 20, 1989
Page 3

Your prompt responses to these questions will be very much appreciated. I am sure that your officers share my concern that the Wyoming Rural Electric Association and local rural electric cooperatives in Wyoming should not endanger their tax exempt status or risk assessment of fines by the Federal Election Commission by improper endorsement of candidates for public office.

Very truly yours,



Randall T. Cox

RTC/jg

cc: Wyoming Public Service Commission

93040953376



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 2, 1989

Ms. Sarah Gorin
604 S. 11th
Laramie, WY 82070

RE: MUR 2889

Dear Ms. Gorin:

This letter acknowledges receipt on May 25, 1989, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Good Government Fund, Wyoming Votes With Pride, and the Wyoming Rural Electric Association. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2889. 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

93040953377

plm



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 2, 1989

Good Government Group
PO Box 2592
Cody, WY 82414

RE: MUR 2889
Good Government Group

Gentlemen:

The Federal Election Commission received a complaint which alleges that the Good Government Group 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 2889. 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 Good Government Group 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.

93040953378

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

Sincerely,

Lawrence M. Noble
General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

93040953379



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 2, 1989

Wyoming Votes With Pride
PO Box 122
Casper, WY 82602

Re: MUR 2889
Wyoming Votes With
Pride

Gentlemen:

The Federal Election Commission received a complaint which alleges that Wyoming Votes With Pride 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 2889. 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 Wyoming Votes With Pride 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.

93040953380

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

Sincerely,

Lawrence M. Noble
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

93040953361



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 2, 1989

Wyoming Rural Electric
Association
340 West "B" Street
Suite 101
Casper, WY 82601

RE: MUR 2889
Wyoming Rural Electric
Association

Gentlemen:

The Federal Election Commission received a complaint which alleges that the Wyoming Rural Electric Association 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 2889. 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 Wyoming Rural Electric Association 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.

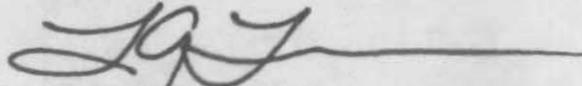
This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing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

93040953382

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

Sincerely,

Lawrence M. Noble
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

93040953303

89 JUN 19 AM 10:46

604 S. 11th
Laramie, WY 82070

13 June 1989

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUN 19 PM 2:51

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

Attn: Lois G. Lerner

RE: MUR 2889

Dear Ms. Lerner:

I have recently received additional information that may shed some light on my complaint filed earlier, now designated as MUR 2889, regarding election activities by the Good Government Group, Wyoming Votes with Pride, and the Wyoming Rural Electric Association.

The flyers distributed by the Good Government Group were, in some counties, accompanied by similar flyers titled "Scoreboard Alert - Special Spring Edition." The Scoreboard Alert was published in April 1989 by the National Citizens Action Network, P.O. Box 10459, Costa Mesa, California, 92627. I have just obtained a copy of this flyer, which is attached for your information. It appears that the Good Government Group and the National Citizens Action Network may be linked in this activity (see back side of sheet).

I suspect the National Citizens Action Network spent more than \$1000 in compiling, printing, and distributing the attached flyer - which clearly advocates the election or defeat of a candidate - in Wyoming's 1989 special Congressional election. The flyer carries no disclaimer. The National Citizens Action Network is not registered as a political action committee with the FEC.

You may consider this an addition to MUR 2889 or as a separate complaint, as seems best. I have provided all the necessary information and affirmed it on the following page. Thank you for your attention to this matter.

Sincerely,
Sarah Gorin
Sarah Gorin

23040953384

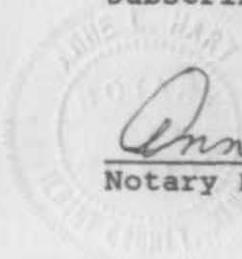
I hereby affirm that the contents of this complaint are true to the best of my knowledge.

Sarah Gorin
Sarah Gorin

June 13, 1989
Date

Subscribed to and affirmed before me this 13th day of June, 1989.

Anne A. Hart
Notary Public



93040953385

SCOREBOARD ALERT

A Monthly Newsletter Published by the Editors of the Family Protection Scoreboard and the Presidential Biblical Scoreboard

GRASSROOTS CITIZENS WORKING AN AGENDA FOR THE PRESERVATION OF AMERICAN VALUES

Congressional Election Scoreboard Released

The following *Biblical Scoreboard Alert* survey of congressional candidates seeking the U.S. House seat, vacated by congressman Dick Cheney (appointed to President Bush's cabinet), is not intended, nor implied, to be a statistical judgment of their moral behavior or their relationship with God. While the moral conduct of a congressman can be a legitimate issue to consider when voters make their choices, this *Scoreboard* survey should not be confused as a judgment in that regard.

It is completely fair, however, for citizens to understand whether congressional candidates represent their views. These are the elected officials who will make laws that dramatically impact American families and national morality.

In order to provide the most comprehensive *Scoreboard* for voters, the *Scoreboard Alert* editors have made an effort to interview House candidates from all political parties.

These candidates have been surveyed by telephone and by mail

using a *Scoreboard*-developed questionnaire. To further prevent the candidates from slanting their answers, the survey was conducted under a neutral name without making any reference to a "biblical" or "religious" point of view.

When a candidate refused to respond to the *Scoreboard* survey, as in the case of candidate John Vinich, staff researchers were sometimes able to determine their issue positions from news media accounts, campaign literature, and speeches.

However, some candidates still have a REFUSED TO RESPOND notation (R) after their names or on particular issues. These candidates apparently are of the opinion that the public has no right to know where they stand on the issues. No amount of persuasion could budge them to reveal their positions. Also, news media accounts failed to state clearly their issue positions.

Readers should study the questions which candidates answered in order to make a decision on who to vote for on Election Day.

Candidate Issue Questions

1. **ABORTION** — Do you support or oppose a Constitutional Amendment banning abortion?
SUPPORT (+) is the pro-life position.
2. **ABORTION FUNDING** — Do you support or oppose federal funds being used for abortion services, research, or counseling?
OPPOSE (+) is the pro-life position.
3. **CAPITAL PUNISHMENT** — Do you support or oppose capital punishment?
SUPPORT (+) is the pro-crime deterrent position.
4. **BIRTH CONTROL** — Do you support or oppose providing birth control contraceptive services and devices to minors in public schools?
OPPOSE (+) is the pro-parental rights position.
5. **PARENTAL CONSENT** — Do you support or oppose minors having birth control contraceptives without parental consent?
OPPOSE (+) is the pro-parental consent position.
6. **ERA** — Do you support or oppose the passage of the Equal Rights Amendment?
OPPOSE (+) is the anti-feminist position.
7. **SCHOOL PRAYER** — Do you support or oppose a Constitutional Amendment to restore voluntary school prayer?
SUPPORT (+) is the pro-school prayer position.
8. **PORNOGRAPHY** — Do you support or oppose the sale of adult pornographic magazines in drugstores, supermarkets, and convenience stores?
OPPOSE (+) is the anti-pornography position.
9. **HOMOSEXUALITY** — Do you support or oppose granting homosexuals the same minority legal status as blacks and other minorities?
OPPOSE (+) is the anti-homosexual minority rights position.
10. **AIDS** — Do you support or oppose more restrictive legislation* to stop the spread of AIDS by the high risk groups composed of homosexuals, IV drug abusers, and prostitutes?
SUPPORT (+) is the stop AIDS position.
11. **EUTHANASIA** — Do you support or oppose "right to die" legislation which would allow the withholding of medical treatment, food, and water for terminally ill patients?
OPPOSE (+) is the pro-life position.
12. **LOTTERY** — Do you support or oppose legalized gambling in the form of a state or federal lottery?
OPPOSE (+) is the anti-gambling position.

13. **BALANCED BUDGET** — Do you support or oppose Congressional passage of a Constitutional Balanced Budget Amendment?
SUPPORT (+) is the pro-balanced budget position.
14. **TAX INCREASE** — Do you support or oppose a tax increase to balance the budget?
OPPOSE (+) is the pro-family savings position.
15. **COMPARABLE WORTH** — Do you support or oppose the comparable worth (pay equity) concept of equal pay for dissimilar jobs?
OPPOSE (+) is the pro-free enterprise position.
16. **SOCIAL SECURITY** — Do you support or oppose the gradual privatization of the social security system to assure a solvent retirement program for today's young people?
SUPPORT (+) is the long-term pro-solvent position.
17. **NATIONAL SECURITY** — Do you support or oppose the immediate phased deployment of the Space-Based Defense System commonly known as the Strategic Defense Initiative (SDI)?
SUPPORT (+) is the pro-national security position.
18. **SOUTH AFRICA SANCTIONS** — Do you support or oppose stronger sanctions and disinvestment policies toward South Africa?
OPPOSE (+) is the pro-black jobs position.
19. **FREEDOM FIGHTERS** — Do you support or oppose humanitarian and military aid to democratic freedom fighters in Nicaragua, Angola, and Mozambique?
SUPPORT (+) is the pro-freedom position.
20. **FOREIGN LOANS** — Do you support or oppose loans to Marxist countries?
OPPOSE (+) is the anti-communist position.

*Prohibiting blood donations, establishing mandatory testing, criminal prosecution for knowingly spreading AIDS, results reporting to authorities, and contact tracing.

Scoreboard Summary

CANDIDATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Thomas (R)	+	+	+	+	+	+	+	+	+	U	+	+	+	+	+	+	+	+	+	+
Vinich (D)	-	+	+	-	-	-	-	R	+	-	-	-	-	-	-	-	-	-	-	-

To figure a candidates percentage score, add 5% for each plus (+) designation.

VOTE ON APRIL 26

SEE BACKSIDE FOR CANDIDATE PROFILES, ELECTION FEATURES AND VOLUNTEER OPPORTUNITIES

93040953306

Your One Vote Does Make a Difference

Every year, critical local, statewide, and national elections take place. The Christian in "The Great American Arena" must be an integral element in this process.

With 400,000 churches in America, and with Gallup polls now tabulating over half of our country's adult population as claiming to be evangelical, the Christian voting bloc is too large to be ignored any longer.

That's the good news. The bad (and sad) news is this: the Gallup pollsters have also projected that evangelicals are "no more likely to vote" than the general population. If that is true, then just over half of the most potentially powerful group in the country will be voting in upcoming elections (Gallup's fig-

ures are 54% for the general and evangelical public).

The One Vote Factor

Political apathy, analysts agree, comes from the feeling that "my one vote won't really make a difference anyway."

How important is ONE VOTE?

- In 1645, one vote gave Oliver Cromwell control of England.
- In 1776, one vote determined that English, not German, would be the American language.
- In 1845, one vote brought Texas into the Union.
- In 1923, one vote gave Hitler control of the Nazi party.

● In 1941, two weeks before Pearl Harbor, one vote saved the Selective Service.

● In 1960, John Fitzgerald Kennedy defeated Richard Nixon by only 113,000 votes — one-half vote per precinct.

● In 1962, South Dakota elected its future (and to date only) candidate for President — Senator George McGovern — by a margin of 597 votes, less than one vote per precinct.

● In 1974, Paul Laxalt defeated Harry Reid by 615 votes and was elected to the United States Senate by less than one vote in each of Nevada's 930 precincts.

● In a special election in 1974, Pennsylvania congressman John Murtha won by a margin of one-fourth vote per precinct!

Your ONE VOTE is crucially important! In addition, if you become active in your church, neighborhood, school (public or private), then the multiplicity factor takes effect as you encourage dozens, maybe hundreds or thousands of other people to vote!

— Vern McLellan

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CONGRESSIONAL RACE: The Four Candidates

CRAIG THOMAS — Republican

Winner of seven elections for various elective offices, Craig Thomas enters the Congressional race as a three term member of the Wyoming legislature. He is the executive vice president of the Wyoming Farm Bureau, director of Natural Resources for the American Farm Bureau, general manager of the Wyoming Rural Electric Association, and a small business owner — general partner of the Kings Inn Motel in Torrington. He is president of the Wyoming Special Olympics, chairman of the Developmental Disabilities Council, vice chairman of the Council on Economic Education, and a Rotary Club member. While serving four years in the U.S. Marine Corps, he reached the rank of Captain. He and his wife Susan, a special education teacher, are the parents of four children. Thomas graduated from the University of Wyoming with a degree in agriculture. *Church preference* — Methodist.



JOHN P. VINICH — Democrat

Should John Vinich win the Wyoming congressional seat, he'll be the first Wyoming bar owner to become a member of the U. S. House. He enters the race having served 14 years in the state legislature. He currently serves as the Minority Whip for the Democratic Party in the state senate. Often labeled as one of Wyoming's few true liberals in the legislature, Vinich's career has been marked by personality clashes with other legislators leading to only a 9.38 passage rate on Vinich-sponsored legislation. He is a member of the Elks, the Hudson Volunteer Firemen, and the Fraternal Order of Eagles. Vinich is the former director of the Big Brothers of Casper and is on the advisory board of the Foster Grandparent Program. No military service is noted in his official legislative biography. He is a graduate of the University of Wyoming with a degree in social work. He and his wife Marianne are the parents of one daughter. *Church preference* — Catholic.



DANIEL JOHNSON — Independent

International corporate attorney and white supremacist, Daniel Johnson moved to Wyoming from California in time to run for congress. Johnson wrote the unsuccessful Pace Amendment to the U. S. Constitution, which calls for only whites of European descent to have rights and privileges of U.S. citizenship. It also calls for racial separation and sending blacks back to Africa and Hispanics to Latin America. His campaign chairman is a Ku Klux Klan organizer and his volunteers are neo-Nazi skinheads. His racist philosophies have caused the Northwest Coalition Against Malicious Harassment to encourage the state legislature to enact anti-hate crime legislation — Wyoming being the only Northwestern state without such a law. *Church preference* —



CRAIG McCUNE — Libertarian

As the Libertarian candidate, Craig McCune is making his third try for the Wyoming congressional seat. Libertarian Party member McCune is a Cheyenne railroad engineer. The Libertarian Party Platform advocates legalizing prostitution, supports abortion, and urges the repeal of all laws prohibiting the production, sale, possession or use of drugs, pornography, and obscenity. *Church preference* — Undeclared.



**REMEMBER TO VOTE
APRIL 26**

SPECIAL ANNOUNCEMENT

The Good Government Group (GGG) headed by Peter Waldron is looking for volunteers during this special election period. According to Waldron, volunteer duties will center around distributing the *Scoreboard Alert*, encouraging registered voters to vote on Election Day, and providing transportation to polling places. Contact the GGG at P.O. Box 2592, Cody, WY 82414 or telephone (307) 645-3156.

Local Democratic and Republican headquarters will also be providing various types of get-out-the-vote assistance. Consult your telephone directory to contact the desired party headquarters within your county.

SCOREBOARD ALERT

Wyoming Special Edition
David W. Balsiger
Founder - Editor

PUBLISHED BY

NATIONAL CITIZENS ACTION NETWORK
P.O. Box 10459 • Costa Mesa, CA 92627

The National Citizens Action Network (NCAN) is an educational organization composed of grassroots citizens working on agenda for the preservation of American values.

NCAN's primary goals: promoting Christian involvement in the elective and legislative process; informing Christians on the voting records of elected officials; and encouraging elected leaders to support traditional family values, a strong national security, and our constitutional freedoms.

93040953387

89 JUN 20 PM 4: 12

Wyoming Votes With Pride

P.O. Box 552 Casper, WY 82602 (307)266-0820

June 13, 1989

Federal Election Commission
Washington, D.C.

Re: MUR 2889
Wyoming Votes with Pride

Gentlemen:

The following information is a response to your notification that a complaint has been filed with your office regarding the activities of Wyoming Votes with Pride during the Wyoming Special Congressional Election. I am confident that when you review the enclosed information you will recognize that the complaint is unfounded.

The complaint alleges that the radio spots sponsored by Wyoming Votes with Pride were partisan, misrepresented the views of one candidate, and that there was some questionable relationship between Wyoming Votes with Pride and the Good Government Group. I will address each of these allegations.

First of all, Wyoming Votes with Pride is an ad hoc group that came together out of concern over dwindling voter participation in the U.S. It is a sad fact that fewer and fewer Americans are exercising their right to vote, and those who do are often woefully uninformed as to issues and candidates' positions. We felt the need to, and saw an opportunity to, stimulate voter interest and participation by promoting the theme of 'pride' in our state.

I have enclosed a transcript of the 4 radio spots that we developed, for your review. On each of the stations that aired the spots, we asked that they run all four an equal number of times. You will notice the following features of the spots:

1. The consistent theme in all of the spots is an emphasis on pride in our state and the importance of voting.
2. Each of the spots also emphasizes the importance of knowing where the candidates stand on issues.
Examples are given to illustrate this point.
3. The four spots taken together touch on a broad range of issues of concern to the citizens of Wyoming.
4. Each spot encourages the listener to call the candidates' offices to get more information on the candidates' positions.
5. Each spot specifically mentions that the purpose of the spot is not to endorse or oppose any

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUN 20 PM 1: 19

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candidate, but to encourage citizens to vote.

Ms. Gorin mentions in her complaint that she had not heard our spots, yet maintains that they were partisan. However, we took great care to convey a message that would inspire people to vote and to find out about the issues in a nonpartisan way. For example, in Spot #1 (see attached), two outstanding former elected officials for Wyoming are mentioned - Nellie Taylor Ross, who was a Democrat, and Dick Cheney, a Republican.

Further, the spots were all reviewed by the radio stations who ran them. Several stations said that they would run the spots on election day, because they agreed that they were nonpartisan. Ms. Gorin's complaint mentions KSIT in Rock Springs. As evidence of fact that radio stations shared our view that the spots were nonpartisan, I have enclosed a copy of a letter from KSIT (see attachments). Because the station management liked the spots and felt they were a public service, they agreed to match our buy with an equal number of free spots.

Next, Ms. Gorin alleges that Wyoming Votes with Pride misrepresented the view of one candidate. She does not mention which candidate or which position she felt was misrepresented.

Let me reiterate that our intention in mentioning issues in the spots was to encourage voters to be informed on issues. The four spots highlighted a wide range of issues, from environmental to social. Each spot encouraged voters to call the candidates' offices concerning issues.

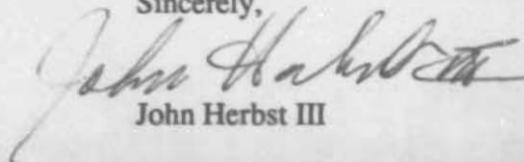
Wyoming Votes with Pride made a sincere effort to correctly identify the candidates' positions on issues. Numerous sources of information were utilized, including: the candidates' own campaign literature, newspaper articles, information from interviews with the candidates conducted by the Wyoming Farm Bureau, interviews with candidates published in the Wyoming Journal, letters from candidates to state organizations, and survey information published by the Good Government Group.

Every effort was made to mention a variety of issues of importance to Wyomingites, and to correctly identify the candidates' positions that were mentioned. In any case, the spots specifically suggested that voters call the candidates for information; certainly any voter having questions could have received clarification from the campaign offices. We are at a loss to know which candidate Ms. Gorin feels we misrepresented, and on what issue.

Finally, Ms. Gorin's complaint implies some questionable connection between Wyoming Votes with Pride and the Good Government Group. When we heard that the Good Government Group was publishing a voter comparison, we solicited and incorporated information from them on the candidates' positions, but there is no formal relationship between these two organizations.

In conclusion, I hope that the above information and attachments will suffice in response to the complaint. If you have further questions, please contact us.

Sincerely,


John Herbst III

93040953389

TRANSCRIPT OF "WYOMING VOTES WITH PRIDE" RADIO SPOTS

SPOT NUMBER 1:

On Wednesday, April 26th, the people of Wyoming will elect a leader who will carry on the proud tradition of such great Wyomingites as Nellie Taylor Ross, the first woman in the nation ever to be elected governor, and Dick Cheney, the first man from Wyoming to be appointed Secretary of Defense. That's why this election is special and that's why it's important to know the candidates and where they stand on the issues that are special to you. Craig Thomas supports the balanced budget amendment, and John Vinich does not think it is necessary. For more information on the candidates, call the campaign headquarters. Remember, while other states are recording embarrassingly low turnouts in their elections, Wyoming can show the nation why they are proud Americans by voting on Wednesday, April 26th. We did it before. We can do it again. This ad is to encourage the people of Wyoming to vote on April 26th and it is not an endorsement of either candidate. Paid for by Wyoming Votes With Pride.

93040953390

SPOT NUMBER 2:

On this coming Wednesday, April 26th, the rest of the nation will learn why Wyoming is proud of our legacy. After all, Wyoming was the first state to conduct business west of the Missouri, and establish an American Legion Post for its veterans. Now we are faced with an election that will send a new generation of leader to Washington. But, the people of Wyoming understand that it's important to vote, and that it's important we know where the candidates stand on the issues that are special to Wyoming. For instance, the re-introduction of wolves is a major issue in our state. Craig Thomas is opposed to re-introduction. John Vinich says he's opposed, but would like the federal government to do another Environmental Impact Study. Call the campaign headquarters to ask where the candidates stand on other important issues like water rights or public access to wilderness areas. By exercising our right to vote on April 26th, Wyoming, the land that breeds leaders, will show the nation why they are proud Americans. Paid for by Wyoming Votes With Pride.

93040953391

SPOT NUMBER 3:

It's important that all of Wyoming vote in the special election on Wednesday, April 26th, because the eyes of the nation are focussed on our great state. The country will learn that Wyoming is a state where the people are still proud to be individuals. That's why, in this election, it's important to know the issues and what the candidates represent. For instance, if you like the idea of legalized gambling in Wyoming, you should know John Vinich stated that he supports legalized gambling and a Wyoming lottery, but Craig Thomas does not. By calling their campaign headquarters, you can ask where these candidates stand on issues important to you, like tougher penalties on drug and alcohol abuse or support of education. Remember, your vote is important. By voting this Wednesday, you will continue the legacy that has made Wyoming the land that breeds leaders. This is not an endorsement of either candidate. This message is to encourage the proud people of Wyoming to exercise their right to vote. Paid for by Wyoming Votes With Pride.

93040953392

SPOT NUMBER 4:

On Wednesday, April 26th, there is a special election in Wyoming. But, as you know, Wyoming has always been special. After all, Wyoming was the first state to give women the right to vote and elect a woman governor. Wyoming has always understood how special it is to have all its people involved. That's why it's important to continue this legacy by voting in this election and by learning about the candidates. You know, everyone has issues that are special to them. If social issues are important, then you might be interested to know that Craig Thomas is pro-life, and John Vinich is pro-choice. John Vinich agrees with the idea of distributing contraceptives in public schools. Craig Thomas does not. For more information on the candidates, call the campaign headquarters. Wyoming can show the nation why they are proud Americans by voting on Wednesday, April 26th. We did it before. We can do it again. This ad is to encourage the people of Wyoming to vote on April 26th. It is not an endorsement of either candidate. Paid for by Wyoming Votes With Pride.

93040953393

SUNSET BROADCASTING, INC.

KSIT
FM STEREO 104.5

April 20, 1989

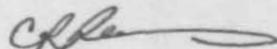
Wyoming Votes With Pride
P.O. Box 122
Casper, WY 82602

Attn: John Herbst

Thank you so much for your buy. We have
matched your 28 spots with 28 spots at no
charge as we had discussed in our phone con-
versation. The matching spots will run over 24hrs.

If I may be of any further assistance now
or in the future, please do not hesitate to
contact me.

Sincerely,



Charles R. Reeves
General Manager, KSIT

93040953394

06C 3219

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

DAVID D. UCHNER
ATTORNEY AT LAW

89 JUN 27 AM 10: 38

TETON BUILDING, SUITE 207
1807 CAPITOL AVENUE
CHEYENNE, WYOMING 82001

MAILING ADDRESS:
P.O. Box 1162
CHEYENNE, WYO. 82003

June 22, 1989

TELEPHONE:
(307) 778-7663
TELECOPIER:
(307) 632-6518

VICKI L. LONG, PLS.

Federal Election Commission
Washington, DC

Attention: Anthony Buckley

Gentlemen:

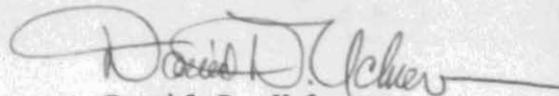
Re: Wyoming Rural Electric Association
MUR 2889

The undersigned is general counsel for the Wyoming Rural Electric Association. In regard to the Complaint filed before the Federal Election Commission by Sarah Gorin, I am enclosing herewith the response on behalf of said association. You will note from your file that this Complainant has filed against other associations and groups but this office has only one client and that is the WREA.

I would appreciate it if all further correspondence, pleadings, notices, and other matters be directed to this office, and in that connection I am enclosing herewith the Statement of Designation of Counsel which has been duly executed on behalf of WREA.

Thanking you for your cooperation in this matter, I am

Sincerely,


David D. Uchner

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUN 27 PM 3: 11

DDU:vll
enclosures
cc: Eloise McKee
Wyoming Rural Electric Association
340 West "B" Street, Suite 101
Casper, Wyoming 82601

CERTIFIED-RETURN RECEIPT REQUESTED

93040953395

DAVID D. UCHNER
ATTORNEY AT LAW

TETON BUILDING, SUITE 207
1807 CAPITOL AVENUE
CHEYENNE, WYOMING 82001

June 20, 1989

MAILING ADDRESS:
P.O. Box 1162
CHEYENNE, WYO. 82003

TELEPHONE:
(307) 778-7663
TELECOPIER:
(307) 632-6518

VICKI L. LONG, PLS.

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Federal Election Commission
999 E Street, N.W.
Washington, DC 20463
ATTN: Anthony Buckley

Re: MUR 2889
Wyoming Rural Electric Association

Dear Commissioners and Mr. Buckley:

As the designated counsel for the respondent Wyoming Rural Electric Association (WREA) in the above captioned matter, I appreciate the opportunity to respond to the complaint against my client and demonstrate that the Commission should take no action against WREA on the complaint in question.

As you know, the Wyoming Rural Electric Association is a trade association comprised of various rural electric co-ops located in the more remote areas of Wyoming. The co-op members pay annual dues to the association in exchange for which the central office issues a monthly newsletter, serves as a clearing house for co-op concerns and keeps members apprised of various federal and state legislative actions which may have an impact on the co-ops or their customers.

The association publishes a monthly newsletter sent to its members which is completely and entirely produced by association staff in the association offices located in Casper, Wyoming. From time to time the newsletter publishes feature articles about various, prominent individuals involved in the co-ops or the association.

The article around which the complaint centers appeared in the May, 1989 regular issue of the WREA newsletter. Congressman Thomas, elected to fill the remainder of Defense Secretary Richard Cheney's term in Congress, had been the Director of the WREA for 13 years prior to running

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for office. He was a competent and popular director of the association and the newsletter staff felt a great sense of pride in Thomas' candidacy for Congress.

It is my client's position that federal law exempts WREA from reporting the expenses incurred in printing the article about Congressman Thomas by its definition of exempt expenditures at 2 U.S.C.S. § 431(9)(B)(i) & (iii) which specifically exempts "any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;" and also exempts any "communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office except that costs incurred by a membership organization, (including a labor organization) or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the expressed advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed \$2,000.00 per election, be reported to the Commission."

2 U.S.C.S. § 434(c)(1) requires that "every person (other than a political committee) who makes independent expenditures in an aggregate amount of value in excess of \$250.00 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) for all contributions received by such person."

My client's position, based on the clearly evident facts at hand, is that the article which appeared in its membership organization newsletter did not expressly advocate Craig Thomas' election, and is therefore not an expenditure as defined by 2 U.S.C.S. § 431(9)(B)(iii) and therefore need not be reported pursuant to the terms and conditions set out in 2 U.S.C.S. § 434(c)(1).

We take this position because the article pertaining to Congressman Thomas did not "expressly advocate" his election or his opponent's defeat.

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FEC v. Furgatch, 807 F.2d. 857 9th Cir. (1987), specifically notes that advocacy is "speech susceptible of no other reasonable interpretation than an exhortation to vote for or against a specific candidate." The WREA newsletter did not exhort its readers to vote for Craig Thomas. It simply conveyed to its membership the pride and accomplishment WREA members and staff felt in having their former director run for Congressional office.

Further, there is simply no doubt that the WREA newsletter is the organization's usual, periodical publication. The article was prepared by WREA staff and sent to all of the normal subscribers. The writing and publication of the article did not deviate in any way from the monthly articles sent to all the organization's members. FEC v. Massachusetts Citizens for Life, 93 L. Ed. 2d. 539 (1986). Additionally, costs for production of the newspaper were approximately \$598.00 per page. The approximate production cost of the Thomas article was \$1,196.00, well within the \$2,000.00 limit noted in 2 U.S.C.S. § 431(9)(B)(iii).

Finally, the Wyoming Rural Electric Association was established to serve the members of the co-ops and to convey information important to rural electric customers. It is not an organization established "primarily for the purpose of influencing the election of any person to Federal office." The purpose of the association as quoted in Article II of its By-Laws, amended by the Board of Directors on January 18, 1989 is to "foster, develop and encourage the program of rural electrification in the state of Wyoming; to further the general welfare and generally to promote the interest of the members of the association; to further the safety, stability, security and prosperity of electric cooperatives, to the end that all electrical cooperatives may have a sound financial structure and that electric service can be feasibly extended to all remote areas where power is needed."

In sum, the WREA newsletter is exempt from the requirement to report any expenditures made in connection with the publication of the article appearing in its newsletter pertaining to Craig Thomas' candidacy. The article did not accomplish, and certainly did not intend, exhortation or urging of WREA members to vote for Congressman Thomas' candidacy. Instead, the article was a feature on a personality known to most of the newsletter subscribers expressing pride in Congressman Thomas' candidacy.

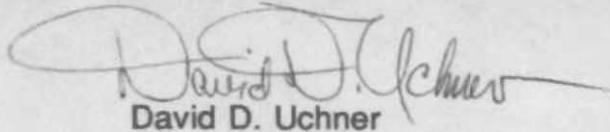
93040953398

Federal Election Commission
Page Four
June 20, 1989

In short, we believe that shown the facts and circumstances set out above, the Federal Election Commission should find that no action should be taken against the Wyoming Rural Electric Association in complaint No. MUR 2889 and that the general counsel should report to the Commission and recommend that, based on the legal and factual analysis supplied herein, the Commission has no reason to believe that the complaint sets forth a possible violation of the Act and, accordingly, the Commission should close the file in this matter.

Thank you for the opportunity to respond to the complaint against the Wyoming Rural Electric Association. Should you have any questions or comments or should any further information be required, please do not hesitate to contact me. Until then I remain,

Very truly yours,


David D. Uchner

93040953399

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2889

NAME OF COUNSEL: David D. Uchner

ADDRESS: Teton Building

P.O. Box 1162

Cheyenne, Wyoming 82003

TELEPHONE: 307-778-7663

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.

Wyoming Rural Electric Association

6-21-89

Date

By: *Robert H. Thompson*
Signature President

Clarence J. McKee
Attest

RESPONDENT'S NAME: Wyoming Rural Electric Association

ADDRESS: 340 West "B" Street - Suite 101

Casper, Wyoming 82601

TELEPHONE NO.: 307-234-6152

BUSINESS PHONE: =

93040953400



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 11, 1989

Good Government Group
P.O. Box 2592
Cody, Wyoming 82414

RE: MUR 2889
Good Government Group

Dear Gentlemen:

On June 2, 1989, the Good Government Group was notified that the Federal Election Commission received a complaint from Sarah Gorin alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 19, 1989, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

93040953401



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 21, 1989

National Citizens Action Network
P.O. Box 10459
Costa Mesa, California 92627

Dear Gentlemen:

Re: MUR 2389

Unfortunately due to a clerical error in our office we did not retain a copy of the letter dated July 11, 1989, that we sent you pertaining to additional information from the complainant. We would appreciate it, if you would send us a copy in the enclosed envelope.

Thank you for your cooperation in this matter.

Sincerely,

Retha L. Dixon

Retha L. Dixon
Docket Chief

enclosure

cc: Anthony Buckley, Esq.

File

93040953402



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

06C 3632
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

89 AUG -1 AM 11:19

July 21, 1989

National Citizens Action Network
P.O. Box 10459
Costa Mesa, California 92627

Dear Gentlemen:

Re: MUR 2889

Unfortunately due to a clerical error in our office we did not retain a copy of the letter dated July 11, 1989, that we sent you pertaining to additional information from the complainant. We would appreciate it, if you would send us a copy in the enclosed envelope.

Thank you for your cooperation in this matter.

Sincerely,

Retha L. Dixon

Retha L. Dixon
Docket Chief

enclosure

cc: Anthony Buckley, Esq.
File

July 23, 1989
To date we have not received any communication from you regarding the above referenced case -- MUR 2889. Please send all information relating to MUR 2889. Thank you.
David A. Balsiger

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 AUG -1 PM 3:26

23040953403



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 7, 1989

National Citizens Action Network
P.O. Box 10459
Costa Mesa, California 92627

RE: MUR 2889

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the National Citizens Action Network, 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 2889. 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 National Citizens Action Network 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.

23040953404

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

Sincerely,

Lawrence M. Noble
General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

93040953405

06C 4031

Biblical Scoreboard

PRESIDENTIAL BIBLICAL SCOREBOARD • CANDIDATES BIBLICAL SCOREBOARD
FAMILY BIBLICAL SCOREBOARD • BIBLICAL NEWS SERVICE

September 14, 1989

Lois G. Lerner
FEDERAL ELECTION COMMISSION
999 E Street NW
Washington, D.C. 20463

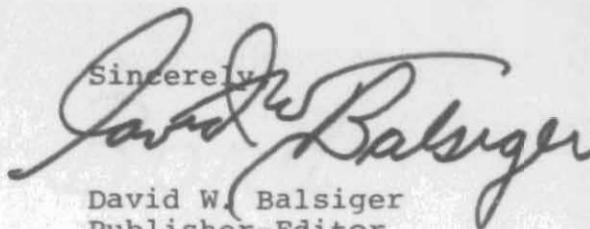
Dear Ms. Lerner:

We would be happy to respond to complaint MUR 2889 if you would be so kind as to send us full information on what this complaint is about and how we have allegedly violated the FEC Act of 1971.

We would like to receive copies of all correspondence from all parties making the complaint.

Thank you for your cooperation.

Sincerely,



David W. Balsiger
Publisher-Editor

DWB:rlb

89 SEP 18 PM 1:33

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 SEP 18 AM 9:16

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

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06C 4233

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

89OCT 10 AM 11:39

604 S. 11th
Laramie, WY 82070

3 October 1989

89OCT 10 PM 1:14

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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

Attn: Lois G. Lerner

RE: MUR 2889

Dear Ms. Lerner:

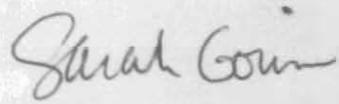
Some five months ago I initially filed a complaint with your office concerning certain activities that took place during the special Congressional election in Wyoming last April. I supplemented this complaint with additional information in mid-June.

First, could you apprise me of the status of the complaint? I understand the law restricts the information that can be given out, but I would just like to know if investigation of the complaint is moving forward.

Second, I wish to inform you about a proceeding being conducted by the Wyoming Public Service Commission which bears on part of my complaint. The Commission has scheduled a hearing for 24 October 1989 on the subject of Wyoming rural electric utility contributions to political campaigns. I have enclosed a copy of the Order to Show Cause issued by the Commission; the order sets the hearing and outlines the areas of investigation.

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,



Sarah Gorin

93040953407

IN THE MATTER OF THE
INVESTIGATION BY THE PUBLIC
SERVICE COMMISSION ON ITS
OWN MOTION IN RESPONSE TO
COMPLAINTS REGARDING THE
WYOMING RURAL ELECTRIC
NEWS ARTICLE ON U.S.
REPRESENTATIVE CANDIDATE
CRAIG THOMAS.

GENERAL ORDER NO. 60

ORDER TO SHOW CAUSE
(Issued August 30, 1989)

Pursuant to its statutory authority under W.S. § 37-2-117 permitting investigation upon its own motion and pursuant to its rules and regulations, the Wyoming Public Service Commission does hereby order the utility recipients hereof to show cause why monies collected through authorized and tariffed rates are being used in connection with or funding support of, political campaigns, political action committees, non-profit organizations supporting political efforts, attempting to influence legislation [in violation of IRC 501 (c) (3)] and/or other types of not-for-profit or charitable organizations or, in the alternative, that they have not been so used or will not be in the future.

This show cause order shall address the following points which shall be answered in writing by jurisdictional utilities on or before the 30th day after receipt of this Order to Show Cause, by receipt of such answer at the offices of the Public Service Commission, 700 W. 21st Street, Cheyenne, Wyoming 82002-0023 and which shall thereafter be addressed further at a

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hearing on these matters which is hereby set for the 24th day of October, 1989, in Room 1699, Herschler Building, 122 W. 25th Street, Cheyenne, Wyoming, commencing at the hour of 9:00 a.m:

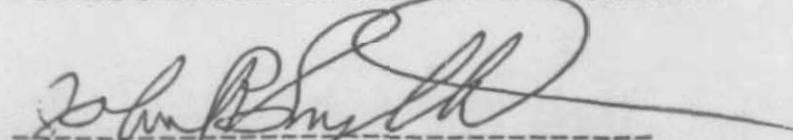
1. A list of all contributions and donations for 1987-1989, by year and amount.
2. A list of all customer mailings of an informational or noticing nature (that is, excluding billing statements) during 1987-1989, by year, including copies of the actual mailing (or representative samples thereof).
3. A schedule showing the WREA assessment and how it was derived for 1987-1989, by year and amount.
4. A listing showing organizations to which the utility belongs, the calculation of payments, contributions or donations to those organizations and benefits therefrom, for 1987-1989, by year and amount.
5. Respond to the issue of whether Patronage Capital should be reduced to the extent of all or part of the payments, in keeping with the Commission's uniform ruling that stockholders must bear the costs of any unauthorized utility expenditures.
6. Propose rule language to clearly prevent the use of rates/ratepayer monies to, in any way, fund charitable, political, community and similar endeavors that do not have unanimous membership support.

93040953409

6. This order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming this 30th day of August,
1989.

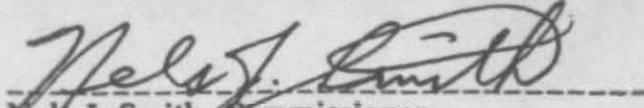
PUBLIC SERVICE COMMISSION OF WYOMING



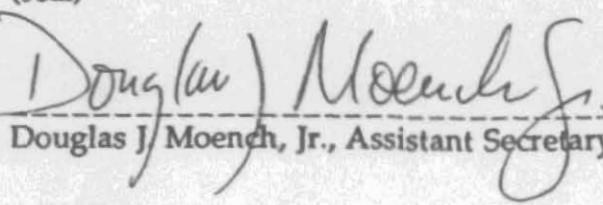
John R. Smyth, Chairman



Bil Tucker, Deputy Chairman



Nels J. Smith, Commissioner

(seal)


Douglas J. Moench, Jr., Assistant Secretary and Staff Counsel

93040953410

WREA wants to intervene in Thomas article hearing

By JOAN BARRON
Star-Tribune capital bureau

CHEYENNE — The Wyoming Rural Electric Association will petition the Public Service Commission to intervene in a public hearing Oct. 24 on the source of funds for a favorable article on then-congressional candidate Craig Thomas, a PSC spokesman said Friday.

The PSC last month ordered 22 Wyoming rural electric utilities to report whether their money went to pay for the WREA newsletter article about Thomas, who was then WREA general manager.

Thomas defeated Democrat John Vinich in the April 26 special congressional election to win Wyoming's only congressional seat, vacated by Secretary of Defense Dick Cheney.

In response to complaints about the news article, the PSC on Aug. 30 issued an order to show cause to state rural electric associations. The REA newsletter is supported by

rural electric cooperative dues.

The PSC issued the order to initiate an investigation into complaints about the Thomas article. The commission, however, has not considered any sanctions against the utilities.

Douglas Moench, Jr., PSC assistant secretary and staff counsel, said Friday that WREA officials and their attorney met in Cheyenne Thursday with commission members and staff.

"I discussed with them the upcoming hearing and they are planning to file a petition to intervene in the case," Moench said.

The PSC has no jurisdiction over the WREA, which is a non-profit trade association, although the state regulatory agency does have jurisdiction over the utilities who belong to the organization, he said.

The WREA wants to intervene in the case because the organization is interested in the outcome and wants to be "responsive," he said.

The PSC has been getting

10/1/89

responses from the rural electric utilities to the commission's show cause order. The order asks the rural electric cooperatives to offer a rule to prevent the use of rates or ratepayer money to pay for charitable, political, community and other endeavors that do not have unanimous support of the association membership.

The utility cooperatives must also report whether money collected through authorized and tariffed rates is being used in connection with or in support of political campaigns, political action committees, non-profit organizations supporting political efforts, attempting to influence legislation or other types of non-for-profit or charitable organizations.

Moench said he expects utility representatives to appear at the public hearing and present their positions on the article. The PSC also has asked the utilities to be prepared to respond to questions about the national Rural Electric

Cooperative Association's proposed dues increase, he said.

Moench said earlier that the PSC has not considered any sanctions and the commission order asks the rural electric utilities to offer their own ideas of how to prevent future episodes of this type.

Moench said many officers of the rural electric association didn't support publication of the article because they didn't want their organization involved in the political campaign.

The utilities are sending in copies of their mailings to their customers, reports on their assessments and lists of contributions, Moench said.

Each rural electric utility must submit a list of all contributions and amounts for 1987-89; all customer mailings, excluding billing statements; a schedule showing Wyoming Rural Electric Association assessments, and organizations to which the utility belongs and the amount of contributions.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 16, 1989

Sarah Gorin
604 S. 11th
Laramie, WY 82070

RE: MUR 2889

Dear Ms. Gorin:

This is in response to your letter dated October 3, 1989, in which you request information pertaining to the complaint you filed on May 25, 1989 with the Federal Election Commission, and in which you enclose additional information.

The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits any person from making public the fact of any notification or investigation by the Commission, prior to closing the file in the matter, unless the party being investigated has agreed in writing that the matter be made public. See 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A). Because there has been no written agreement that the matter be made public, we are not in a position to release any information at this time.

As you were informed by letter dated June 2, 1989, we will notify you as soon as the Commission takes final action on your complaint.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

23040953412

26C 4439

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

Wyoming Votes With Pride

P.O. Box 552 Casper, WY 82602 (307)266-5221

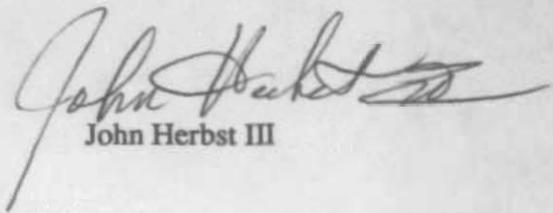
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Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463
October 19, 1989

RE: MUR 2889 (Wyoming Votes With Pride)

Dear Sirs:

We submitted our response to your inquiry concerning activities of Wyoming Votes With Pride (MUR 2889). Our response to you was dated June 13, 1989. We would appreciate your advisement as to the status of your inquiry. Thank you.


John Herbst III

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR # 2389
DATE COMPLAINT RECEIVED
BY OGC: May 25, 1989
DATE OF NOTIFICATION TO
RESPONDENTS: June 2, 1989
STAFF MEMBER: A. Buckley

COMPLAINANT: Sarah Gorin

RESPONDENTS: Good Government Group; Wyoming Votes With
Pride; Wyoming Rural Electric Association;
National Citizens Action Network; Craig
Thomas for Congress and John P. Wold, as
treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(4)(A), (9)(A)(i), (9)(B)(i)
and (ii); 2 U.S.C. § 433(a); 2 U.S.C.
§ 434(a), (b) and (c); 2 U.S.C. § 441a(f);
2 U.S.C. § 441b(a), (b)(2); 2 U.S.C.
§ 441d(a)(3); 11 C.F.R. § 100.8(b)(2);
11 C.F.R. § 104.13(a)(1), (2)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter arises out of the April 1989 Special Election in Wyoming. In a complaint received in this Office on May 25, 1989, Sarah Gorin ("the complainant") alleged that three organizations, the Good Government Group ("the GGG"), Wyoming Votes With Pride ("Wyoming Votes"), and the Wyoming Rural Electric Association ("the WREA"), had each failed to register as political committees with the Federal Election Commission ("the Commission"), and that the GGG and Wyoming Votes had each failed to properly include disclaimers on material which

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expressly advocated the election or defeat of a candidate for Federal office. (Attachment 1). On June 19, 1989, this Office received additional information from the complainant, including a flyer originally mentioned in the original complaint in relation to the GGG. (Attachment 2). Because the flyer stated that it had been published by the National Citizens Action Network ("the NCAN"), the complainant added an allegation that the NCAN had failed to register as a political committee with the Commission, and had failed to include a disclaimer on material which expressly advocated the election or defeat of a candidate for Federal office.

II. FACTUAL AND LEGAL ANALYSIS

A. Good Government Group

The complainant has provided copies of the GGG's "Pro-Family Voter Report Card" and the NCAN's "Scoreboard Alert" (which the GGG distributed) as evidence that the GGG should have filed as a political committee and that the GGG failed to include disclaimers on material which expressly advocated the election or defeat of a candidate for Federal office. The complainant asserts that she has seen the Voter Report Card herself, that she "personally received reports of distribution of hundreds of copies" in certain counties, that she understands that the Voter Report Card was distributed in certain other counties as well, and that in some counties the Voter Report Card was accompanied by the Scoreboard Alert. According to the Wyoming Secretary of State's Office, Corporation Division, the GGG is not incorporated.

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Under the Federal Election Campaign Act of 1971, as amended ("the Act"), a political committee is "any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year...." 2 U.S.C. § 431(4)(A). A statement of organization must be filed with the Commission by each group within 10 days of its meeting the conditions of being a political committee. 2 U.S.C. § 433(a). The treasurer of each committee must file reports of receipts and disbursements as required by the Act. 2 U.S.C. § 434(a)(1). An expenditure is "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office," 2 U.S.C. § 431(9)(A)(i), but does not include "nonpartisan activity designed to encourage individuals to vote or to register to vote" 2 U.S.C. § 431(9)(B)(ii). Expenditures which are made for the purpose of financing communications expressly advocating the election or defeat of a clearly defined candidate, and which are not authorized by a candidate or his authorized political committees or their agents, must clearly state who paid for the communication and that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3).

Here, the Voter Report Card states that it is an "educational nonpartisan paper comparing the two leading

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candidates' positions on Pro-Family values. This is not and [sic] endorsement of any candidate or party. The ... information was taken from interviews, newspaper reports and surveys sent to each candidate." This flyer further asserts that "[Republican candidate Craig] Thomas immediately replied to the survey. [Democratic candidate John] Vinich, on the other hand, REFUSED TO RESPOND to the survey. Apparently, Mr. Vinich is of the opinion that the public has no right to know where he stands on issues important to the family." (Capitals and emphasis in original). The flyer states that Mr. Vinich's stands were determined by researching news media accounts, campaign literature and speeches, and it lists the stands of the two candidates on 13 separate issues. An item by item comparison shows Thomas in agreement with the GGG on all issues while Vinich was in disagreement on all but one where he "Refused to Answer." The flyer further asserts that "knowing where a candidate stands on the issues before an election will often tell us how he'll vote on legislation protecting the family, parental rights, the spread of obscenity [sic], and supporting traditional Wyoming values," and that "if a candidate does not support our issue positions during the campaign, he won't support them when he is in office." (Emphasis in original). The flyer concludes by encouraging people to vote for the candidate who they believe will be most supportive of family values.

The Scoreboard Alert, which in its text is referred to as the "Biblical Scoreboard Alert," states that it "is not

intended, nor implied to be a statistical judgment of [the candidates'] moral behavior or relationship with God." As with the Voter Report Card, the Scoreboard Alert purports to inform voters of the candidates' stands so as to better inform voters as to how the candidates would vote on "laws that dramatically impact American families and national morality." On one side of the Scoreboard Alert are profiled four different candidates: Messrs. Thomas and Vinich, a Libertarian Party candidate, and a candidate identified as a white supremacist "whose campaign chairman is a Ku Klux Klan organizer and [whose] volunteers are neo-Nazi skinheads." The Libertarian Party candidate is profiled by listing aspects of the Party platform, which "advocates legalizing prostitution, supports abortion, and urges the repeal of all laws prohibiting the production, sale, possession or use of drugs, pornography, and obscenity." Mr. Vinich's profile states that if he wins, "he'll become the first Wyoming bar owner to become a member of the U.S. House", that he is often labelled as one of Wyoming's few true liberals in the legislature, and that his career there "has been marked by personality clashes with other legislators leading to only a 9.38 passage rate on Vinich-sponsored legislation." Only the profile of Craig Thomas is free of any sense of disdain. This flyer also asserts that Mr. Vinich "REFUSED TO RESPOND," and that he was apparently "of the opinion that the public has no right to know where [he] stand[s] on the issues." The flyer lists 20 "Candidate Issue Questions", gives the NCAN's position

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on each issue, and lists the candidates' positions.¹ The flyer then states that to "figure a candidates [sic] percentage score, add 5% for each plus (+) designation." This exercise results in a 90% rating for Mr. Thomas and 25% rating for Mr. Vinich. Readers are urged to "study the questions which candidates answered in order to make a decision on who to vote for on Election Day."

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The obvious intent of each flyer, taken as a whole, is to influence persons to vote for Mr. Thomas or to vote against Mr. Vinich or another candidate, and thus to influence an election to Federal office. Accordingly, the money spent to produce and distribute the flyers would constitute expenditures under the Act. Given the number of flyers, the vast area in which they were distributed, and the costs of researching the material, it is more than likely that more than \$1,000 was spent on producing the Voter Report Card and on distributing the Voter Report Card and the Scoreboard Alert. Accordingly, this Office recommends that the Commission find reason to believe that the Good Government Group met the Act's definition of a political committee, but failed to register as such with the Commission and to report disbursements and contributions, in violation of

1. For example, a question regarding national security asks: "Do you support or oppose the immediate phased deployment of the Space-Based Defense System commonly known as the Strategic Defense Initiative (SDI)? SUPPORT (+) is the pro-national security position." In a summary at the end of the questions Mr. Thomas is given a plus, while Mr. Vinich is given a minus. Although four candidates are profiled, only answers by Messrs. Vinich and Thomas are reported.

2 U.S.C. §§ 433 and 434.²

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For there to be a violation of Section 441d, the communication in question must satisfy a stricter test, i.e., it must "expressly advocat[e] the election or defeat of a clearly identified candidate." "Express advocacy" was first defined by the Supreme Court as "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject'." Buckley v. Valeo, 424 U.S. 1, 44, n. 52 (1976). More recently, the Court has determined that when a communication urges voters to vote for candidates who hold a certain position and identifies specific candidates who hold that position, such a message "is marginally less direct than 'Vote for Smith'" and "goes beyond issue discussion to express electoral advocacy." Federal Election Commission v. Massachusetts Citizens for Life, 479 U.S. 238, 248, 107 S.Ct. 616, 623 (1986). Likewise, the United States Court of Appeals for the Ninth Circuit has determined that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and

2. If less than \$1,000 but more than \$250 was spent, there would still be the possibility that the Good Government Group failed to report an independent expenditure, in violation of 2 U.S.C. § 434(c). If more than \$1,000 was spent, and the flyers were produced with the support of the Thomas campaign, there would be the possibility that the Good Government Group made and failed to report an excessive in-kind contribution, in violation of 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 104.13(a)(2). No such recommendations are being made at this time pending an investigation of the facts surrounding the flyers at issue, including the relationship of the GGG to the Thomas committee.

with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." Federal Election Commission v. Furgatch, 807 F.2d 857, 864 (9th Cir.), cert. denied, 108 S.Ct. 151 (1987). Under the Ninth Circuit's test, speech is express "if its message is unmistakable and unambiguous, suggestive of only one plausible meaning," and constitutes advocacy only if "it presents a clear plea for action," and it is clear what that action is. Id.

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In applying the Furgatch test to the Voter Report Card, it is clear that it constitutes express advocacy. Mr. Thomas is identified as "pro-family," while Mr. Vinich is identified as being opposed to pro-family issues. People are encouraged to vote for the candidate who will be most supportive of family values, and specific references are made to the "April 26th special election in Wyoming," and to "voting on Election Day." (Emphasis in original). In identifying Mr. Thomas as the pro-family candidate and urging people to vote for the person who will protect pro-family values, the GGG has sent the unmistakable message that people should vote for Mr. Thomas. Accordingly, the flyer constitutes express advocacy under §441d and required a disclaimer.

For a disclaimer to be valid, it must, if it is not authorized by a candidate, the authorized political committee of a candidate, or its agents, "clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's

committee." 2 U.S.C. § 441d(a)(3). Although the Voter Report Card lists the GGG's full name, its address, and its phone number, it does not explicitly state that the GGG paid for the flyer. Nor is there any statement that the flyer is not authorized by any candidate or candidate's committee. The reference to the flyer being an "educational non-partisan paper" could be read as denying authorization; however, the "Act and regulations ... do not provide for disclaimers by reference." Federal Election Commission v. National Conservative Political Action Committee, No. 85-2898, slip op. at 8 (D.D.C. April 28, 1987). Accordingly, this Office recommends that the Commission find reason to believe that the Good Government Group violated 2 U.S.C. § 441d(a)(3) by failing to include a valid disclaimer on a communication expressly advocating the election or defeat of a clearly identified candidate.

It does not appear that such a disclaimer was required of the GGG on the Scoreboard Alert. Although distributed by the GGG, the Scoreboard Alert states that it is a publication of the NCAN. Thus, it does not appear that the GGG was involved in financing this communication, and would not thus be required to provide a disclaimer on it.

B. National Citizens Action Network

As discussed above in relation to the GGG, the Scoreboard Alert published by the NCAN attempted to influence an election for Federal office. According to the California Secretary of State's Office, Corporate Status Unit, the NCAN is incorporated.

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any

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corporation to make a contribution or expenditure in connection with a Federal election. Where a corporation is involved, the term "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office. 2 U.S.C. § 441b(b)(2). Corporate activities which are exempt from this definition include communications to the corporation's stockholders and executive or administrative personnel and their families, or nonpartisan registration and get-out-the-vote campaigns aimed at its stockholders and executive or administrative personnel and their families. See 2 U.S.C. § 441b(b)(2)(A), (B).

Here, as discussed above, the NCAN's Scoreboard Alert sought to promote the candidacy of Craig Thomas over those of his opponents. Thus, the Scoreboard Alert and the costs associated with its production and distribution constitute things of value to the Thomas campaign. Accordingly, this Office recommends that the Commission find reason to believe that the National Citizens Action Network violated 2 U.S.C. § 441b.

The Scoreboard Alert also constitutes "express advocacy," and thus required a disclaimer. This is borne out by the Scoreboard Summary, which gives Mr. Thomas a 90% rating and Mr. Vinich a 25% rating on the issues as presented, as well as the way the candidates are profiled. No doubt exists as to which

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candidate the authors support. Additionally there are several reminders to vote on April 26, as well as a headline that states: "Your One Vote Does Make a Difference". Read as a whole, the flyer is a plea for people to vote for Craig Thomas in the April 26 election, and thus meets the Furgatch test. As the flyer does not explicitly state who paid for it or whether it has been authorized by any political committee, there is an insufficient disclaimer. Accordingly, this Office recommends that the Commission find reason to believe that the National Citizens Action Network violated 2 U.S.C. § 441d.

C. Wyoming Votes With Pride

The complainant alleges that Wyoming Votes spent more than \$1,000 in producing and airing four radio advertisements which, while purporting to be nonpartisan, misrepresented the views of one candidate in an attempt to influence voters. Further, the complainant alleges that there may be a connection between the GGG and Wyoming Votes. The complainant admits that she herself has not heard the radio spots, but was informed by another individual as to their general content.

Wyoming Votes has provided transcripts of each of the four radio spots. (Attachment 3). Each spot starts with a general statement about Wyoming and its history. Each ad then gives the stands of Mr. Thomas and Mr. Vinich on a certain issue. Each ad also urges people to call their respective campaign headquarters for more information about the candidates, and to vote in the April 26th election. No ad identifies one position as being better than the other. There is no evidence that the ads

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misrepresented any candidate's position.

Wyoming Votes asserts that the only connection between it and the GGG is that the GGG was one of several organizations from which information about the candidates was solicited. There is nothing in the evidence in hand to belie this assertion.

Costs associated with nonpartisan activity designed to encourage individuals to vote are not expenditures. See 2 U.S.C. § 431(9)(B)(ii). Activity is "nonpartisan" if "no effort is or has been made to determine the party or candidate preference of individuals before encouraging them ... to vote." 11 C.F.R. § 100.8(b)(3).

Here, the method of encouraging people to vote is radio ads, which, by their nature, do not allow for ascertaining the party or candidate preferences of individuals. Given the even-handed nature of the ads, they appear to be bona fide get-out-the-vote activity within the exception at Section 431(9)(B)(ii). Thus, costs associated with them would not be expenditures, and Wyoming Votes would not have been required to register as a political committee with the Commission. Accordingly, this Office recommends that the Commission find no reason to believe that Wyoming Votes With Pride has violated the Act.

D. Wyoming Rural Electric Association

The complainant alleges that the WREA improperly paid for the printing and distribution of an article in its newsletter, the Wyoming Rural Electric News, which favored the election of a

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candidate. The complainant notes that there is a political committee representing rural electric interests, ACRE, but points out that there is no disclaimer on the article stating that ACRE paid for its printing and distribution. The complainant has provided a copy of the article. According to the Wyoming Secretary of State's Office, Corporation Division, the WREA is incorporated.

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The article in question profiles the Republican candidate, Craig Thomas. Several pictures of him are included and his party affiliation is identified. The article identifies Thomas as general manager of the WREA for 14 years who is "presently on leave from the WREA to campaign." Certain statements appear to promote his candidacy: "Wyoming rural electric consumers can take pleasure in knowing that a long-time friend and advocate of the rural electric co-ops is running for the U.S. Congress," and "In Craig Thomas, rural Wyoming people have the opportunity to elect a congressman who has deep roots next to theirs." In addition to these specific statements, the article generally provides a glowing biography, with quotes from individuals praising his work with the WREA and in the state legislature, and a list of his community activities. The article also gives Thomas' stands on certain campaign issues.

The WREA has provided a response to the complaint. (Attachment 4). It argues that the article falls within the exceptions to the definition of "expenditure" at 2 U.S.C. § 431(9)(B)(i) and (iii). The WREA asserts that the purpose of the article was to convey to the WREA membership the "pride and

accomplishment WREA members and staff felt in having their former director run for Congress."

Several factors render the "press exemption" at Section 431(9)(B)(i) inapplicable to this situation. First, this exemption applies only to periodicals of general circulation. 11 C.F.R. § 100.8(b)(2). Counsel for the WREA has asserted that the newsletter is distributed to WREA's members and, although the Gale Directory of Publications asserts that subscriptions to the Wyoming Rural Electric News are available to the general public, it appears that members of the co-ops which are the members of the WREA constitute the vast majority of recipients of the newsletter. Thus, the Wyoming Rural Electric News is not a periodical of general circulation.

Additionally, even if this exception would apply to the WREA with regard to an article in its newsletter concerning any other candidate, it apparently does not apply in this matter because of candidate Craig Thomas' prior position with the WREA and his possible control over having the article published. His relationship with the WREA causes this communication to fail the requirement that it not be made by any facility "owned or controlled by any political party, political committee, or candidate."

Nor does it appear that the second exception at Section 431(9)(B)(iii), regarding communications to the members of an organization, applies. Counsel for the WREA asserts that the WREA

is a trade association comprised of various rural electric co-ops located in the more remote

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areas of Wyoming. The co-op members pay annual dues to the association in exchange for which the central office issues a monthly newsletter, serves as a clearing house for co-op concerns and keeps members apprised of various federal and state legislative actions which may have an impact on the co-ops or their customers.

As noted, supra, the WREA is incorporated. Accordingly, for a communication by the WREA not to be considered an expenditure, such communication must be made only to the WREA's stockholders and executive and administrative personnel. See 2 U.S.C. § 431(9)(B)(iii). Again, according to the Gale Directory of Publications, subscriptions to the Wyoming Rural Electric News are available to the general public. Regardless of whether the co-op customers could be considered "stockholders" of the WREA, a percentage of circulation greater than de minimis to the general public would take the publication outside the exception. See AO 1984-23. Thus, there is a sufficient basis for concluding that this exemption is not available to the WREA. Accordingly, costs associated with the publication of this article would constitute an illegal corporate contribution. Counsel for the WREA has acknowledged that it spent \$1,196 in producing the article. Therefore, this Office recommends that the Commission find reason to believe that the Wyoming Rural Electric Association violated 2 U.S.C. § 441b(a).

E. Craig Thomas for Congress and John P. Wold, as treasurer

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any candidate or political committee to accept a corporate contribution. Where a corporation is involved, the term "contribution or expenditure" includes "any direct or indirect

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payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office. 2 U.S.C. § 441b(b)(2). Pursuant to 2 U.S.C. § 434(b)(2), a political committee must report the receipt of all contributions. Pursuant to 11 C.F.R. § 104.13(a)(1), (2), a committee must report the receipt of all in-kind contributions as both contributions and expenditures.

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Given Craig Thomas' long history with the WREA in a position of authority and control, it appears that he or his campaign had a role in having the WREA article published. If so, costs associated with the article would have constituted corporate contributions to his campaign.³ It appears that no contribution at all was reported. Accordingly, this Office recommends that the Commission find reason to believe Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. § 434(b)(3) and 11 C.F.R. § 104.13(a)(1), (2) by failing to report an in-kind contribution from the WREA, and 2 U.S.C. § 441b(a) by knowingly accepting a corporate contribution from the WREA.⁴

3. Because the WREA is a corporation, and thus could not lawfully make contributions, it was not required to report the costs associated with the article as an in-kind contribution.

4. If the NCAN consulted with the Thomas campaign before putting out the Scoreboard Alert, there would be reason to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. § 434(b)(3) by failing to report an in-kind contribution from the NCAN and 2 U.S.C. § 441b(a) by knowingly accepting a corporate contribution from the NCAN. Likewise, if the GGG

III. RECOMMENDATIONS

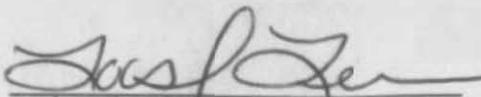
1. Find reason to believe that the Good Government Group violated 2 U.S.C. §§ 433 and 434.
2. Find reason to believe the Good Government Group violated 2 U.S.C. § 441d.
3. Find reason to believe that the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d.
4. Find no reason to believe that Wyoming Votes With Pride committed any violation of the Act.
5. Find reason to believe the Wyoming Rural Electric Association violated 2 U.S.C. § 441b(a).
6. Find reason to believe that Craig Thomas for Congress And John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a).
7. Approve the attached letters (5) and Factual and Legal Analyses (4).

Lawrence M. Noble
General Counsel

Date

10-3-89

BY:


Lois G. Lerner
Associate General Counsel

Attachments

1. Complaint
2. Amendment to the Complaint
3. Response of Wyoming Votes With Pride
4. Response of the Wyoming Rural Electric Association
5. Proposed Letters
6. Proposed Factual and Legal Analyses

(Footnote 4 continued from previous page)
performed its functions after consultation with the Thomas campaign, there would be reason to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. § 434(b)(3) by failing to report an in-kind contribution from the GGG. No such recommendations are being made pending an investigation of the relationship between the NCAN and the Thomas campaign, and the GGG and the Thomas campaign.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: OCTOBER 12, 1989

SUBJECT: MUR 2889 - FIRST GENERAL COUNSEL'S REPORT
DATED OCTOBER 3, 1989

The above-captioned document was circulated to the Commission on Wednesday, October 4, 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	XXXXX
Commissioner Josefiak	XXXXX
Commissioner McDonald	XXXXX
Commissioner McGarry	_____
Commissioner Thomas	XXXXX

This matter will be placed on the meeting agenda for Tuesday, October 17, 1989 at 10:00 a.m.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Good Government Group) MUR 2889
Wyoming Votes With Pride)
Wyoming Rural Electric)
Association)
National Citizens Action)
Network)
Craig Thomas for Congress and)
John P. Wold, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary of the Federal Election Commission executive session on October 24, 1989, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2889:

1. Find reason to believe that the Good Government Group violated 2 U.S.C. §§ 433 and 434.
2. Find reason to believe the Good Government Group violated 2 U.S.C. § 441d.
3. Find reason to believe that the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d.

(continued)

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4. Find no reason to believe tht Wyoming Votes With Pride committed any violation of the Act.
5. Find reason to believe the Wyoming Rural Electric Association violated 2 U.S.C. § 441b(a).
6. Find reason to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a).
7. Approve the letters attached to the General Counsel's report dated October 3, 1989.
8. Direct the Office of General Counsel to amend the Factual and Legal Analyses attached to the report dated October 3, 1989, and circulate them for Commission approval on a tally vote basis.

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

Attest:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

October 25, 1989

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 11, 1990

John Herbst III
Wyoming Votes With Pride
P.O. Box 552
Casper, WY 82602

RE: MUR 2889
Wyoming Votes With Pride

Dear Mr. Herbst:

On June 2, 1989, the Federal Election Commission notified Wyoming Votes With Pride of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On July 11, 1989, the Commission notified you of an amendment to the complaint.

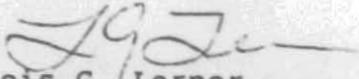
On October 24, 1989, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Wyoming Votes With Pride violated any statute within the Commission's jurisdiction. Accordingly, the Commission closed its file in this matter as it pertains to Wyoming Votes With Pride.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 11, 1990

Peter Waldron, Chairman
Good Government Group
P.O. Box 2592
Cody, WY 82414

RE: MUR 2889
Good Government Group

Dear Mr. Waldron:

On June 2, 1989, the Federal Election Commission notified the Good Government Group of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time. On July 11, 1989, the Commission notified you of an amendment to the complaint. A copy of that amendment was forwarded to you at that time.

Upon further review of the allegations contained in the complaint and amendment, the Commission, on October 24, 1989, found that there is reason to believe the Good Government Group violated 2 U.S.C. §§ 433, 434 and 441d, provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Good Government Group. 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 Good Government Group, 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

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Peter Waldron, Chairman
Page 2

pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

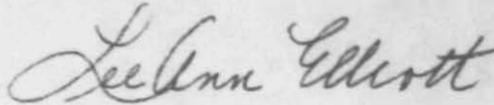
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

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

Sincerely,



Lee Ann Elliott
Chairman

Enclosures
Designation of Counsel Form
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Good Government Group

MUR: 2889

Under the Federal Election Campaign Act of 1971, as amended ("the Act"), a political committee is "any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year...." 2 U.S.C. § 431(4)(A). A statement of organization must be filed with the Commission by each group within 10 days of its meeting the conditions of being a political committee. 2 U.S.C. § 433(a). The treasurer of each committee must file reports of receipts and disbursements as required by the Act. 2 U.S.C. § 434(a)(1). An expenditure is "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office," 2 U.S.C. § 431(9)(A)(i), but does not include "nonpartisan activity designed to encourage individuals to vote or to register to vote" 2 U.S.C. § 431(9)(B)(ii). Expenditures which are made for the purpose of financing communications expressly advocating the election or defeat of a clearly defined candidate, and which are not authorized by a candidate or his authorized political committees or their agents, must clearly state who paid for the communication and that the communication

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is not authorized by any candidate or candidate's committee.
2 U.S.C. § 441d(a)(3).

Evidence made available to the Commission shows that the Good Government Group ("GGG") produced and distributed a "Pro-Family Voter Report Card" in connection with the April 1989 special election in Wyoming. Additional evidence shows that the GGG also distributed a "Scoreboard Alert" which had been published by the National Citizens Action Network, in connection with the same election. Both of these documents were, to the Commission's understanding, distributed all over the state of Wyoming in significant amounts. According to the Wyoming Secretary of State's Office, Corporation Division, the GGG is not incorporated.

The Voter Report Card states that it is an "educational nonpartisan paper comparing the two leading candidates' positions on Pro-Family values. This is not and [sic] endorsement of any candidate or party. The ... information was taken from interviews, newspaper reports and surveys sent to each candidate." This flyer further asserts that "[Republican candidate Craig] Thomas immediately replied to the survey. [Democratic candidate John] Vinich, on the other hand, **REFUSED TO RESPOND** to the survey. Apparently, Mr. Vinich is of the opinion that the public has no right to know where he stands on issues important to the family." (Capitals and emphasis in original). The flyer states that Mr. Vinich's stands were determined by researching news media accounts, campaign literature and speeches, and it lists the stands of the two

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candidates on 13 separate issues. An item by item comparison shows Thomas in agreement with the GGG on all issues while Vinich was in disagreement on all but one where he "Refused to Answer." The flyer further asserts that "knowing where a candidate stands on the issues before an election will often tell us how he'll vote on legislation protecting the family, parental rights, the spread of obscenity [sic], and supporting traditional Wyoming values," and that "if a candidate does not support our issue positions during the campaign, he won't support them when he is in office." (Emphasis in original). The flyer concludes by encouraging people to vote for the candidate who they believe will be most supportive of family values.

The Scoreboard Alert, which in its text is referred to as the "Biblical Scoreboard Alert," states that it "is not intended, nor implied to be a statistical judgment of [the candidates'] moral behavior or relationship with God." As with the Voter Report Card, the Scoreboard Alert purports to inform voters of the candidates' stands so as to better inform voters as to how the candidates would vote on "laws that dramatically impact American families and national morality." On one side of the Scoreboard Alert are profiled four different candidates: Messrs. Thomas and Vinich, a Libertarian Party candidate, and a candidate identified as a white supremacist "whose campaign chairman is a Ku Klux Klan organizer and [whose] volunteers are neo-Nazi skinheads." The Libertarian Party candidate is profiled by listing aspects of the Party platform, which "advocates legalizing prostitution, supports abortion, and urges

the repeal of all laws prohibiting the production, sale, possession or use of drugs, pornography, and obscenity." Mr. Vinich's profile states that if he wins, "he'll become the first Wyoming bar owner to become a member of the U.S. House", that he is often labelled as one of Wyoming's few true liberals in the legislature, and that his career there "has been marked by personality clashes with other legislators leading to only a 9.38 passage rate on Vinich-sponsored legislation." This flyer also asserts that Mr. Vinich "REFUSED TO RESPOND," and that he was apparently "of the opinion that the public has no right to know where [he] stand[s] on the issues."

The flyer lists 20 "Candidate Issue Questions", gives the NCAN's position on each issue, and lists the candidates' positions. For example, a question regarding national security asks: "Do you support or oppose the immediate phased deployment of the Space-Based Defense System commonly known as the Strategic Defense Initiative (SDI)? **SUPPORT (+)** is the pro-national security position." In a summary at the end of the questions Mr. Thomas is given a plus, while Mr. Vinich is given a minus. Although four candidates are profiled, only answers by Messrs. Vinich and Thomas are reported. The flyer then states that to "figure a candidates [sic] percentage score, add 5% for each plus (+) designation." This exercise results in a 90% rating for Mr. Thomas and 25% rating for Mr. Vinich. Readers are urged to "study the questions which candidates answered in order to make a decision on who to vote for on Election Day."

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Each flyer expresses support for the candidacy of Craig Thomas, and the obvious intent of each is to influence an election for Federal office. Accordingly, the money spent to produce and distribute the flyers would constitute expenditures under the Act. Given the number of flyers, the vast area in which they were distributed, and the costs of researching the material, it is more than likely that more than \$1,000 was spent on producing the Voter Report Card and on distributing the Voter Report Card and the Scoreboard Alert. Therefore, there is reason to believe that the Good Government Group met the Act's definition of a political committee, but failed to register as such with the Commission and to report disbursements and contributions, in violation of 2 U.S.C. §§ 433, 434.

For there to be a violation of Section 441d, the communication in question must satisfy a stricter test, i.e., it must "expressly advocat[e] the election or defeat of a clearly identified candidate." "Express advocacy" was first defined by the Supreme Court as "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject'." Buckley v. Valeo, 424 U.S. 1, 44, n. 52 (1976). More recently, the Court has determined that when a communication urges voters to vote for candidates who hold a certain position and identifies specific candidates who hold that position, such a message "is marginally less direct than 'Vote for Smith'" and "goes beyond issue discussion to express electoral advocacy." Federal Election Commission v.

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Massachusetts Citizens for Life, 479 U.S. 238, , 107 S.Ct. 616, 623 (1986). Likewise, the United States Court of Appeals for the Ninth Circuit has determined that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." Federal Election Commission v. Furgatch, 807 F.2d 857, 864 (9th Cir.), cert. denied, 108 S.Ct. 151 (1987). Under the Ninth Circuit's test, speech is express "if its message is unmistakable and unambiguous, suggestive of only one plausible meaning," and constitutes advocacy only if "it presents a clear plea for action," and it is clear what that action is. Id.

In the Voter Report Card, Mr. Thomas is identified as "pro-family," while Mr. Vinich is identified as being opposed to pro-family issues. People are encouraged to vote for the candidate who will be most supportive of family values, and specific references are made to the "April 26th special election in Wyoming," and to "voting on Election Day." (Emphasis in original). In identifying Mr. Thomas as the pro-family candidate and urging people to vote for the person who will protect pro-family values, the GGG has sent the unmistakable message that people should vote for Mr. Thomas. Thus, it is clear that the Voter Report Card constitutes express advocacy under the Furgatch test. Accordingly, the flyer required a disclaimer under Section 441d.

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Likewise, in applying the Furgatch test to the Scoreboard Alert, it is clear that it too constitutes express advocacy. This is borne out by the Scoreboard Summary, which gives Mr. Thomas a 90% rating and Mr. Vinich a 25% rating on the issues as presented, as well as the way the candidates are profiled. No doubt exists as to which candidate the authors support. Additionally there are several reminders to vote on April 26, as well as a headline that states: "Your One Vote Does Make a Difference". The flyer is an obvious plea for people to vote for Craig Thomas in the April 26 election, and thus meets the Furgatch test. As the flyer constitutes express advocacy under §441d, it required a disclaimer.

For a disclaimer to be valid, it must, if it is not authorized by a candidate, the authorized political committee of a candidate, or its agents, "clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee." 2 U.S.C. § 441d(a)(3). Although the Voter Report Card lists the GGG's full name, its address, and its phone number, it does not explicitly state that the GGG paid for the flyer. Nor is there any statement that the flyer is not authorized by any candidate or candidate's committee. The reference to the flyer being an "educational non-partisan paper" could be read as denying authorization; however, the "Act and regulations ... do not provide for disclaimers by reference." Federal Election Commission v. National Conservative Political

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Action Committee, No. 85-2898, slip op. at 8 (D.D.C. April 28, 1987). Likewise, although the Scoreboard Alert states that it is a publication of the NCAN, it was distributed by the GGG. The costs associated with the distribution of the flyer constitute "expenditures for the purpose of financing" this communication. As the flyer constitutes express advocacy, a disclaimer was required of the GGG. The only mention of the GGG on the flyer is an announcement about the GGG needing volunteers to assist it in distributing the Scoreboard Alert and providing transportation to polls, and encouraging registered voters to vote; there is no disclaimer regarding the GGG's financial involvement with the flyer itself. Therefore, there is reason to believe that the Good Government Group violated 2 U.S.C. § 441d(a)(3) by failing to include a valid disclaimer on the Voter Report Card, and separately violated 2 U.S.C. § 441d(a)(3) by failing to include a valid disclaimer on the Scoreboard Alert.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 11, 1990

David D. Uchner, Esq.
P.O. Box 1162
Cheyenne, WY 82003

RE: MUR 2889
Wyoming Rural Electric
Association

Dear Mr. Uchner:

On June 2, 1989, the Federal Election Commission notified your client, the Wyoming Rural Electric Association, 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. On July 11, 1989, the Commission notified you of an amendment to the complaint. A copy of that amendment was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on October 24, 1989, found that there is reason to believe the Wyoming Rural Electric Association 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 Wyoming Rural Electric Association. 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 Wyoming Rural Electric Association, 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

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David D. Uchner, Esq.
Page 2

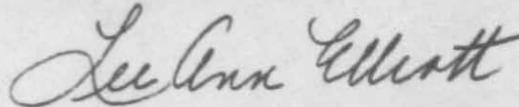
recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for 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 Anthony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



Lee Ann Elliott
Chairman

Enclosures
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Wyoming Rural Electric
Association

MUR: 2889

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Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with a Federal election. Where a corporation is involved, the term "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office. 2 U.S.C. § 441b(b)(2). Corporate activities which are exempt from this definition include communications to the corporation's stockholders and executive or administrative personnel and their families, or nonpartisan registration and get-out-the-vote campaigns aimed at its stockholders and executive or administrative personnel and their families. See 2 U.S.C. § 441b(b)(2)(A), (B).

Evidence available to the Commission shows that the Wyoming Rural Electric Association ("WREA") published an article in its newsletter, the Wyoming Rural Electric News, which favored the election of a candidate in the April 1989 special election in Wyoming. According to the Wyoming Secretary of State's Office, Corporation Division, the WREA is incorporated.

The article in question profiles the Republican candidate,

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Craig Thomas. Several pictures of him are included and his party affiliation is identified. The article identifies Thomas as general manager of the WREA for 14 years who is "presently on leave from the WREA to campaign." Certain statements promote his candidacy: "Wyoming rural electric consumers can take pleasure in knowing that a long-time friend and advocate of the rural electric co-ops is running for the U.S. Congress," and "In Craig Thomas, rural Wyoming people have the opportunity to elect a congressman who has deep roots next to theirs." In addition to these specific statements, the article generally provides a glowing biography, with quotes from individuals praising his work with the WREA and in the state legislature, and a list of his community activities. The article also gives Thomas' stands on certain campaign issues.

The WREA has provided a response to the complaint.

Counsel for the WREA asserts that the WREA

is a trade association comprised of various rural electric co-ops located in the more remote areas of Wyoming. The co-op members pay annual dues to the association in exchange for which the central office issues a monthly newsletter, serves as a clearing house for co-op concerns and keeps members apprised of various federal and state legislative actions which may have an impact on the co-ops or their customers.

The WREA argues that the article falls within the exceptions to the definition of "expenditure" at 2 U.S.C. § 431(9)(B)(i) and (iii). The WREA asserts that the purpose of the article was to convey to the WREA membership the "pride and accomplishment WREA members and staff felt in having their former director run for Congress." As noted, supra, the WREA is incorporated.

Although the WREA argues that the "press exemption" at Section 431(9)(B)(i) applies to this situation, the Commission has never extended the scope of this exemption to newsletters of trade associations. Accordingly, this exemption is not available to the WREA.

Nor does it appear that the second exception at Section 431(9)(B)(iii), regarding communications to the members of an organization, applies. Because the WREA is an incorporated trade association, it may only make partisan communications "to its members and their families under the provisions of [11 C.F.R.] § 114.3. When making communications to a member which is a corporation,¹ the trade association may communicate with the representative of the corporation with whom the trade association normally conducts the association's activities." 11 C.F.R. § 114.8(h).

The limitation of a trade association in communicating to its members causes the communication in this matter to fall outside of the provided exemption. Here, the newsletter went out to the individuals who purchase their electricity from the various local rural electric co-ops in Wyoming. Membership in these co-ops appears to arise solely from the purchase of

1. The original complaint contained a copy of a letter from a customer of the Sheridan-Johnson Rural Electrification Association to the WREA, in which the author complained about the apparent use of funds collected from ratepayers for the production and dissemination of the article in question. According to the Wyoming Secretary of State's Office, Corporation Division, the Sheridan-Johnson Rural Electrification Association is incorporated. It is reasonable to assume that all other rural electrification associations which are members of the WREA are also incorporated.

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electricity, and does not appear to involve any real decision to join on the part of any individual. Regardless, it is not these individuals who are the members of the WREA, but the incorporated co-ops of which the individuals are members. Accordingly, the WREA is restricted in its distribution of its newsletter to the representatives of the various rural electric associations with whom it communicates. The primary recipients of this newsletter, the rural co-op customers, are not in this restricted class. Thus, this exemption is not available to the WREA.

Because this newsletter was distributed outside the WREA's restricted class, and because the article in question promotes the candidacy of Craig Thomas, costs associated with the publication of this article would constitute an illegal corporate contribution. Counsel for the WREA has acknowledged that it spent \$1,196 in producing the article. Therefore, there is reason to believe that the Wyoming Rural Electric Association violated 2 U.S.C. § 441b(a).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 11, 1990

David W. Balsiger
National Citizens Action Network
P.O. Box 10459
Costa Mesa, CA 92627

RE: MUR 2889
National Citizens Action
Network

Dear Mr. Balsiger:

On August 7, 1989, the Federal Election Commission notified the National Citizens Action Network of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on October 24, 1989, found that there is reason to believe the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d, provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the National Citizens Action Network. 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 National Citizens Action Network, 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

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David W. Balsiger
Page 2

so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

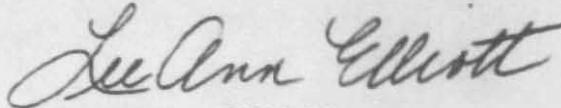
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

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

Sincerely,



Lee Ann Elliott
Chairman

Enclosures
Designation of Counsel Form
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: National Citizens Action MUR: 2889
 Network

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Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with a Federal election. Where a corporation is involved, the term "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office. 2 U.S.C. § 441b(b)(2). Expenditures which are made for the purpose of financing communications expressly advocating the election or defeat of a clearly defined candidate, and which are not authorized by a candidate or his authorized political committees or their agents, must clearly state who paid for the communication and that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3).

Evidence available to the Commission shows that the National Citizens Action Network ("NCAN") published a "Scoreboard Alert" in connection with the April 1989 special election in Wyoming, which was distributed by the Good Government Group. According to the California Secretary of State's Office, Corporate Status Unit, the NCAN is incorporated.

The Scoreboard Alert, which in its text is referred to as

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the "Biblical Scoreboard Alert," states that it "is not intended, nor implied to be a statistical judgment of [the candidates'] moral behavior or relationship with God." The Scoreboard Alert purports to inform voters of the candidates' stands so as to better inform voters as to how the candidates would vote on "laws that dramatically impact American families and national morality." On one side of the Scoreboard Alert are profiled four different candidates: Republican candidate Craig Thomas, Democratic candidate John Vinich, a Libertarian Party candidate, and a candidate identified as a white supremacist "whose campaign chairman is a Ku Klux Klan organizer and [whose] volunteers are neo-Nazi skinheads." The Libertarian Party candidate is profiled by listing aspects of the Party platform, which "advocates legalizing prostitution, supports abortion, and urges the repeal of all laws prohibiting the production, sale, possession or use of drugs, pornography, and obscenity." Mr. Vinich's profile states that if he wins, "he'll become the first Wyoming bar owner to become a member of the U.S. House", that he is often labelled as one of Wyoming's few true liberals in the legislature, and that his career there "has been marked by personality clashes with other legislators leading to only a 9.38 passage rate on Vinich-sponsored legislation." This flyer also asserts that Mr. Vinich "REFUSED TO RESPOND," and that he was apparently "of the opinion that the public has no right to know where [he] stand[s] on the issues."

The flyer lists 20 "Candidate Issue Questions", gives the NCAN's position on each issue, and lists the candidates'

positions. For example, a question regarding national security asks: "Do you support or oppose the immediate phased deployment of the Space-Based Defense System commonly known as the Strategic Defense Initiative (SDI)? SUPPORT (+) is the pro-national security position." In a summary at the end of the questions Mr. Thomas is given a plus, while Mr. Vinich is given a minus. Although four candidates are profiled, only answers by Messrs. Vinich and Thomas are reported. The flyer then states that to "figure a candidates [sic] percentage score, add 5% for each plus (+) designation." This exercise results in a 90% rating for Mr. Thomas and 25% rating for Mr. Vinich. Readers are urged to "study the questions which candidates answered in order to make a decision on who to vote for on Election Day."

The obvious intent of this flyer, taken as a whole, is to influence persons to vote for Mr. Thomas or to vote against Mr. Vinich or another candidate, and thus to influence an election to Federal office. Thus, the Scoreboard Alert and the costs associated with its production and distribution constitute things of value, and thus contributions, to the Thomas campaign. Therefore, there is reason to believe that the National Citizens Action Network violated 2 U.S.C. § 441b by making illegal corporate contributions.

For there to be a violation of Section 441d, the communication in question must satisfy a stricter test, i.e., it must "expressly advocat[e] the election or defeat of a clearly identified candidate." "Express advocacy" was first defined by the Supreme Court as "communications containing express words of

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advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject'." Buckley v. Valeo, 424 U.S. 1, 44, n. 52 (1976). More recently, the Court has determined that when a communication urges voters to vote for candidates who hold a certain position and identifies specific candidates who hold that position, such a message "is marginally less direct than 'Vote for Smith'" and "goes beyond issue discussion to express electoral advocacy." Federal Election Commission v. Massachusetts Citizens for Life, 479 U.S. 238, , 107 S.Ct. 616, 623 (1986). Likewise, the United States Court of Appeals for the Ninth Circuit has determined that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." Federal Election Commission v. Furgatch, 807 F.2d 857, 864 (9th Cir.), cert. denied, 108 S.Ct. 151 (1987). Under the Ninth Circuit's test, speech is express "if its message is unmistakable and unambiguous, suggestive of only one plausible meaning," and constitutes advocacy only if "it presents a clear plea for action," and it is clear what that action is. Id.

In applying the Furgatch test to the Scoreboard Alert, it is clear that it constitutes express advocacy. This is borne out by the Scoreboard Summary, which gives Mr. Thomas a 90% rating and Mr. Vinich a 25% rating on the issues as presented,

as well as the way the candidates are profiled. No doubt exists as to which candidate the authors support. Additionally there are several reminders to vote on April 26, as well as a headline that states: "Your One Vote Does Make a Difference". Read as a whole, the flyer is a plea for people to vote for Craig Thomas in the April 26 election, and thus meets the Furgatch test. Accordingly, the flyer constitutes express advocacy under §441d and required a disclaimer.

For a disclaimer to be valid, it must, if it is not authorized by a candidate, the authorized political committee of a candidate, or its agents, "clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee." 2 U.S.C. § 441d(a)(3). Although the Scoreboard Alert lists the NCAN's full name and address, it does not explicitly state that the NCAN paid for the flyer. Nor is there any statement that the flyer is not authorized by any candidate or candidate's committee. Therefore, there is reason to believe that the National Citizens Action Network violated 2 U.S.C. § 441d(a)(3).

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 11, 1990

John P. Wold, Treasurer
Craig Thomas for Congress
P.O. Box 1580
Casper, WY 82602

RE: MUR 2889
Craig Thomas for Congress and
John P. Wold, as treasurer

Dear Mr. Wold:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission considered the issue of whether Craig Thomas for Congress ("the Committee") and you, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1), (2), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission, on October 24, 1989, found that there is reason to believe the Committee and you, as treasurer, violated these sections of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

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

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John P. Wold, Treasurer
Page 2

pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

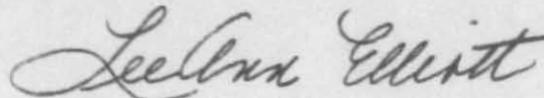
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

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

Sincerely,



Lee Ann Elliott
Chairman

Enclosures
Designation of Counsel Form
Factual & Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Craig Thomas for Congress and
John P. Wold, as treasurer

MUR: 2889

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with a Federal election, or for any candidate or political committee to accept such a contribution. Where a corporation is involved, the term "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office. 2 U.S.C. § 441b(b)(2). Pursuant to 2 U.S.C. § 434(b)(2), a political committee must report the receipt of all contributions. Pursuant to 11 C.F.R. § 104.13(a)(1), (2), a committee must report the receipt of all in-kind contributions as both contributions and expenditures.

Evidence available to the Commission shows that the Wyoming Rural Electric Association ("WREA") published an article in its newsletter, the Wyoming Rural Electric News, which favored the election of a candidate in the April 1989 special election in Wyoming. According to the Wyoming Secretary of State's Office, Corporation Division, the WREA is incorporated.

The article in question profiles the Republican candidate, Craig Thomas. Several pictures of him are included and his

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party affiliation is identified. The article identifies Thomas as general manager of the WREA for 14 years who is "presently on leave from the WREA to campaign." Certain statements promote his candidacy: "Wyoming rural electric consumers can take pleasure in knowing that a long-time friend and advocate of the rural electric co-ops is running for the U.S. Congress," and "In Craig Thomas, rural Wyoming people have the opportunity to elect a congressman who has deep roots next to theirs." In addition to these specific statements, the article generally provides a glowing biography, with quotes from individuals praising his work with the WREA and in the state legislature, and a list of his community activities. The article also gives Thomas' stands on certain campaign issues.

Given Craig Thomas' long history with the WREA in a position of authority and control, it appears that he or his campaign would have had advance knowledge of the publication of the WREA article. If so, costs associated with the article would have constituted corporate contributions to his campaign. It appears that no contribution at all was reported. Therefore, there is reason to believe Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. § 434(b)(3) and 11 C.F.R. § 104.13(a)(1), (2) by failing to report an in-kind contribution from the WREA, and 2 U.S.C. § 441b(a) by knowingly accepting a corporate contribution from the WREA.

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HAND DELIVERED
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MAIL ROOM

DAVID D. UCHNER
ATTORNEY AT LAW

90 JAN 30 AM 10:36

TETON BUILDING, SUITE 207
1807 CAPITOL AVENUE
CHEYENNE, WYOMING 82001

MAILING ADDRESS:
P.O. Box 1162
CHEYENNE, Wyo. 82003

January 29, 1990

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

TELEPHONE:
(307) 778-7663
TELECOPIER:
(307) 632-6518

VICKI L. LONG, PLS.

RE: MUR2889 Wyoming Rural Electric Assoc.

Dear Counsel:

On January 15, 1990, I received a copy of your letter with regard to the above-captioned case in my capacity as counsel for the Wyoming Rural Electric Association. Your letter of January 1, 1990 noted that you found reason to believe that my client had violated certain provisions of the Federal Election Campaign Act

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OFFICE OF GENERAL COUNSEL

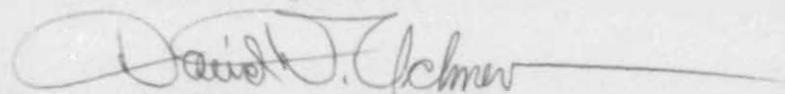
After consultation with my client, it is their wish to pursue pre-probable cause conciliation as noted in your letter and cited at 11 CFR 111.18(d). This letter shall serve as our written request to pursue pre-probable cause conciliation. I understand that the matter will be reviewed by the Commission after recommendation by the General Counsel of a settlement agreement and that the Commission may or may not grant this request.

Please also note that following a brief conversation with Mr. Anthony Buckley it is our understanding that we may supplement the file herein with additional information that might be helpful to the Commission. Accordingly, an affidavit from Ms. Gail Eisenhower of Congressman Thomas' staff will be hand delivered to your offices within the next few days. Please append it to and incorporate it into the WREA file along with this request.

In the event that this matter is not accepted for conciliation we assume that we will then have the opportunity to submit additional information to demonstrate why no action should be taken pursuant to 11 CFR 111.16.(c). We believe, however, that this matter can be expeditiously resolved through the conciliation process.

I will await receipt of the Commission's recommendations in this matter. If I may be of further assistance or provide further information, please do not hesitate to contact me.

Sincerely,


David D. Uchner

DDU:cs

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OBC 5263
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ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 JAN 31 AM 9:52

A F F I D A V I T

I, GALE ANN EISENHAUER, OF Casper, Wyoming, do hereby state the following to be true and correct to the best of my knowledge this 30th day of January, 1990:

From June 1981 through April 1989, I was employed by the Wyoming Rural Electric Association ("Association"). I was initially hired as a part-time employee to produce the Association's magazine. Later I assumed additional informational responsibilities and became a full-time employee of the Association. I had the responsibility for all aspects of the publication of the Wyoming Rural Electric News ("News"), including writing, editing and production of the publication. The News is a monthly magazine of approximately twenty to twenty-four pages. It has been produced by the Association for its members for approximately 45 years. Approximately 38,000 copies are provided to the members of the Association's coeoperatives. A very small number, less than one-third of one percent, is produced for non-members (principally state legislators and county officials).

One type of article commonly appearing in the News are features profiling rural electric people involved in interesting community, personal or business pursuits. Craig Thomas was general manager of the Association. In March, 1989, the Board of Directors allowed Mr. Thomas to take an unpaid leave of absence from the Association to seek the position of Congressman from Wyoming. Mr. Thomas had been with the Association for fifteen years and was

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familiar to many of our members throughout the State. I believed that this event was a newsworthy occurrence and would be of significant interest to the members of the Association.

I determined to write an article about him for the news magazine. I wrote the article in its entirety. I received no editorial comments or suggestions from any individual other than proofreading assistance. No one saw the article in advance of publication except the Association's printer. Neither Craig Thomas nor any campaign employee, consultant or volunteer saw the article in advance of its publication in the News.

I never inquired of the Thomas Campaign, the candidate or any campaign officials whether or not I should prepare such article for the Association's magazine. Neither the candidate, the campaign or any campaign officials suggested that such an article be written. The only individuals other than my husband I discussed the article with prior to its publication were Jimmie Key and Harold Thompson, two rural electric directors. It was a common practice for me to ask individual directors for their opinion about possible subjects for articles. I had brief discussions with both gentlemen who indicated they thought Craig Thomas was a proper subject for the magazine.

In advance of writing the article, I contacted Liz Brimmer, press secretary of the Congressional Campaign for Craig Thomas, and requested a press packet and information on Craig Thomas' national issue positions. It was a brief conversation in which she indicated the material would be sent to me. Apparently, Ms. Brimmer

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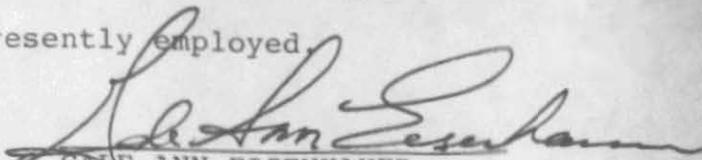
forgot my request since I did not receive the material by mail. I stopped at the campaign headquarters, spoke to a receptionist and received from her what I believe was a standard basic press biographic and issue packet available to any member of the press or public on request.

I drafted an article which I believed to be of interest to the members of the Wyoming Rural Electric Association.

I was unaware that the writing and distribution of such an article in the Association's news magazine might be controversial or even considered by any organization or individual to contravene any state or Federal law.

No individual associated with the Wyoming Republican Party or the Craig Thomas Congressional Campaign directed my writing of this article, gave me prior approval for the writing of the article or was aware of the contents of the article until after its publication.

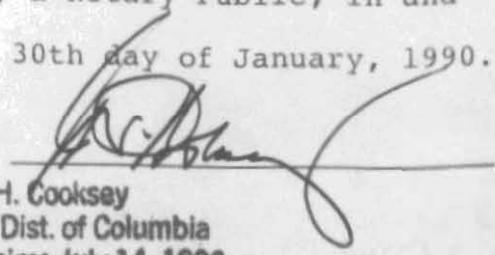
Following his election, Craig Thomas offered me a position on his Wyoming staff, where I am presently employed.


GABE ANN EISENHAUER

CITY OF WASHINGTON
DISTRICT OF COLUMBIA

SUBSCRIBED AND SWORN to before me, a Notary Public, in and for the above-noted jurisdiction this 30th day of January, 1990.

My Commission expires: _____
[SEAL]


Robert H. Cooksey
Notary Public, Dist. of Columbia
Commission Expires July 14, 1990

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Biblical Scoreboard

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OBC #3285

January 30, 1990

Lee Ann Elliott, Chairman
Federal Election Commission
999 "E" Street, N.W.
Washington, DC 20463

Reference: MUR 2889

Dear Miss Elliott:

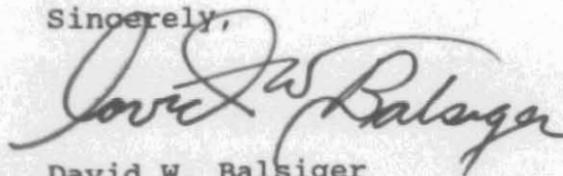
I'm in receipt of your January 11th letter indicating that I did not respond to the FEC August 7th letter regarding the complaint referenced MUR 2889.

Enclosed you will find a photocopy of my August 14th letter in response to the FEC letter dated August 7. My letter along with supporting publications (also enclosed with this letter) were sent to Lois G. Lerner.

Should this letter and documentation not be sufficient to address the complaint cited in your August 7, 1989 and January 11, 1990 letters, please notify me again.

Meanwhile, I'm concerned about the level of FEC management handling these complaints. On July 21, 1989, the FEC wanted me to send them a copy of a letter the FEC allegedly sent me on July 11 -- a letter I never received and was therefore unable to comply. Then to find out the FEC is now saying they didn't receive my August 14th response to MUR 2889 seems to indicate the left hand doesn't know what the right hand is doing. This doesn't seem like a wise expenditure of taxpayer money.

Sincerely,



David W. Balsiger
Publisher-Editor
BIBLICAL NEWS SERVICE

DWB:kd

Enclosures

cc: Rep. William E. Dannemeyer
Rep. Chris Cox

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BAKER & HOSTETLER

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(407) 849-4000

IN VIRGINIA
437 NORTH LEE STREET
ALEXANDRIA, VIRGINIA 22304
(703) 549-1294

February 8, 1990

WRITER'S DIRECT DIAL NO.:

(202) 861-1504

BY HAND

Lee Ann Elliott
Chairman
Federal Election Commission
999 "E" Street, N.W.
Washington, D.C. 20463

Attn: Anthony Buckley
General Counsel's Office

Re: MUR 2889 - Craig Thomas for Congress
and John P. Wold as Treasurer

Dear Mr. Buckley:

This letter, with attached materials, is written in response to your letter of January 11, 1990. In your letter, you stated that the Federal Election Commission ("Commission"), in the course of carrying out its routine supervisory activities, has considered the issue of whether Craig Thomas for Congress (the "Committee" violated 2 U.S.C. § 434(B) and 441b(a), and 11 C.F.R. § 104.13(a)(1),(2) provisions of the Federal Election Campaign Act of 1971 as amended (the "Act"). Your letter stated that the Commission has made the first preliminary finding that there was reason to believe that the Committee may have violated sections of the Act. With your letter, you included the factual and legal analysis, which formed the basis for the Commission's finding, and upon which the Commission has determined to begin a preliminary inquiry into this matter.

This letter and the attached affidavits will demonstrate to the Commission that the Committee and its Treasurer did not violate any provisions of the Act. In the absence of any facts to support the belief that such a violation has occurred, the Commission should quickly terminate this matter.

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Mr. Anthony Buckley
February 8, 1990
Page 2

Factual and Legal Analysis

The Wyoming Rural Electric Association ("WREA") publishes a monthly magazine entitled, The Wyoming Rural Electric News ("News"). The News has been produced by the Association for more than 40 years. Approximately 38,000 copies of the News are sent to the members of the WREA's cooperatives and a very small number, less than one third of one percent, are produced for non-members (principally state legislators or county officials). The monthly news magazine is approximately 20 to 24 pages.

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The magazine commonly runs articles profiling individuals involved in the rural electric business, especially those involved in interesting community or personal pursuits. The May, 1989 issue of the News contained a two-page article entitled, "Thomas Runs For U.S. Congress." The article was written by Gail Ann Eisenhower, then the editor of the News and an employee of the Rural Electric Association. Ms. Eisenhower, who often wrote many of the articles for the News, determined that an article about Craig Thomas and his campaign would be a newsworthy item of interest to the readers of her magazine. Her conclusion was reasonable, given Craig Thomas' tenure as Executive Director of the WREA. He would undoubtedly be known to many readers of the News, and his activities are of special interest to them. Ms. Eisenhower did not write this article at the direction of any individual from the Thomas Campaign. Neither Congressman Thomas, nor any individual with his campaign, even suggested such an article. It was solely Ms. Eisenhower's decision to compose and publish it. The article was considered by Ms. Eisenhower to be the standard, normal and usual type of article about an individual involved in the Wyoming Rural Electric Association that this magazine often featured. No unusual number of magazines were prepared, nor was the distribution of this issue any different than the standard distribution of this publication.

Ms. Eisenhower telephoned the Thomas campaign to request a press package. These campaign press packages, as in most campaigns, were available to any member of the press or public upon request. Her brief discussion with the campaign press secretary to request this package did not trigger any priority campaign activity, since the request was promptly forgotten and Ms. Eisenhower was forced to pick the package up personally. The campaign press secretary had no reason to believe that Ms. Eisenhower's request was anything but routine. The Commission cannot impose an affirmative duty on a campaign to inquire into the intended use of requested press materials. The campaign had no knowledge of the nature of the article which Ms. Eisenhower had determined to draft for the News. The campaign provided no encouragement or advice on the drafting, date, tone or substance of the article. No one with the Thomas Campaign was aware of the contents of the article until after its publication.

Mr. Anthony Buckley
February 8, 1990
Page 3

At the time Craig Thomas decided to run in the special election for Congress, he was the Executive Director of the Wyoming Rural Electric Association. Upon determining to seek the office, he requested and was granted an unpaid leave of absence from the Association. Prior to the commencement of his leave of absence, Congressman Thomas did have general supervisory authority over Ms. Eisenhauer. During the period in which Ms. Eisenhauer conceived, drafted and published this article, Craig Thomas had no supervisory authority over her position.

The General Counsel's factual and legal analysis states: "Given Craig Thomas' long history with the WREA in a position of authority and control, it appears that he or his campaign would have had advance knowledge of the publication of the WREA article. If so ..." It was not "so". The attached affidavits unmistakably substantiate that it was not "so".

For a campaign to be in violation of the cited provisions, in the January 11 letter, the Commission must first determine that a particular corporation's expense or disbursement was a contribution or expenditure in connection with a Federal election. 2 U.S.C. § 441b. Is the article appearing in the May News such an expense? There is no question that Craig Thomas was a candidate for Federal office, but the article does not ask the reader to support, vote for, or elect Craig Thomas. The article does not attack his opponent. No electioneering language whatsoever appears in the article. The question of whether or not this particular publication is a bona fide news magazine exercising its right to journalistic freedom receives no review in your January 11 analysis. The Commission appears to conclude, without analysis, that this article is not a news account, but rather a partisan message. It is not clear to this respondent that there is a factual basis for this conclusion.

A corporation may participate in the Federal election process by using its treasury funds to make partisan communications to a restricted class. Even if the Commission concludes that this particular article is a partisan communication, which is not expressly reflected in the language of the article, it is still permitted to undertake this activity if it is solely to its restricted class. With the exception of a de minimis number, The Wyoming Electric News is sent to the members of Wyoming Rural Electric Cooperatives. Members of rural cooperatives may meet some of the definitional requirements of a restricted class, therefore, they may be recipients of a partisan mailing without being in violation of the Act. This issue also goes unacknowledged in the Commission's factual and legal analysis.

Leaving aside the difficult issue of determining whether or not this particular activity by the WREA violated provisions of the Federal Election Campaign Act, there can be no dispute, that neither Congressman Thomas nor his campaign, violated any

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Mr. Anthony Buckley
February 8, 1990
Page 4

provision of the law as a result of this article. The Commission cannot assert a violation when the campaign played no role in the creation or distribution of the article. For this reason, the Commission should immediately determine to close this matter as it relates to Craig Thomas for Congress and the Committee's Treasurer, John P. Wold.

If you should have any questions in regard to this matter, please contact my office.

Very truly yours,

E. Mark Braden JGT

E. Mark Braden

Attachments:

Affidavits

Thomas L. Sansonetti
Craig Thomas
Liz Brimmer

Article May, 1989 Wyoming Rural Electric News

93040953470

AFFIDAVIT

COUNTY OF District of Columbia
STATE OF Washington, D.C.) ss:

I, CRAIG THOMAS, of the City of Casper, State of Wyoming, under penalty of law, do hereby state the following to be true and correct to the best of my knowledge, information and belief:

1. I was elected to the U.S. House of Representatives from the State of Wyoming on April 26, 1989.

2. Prior to seeking the office of U.S. Representative from the State of Wyoming, I was General Manager of the Wyoming Rural Electric Association. When I determined to seek the present office, the Board of Directors of the Wyoming Rural Electric Association granted me an unpaid leave of absence to campaign for said office.

3. I am aware now that the May, 1989 issue of the Wyoming Rural Electric News contained an article profiling myself. Prior to the article's publication, I was unaware that an article was being written or contemplated by the editor about myself. I had no knowledge of the preparation of this article nor did I request its preparation. I had no input on its drafting, editing or publication. In no manner did I assist in its distribution nor did I authorize any individual working for my campaign as an employee, consultant or volunteer to participate in the preparation or distribution of this article.

4. I did not exercise any control over, nor did I have authority over, the Wyoming Rural Electric News when the May 1989 issue was prepared, published and distributed.

Craig Thomas
CRAIG THOMAS

SUBSCRIBED AND SWORN to before me, a Notary Public for the above-noted jurisdiction, this 2nd day of February, 1990.

Michael Henry J.
NOTARY PUBLIC

My Commission Expires: Sept. 14, 1992
[SEAL]

93040953471

A F F I D A V I T

COUNTY OF District of Columbia
STATE OF Washington, DC) ss:

I, THOMAS L. SANSONETTI, of the City of Gillette, State of Wyoming, under penalty of law, do hereby state the following to be true and correct to the best of my knowledge, information and belief:

1. I was the campaign manager of the Craig Thomas for Congress Campaign ("Campaign") in the April 26, 1989 special election in the State of Wyoming.

2. I am now aware that the May, 1989 Wyoming Rural Electric News ("News") magazine contained an article about Craig Thomas.

3. I had no advance knowledge that this article was being prepared by the Wyoming Rural Electric Association prior to its publication in the News.

4. I did not and, to the best of my knowledge, no one on the Campaign staff assisted in the writing or editing of this article in the News.

5. I did not and, to the best of my knowledge, no one on the Campaign staff requested or suggested this article be published in the News.

6. The Campaign staff did not reproduce copies of the article or use it for any political advertising or solicitation efforts.

7. I did not exercise any control, influence or authority over the May 1989 issue of the News.

Thomas L. Sansonetti
THOMAS L. SANSONETTI

SUBSCRIBED AND SWORN to before me, a Notary Public for the above-noted jurisdiction, this 2ND day of February, 1990.

Michael Henry, Jr.
NOTARY PUBLIC

My Commission Expires: Sept. 14, 1992
(SEAL)

93040953472

06C 5394

BAKER & HOSTETLER

IN CLEVELAND, OHIO
 3200 NATIONAL CITY CENTER
 CLEVELAND, OHIO 44114
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IN VIRGINIA
 437 NORTH LEE STREET
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 (703) 549-1294

February 12, 1990

WRITER'S DIRECT DIAL NO.:
(202) 861-1504

Lee Ann Elliott
 Chairman
 Federal Election Commission
 999 "E" Street, N.W.
 Washington, DC 20463

Attn: Anthony Buckley
 General Counsel's Office

Re: MUR 2889 - Craig Thomas for Congress
and John P. Wold, as Treasurer

Dear Mr. Buckley:

Enclosed please find the affidavit of Elizabeth Brimmer, which had, inadvertently, been excluded from the attachments to our February 8, 1990 letter directed to your attention, regarding the above-referenced matter.

We apologize for any inconvenience which may have resulted from this oversight. Should you have any questions, please do not hesitate to contact our office.

Very truly yours,
E. Mark Braden NT
 E. Mark Braden

EMB/nt
 enclosure

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RECEIVED
 FEDERAL ELECTION COMMISSION
 OFFICE OF GENERAL COUNSEL
 90 FEB 12 PM 4: 22

CITY OF WASHINGTON
DISTRICT OF COLUMBIA

A F F I D A V I T

COUNTY OF ~~LARAMIE~~
STATE OF ~~WYOMING~~

ss:

I, Elizabeth Brimmer of the City of Cheyenne, State of Wyoming, under penalty of law, do hereby state the following to be true and correct to the best of my knowledge, information and belief:

1. I was the press secretary for the Craig Thomas for Congress Campaign ("Campaign") in the April 1989 special election in the State of Wyoming.

2. In the course of that special election campaign, I received a call from Gale Eisenhauer, editor of the Wyoming Rural Electric News ("WREN"). Ms. Eisenhauer called me at the campaign headquarters to request information and issue briefs the Campaign had prepared on Craig Thomas' positions on federal issues. She told me she wanted the information for an article she wanted to write in the upcoming issue of the WREN magazine.

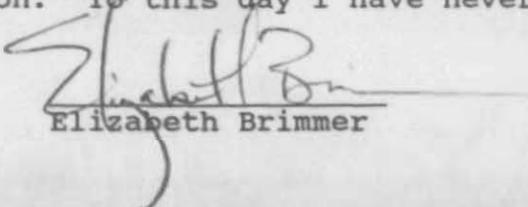
3. The information she requested was included generally in a press packet I had earlier compiled and sent to a.) all Wyoming newspapers and b.) anyone, particularly those representing the national media, who called to request federal issue positions and information on Craig Thomas that I could address through this packet.

4. I considered Ms. Eisenhauer's press request typical and in line with the several calls I received daily. During the rushed nature of a short special election, however, I forgot to mail Ms. Eisenhauer her press packet. She subsequently stopped by the Campaign headquarters and picked one up from the clerical staff.

5. I did not request that she draft an article about Craig Thomas for the WREN, nor did I have editorial input into the drafting of the article. I did not inquire in our brief conversation what kind of article she planned or if she was also going to write about our opponent.

6. I did not inform either Craig Thomas or Tom Sansonetti, the campaign manager, of Gale Eisenhauer's request. I am not aware of any individual involved in the campaign that had any editorial input into the WREN article or assisted in the distribution of the publication.

7. There were hundreds of articles written on Craig Thomas and the special election. To this day I have never read the article Eisenhauer wrote.


Elizabeth Brimmer

23040953474

SUBSCRIBED AND SWORN to before me, a Notary Public for the above-noted jurisdiction, this 6th day of February, 1990.

George H. Chapin
NOTARY PUBLIC

My Commission Expires: _____

George H. Chapin
Notary Public, Dist. of Columbia
Commission Expires June 30, 1990



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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 JUN 18 PM 10:54

508 S. 11th
Laramie, WY 82070

15 June 1990

Lois G. Lerner
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2889

Dear Ms. Lerner:

I am writing once again to inquire about my complaint filed with the FEC on May 25, 1989. When I wrote on October 3, 1989, I was informed that I would be notified when the Commission took final action on my complaint. Over a year later, I have not yet heard anything.

I respectfully request a letter from you stating the reasons for this long delay. I understand that many federal agencies are overworked and underfunded and I wish to know if this is also true of the FEC, or if there are other problems (such as recalcitrant respondents) that should be brought to the attention of Congress and the public. It seems to me that a delay of over a year in dealing with a complaint filed on a special election - not even an election year when one would expect the FEC to be deluged with complaints - is excessive.

Please note my address change as printed above. I am looking forward to your response.

Sincerely,

Sarah Gorin
Sarah Gorin

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 JUN 18 PM 3:47

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Wyoming Rural Electric Association) MUR 2889
)
)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 24, 1989, the Commission found reason to believe that the Wyoming Rural Electric Association ("the WREA"), an incorporated trade association, violated 2 U.S.C. § 441b(a). This finding was based on an article in the WREA publication, Wyoming Rural Electric News, which profiled Craig Thomas, a candidate in the April 1989 Wyoming special election for United States Representative.

On January 30, 1990, this Office received a response to the Commission's finding in which the WREA requested that it be allowed to enter into pre-probable cause conciliation. (Attachment 1). The WREA's submission was followed by an affidavit from Gail Ann Eisenhower, the individual who wrote the article at issue. Ms. Eisenhower states that she was responsible for all aspects of the publication of the Wyoming Rural Electric News, including writing, editing and production. Regarding the article which profiled Craig Thomas, Ms. Eisenhower states that she wrote the article in its entirety and that she received no editorial comments or suggestions from anyone other than proofreading assistance. She obtained a press packet from the Thomas campaign but claims that her contact with the press secretary was brief and the packet was "a standard

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basic press biographic and issue packet available to any member of the press or public on request." (Attachment 2). She further states that no one connected with the Thomas campaign knew of, or saw, the article prior to its publication.

II. ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with a Federal election. Where a corporation is involved, the term "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office. 2 U.S.C. § 441b(b)(2). A corporation may make no expenditure in connection with a federal election regardless of whether such expenditure is made without consultation with the benefited candidate committee. An exception to the general prohibition is the ability of an incorporated membership or trade organization to send communications to that corporation's members and executive or administrative personnel and their families. 11 C.F.R. § 114.3(a)(2).

The WREA is a trade association registered as a corporation in Wyoming. Its newsletter, the Wyoming Rural Electric News, carried an article which favored and promoted the election of candidate Craig Thomas in the April 1989 special election in Wyoming. The newsletter was distributed to individuals who were not themselves members of the WREA and who were not employed by

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the WREA. Thus, even if, as Ms. Eisenhower claims, this distribution was independent of a candidate committee, a corporate expenditure, and thus a violation of 2 U.S.C. § 441b, still occurred.

The WREA has acknowledged that it spent \$1,196 in producing the article, and does not dispute that a violation has occurred. Therefore, this Office recommends that the Commission enter into conciliation with the Wyoming Rural Electric Association prior to a finding of probable cause to believe that a violation of 2 U.S.C. § 441b(a) has occurred.

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Enter into conciliation with the Wyoming Rural Electric Association prior to a finding of probable cause to believe.
2. Approve the attached proposed conciliation agreement and the appropriate letter.

Lawrence M. Noble
General Counsel

7/5/90
Date

BY: [Signature]
Lois G. Lerner
Associate General Counsel

Attachments

1. Request for conciliation
2. Affidavit of Gail Ann Eisenhower
3. Proposed Conciliation Agreement

Staff assigned: T. Buckley

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: JULY 10, 1990

SUBJECT: MUR 2889 - WITHDRAWAL & RESUBMISSION OF GENERAL
COUNSEL'S REPORT. MEMORANDUM FROM
GENERAL COUNSEL DATED JULY 5, 1990.

The above-captioned document was circulated to the
Commission on Friday, July 6, 1990 at 12:00 p.m.

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

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

This matter will be placed on the meeting agenda
for Tuesday, July 17, 1990.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Wyoming Rural Electric Association) MUR 2889

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 17, 1990, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 2889:

1. Enter into conciliation with the Wyoming Rural Electric Association prior to a finding of probable cause to believe.
2. Approve the proposed conciliation agreement and the appropriate letter as recommended in the General Counsel's report dated July 5, 1990.

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

Attest:

7-17-90
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 19, 1990

David D. Uchner, Esq.
Teton Building, Suite 207
1807 Capitol Avenue
Cheyenne, Wyoming 82001

RE: MUR 2889
Wyoming Rural Electric
Association

Dear Mr. Uchner:

On October 24, 1989, the Federal Election Commission found reason to believe that the Wyoming Rural Electric Association violated 2 U.S.C. § 441b(a). At your request, on July 17, 1990, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

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

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

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90 AUG 21 PM 4:55

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)	
)	
Wyoming Rural Electric Association)	MUR 2889
)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Leonard Geringer, the president of the Wyoming Rural Electric Association. Attachment 1.

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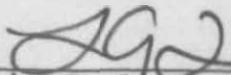
II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the Wyoming Rural Electric Association.

2. Close the file as to this respondent.
3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

8/20/90
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Conciliation Agreement
2. Photocopy of civil penalty check
3. Cover letter

Staff Assigned: T. Buckley

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Wyoming Rural Electric) MUR 2889
Association.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 24, 1990, the Commission decided by a vote of 5-1 to take the following actions in MUR 2889:

1. Accept the conciliation agreement with the Wyoming Rural Electric Association, as recommended in the General Counsel's Report dated August 20, 1990.
2. Close the file as to this respondent.
3. Approve the letter, as recommended in the General Counsel's Report dated August 20, 1990.

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

Attest:

8-24-90
Date

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

Received in the Secretariat:	Tues., August 21, 1990	4:55 p.m.
Circulated to the Commission:	Wed., August 22, 1990	11:00 a.m.
Deadline for vote:	Fri., August 24, 1990	11:00 a.m.

dh

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 30, 1990

David D. Uchner, Esq.
Teton Building, Suite 207
1807 Capitol Avenue
Cheyenne, Wyoming 82001

RE: MUR 2889
Wyoming Rural Electric
Association

Dear Mr. Uchner:

On August 24, 1990, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 441b(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 client.

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. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

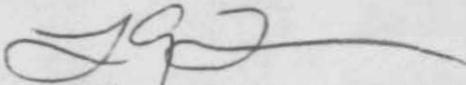
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David D. Uchner, Esq.
Page 2

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

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Wyoming Rural Electric Association) MUR 2889
)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Sarah Gorin. The Federal Election Commission ("Commission") found reason to believe that the Wyoming Rural Electric Association ("Respondent") violated 2 U.S.C. § 441b(a).

NOW, THEREFORE, the Commission and the Respondent, 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 Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

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

1. The Wyoming Rural Electric Association is an incorporated trade association whose members are rural electric co-ops within the state of Wyoming.

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2. The Wyoming Rural Electric News is a publication of Respondent which is distributed to the customers of the rural electric co-ops, the latter being the members of Respondent.

3. Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with a Federal election.

4. Pursuant to 2 U.S.C. § 441b(b)(2), where a corporation is involved, the term "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office.

5. Pursuant to 2 U.S.C. § 441b(b)(2)(A) and (B), corporate activities which are exempt from this definition include communications to the corporation's stockholders and executive or administrative personnel and their families. Pursuant to 11 C.F.R. § 114.3(a)(2), an incorporated trade association may communicate with its members and executive and administrative personnel.

6. The April 1989 edition of the Wyoming Rural Electric News carried an article which promoted the candidacy of Craig Thomas in the 1989 special election for the Wyoming seat in the United States House of Representatives. The production of this article cost \$1,196.

7. The April 1989 edition of the Wyoming Rural Electric News was distributed in a normal fashion to the

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customers of the rural co-ops and thus to a class outside those permitted by 2 U.S.C. § 441b(b)(2)(A) and (B) and 11 C.F.R. § 114.3(a)(2) to receive such a communication.

8. The publication of this article constituted a corporate expenditure in connection with the 1989 special election for the Wyoming seat in the United States House of Representatives.

V. Respondent made a corporate expenditure in connection with a Federal election, in violation of 2 U.S.C. § 441b(a).

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of six hundred dollars (\$600), 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 have executed same and the Commission has approved the entire agreement.

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

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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:

L G Lerner
Lois G. Lerner
Associate General Counsel

8/29/90
Date

FOR THE RESPONDENT:

Leonard Swinger President
(Name)
(Position)

August 1, 1990
Date

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91 JAN 24 PM 3:31

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

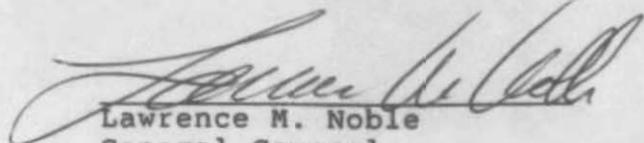
In the Matter of)	
)	
Good Government Group;)	
National Citizens Action Network;)	MUR 2889
Craig Thomas for Congress and)	
John P. Wold, as treasurer)	

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigations in this matter as to the above-captioned respondents, based on the assessment of the information presently available.

Date

1/24/90


 Lawrence M. Noble
 General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

91 JAN 29 PM 4:34

January 29, 1991

SENSITIVE

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble
General Counsel *[Signature]*
SUBJECT: MUR 2889

Attached for the Commission's review are briefs stating the positions of the General Counsel on the legal and factual issues of the above-captioned matter. Copies of these briefs and letters notifying the respective respondents of the General Counsel's intent to recommend to the Commission findings of probable cause to believe and a finding of no probable cause to believe were mailed on January 29, 1991. Following receipt of the respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Briefs (3)
2. Letters to respondents (3)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 29, 1991

David W. Balsiger
National Citizens Action Network
P.O. Box 10459
Costa Mesa, CA 92627

RE: MUR 2889
National Citizens Action
Network

Dear Mr. Balsiger:

Based on a complaint filed with the Federal Election Commission on May 25, 1989, the Commission, on October 24, 1989, found that there was reason to believe the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d, 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 violations have 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.

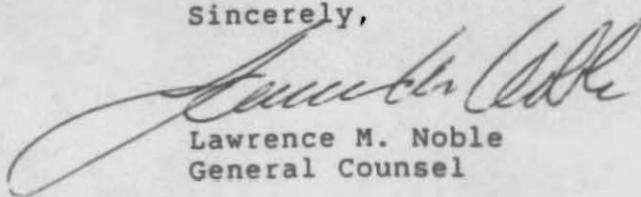
A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

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David W. Balsiger
Page 2

Should you have any questions, please contact Tony Buckley,
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 2889
National Citizens Action Network)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On May 25, 1989, the Federal Election Commission received a complaint from Sarah Gorin of Wyoming stating that various organizations not registered as political committees with the Commission had attempted to influence the outcome of the April 1989 Special Election in Wyoming. One of these organizations was the Good Government Group. Specifically, the complainant alleged that the Good Government Group had spent more than \$1,000 in producing and distributing the "Pro-Family Voter Report Card" and in distributing another, at that time unidentified, flyer.

On June 19, 1989, this Office received additional information from the complainant, including the flyer mentioned in the original complaint in relation to the Good Government Group, which turned out to be the Scoreboard Alert. Because the Scoreboard Alert stated that it had been published by the National Citizens Action Network ("NCAN"), the complainant added an allegation that the National Citizens Action Network had failed to register as a political committee with the Commission, and had failed to include an adequate disclaimer on material which expressly advocated the election or defeat of a candidate for Federal office. The Commission subsequently determined that, according to the California Secretary of State's Office

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Corporate Status Unit, the National Citizens Action Network is an incorporated entity.

On October 24, 1989, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. §§ 441b(a) and 441d by making corporate contributions and by failing to place the proper disclaimer on communications which expressly advocated the election and defeat of clearly identified candidates for Federal office.

In response to the Commission's reason to believe findings, the National Citizens Action Network submitted a response which had purportedly been sent in response to the complaint, but which had not previously been received by the Commission.

II. ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with a Federal election. Expenditures which are made for the purpose of financing communications expressly advocating the election or defeat of a clearly defined candidate, and which are not authorized by a candidate or his authorized political committees or their agents, must clearly state who paid for the communication and that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3). The term "expenditure" does not include "any news story, commentary, or editorial distributed through the facilities of any ... newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political

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party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i).

The complainant has alleged, based on first-hand observations and reports from other individuals, that the National Citizens Action Network published a Scoreboard Alert which was distributed by the Good Government Group in connection with the April 1989 special election in Wyoming. On this basis, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. § 441b(a). Additionally, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. § 441d because, while this document constituted express advocacy, it did not contain an adequate disclaimer as required by Section 441d.

The response of the National Citizens Action Network to the Commission's reason to believe determination states that

Scoreboard Alert is one of our four magazine-related publications -- one of which we have been publishing since 1980. These educational publications ... report on controversial public policy issues and profile candidates running for state and federal office.... The Scoreboard Alert mentioned in the complaint was a special issue prepared for our Wyoming Scoreboard readers.

The response goes on to say that reprint rights were sold to the Good Government Group for about \$4,000. In a subsequent communication with NCAN, this Office was advised that the cost of production of the Wyoming Scoreboard Alert was approximately \$900.

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Inherent in the response is the notion that the special issue of the Scoreboard Alert falls under the press exemption found at 2 U.S.C. § 431(9)(B)(i). For the press exemption to apply, the publication in question must: 1) be published through the facilities of a regular newsletter, i.e. by the staff which has prepared previous or subsequent editions; 2) be distributed to the newsletter's regular audience; and 3) its characteristics must be those of a normal publication by the organization, including a volume and issue number identifying the publication as one in a continuing series of issues. See FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 250-251 (1986) ("MCFL"). The special issue of the Scoreboard Alert fails to meet at least two of these three requirements. This Office has not examined the regular issues of the Scoreboard Alert to determine whether they meet the newspaper exemption; but regardless of whether the regular issues of the Scoreboard Alert constitute valid newsletters, this special issue does not.

Regardless of whether the Scoreboard Alert meets the first requirement, it does not meet the second and third requirements. The Wyoming Scoreboard Alert stated that it was a "Special Spring Edition - April 1989" and that it was a "Wyoming Special Edition." It had no volume or issue number which identified it as one in a continuing series of issues; indeed, unlike other Scoreboard Alerts which focused on issues from all over the country, and for which an April 1989 issue was published, the

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Wyoming Scoreboard Alert focused on issues solely as they related to Wyoming.

Likewise, the Scoreboard Alert was distributed to 150,000 persons in Wyoming, not the publication's usual national audience of approximately 250,000 readers.¹ Accordingly, the Wyoming Scoreboard Alert did not meet two of the three requirements for the press exemption noted in MCFL, and the press exemption was thus unavailable to the National Citizens Action Network as to this special publication. Therefore, this Office recommends that the Commission find there is probable cause to believe that the National Citizens Action Network violated 2 U.S.C. § 441b(a).

The National Citizens Action Network does not dispute the Commission's determination that the Scoreboard Alert constituted express advocacy or that an adequate disclaimer was not made.² Therefore, this Office recommends that the Commission find there

1. The special edition of the Scoreboard Alert distributed in Wyoming had a circulation of 150,000, while the April 1989 issue had a nationwide circulation of 250,000 readers.

2. In rating the candidates approvingly on certain issues, the Scoreboard Alert gave Craig Thomas a 90% rating and John Vinich a 25% rating on the issues as presented. The candidates were also profiled in such a way as to leave no doubt as to which candidate the authors supported. For example, a question regarding national security asks: "Do you support or oppose the immediate phased deployment of the Space-Based Defense System commonly known as the Strategic Defense Initiative (SDI)? SUPPORT (+) is the pro-national security position." In a summary at the end of the questions Mr. Thomas is given a plus, while Mr. Vinich is given a minus. Although four candidates are profiled, only answers by Messrs. Vinich and Thomas are reported. Additionally there were several reminders to vote on April 26, as well as a headline that stated: "Your One Vote Does Make a Difference". Read as a whole, the flyer was a plea for people to vote for Craig Thomas in the April 26 special election.

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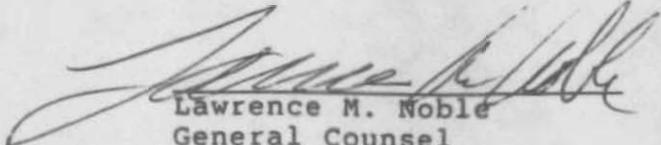
is probable cause to believe that the National Citizens Action Network violated 2 U.S.C. § 441d(a)(3).

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d(a)(3).

Date

1/29/91


Lawrence M. Noble
General Counsel

93040953501



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 29, 1991

Peter Waldron, Chairman
Good Government Group
P.O. Box 2592
Cody, WY 82414

RE: MUR 2889
Good Government Group

Dear Mr. Waldron:

Based on a complaint filed with the Federal Election Commission on May 25, 1989, the Commission, on October 24, 1989, found that there was reason to believe the Good Government Group violated 2 U.S.C. §§ 433, 434 and 441d, 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 violations have 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.

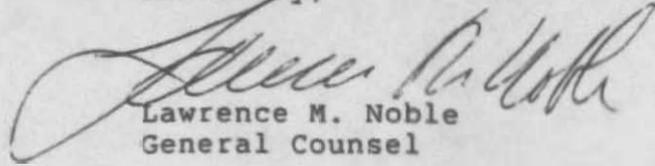
A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

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Peter Waldron, Chairman
Page 2

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

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Brief

93040953503

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2889
Good Government Group)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On May 25, 1989, the Federal Election Commission received a complaint from Sarah Gorin of Wyoming stating, inter alia, that the Good Government Group, which is not registered as a political committee with the Commission, had attempted to influence the outcome of the April 1989 Special Election in Wyoming. Specifically, the complainant alleged that the Good Government Group had spent more than \$1,000 in producing and distributing the "Pro-Family Voter Report Card" and in distributing another, at that time unidentified, flyer. On June 19, 1989, the Commission received additional information from the complainant, including the flyer mentioned in the original complaint in relation to the Good Government Group, which turned out to be the National Citizens Action Network's Scoreboard Alert.

On October 24, 1989, the Commission found reason to believe that the Good Government Group had violated 2 U.S.C. §§ 433, 434, and 441d by failing to register as a political committee and to report receipts and disbursements, and by failing to place the proper disclaimer on communications which expressly advocated the election and defeat of clearly identified candidates for Federal office. The Good Government Group has

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yet to acknowledge any communication from the Commission, including receipt of notification of the Commission's reason to believe finding.¹

II. ANALYSIS

Pursuant to 2 U.S.C. § 431(4)(A), a political committee is "any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year." A statement of organization must be filed with the Commission by each political committee within 10 days of its becoming a political committee. 2 U.S.C. § 433(a). The treasurer of each political committee must file periodic reports of receipts and disbursements as required by the Act. 2 U.S.C. § 434(a)(1). An expenditure is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i). Expenditures which are made for the purpose of financing communications expressly advocating the election or defeat of a clearly defined candidate, and which are not authorized by a candidate or his authorized political committees or their agents, must clearly state who paid for the communication and that the communication is not authorized by

1. All communications from the Commission were mailed to the Good Government Group by regular mail. None have been received back because of an incorrect address or for any other reason. Attempts to contact the Good Government Group by telephone have been unsuccessful, as the number which appears on the flyer in question apparently no longer belongs to that group.

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any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3).

The complainant has alleged, based on first-hand observations and reports from other individuals, that the Good Government Group produced and distributed a "Pro-Family Voter Report Card" in connection with the April 1989 special election in Wyoming. The complainant has further alleged that the Good Government Group also distributed the National Citizens Action Network's ("NCAN") Scoreboard Alert which was published by the NCAN in connection with the same election. Both of these documents were, according to the complainant, distributed in Wyoming in significant numbers. Both the Scoreboard Alert and the Voter Report Card constituted express advocacy.² Neither

2. In rating the candidates approvingly on certain issues, the Scoreboard Alert gave Craig Thomas a 90% rating and John Vinich a 25% rating on the issues as presented. The candidates were also profiled in such a way as to leave no doubt as to which candidate the authors supported. For example, a question regarding national security asks: "Do you support or oppose the immediate phased deployment of the Space-Based Defense System commonly known as the Strategic Defense Initiative (SDI)? SUPPORT (+) is the pro-national security position." In a summary at the end of the questions Mr. Thomas is given a plus, while Mr. Vinich is given a minus. Although four candidates are profiled, only answers by Messrs. Vinich and Thomas are reported. Additionally there were several reminders to vote on April 26, as well as a headline that stated: "Your One Vote Does Make a Difference". Read as a whole, the flyer was a plea for people to vote for Craig Thomas in the April 26 special election.

In the Voter Report Card, candidate Craig Thomas is identified as "pro-family," while candidate John Vinich is identified as being opposed to pro-family issues. People are encouraged to vote for the candidate who will be most supportive of family values, and specific references are made to the "April 26th special election in Wyoming," and to "voting on Election Day." (Emphasis in original). In identifying Mr. Thomas as the pro-family candidate and urging people to vote for the person who will protect pro-family values, the Good Government Group has sent the unmistakable message that people should vote for Mr. Thomas, and thus expressly advocated his election.

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document contained an adequate disclaimer, as neither document clearly stated that it had not been authorized by a candidate or candidate's committee.

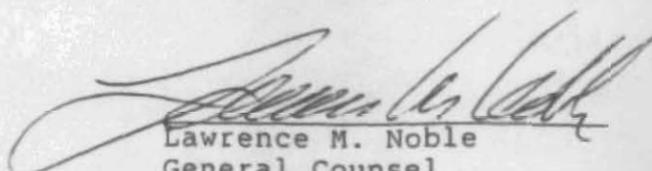
Although the Good Government Group did not respond to the reason to believe finding, the National Citizens Action Network has stated that the Good Government Group spent approximately \$4,000 for the reproduction rights for the Scoreboard Alert, thus meeting the threshold requirement for a political committee. Therefore, this Office recommends that the Commission find that there is probable cause to believe that the Good Government Group met the definition of a political committee, but failed to register as such with the Commission and to report receipts and disbursements in violation of 2 U.S.C. §§ 433 and 434. In addition, this Office also recommends that the Commission find that there is probable cause to believe that the Good Government Group violated 2 U.S.C. § 441d(a)(3) by failing to include adequate disclaimers on the Voter Report Card and on the Scoreboard Alert.

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that the Good Government Group violated 2 U.S.C. §§ 433, 434 and 441d(a)(3).

Date

1/29/91


Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 29, 1991

E. Mark Braden, Esq.
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

RE: MUR 2889
Craig Thomas for Congress and
John P. Wold, as treasurer

Dear Mr. Braden:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on October 24, 1989 the Federal Election Commission found reason to believe that your clients, Craig Thomas for Congress ("the Committee") and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1), (2), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and the Act's regulations, and instituted an investigation in 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 no probable cause to believe that violations have 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.

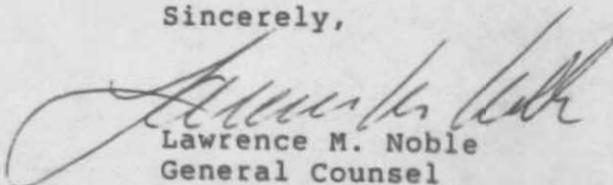
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E. Mark Braden, Esq.
Page 2

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.

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

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Brief

23040953509

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Craig Thomas for Congress and) MUR 2889
John P. Wold, as treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On May 25, 1989, the Federal Election Commission received a complaint from Sarah Gorin of Wyoming stating, inter alia, that the Wyoming Rural Electric Association ("WREA") improperly had paid for the printing and distribution of an article in its newsletter, the Wyoming Rural Electric News, which favored the election of a candidate, Craig Thomas, who had been general manager of the WREA for fourteen years immediately prior to running for the U.S. House of Representatives in the April 1989 Wyoming Special Election. Mr. Thomas took an unpaid leave of absence from the WREA in March, 1989; the article in question appeared in the May, 1989 issue of the Wyoming Rural Electric News, which had been sent to numerous rural electric customers in Wyoming.

On October 24, 1989, the Commission found reason to believe that Craig Thomas for Congress (the "Committee") and John P. Wold, as treasurer, had violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1)-(2) by knowingly accepting a corporate contribution from the Wyoming Rural Electric

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Association and by failing to report an in-kind contribution from the Wyoming Rural Electric Association.¹

In response to the Commission's reason to believe findings, the Committee requested that the Commission find no probable cause to believe that that committee and its treasurer had committed a violation, and submitted information in support of this position.

II. ANALYSIS

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any candidate or political committee to accept a corporate contribution. Where a corporation is involved, the term "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office. 2 U.S.C. § 441b(b)(2).

1. Because the WREA is an incorporated trade association, it may only make partisan communications "to its members and their families under the provisions of [11 C.F.R.] § 114.3. When making communications to a member which is a corporation, the trade association may communicate with the representative of the corporation with whom the trade association normally conducts the association's activities." 11 C.F.R. § 114.8(h). The WREA, therefore, is restricted in its distribution of its newsletter to the representatives of the various rural electric associations with whom it communicates and which are the actual members of the WREA. Instead, the newsletter was sent to the individuals who purchase their electricity from the various local rural electric co-ops in Wyoming. Accordingly, the publication of this article and its distribution to members of the rural co-ops constituted a communication to a group outside the WREA's restricted class, and thus a corporate expenditure.

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Pursuant to 2 U.S.C. § 434(b)(2), a political committee must report the receipt of all contributions. All in-kind contributions must be reported as both contributions and expenditures. 11 C.F.R. § 104.13(a)(1)-(2).

The Commission's reason to believe findings were based on Craig Thomas' 14-year history as general manager of the Wyoming Rural Electric Association, a position of authority and control. This history raised the issue as to whether Craig Thomas or a member of his campaign had coordinated the publication of the article cited in the complaint or had otherwise influenced the publication of the article. If so, costs associated with that article would have constituted an in-kind corporate contribution received by his campaign. See 11 C.F.R. § 109.1(d)(1). However, the evidence here does not support a finding of probable cause to believe.

The response from counsel for the Committee states that the article in question was written by the then-editor of the newsletter, Gail Ann Eisenhauer, who assertedly decided alone to write and publish such an article. The response further states that neither the candidate nor anyone from his campaign suggested that such an article be written, or provided "encouragement or advice on the drafting, date, tone or substance of the article." The response goes so far as to say that "[n]o one with the Thomas campaign was aware of the

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contents of the article until after its publication."

Information supplied by the campaign consisted of a press package which was available to any member of the press or public upon request, and the brief discussion Ms. Eisenhower had with the campaign consisted solely of calling and asking that a press package be sent to her.

Three affidavits have been provided by the Committee. The first is from the candidate, Craig Thomas, the second is from Thomas Sansonetti, the Committee's campaign manager, and the third is from Elizabeth Brimmer, the press secretary of the Committee. Additionally, the Wyoming Rural Electric Association has submitted the affidavit of Ms. Eisenhower.

Congressman Thomas states that while he is now aware of the Wyoming Rural Electric News article, prior to its publication he was unaware that an article was being written or even contemplated by the editor. He further states that he neither suggested that such an article be published nor in any way aided in its preparation.

Mr. Sansonetti states that while he is now aware of the article in question, he had no advance knowledge that the article was being prepared prior to its publication. He also states that he did not request or suggest that such an article be published, nor did he assist in the writing or editing of this article. Mr. Sansonetti further states that, to the best of his knowledge, no one on the campaign staff requested or

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suggested that such an article be published, nor did they assist in the writing or editing of the article.

Ms. Brimmer states that although Ms. Eisenhower contacted her about obtaining a press package for an article in the Wyoming Rural Electric News, the fact that an article, without any regard to focus or content, was going to be published was the extent of her knowledge. She further states that she did not inform the Craig Thomas or Thomas Sansonetti of Ms. Eisenhower's request. Thus, Ms. Brimmer was, apparently, the only person connected with the campaign who was aware in advance of publication of the article. Ms. Eisenhower states that she never "inquired of the Thomas Campaign, the candidate or any campaign officials whether or not [she] should prepare such an article for the Association's magazine."²

Although it appears that a corporate expenditure by the Wyoming Rural Electric Association was made to benefit the Thomas campaign, there is insufficient evidence to find probable cause to believe that such expenditure was made in coordination with the candidate or his campaign. Accordingly, this Office recommends that the Commission find no probable cause to believe

2. Ms. Eisenhower notes that she is presently employed on the staff of Congressman Thomas. There is no evidence to suggest that the candidate held out the possibility of this future employment so as to influence the publishing of an article like the one in question. In fact, the statements by the candidate and his campaign manager that they did not suggest or request that the article be published would appear to eliminate such a possibility.

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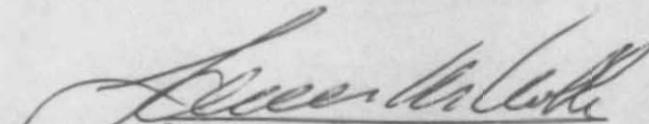
that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1),(2).

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find no probable cause to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1),(2).

Date

1/29/91


Lawrence M. Noble
General Counsel

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Biblical Scoreboard

PRESIDENTIAL BIBLICAL SCOREBOARD • CANDIDATES BIBLICAL SCOREBOARD
FAMILY BIBLICAL SCOREBOARD • BIBLICAL NEWS SERVICE

February 20, 1991

Tony Buckley
Federal Election Commission
Washington, DC 20463

Ref. MUR2889

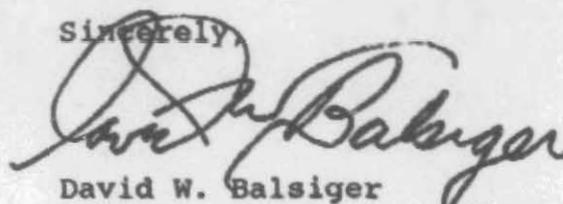
Dear Mr. Buckley:

I'm in receipt of your letter and Brief which recommends that the Commission take action against the National Citizens Action Network.

Per your letter, I'm requesting a 20-day extension to respond to your General Counsel's Brief. The extension is required to adequately address the numerous points contained in the Brief and to prepare the required number of response packets.

Thank you for your cooperation.

Sincerely,



David W. Balsiger
Publisher-Executive Editor
SCOREBOARD PUBLICATIONS

DWB:kd

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 27, 1991

David W. Balsiger
National Citizens Action Network
P.O. Box 10459
Costa Mesa, CA 92627

RE: MUR 2889
National Citizens Action
Network

Dear Mr. Balsiger:

This is in response to your letter dated February 21, 1991, which we received on that same date, requesting an extension of 20 days to respond to the General Counsel's Brief 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 March 11, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to be "L. G. Lerner", written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

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Biblical NEWS Service

PRESIDENTIAL BIBLICAL SCOREBOARD • CANDIDATES BIBLICAL SCOREBOARD
FAMILY PROTECTION SCOREBOARD

February 28, 1991

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

Ref. MUR2889

Dear Mr. Noble and Members of the FEC:

This letter is a response to the General Counsel's Brief in the matter of the National Citizens Action Network case MUR2889.

It's our contention with the facts presented in this document, that the National Citizens Action Network including its publication Scoreboard Alert did not endorse a candidate, did not make a contribution to a candidate, and did not make an independent expenditure on behalf of any candidate.

Other than obtaining issues position information from the candidates issues research person or designated spokesperson (and other news media sources), Scoreboard never had any direct contact with any of the candidates or their campaign managers to discuss or offer any kind of contribution or support.

It also seems apparent that based on our evidence presented here, the General Counsel's charges are not substantiated but rather an effort to make a case around hearsay, speculation, and alleged circumstantial evidence.

In addressing the General Counsel's Brief, I've numbered each line of the Brief to enable me to specifically address statements contained in the document.

• Brief Page 1, Lines 1-22

I. STATEMENT OF THE CASE

On May 25, 1989, the Federal Election Commission received a complaint from Sarah Gorin of Wyoming stating that various organizations not registered as political committees with the Commission had attempted to influence the outcome of the April 1989 Special Election in Wyoming. One of these organizations was the Good Government Group. Specifically, the complainant alleged that the Good Government Group had spent more than \$1,000 in producing and distributing the "Pro-Family Voter Report Card" and in distributing another, at that time unidentified, flyer.

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On June 19, 1989, this Office received additional information from the complainant, including the flyer mentioned in the original complaint in relation to the Good Government Group, which turned out to be the Scoreboard Alert. Because the Scoreboard Alert stated that it had been published by the National Citizens Action Network ("NCAN"), the complainant added an allegation that the National Citizens Action Network had failed to register as a political committee with the Commission, and had failed to include an adequate disclaimer on material which expressly advocated the election or defeat of a candidate for Federal office.

Respondent's Statement

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The Brief alleges that the Good Government Group (an independent Wyoming entity not connected nor controlled by myself [David W. Balsiger], the National Citizens Action Network [NCAN], or Scoreboard publications) distributed two documents -- a pro-family voter report card and a publication known as the Scoreboard Alert.

The Scoreboard Alert is a publication of our NCAN Scoreboard family, and as a publication, we not only distributed the publication to our Wyoming house mailing list but sold reprint rights to the Good Government Group (GGG) for about \$4,000. Over the years, we have sold reprint rights many times. Reprint rights have generated some significant earnings to supplement publication subscription/bulk sales and paid advertising income.

+ Our first contention with this Counsel's Brief is that we have no knowledge of the mentioned Pro-Family Voter Report Card and as a publication which sold reprint rights to our Scoreboard Alert, we should not be held responsible for what the GGG did in the way of print quantities, distribution, whether GGG used the

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publication to advocate the election or defeat of a candidate, nor whether GGG complied with Federal Election laws.

+ It's our further assertion that it's the responsibility of the user (GGG) of our materials to comply with state and federal regulations -- not our obligation as the publisher of a publication who had no direct or indirect control over purchases of our reprint rights.

+ It's the belief of NCAN/Scoreboard that the FEC should be pursuing any claims of code violations against the Good Government Group.

• **Brief Page 1, Lines 22-23; Page 2, Lines 24-31**

The Commission subsequently determined that, according to the California Secretary of State's Office Corporate Status Unit, the National Citizens Action Network is an incorporated entity.

On October 24, 1989, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. §§ 441b(a) and 441d by making corporate contributions and by failing to place the proper disclaimer on communications which expressly advocated the election and defeat of clearly identified candidates for Federal office.

Respondent's Statement

The National Citizens Action Network is a nonprofit educational organization composed of grassroots citizens working an agenda for the preservation of American values. NCAN's goals as stated in our mission statement are: promoting Christian involvement in the elective and legislative process; informing Christians on the voting records of elected officials, as well as the positions of challenger candidates; and encouraging elected leaders to support traditional family values, a strong national

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security, and our constitutional freedoms. (Our two mission statements are enclosed.)

The major communications vehicle to our contingency is through our officially recognized Scoreboard publications published in the form of "special editions" since 1980. These publications include the Presidential Biblical Scoreboard, the Candidates Biblical Scoreboard, the Family Protection Scoreboard, and the Scoreboard Alert.

Although our case will be stated more specifically later in this letter, it is our assertion that as a publication and corporation, we did not make corporate contributions to any candidate in the Wyoming congressional race nor were we obligated to place any type of a disclaimer in our publications. I have included some sample copies of our Scoreboard publications since 1984. File copies of the 1980 Scoreboard are no longer available.

● **Brief Page 2, Lines 37-45**

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution or expenditure in connection with a Federal election. Expenditures which are made for the purpose of financing communications expressly advocating the election or defeat of a clearly defined candidate, and which are not authorized by a candidate or his authorized political committees or their agents, must clearly state who paid for the communication and that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3).

Respondent's Statement

It seems the Counsel's Brief in this section is making a claim of fact that is in reality an absurdity. It seems to be

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saying that because the Scoreboard Alert is a publication published by a corporation, we have therefore violated 2 U.S.C. 441b(a) regarding corporate contributions to a campaign.

I'm sure the FEC does not assert that the corporation owning The Los Angeles Times [which does endorse candidates] (Scoreboard Alert doesn't endorse because we are a nonprofit corporation) has made a corporate contribution when they profile candidates or publish where candidates stand on various issues.

Our Scoreboard publications, and in particular the Scoreboard Alert, is being singled out for an alleged code violation when we, in fact, operate like any other publication owned by a corporation. Therefore, the Scoreboard Alert should enjoy the same First Amendment Rights as any other publication and not be required to place a disclaimer in any of its special edition publications.

• Brief Page 2, Lines 46-49; Page 3, Lines 50-51

The term "expenditure" does not include "any news story, commentary, or editorial distributed through the facilities of any...newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i).

Respondent's Statement

The Counsel's Brief also made note that the term "expenditure" does not include "any news story, commentary, or editorial distributed through the facilities of any...newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political

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committee, or candidate." It's our interpretation of the code that Scoreboard publications fit within the above-stated exemption as the Scoreboard family of publications has existed since 1980 and is not owned or controlled by any political party, committee, or candidate.

• Brief Page 3, Lines 52-63

The complainant has alleged, based on first-hand observations and reports from other individuals, that the National Citizens Action Network published a Scoreboard Alert which was distributed by the Good Government Group in connection with the April 1989 special election in Wyoming. On this basis, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. § 441b(a). Additionally, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. § 441d because, while this document constituted express advocacy, it did not contain an adequate disclaimer as required by Section 441d.

Respondent's Statement

Based on information already stated in this letter and subsequent information to follow in this letter, NCAN/Scoreboard (1) had no connection or control over how Good Government Group used the Scoreboard Alert publication and (2) did not violate 2 U.S.C. 441b(a) or 2 U.S.C. 441d regarding corporate contributions or adequate disclaimers. NCAN/Scoreboard was exercising its First Amendment Rights within the expenditure exemption allowed for news-related publications.

• Brief Page 3, Lines 64-78

The response of the National Citizens Action Network to the Commission's reason to believe determination states that

Scoreboard Alert is one of our four magazine-related publications -- one of which we have been publishing since 1980. These educational publications...report on

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controversial public policy issues and profile candidates running for state and federal office.... The Scoreboard Alert mentioned in the complaint was a special issue prepared for our Wyoming Scoreboard readers.

The response goes on to say that reprint rights were sold to the Good Government Group for about \$4,000. In a subsequent communication with NCAN, this Office was advised that the cost of production of the Wyoming Scoreboard Alert was approximately \$900.

Respondent's Statement

Information stated in these lines of the Counsel's Brief is reported accurately as previously communicated to the Commission.

• Brief Page 4, Lines 79-88

Inherent in the response is the notion that the special issue of the Scoreboard Alert falls under the press exemption found at 2 U.S.C. § 431(9)(B)(i). For the press exemption to apply, the publication in question must: 1) be published through the facilities of a regular newsletter, i.e. by the staff which has prepared previous or subsequent editions; 2) be distributed to the newsletter's regular audience; and 3) its characteristics must be those of a normal publication of the organization, including a volume and issue number identifying the publication as one in a continuing series of issues.

Respondent's Statement

The Counsel's Brief asserts three qualifications for a press exemption, and it is our belief that the Scoreboard family of publications including the Scoreboard Alert not only meets these qualifications but meets additional news media accepted standards of recognition as to whether Scoreboard is a legitimately recognized publication in the communications industry.

+ Regarding press exemption number one, all our Scoreboard publications are published through the facilities of a regular

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publishing entity by a staff which has prepared previous and subsequent editions.

From an examination of the various enclosed Scoreboard publications, it should be obvious to anyone that we produce quality publications requiring a considerable financial investment, as well as research and writing from a talented staff. We are not a mimeograph, quick-print, back-room publishing operation but rather an entity that produces publications comparable in quality to Time or Insight.

+ Addressing press exemption number two, we did distribute the special edition of Scoreboard Alert to our established Wyoming mailing list of past recipients and customers of our Scoreboard family of publications. (In line 97 of the Counsel's Brief, it is stated that we did not meet requirement number two. This is an outright erroneous statement based on no evidence whatsoever. If the Commission wishes to see a copy of our Wyoming customer list, it can be furnished.)

In addition to distributing the Scoreboard Alert, we sold reprint rights to the Good Government Group. So far, no one has been able to cite where it is a violation of code to sell reprint rights to a publication, proprietary research data, surveys, and articles. We have over the years sold reprint rights to other news organizations, publications (newsletters, newspapers, magazines), or anyone else (individuals, organizations, special

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interest groups) willing to pay for our news analysis features, surveys, and articles.

+ Concerning press exemption number three, our Scoreboard publication meets the characteristics of a "normal publication by the organization." Here Counsel seems to be having a problem addressing the "characteristics of a normal publication by the organization."

Counsel seems to believe that a publication to be a normal publication must be denoted with a "volume and issue number identifying the publication." An examination of even our letterhead indicates we are a publisher of "specialty publications," meaning they are not generally notated by volume or issue number. Furthermore, an examination of virtually every one of our Scoreboard publications indicates on the front cover or elsewhere the words -- "Special Edition." We are, in fact, a special edition publisher which is not uncommon in the publishing industry.

We are recognized as a specialty special edition publisher by R.R. Bowker which supplies us with the ISBN internationally recognized periodical coding reference numbers. We do, in fact, put these numbers on any publication which we believe has sales potential beyond 30 days. (You will note these code numbers on publications including the Scoreboard Alert newsletters. We do not put them on state editions [i.e., Wyoming's special edition]

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as the income potential is short lived and is mostly from the sale of reprint rights.)

Also, virtually all of our Scoreboard publications have internal referencing volume-issue coding on the cover or on the editorial credits page. Our Scoreboard identifying designations are one or more of the following -- "special edition," internal year and issue coding, cover dating, or external ISBN international reference coding. Our Scoreboard publications with its consistent identifying designations certainly meet the characteristics of a "normal publication by the organization [NCAN/Scoreboard]."

Therefore, we totally disagree with the Counsel's Brief (line 97) that our Scoreboard publications do not meet press exemption number three. We cannot be responsible for the Counsel's staff not taking note of our identifying designation series coding for our publications nor their lack of understanding regarding such coding in the periodical publishing industry.

I'm appalled that the Counsel's staff is having such difficulty in recognizing Scoreboard publications and any of its special editions as being legitimate publications. We have over the years won numerous awards (list attached) for our Scoreboard publications which certainly would not have been possible if we weren't bona fide publications.

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We are recognized by several news media organizations as not only being legitimate publications but as a valid news-gathering organization. As you will note from the attached material, we're officially recognized and listed in the Orange County Media Directory, the Southern California Media Directory, and with the Evangelical Press Association.

• Brief Page 4, Lines 89-103; Page 5, Lines 104-105

See FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 250-251 (1986) ("MCFL"). The special issue of the Scoreboard Alert fails to meet at least two of these three requirements. This Office has not examined the regular issues of the Scoreboard Alert to determine whether they meet the newspaper exemption; but regardless of whether the regular issues of the Scoreboard Alert constitute valid newsletters, this special issue does not.

Regardless of whether the Scoreboard Alert meets the first requirement, it does not meet the second and third requirements. The Wyoming Scoreboard Alert stated that it was a "Special Spring Edition - April 1989" and that it was a "Wyoming Special Edition." It had no volume or issue number which identified it as one in a continuing series of issues; indeed, unlike other Scoreboard Alerts which focused on issues from all over the country, and for which an April 1989 issue was published, the Wyoming Scoreboard Alert focused on issues solely as they related to Wyoming.

Respondent's Statement

These lines of the Counsel's Brief have been addressed above, with ample evidence and explanation to show that all three press exemptions were met with our special edition publications along with further documentation establishing Scoreboard as a recognized publication. Also, we have never contended that we were specifically a newspaper as mentioned in line 93 of Counsel's Brief.

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Counsel seems to focus on the allegation that the "Wyoming Special Edition" was a one-time publication only focusing on Wyoming. It is true that a "Wyoming edition" would focus on Wyoming while subsequent Scoreboard Alert state editions focused on Texas and Virginia.

The Counsel's Brief is also correct in stating that some of our special edition Scoreboard Alerts focused on national issues. In reality, our Scoreboard Alert special editions focused on whatever geographic area in which we felt our publication would benefit or educate our readers and produce financial income to the NCAN corporation and Scoreboard publications. I cannot see where producing and selling news analysis information for economic gain is a violation of the code.

• Brief Page 5, Lines 106-115

Likewise, the Scoreboard Alert was distributed to 150,000 persons in Wyoming, not the publication's usual national audience of approximately 250,000 readers.¹ Accordingly, the Wyoming Scoreboard Alert did not meet two of the three requirements for the press exemption noted in MCFL, and the press exemption was thus unavailable to the National Citizens Action Network as to this special publication. Therefore, this Office recommends that the Commission find there is probable cause to believe that the National Citizens Action Network violated 2 U.S.C. § 441b(a).

Respondent's Statement

The Counsel's Brief asserts that the Scoreboard Alert was distributed to 150,000 persons in Wyoming. This may or may not be a true fact as I do not have specific knowledge of how many copies Good Government Group printed. Our sale of reprint rights allowed them to print an unlimited quantity.

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Regarding Counsel's allegation that the Wyoming edition was not distributed to the publication's national audience of 250,000 readers (readership is not the same as circulation; readership figures for determining advertising rates is five times actual circulation which was 50,000 for the issue cited by Counsel), none of our other state editions were distributed outside the designated state area covered by the state edition. It makes absolutely no common sense or economic viability to distribute a state special edition nationally.

• Brief Page 5, Lines 116-118

The National Citizens Action Network does not dispute the Commission's determination that the Scoreboard Alert constituted express advocacy or that an adequate disclaimer was not made.²

Respondent's Statement

National Citizens Action Network and Scoreboard publications dispute the Counsel's allegation that the Scoreboard Alert constituted express advocacy and that a disclaimer in the publication was required. Our case for disputing the Counsel's determination is already outlined in this letter.

Regarding footnote number two which is attached to line 118, there are a number of erroneous statements or unclarified assertions being made by Counsel's staff.

+ No where in the publication is there an endorsement made of a specific candidate. Under press exemptions, we would have actually been allowed to make such an expressed endorsement as is the case with other magazines and newspapers.

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+ Readers are urged (page 1) to study the questions which candidates answered in order to make a decision on who to vote for on Election Day. They are not told who to vote for on Election Day. This is an issues-candidates education special edition.

+ Readers are urged (page 2) to contact their local Democratic or Republican headquarters for get-out-the-vote assistance. It also tells them how to locate such headquarters. This statement urges readers to participate with the party of their choice -- not to vote Democrat or Republican!

+ Counsel's staff seems to object to the questions put to the candidates and a clarification of what a "support" or "oppose" answer means to the question. As a publication, we see no violation in asking candidates questions of our own choosing, stating information as to where candidates stand on the issues, or an interpretation of such information for our readers.

+ There was an effort to obtain issue positions on all four candidates profiled in the biographical sketches on page two of the Wyoming Special Edition. After several telephone calls, as well as a letter and FAX communication, the two minor party candidates still would not respond. As they refused to respond, we obviously could not include them in the summary. We believe we made an extraordinary effort to include them in our biographical section as most media organizations ignore minor party candidates all together.

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9304095332
+ Counsel's staff takes objection to our voter education article "Your One Vote Does Make A Difference" and our reminders to vote on April 26. I would like to ask the Commission since when is reminding voters to vote on Election Day and a nonpartisan article about the value of one vote a violation of any law, code, or regulation in America? The Counsel's Brief has certainly overstepped its bounds in claiming that such nonpartisan voter education is a violation of code. It is a violation of my First Amendment Rights as an individual let alone the fact that we are a legitimate publication encouraging people to do their civic and citizenship duty by voting on Election Day. Is it now against the law or any code of the United States to encourage people to vote?

In summery, we believe there is no probable cause to show that the National Citizens Action Network or its Scoreboard publications violated 2 U.S.C. 441b(a) and 441d(a)(3).

As further citation of our position objecting to Counsel's Probable Cause Brief, I'd like to remind the Commission of the FEC vs. Massachusetts Citizens for Life, Inc. Case No. 82-609-G, 53 L.W. 2027 (U.S.D.C. Mass. 6/29/84).

The Federal Election Commission sought to invoke Section 441(b) of the Federal Election Campaign Act (FECA) against Massachusetts Citizens for Life, Inc., for having spent some of its funds in connection with a 1978 election for a newsletter reporting all

...more



FEB 1 0 1991

Publicity Club of Los Angeles

January 28, 1991

Greetings:

The Publicity Club of Los Angeles (PCLA) is embarking on publishing the 1991-1992 PCLA Media Directory of Southern California.

Each year, more than 1,000 public relations professionals and media specialists throughout Southern California and beyond depend on this directory to obtain accurate and thorough information about Southern California's media market. The PCLA Media Directory assists them in reaching your staff and colleagues and pitching appropriate story ideas.

Please take a few minutes to review the attached copy of your listing for last year's directory and the accompanying media update form. Your comments and updates will significantly improve the quality of communications to you from those whose positions entail working with the media.

Upon review, make any corrections to your listing and use the form to add any additional information you feel will assist those using the directory. Once you've updated your listing, enclose it in the pre-addressed envelope and return it to PCLA.

Please return your updated information by February 15, 1991. If you have any questions, please contact me at (818)506-3850. Thank you in advance for your assistance.

Cordially,

Kathryn Shepard

Kathryn Shepard
Chair, Media Directory
President-Elect



KS:no

enclosures

- | | | | | | | | |
|---------------|-----------------------------|----------------------------------|------------------------------------|------------------------------|-------------------------|--------------------------|-------------------------------|
| | | 1990-91 Officers | | | | | |
| | Karen Constine
President | Kathy Shepard
President-Elect | Charlene Baldwin
Vice President | Vicki Beck
Vice President | Bob Fisher
Secretary | Leslie Reed
Treasurer | |
| | | | Directors | | | | |
| Linda Cantall | Steven Fisher | Helen Gross | Larry Levine | Rhonda Pless | Diane Schultz | Nicole Smith | Barry Topley
Carolyn Smith |

5000 Van Nuys Boulevard, Suite 400, Sherman Oaks, California 91403 Phone (213) 872-0525

93040953534



**SPECIAL INTEREST MEDIA UPDATE FOR
THE 1991-1992 PCLA MEDIA DIRECTORY**

PLEASE RETURN BY FEBRUARY 15, 1990

Publication / Station _____

Address _____

Phone (_____) _____ Fax (_____) _____

Frequency _____ Circulation _____

Communities covered _____

Distribution Area _____

Special Interest (i.e. Chain)

SCOREBOARD MAGAZINES

P.O. Box 10428
Costa Mesa, CA 92627
714/850-0349
NCAN Publications

Circ. 1,000,000
Quarterly
Christian

Owned by _____

If Chain Paper, list News

Color Photo Capabilities

286

Deadline _____

STAFF

Publisher / General Manag

Managing Editor / Station

Editor / News Director

English Editor

Reporters

Topics, Name, Phone

Topics, Name, Phone

Advertising Director, Pho

Public Relations/Promotions, Phone _____

WHO FILLED OUT THIS FORM? _____

Magazines published:

FAMILY PROTECTION SCOREBOARD

Public policy, family, moral issues, for the general public.

PRESIDENTIAL SCOREBOARD

All aspects of presidential politics, for the religious community.

CANDIDATES SCOREBOARD

All aspects of congressional and state politics for the religious community.

Owner/Executive Editor	David W. Balsiger
Assistant Editor	Ranelda Hunsicker
Feature Editor	David Penn
Research Editor	Barbara Petty
Staff Writers	Robyne L. Betzsold, Lisa Balsiger
Washington Bureau Chief	Jack Waldron
Advertising/PR Director	Robyne L. Betzsold

PLEASE RETURN BY FEBRUARY 15, 1991

Please use reply envelope and return to:

Media Directory Update
c/o Publicity Club of Los Angeles
5000 Van Nuys Blvd., Suite 300
Sherman Oaks, CA 91403
FAX: (818) 794-7553

93040953535

ORANGE COUNTY MAGAZINE 261-2680
 17911 Skypark Circle, #E, Irvine 92714
 6 times/yr. F 1979 \$24.95/2 yrs. Paid C 22,000
 Publishers: Michael and Susan McFadden
 Managing Editor: Darlene Kanz

ORANGE COUNTY MEDIA GROUP 641-1404
 3100 Airway Ave., #137, Costa Mesa 92626
 —Monthlies cover business, entertainment, travel
 AIRPORT BUSINESS JOURNAL C 15,000
 NEWPORT CENTER NEWS C 15,000
 SOUTH COAST METRO C 15,000
 SOUTH COUNTY NEWS C 15,000
 Publisher: Drew Lawler
 President/Editor: William S. Lobdell

ORANGE COUNTY REPORT 760-0209
 —Newsletter for business, professional,
 institutional and governmental decision-makers
 who need to understand Orange County
 180 Newport Center Dr., #180, Newport Beach 92660
 Monthly F 1985 \$165/yr.
 Editor/Publisher: Martin Brower
 Circulation Manager: Tamar Brower

PACIFIC BOWLER 537-2310
 7245-A Garden Grove Blvd., Garden Grove 92641
 P. O. Box 1015, Garden Grove 92642
 Weekly F 1963 \$25/yr. C 10,000
 Publisher: Joe Lyou
 Managing Editor: R. F. Corderman

THE PACKER 535-5203
 —National fruit and vegetable trade paper
 1775 E. Lincoln Ave., #105, Anaheim 92805
 Western Editor: Mike Glynn
 Asst. Western Editor: Lisa Shidler
 Field Reps: Marilyn Wasser, Paula Reser, Kevin Hoppe

PARENTING MAGAZINE 818/846-0400
 Box 3204, Burbank 91504
 Serves Southern California C 50,000
 Owner: Wingate Enterprises
 Publisher/Editor: Jack Bierman
 Advertising Manager: Kellee Warner/M. Molina

PENNYSAVER 996-8900
 —Consumer shopping publication for Orange,
 L.A., Riverside, San Bernardino and Ventura counties
 2830 Orbiter St., Brea 92621
 Weekly, Wed. F 1962 Free C 3.2 million
 Division of Harte-Hanks Communications, Inc.
 President: Harry Buckel

POWDER 496-5922
 33046 Calle Aviador, San Juan Capistrano 92675
 P. O. Box 1028, Dana Point 92629
 7 issues/yr. F 1972 \$10.95/yr. C 150,000
 Publisher: Danna Gordon
 Managing Editor: Pat Cochran
 Director of Advertising: Tom Whiteway

SCOREBOARD MAGAZINES 850-0349
 P. O. Box 10428, Costa Mesa 92627
 FAMILY PROTECTION SCOREBOARD
 PRESIDENTIAL BIBLICAL SCOREBOARD
 CANDIDATES BIBLICAL SCOREBOARD
 Qtrly/Semiannually F 1980 \$2.95/copy or bulk
 C 1,000,000 per issue
 Publisher: Biblical News Service
 Executive Editor/Owner: David W. Balsiger
 Advertising Manager: Robyne L. Betzold
 Art Director: Fred Hartson
 Research Director: Barbara Lowel, Don Musgraves

SENIOR CITIZENS REPORTER 979-4177
 305 S. State College Blvd., Anaheim 92806
 Adv: 230 W. Warner, #204, Santa Ana 92701
 Monthly F 1976 Controlled 12,000
 Owner: Sunset Publishing Co.
 Publisher: James Campos
 Editor: Harry Wdfield

SENIOR PEOPLE'S PRESS 776-1070
 1911 E. Center, Ste. 204, Anaheim 92805
 P. O. Box 269, Anaheim 92805
 Monthly F 1973 \$8.50/yr. C 128,000
 Publisher: Specialty Publications/Wm. Rogers, Jr.
 Editor: William P. Rogers, Jr.
 Business Manager: Faye Rogers
 Advertising Manager: Karen Turner

93040953536

1990 EPA dues/directory information

Please fill out and mail with your check to:
 Evangelical Press Association, Inc.
 P.O. Box 4550
 Overland Park, Kan. 66204

Publication/Individual/Business _____
Scoreboard Alert

Address P.O. Box 10459
Costa Mesa, CA 92627

Phone (714) 850-0349
 area

Owner National Citizens Action Network

Editor David W. Balsiger

Present circulation 100,000

Frequency of publication 6 Times Per Year

Advertising accepted? _____

Free-lance material accepted? Yes

Query preferred? Yes

Book/movie reviews published? Yes

Current subscription rates \$14.00

Purpose of publication This special publication

is aimed at the preservation of traditional
 Christian values and the promotion of
 Christian involvement in the legislative
 and elective process.

Note: EPA makes special provision for denominations and publishing houses holding multiple membership in the association. As voted by the board, the two publications with the largest circulation pay full rate according to the table below; publications numbers three, four and five in circulation pay 2/3 of the rate; number six and more pay 1/2 of the dues rate. If this applies to your organization, please fill out separate forms for each member periodical; attach a sheet showing how you have computed your payment and submit a single check covering all periodicals involved. Extra blanks are available. Thank you.

Calculate your dues as follows:

- Circulation less than 10,000 \$ 50
- Circulation exceeding 10,000 but less than 25,000 \$ 70
- Circulation exceeding 25,000 but less than 50,000 \$100
- Circulation exceeding 50,000 \$125
- Campus Publications \$ 35
- Business Affiliate Members \$125
- Associate Members \$ 35

Please note:

Payment of dues means subscription to the EPA constitution and by-laws which include the statement of faith and code of ethics.

Check which category applies to your publication:

- Youth
- Christian Ministry
- Missionary
- Newsletter
- General
- Denominational
- Organizational
- Sunday School Take-Home

List name and title of each staff person qualifying for a press card:

<u>David W. Balsiger</u>	<u>Editor</u>
name	title
<u>Carl Davis</u>	<u>Staff Writer</u>
name	title
<u>Ray Jeske</u>	<u>Staff Writer</u>
name	title
<u>John Hocevar</u>	<u>Staff Writer</u>
name	title
<u>Brian Zink</u>	<u>Staff Writer</u>
name	title

For Office Use Only

\$ _____ dues check recorded

Date received _____

Press cards sent

IMPORTANT
YOU'RE NOT DONE YET
Please Complete Other Side

9304095337

Dues/Directory Sheet

To bring the Association records up-to-date for all publication and associate members, please signal your affirmation of the EPA Statement of Faith and Code of Ethics by signing in the space indicated beneath each statement. Thank you.

CODE OF ETHICS (to be signed by editor or associate member)

The primary function of Christian publications is to advance the work and witness of Jesus Christ in the world. Our first responsibility is faithfulness to the truth and will of God, as it is expressed in the Bible which we accept as our authority for our conduct as well as our faith. We also accept our duty to serve the purposes and policies of the cause or organization our publications represent.

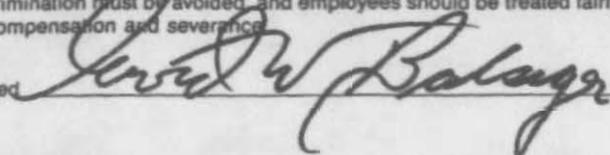
I
Christian publications should be honest and courageous, their presentations characterized by sincerity, truthfulness, accuracy and an avoidance of distortion and sensationalism. Those responsible for the publication must exercise the utmost care that nothing contrary to the truth is published. Whenever substantive mistakes are made, whatever their origin, they should be promptly and completely corrected. Christian publications should be conscious of their duty to protect the good name and reputation of others. In dealing with controversial matters, opposing views, when presented, should be treated honestly and fairly.

II
Christian publications do not publish any material without the consent of the authors or owner. Copyright laws must be scrupulously observed. In fairness to authors, manuscripts should be evaluated quickly. Editing should not change the intent of the author without permission. All financial agreements with the authors and artists should be honored. Whenever previously published material is used, care should be taken to ascertain and acknowledge authorship and source.

III
In accepting advertising, publications assume a responsibility not to defraud or mislead readers by what is published. Editorial favors are not to be predicated upon the sale of advertising. The products and style of presentation in advertisements should not conflict with the periodical's Christian commitment. Paid advertising should be clearly distinguished from editorial copy.

IV
Business practices should also reflect the periodical's integrity. Circulation claims must be verifiable. Every effort should be made to keep accounts current. Racial and sexual discrimination must be avoided, and employees should be treated fairly in matters such as compensation and severance.

Signed



DOCTRINAL STATEMENT (to be signed by editor or associate member)

a. We believe the Bible to be the inspired, the only infallible, authoritative Word of God.

b. We believe that there is one God, eternally existent in three persons: Father, Son and Holy Spirit.

c. We believe in the deity of our Lord Jesus Christ, in His virgin birth, in His sinless life, in His shed blood, in His bodily resurrection, in His ascension to the right hand of the Father, and in His personal return in power and glory.

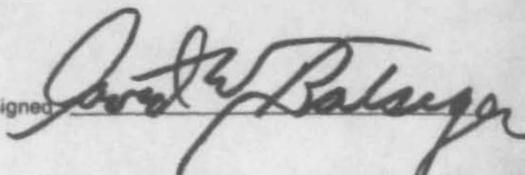
d. We believe that for the salvation of lost and sinful man, regeneration by the Holy Spirit is absolutely essential.

e. We believe in the present ministry of the Holy Spirit by whose indwelling the Christian is enabled to live a godly life.

f. We believe in the resurrection of both the saved and the lost: of them that are saved unto the resurrection of life, and of them that are lost unto the resurrection of damnation.

g. We believe in the spiritual unity of believers in our Lord Jesus Christ.

Signed



Please provide information/comments on the following items, if applicable: Staff changes, promotions, honors received, other items of interest involving your publication or associate/business membership _____

See Attached Sheet For Honors

Ways in which EPA might be of further service to you _____ Let us know of people looking for
writing-editing assignments - particularly freelancers.

Any general reflections you have on your membership in the Evangelical Press Association _____

Not at this time - we're a new member.

93040953538

writeway

DAVID W. BALSIGER

(Pseudonym - David Penn)

David W. Balsiger is the publisher and editor of four well-known periodicals -- Family Protection Scoreboard, Presidential Biblical Scoreboard, Candidates Biblical Scoreboard, and the Scoreboard Alert. He is a frequent "Debate Page" columnist for USA Today. Earlier in his career, he was a traveling free-lance correspondent for magazines and Southern California newspapers. He has traveled in 65 foreign countries fulfilling journalistic assignments.

He is the author of 18 non-fiction books including the multimillion-copy best sellers In Search of Noah's Ark and The Lincoln Conspiracy. Both have been made into major movies of the same titles. His book The Satan Seller, first published in 1972, has continued to reappear periodically on the National Religious Best Sellers List.

He is also the founder-president of the National Citizens Action Network (NCAN), a group working for the preservation of American traditional values, providing charitable assistance to the needy, and assisting law enforcement in solving ritual abuse crimes.

Presently, he serves as a senior consultant to American Portrait Films, a film-video production and distribution company concentrating on products for the family marketplace.

His Scoreboard magazines have won numerous national awards for journalistic excellence. He is listed in Who's Who in Advertising, Who's Who in Religion, Who's Who of Emerging Leaders in America, Who's Who in the West, Who's Who in America, and Who's Who in the World.

David W. Balsiger
Founder-President

NATIONAL CITIZENS ACTION NETWORK

Networking With 300 Organizations



David W. Balsiger's Scoreboard Magazines

"Award Winning Journalism"

- 1980 Presidential Biblical Scoreboard
+ Religion In Media (1981) -- Top Angel Trophy Award
- 1984 Presidential Biblical Scoreboard
+ Religion In Media (1985) -- Top Angel Trophy Award
- 1986 Candidates Biblical Scoreboard
+ Religion In Media (1987) -- Top Angel Trophy Award
- 1987 Family Protection Scoreboard -- Special Edition on South Africa
+ National Media Conference Competition (1988) --
(1) Grand Winner Mercury Award in Public Affairs
(2) Gold Mercury Award for a Public Affairs magazine
(3) Silver Mercury Award for Best Video Script
[Scoreboard video magazine] (1989)
+ Religion In Media (1988) -- Top Angel Trophy Award
- 1988 Family Protection Scoreboard -- Special Edition on Terrorism
+ Religion In Media (1989) -- Top Angel Trophy Award
- 1988 Family Protection Scoreboard -- Special Edition on Liberation Theology
+ Religion In Media (1989) -- Top Angel Trophy Award
- 1988 Presidential Biblical Scoreboard -- Primary and General Election Editions
+ Religion In Media (1989) -- Top Angel Trophy Award

Other Awards Received By Dave Balsiger

- The Lincoln Conspiracy - A Book and Film
(New American Library)
+ National Best-Seller's List (Secular) -- 20 weeks
+ Freedoms Foundation (1978) -- George Washington Honor Medal
+ "NBC Movie of the Week"

...over, please

Action Projects to Restore Traditional Values,
Preserve Constitutional Freedoms and Protect Human Rights

□ Washington Headquarters—Post Office Box 42556, Washington, DC 20015-0556□

■ Administrative Office—P.O. Box 10459, Costa Mesa, CA 92627-0459 (714) 850-0349 FAX (714) 662-3952□

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David W. Balsiger's Scoreboard Magazines (continued)

- In Search of Noah's Ark - A Book and Film
(Sunn-New American Library)
 - + National Best-Seller's List (Religious) -- 8 weeks
 - + National Best-Seller's List (Secular) -- 4 weeks
 - + National Religious Best Seller in Paperback for 1976 -- Number One
 - + "NBC Movie of the Week" -- Highest Rating for Two Years
 - + Virgin Islands Film Festival -- Gold Medal

- Beyond Defeat - A Book (Doubleday)
 - + Religion In Media (1979) -- Top Angel Trophy Award
 - + Freedoms Foundation -- George Washington Honor Medal

- The Satan Seller - A Book (Logos/Bridge)
 - + National Religious Best-Seller's List (1973) -- Many MonthsAlthough published in 1972, it has appeared on the National Religious Best-Seller's List as recent as 1989.

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David W. Balsiger
Founder-President

NATIONAL CITIZENS ACTION NETWORK



EDUCATIONAL ACTIVITIES MISSION STATEMENT

The National Citizens Action Network (NCAN) is a non-profit educational and charitable organization composed of citizens working at the grassroots level on an agenda for the preservation of American traditional values.

NCAN's primary educational goals are: promoting Christian involvement in the elective and legislative process; informing Christians on the voting records of elected officials; and encouraging elected leaders to support traditional family values, a strong national security, and our constitutional freedoms.

● NCAN vigorously promotes biblical values established upon the principles of freedom, equality, justice, and love of humanity. We oppose individuals and organizations who defend moral degeneracy and subvert the traditional family.

● NCAN believes the United States of America should remain a secure nation with a government of the people, by the people, and for the people, founded upon the Constitution which we uphold as the supreme civil law of the land.

● NCAN actively promotes universal human rights and opposes totalitarian political systems which violate the God-given human rights of individuals.

● NCAN believes in providing private assistance to the needy for the purpose of helping them to become productive citizens in their family, community, and nation.

-30-

*Action Projects to Restore Traditional Values.
Preserve Constitutional Freedoms and Protect Human Rights*

Washington Headquarters—Post Office Box Washington, DC 20015-0556

Administrative Office—P.O. Box 10459, Costa Mesa, CA 92627-0459 (714) 850-0349 FAX (714) 662-3952

93040953542

David W. Balsiger
Founder-President

NATIONAL CITIZENS ACTION NETWORK



HEALTH AND WELFARE MISSION STATEMENT

The National Citizens Action Network (NCAN) is a non-profit human health and welfare organization which provides charitable and educational services and assistance to people worldwide.

In the area of worldwide charity, NCAN supplies food, seeds, and money to Third World countries to help alleviate the serious problem of hunger and poverty. NCAN has been particularly active in providing goods to numerous black townships in South Africa and in war-torn countries of Angola and Mozambique.

On the domestic front, NCAN provides counseling services and tools to those professionals working with cult ritual abuse victims. NCAN recognizes that these victims have specific kinds of problems to overcome which may not be helped by generally applied therapeutic methods. NCAN provides the specific tools which have proven to be effective to counselors dealing with cult ritual abuse victims.

NCAN is also actively involved with many law enforcement agencies investigating occult ritual crimes. Again, there are characteristics of a cult ritual crime which can distinguish it from other types of crime, and NCAN is particularly skilled in recognizing those characteristics. NCAN provides investigative tools to law enforcement agencies so that they can become skilled at recognizing and investigating criminal activity which is related to cult rituals.

93040953543

06-C 0311

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 MAR 11 PM 12:59

508 S. 11th
Laramie, WY 82070

4 March 1991

Lois G. Lerner
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2889

Dear Ms. Lerner:

I am writing once again to inquire about my complaint filed with the FEC on May 25, 1989. When I wrote for an update on October 3, 1989, I was informed that I would be notified when action was taken. On June 15, 1990, after hearing nothing, I again wrote asking about the status of my complaint. At that time I requested a written response, but never received a response of any kind.

I have since heard from one of the parties named in my complaint, the Wyoming Rural Electric Association, that they were fined by the FEC. I wish to once again request that someone apprise me - in writing - of the status of my complaint. I find it incredible that nearly two years have gone by and no one will even tell me how long I should expect to wait before I am notified of any action. I am sympathetic to the plight of underfunded regulatory agencies, but I feel someone should at least let me know if anything is happening.

I also wish to call your attention once again to the address change (above) that I mentioned in my earlier correspondence. Thank you for your attention to this matter.

Sincerely,

Sarah Gorin
Sarah Gorin

91 MAR 12 AM 3:28

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

93040953544



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 18, 1991

Sarah Gorin
508 S. 11th
Laramie, WY 82070

RE: MUR 2889

Dear Ms. Gorin:

This is in response to your letter dated March 4, 1991, in which you request information pertaining to the complaint you filed on May 25, 1989 with the Federal Election Commission.

As we have previously informed you, the Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits any person from making public the fact of any notification or investigation by the Commission, prior to closing the file in the matter, unless the party being investigated has agreed in writing that the matter be made public. See 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A).

While we appreciate the concerns expressed in your letter, because there has been no written agreement that the matter be made public, and because the file in this matter has not yet been fully closed, we are not in a position to release any information at this time, even as to any respondent with whom the Commission may have resolved any violation. We can assure you, however, that we are diligently pursuing your complaint, just as we pursue all complaints received by the Commission, and will attempt to completely resolve this matter as soon as possible.

As you were informed by letter dated June 2, 1989, we will notify you as soon as the Commission takes final action on your complaint.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

93040953545



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 18, 1991

Peter Waldron
812 Line Creek
Clark, WY 82435

RE: MUR 2889
Good Government Group

Dear Mr. Waldron:

On January 29, 1991, the enclosed materials were mailed to you as chairman of the Good Government Group. Shortly thereafter, they were returned to our Office because the address to which they were sent was no longer valid. They are now being forwarded to you at the above address. Please note that, as the enclosed letter indicates, you have 15 days from your receipt of these materials in which to respond to them. If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Terner
Associate General Counsel

Enclosures
Letter
Brief

93040953546

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

06-C 0560

91 APR -1 AM 9:30

508 S. 11th
Laramie, WY 82070

26 March 1991

Lois G. Lerner
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2889

Dear Ms. Lerner:

I appreciated receiving your response to my letter of 4 March

I understand you cannot release any information about complaint until the Commission takes final action. I think you can appreciate my situation, however, that after two years it would only be natural for me to wonder if my complaint was being investigated or if it had been forgotten, misfiled, or whatever.

I suggest - and perhaps you can do this by regulation - you notify pending complainants that their complaints are indeed being pursued at regular intervals, say every six months, or at least annually.

Thank you again for your letter. I look forward to learning of the Commission's final action on my complaint.

Sincerely,

Sarah Gorin
Sarah Gorin

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 APR -1 AM 10:45

RECEIVED
F.E.C.
SECRETARIAT

91 NOV 21 PM 3:37

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Craig Thomas for Congress and) MUR 2889
John P. Wold, as treasurer)

SENSITIVE
DEC 3 1991

GENERAL COUNSEL'S REPORT

EXECUTIVE SESSION

I. BACKGROUND

On May 25, 1989, this Office received a complaint from Sarah Gorin in Wyoming alleging various violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by various organizations and one political committee in connection with the April 1989 Special Election in Wyoming. Those organizations included the the Wyoming Rural Electric Association. The political committee involved was Craig Thomas for Congress.

Specifically, the complainant alleged that the Wyoming Rural Electric Association improperly had paid for the printing and distribution of an article in its newsletter, the Wyoming Rural Electric News, which favored the election of a candidate, Craig Thomas, who had been general manager of the WREA for fourteen years immediately prior to running in the 1989 Wyoming Special Election.

On October 24, 1989, the Commission found reason to believe that the Wyoming Rural Electric Association (the "Association") had violated 2 U.S.C. § 441b(a) by making a corporate

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contribution,¹ and that Craig Thomas for Congress (the "Committee") and John P. Wold, as treasurer, had violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1)-(2) by knowingly accepting a corporate contribution from the Wyoming Rural Electric Association and by failing to report an in-kind contribution from the Wyoming Rural Electric Association.²

Notification was made to all Respondents, and a response was received from the Committee. After reviewing the state of the evidence and the response in hand, this Office drafted its brief and mailed it to the Committee. No responsive brief was received.

II. ANALYSIS (The General Counsel's Brief is incorporated herein by reference)

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any candidate or political committee to accept a corporate contribution. For the purpose of section 441b, the term "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money,

1. On August 24, 1990, the Commission accepted a signed conciliation agreement acknowledging a violation of 2 U.S.C. § 441b(a) and the civil penalty submitted by this Respondent, and closed the file in this matter as to the Association.

2. The Commission also made findings against the National Citizens Action Network and the Good Government Group. This Office is currently reviewing the propriety of those findings in light of the Supreme Court's recent denial of the Commission's petition for writ of certiorari in Faucher v. FEC.

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or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election" to Federal office. 2 U.S.C. § 441b(b)(2).

Pursuant to 2 U.S.C. § 434(b)(2), a political committee must report the receipt of all contributions. All in-kind contributions must be reported as both contributions and expenditures. 11 C.F.R. § 104.13(a)(1)-(2).

The Commission's reason to believe findings as to these Respondents were based on Craig Thomas' 14-year tenure as general manager of the Wyoming Rural Electric Association, a position of authority and control. This history raised the issue as to whether Craig Thomas or a member of his campaign had coordinated the publication of the Wyoming Rural Electric News article cited in the complaint or had otherwise influenced the publication of the article. If so, costs associated with that article would have constituted an in-kind corporate contribution received by his campaign. See 11 C.F.R. § 109.1(d)(1).

Respondents submitted a response to the Commission's reason to believe findings in which they argued that the Commission should terminate this matter as to them. Attachment 1. They have presented evidence which they contend demonstrates that no violation occurred.

The Committee's response states that the article in question was written by the then-editor of the Association's

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newsletter, Gail Ann Eisenhower, who assertedly decided alone to write and publish such an article. The response further states that neither the candidate nor anyone from his campaign suggested that such an article be written, or provided "encouragement or advice on the drafting, date, tone or substance of the article." The response states that "[n]o one with the Thomas campaign was aware of the article until after its publication." Information supplied by the campaign to the Association consisted of a press package which was available to any member of the press or public upon request, and the brief discussion Ms. Eisenhower had with the campaign consisted solely of calling and asking that such a press package be sent to her.

Three affidavits have been provided by the Committee. The first is from the candidate, Craig Thomas, the second is from Thomas Sansonetti, the Committee's campaign manager, and the third is from Elizabeth Brimmer, the press secretary of the Committee. Additionally, the Wyoming Rural Electric Association has submitted the affidavit of Ms. Eisenhower.

As discussed in the General Counsel's Brief, the first two individuals deny prior knowledge of the publication of the article, while Ms. Brimmer admits knowledge that the article was to be published, but denies receiving information as to content or focus. She further states that she did not inform Craig

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Thomas or Thomas Sansonetti of Ms. Eisenhower's request. Ms. Eisenhower states that she never "inquired of the Thomas Campaign, the candidate or any campaign officials whether or not [she] should prepare such an article for the Association's magazine."³

Although it appears that a corporate expenditure by the Wyoming Rural Electric Association was made to benefit the Thomas campaign, there is insufficient evidence to find probable cause to believe that such expenditure was made in coordination with the candidate or his campaign. Accordingly, this Office recommends that the Commission find no probable cause to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1),(2). This Office further recommends that the Commission approve the appropriate letter and close the file as it applies to these Respondents.

III. RECOMMENDATIONS

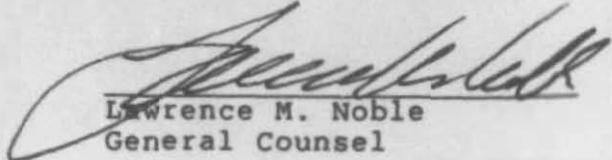
1. Find no probable cause to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1)-(2).
2. Approve the appropriate letter.

3. Ms. Eisenhower notes that she is presently employed on the staff of Congressman Thomas. There is no evidence to suggest that the candidate held out the possibility of this future employment so as to influence the publishing of an article like the one in question. In fact, the statements by the candidate and his campaign manager that they did not suggest or request that the article be published would appear to eliminate such a possibility.

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3. Close the file as it applies to Craig Thomas for Congress and John P. Wold, as treasurer.

11/21/91
Date


Lawrence M. Noble
General Counsel

Attachment:
Response of Craig Thomas for Congress

Staff assigned: Tony Buckley

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2889
Craig Thomas for Congress and)
John P. Wold, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 3, 1991, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2889:

1. Find no probable cause to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1) and (2).
2. Approve the appropriate letter as recommended in the General Counsel's report dated November 21, 1991.
3. Close the file as it applies to Craig Thomas for Congress and John P. Wold, as treasurer.

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

Attest:

12-4-91
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 6, 1991

E. Mark Braden, Esq.
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

RE: MUR 2889
Craig Thomas for Congress and
John P. Wold, as treasurer

Dear Mr. Braden:

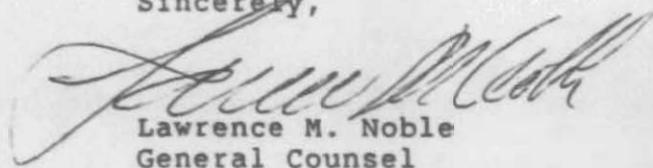
This is to advise you that on December 3, 1991, the Federal Election Commission found that there is no probable cause to believe your clients, Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a) and 11 C.F.R. § 104.13(a)(1) and (2). Accordingly, the file in this matter has been closed as it pertains to your clients.

The file will be made part of the public record within 30 days after it has been closed with respect to all other respondents involved. Should 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.

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. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Good Government Group)
National Citizens Action Network)

MUR 2889

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 25, 1989, this Office received a complaint from Sarah Gorin of Wyoming alleging that various organizations not registered as political committees with the Commission had attempted to influence the outcome of the April 1989 Special Election in Wyoming. Those organizations included the Good Government Group.¹ Specifically, the complainant alleged that the Good Government Group had spent more than \$1,000 in producing and distributing the "Pro-Family Voter Report Card" and in

1. In addition, the complainant alleged that the Wyoming Rural Electric Association improperly had paid for the printing and distribution of an article in its newsletter, the Wyoming Rural Electric News, which favored the election of a candidate, Craig Thomas. The complainant also alleged violations by Wyoming Votes With Pride.

On October 24, 1989, the Commission found reason to believe that the Wyoming Rural Electric Association had violated 2 U.S.C. § 441b(a) by making a corporate contribution; and that Craig Thomas for Congress and John P. Wold, as treasurer, had violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1)-(2) by knowingly accepting a corporate contribution from the Wyoming Rural Electric Association and by failing to report an in-kind contribution from the Wyoming Rural Electric Association. The Commission found no reason to believe that Wyoming Votes With Pride had violated the Act.

On August 24, 1990, the Commission accepted a signed conciliation agreement and civil penalty submitted by the Wyoming Rural Electric Association and closed the file in this matter as to it. On December 3, 1991, the Commission found no probable cause to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated the Act, and closed the file as to them.

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distributing another, at that time unidentified, flyer, both in promotion of the candidacy of Craig Thomas.

On June 19, 1989, this Office received additional information from the complainant, including the flyer mentioned in the original complaint in relation to the Good Government Group, which turned out to be the National Citizens Action Network's Wyoming Scoreboard Alert. Because the Scoreboard Alert stated that it had been published by the National Citizens Action Network, the complainant added an allegation that the National Citizens Action Network had failed to register as a political committee with the Commission, and had failed to include an adequate disclaimer on material which expressly advocated the election of Craig Thomas as a candidate for Federal office.

On October 24, 1989, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. §§ 441b(a) and 441d by making corporate contributions and by failing to place the proper disclaimer on communications which expressly advocated Mr. Thomas' election, and that the Good Government Group had violated 2 U.S.C. §§ 433, 434, and 441d by failing to register as a political committee and to report receipts and disbursements, and by failing to place the proper disclaimer on communications which expressly advocated the election or defeat of a candidate.

Notification was made to all respondents. Eventually, a response was received from the National Citizens Action Network. No response was ever received from the Good Government Group.

After reviewing the state of the evidence and the responses

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in hand, this Office drafted briefs and notified all Respondents of its intention to move to the probable cause stage. Prior to notifying the Good Government Group, a tracing service was engaged and a proper address determined for the president of that organization. Briefs were mailed to the National Citizens Action Network and Peter Waldron, president of the Good Government Group. Only the National Citizens Action Network submitted a responsive brief.

II. ANALYSIS (The General Counsel's Briefs are incorporated herein by reference)

A. National Citizens Action Network

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make an independent expenditure in connection with a Federal election for communications which contain express advocacy. See FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 249 (1986) ("MCFL"). An independent expenditure is

an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

2 U.S.C. § 431(17). A candidate is "clearly identified" if the name of that candidate appears, a photograph or drawing of that candidate appears, or that candidate's identity is apparent by unambiguous reference. 2 U.S.C. § 431(18). Expenditures which are made for the purpose of financing communications expressly advocating the election or defeat of a clearly defined candidate, and which are not authorized by a candidate or his authorized

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political committees or their agents, must clearly state who paid for the communication and that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3). The term "expenditure" does not include "any news story, commentary, or editorial distributed through the facilities of any . . . newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i). For this "press exemption" to apply, the publication in question must: 1) be published through the facilities of a regular newsletter, i.e. by the staff which has prepared previous or subsequent editions; 2) be distributed to the newsletter's regular audience; and 3) be one in a continuing series of issues. See MCFL at 250-251.

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The National Citizens Action Network, an incorporated entity, published a Scoreboard Alert which was distributed by the Good Government Group in support of Craig Thomas' candidacy in the April 1989 special election in Wyoming. Attachment 1. On this basis, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. § 441b(a).² Additionally, the Commission found reason to believe that the National Citizens Action Network had violated 2 U.S.C. § 441d because, while this document constituted express advocacy of

2. There has been no evidence that the production and distribution of the Wyoming Scoreboard Alert was done with the cooperation or consultation of any candidate, or any authorized committee or agent of such candidate, or done in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

Mr. Thomas' election, it did not contain an adequate disclaimer as required by Section 441d.

The response of the National Citizens Action Network to the Commission's reason to believe determination states that

Scoreboard Alert is one of our four magazine-related publications -- one of which we have been publishing since 1980. These educational publications . . . report on controversial public policy issues and profile candidates running for state and federal office The Scoreboard Alert mentioned in the complaint was a special issue prepared for our Wyoming Scoreboard readers.

Attachment 2 at 1. The response goes on to say that reprint rights were sold to the Good Government Group for about \$4,000. In a subsequent communication with NCAN, this Office was advised that the cost of production of the Wyoming Scoreboard Alert was approximately \$900.³

This Respondent has also submitted a response to the General Counsel's Brief. Attachment 2 at 2. The response contests the assertion that the Wyoming Scoreboard Alert constituted express advocacy. This response also directs itself to the argument presented in the General Counsel's Brief that the Wyoming Scoreboard Alert did not meet the press exemption at 2 U.S.C. § 431(9)(B)(i), according to the factors outlined by the Supreme Court in MCFL. Respondent argues that the Wyoming Scoreboard Alert did meet all three of the factors necessary for this exemption.

3. It appears that this \$4,900 was probably the entire amount expended on the production and distribution of the Wyoming Scoreboard Alert.

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1. Express Advocacy

"Express advocacy" was first defined by the Supreme Court as "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject'." Buckley v. Valeo, 424 U.S. 1, 44, n. 52 (1976). In expanding on this, the Court has determined that when a communication urges voters to vote for candidates who hold a certain position and identifies specific candidates who hold that position, that communication "cannot be regarded as a mere discussion of public issues that by their nature raise the names of certain politicians. Rather, it provides in effect an explicit directive: vote for these (named) candidates." MCFL at 249. Such a result goes beyond issue discussion to express electoral advocacy. Id.

Likewise, the United States Court of Appeals for the Ninth Circuit has determined that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." FEC v. Furgatch, 807 F.2d 857, 864 (9th Cir.), cert. denied, 108 S.Ct. 151 (1987). Under the Ninth Circuit's test, speech is express "if its message is unmistakable and unambiguous, suggestive of only one plausible meaning," and constitutes advocacy only if "it presents a clear plea for action," and it is clear what that action is. Id.

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The Scoreboard Alert at issue is a two-sided printed communication entitled "Congressional Election Scoreboard Released." At the very bottom of the first page, the edition is denominated as "SCOREBOARD ALERT/Special Spring Edition - April 1989." Its title as well as the narrative makes clear that readers should use it to choose for whom to vote in the upcoming special election; the bottom of the page contains the bolded exhortation to "VOTE ON APRIL 26." Following the narrative on the first page is a section entitled "Candidate Issue Questions" which the reader is to use to compare candidates Thomas and Vinich. This section includes a "Scoreboard Summary" which gives Thomas a plus (+) score for 18 of the 20 questions and Vinich a minus (-) or R (refused to respond) for 15 of the 20 questions. It then explains how the reader can derive a numerical score for each candidate. On the second side of the flier is a block describing the Scoreboard Alert as a "Wyoming Special Edition," and describing NCAN's goals and activities; another block containing narrative descriptions of all the candidates running; an article descriptively titled "Your One Vote Does Make a Difference"; and an announcement soliciting volunteers for activities centering on the Special Election including "distributing the Scoreboard Alert." Again, in bolded text at the bottom is the exhortation

**REMEMBER TO VOTE
APRIL 26**

As next discussed, the Wyoming Special Edition entirely focuses on the upcoming election, it repeatedly exhorts the reader to vote in this election, it provides a "scoreboard" for the two opposing

candidates, and unambiguously points to Craig Thomas as the candidate NCAN supports.

The Alert throughout describes NCAN's conservative religious orientation and its interest in influencing federal elections. Immediately under the masthead, the Alert describes NCAN as "Grassroots Citizens Working An Agenda for the Preservation of American Values." The narrative points out the importance of citizens understanding whether candidates represent their views, because these candidates if elected "will make laws that dramatically impact American families and national morality." The narrative goes on to explain that the organization's "'biblical' or 'religious' point of view" was hidden in the survey to prevent the candidates' from slanting their answers. The article on the backside entitled "Your One Vote Does Make a Difference" states that "the Christian voting bloc is too large to be ignored any longer."⁴ On the same page, the Alert sets out NCAN's goal of "promoting Christian involvement in the elective and legislative process" and supporting "traditional family values, a strong national security, and our constitutional freedoms."⁵ Thus, the

4. The first two paragraphs of this article read as follows:

Every year, critical local, statewide, and national elections take place. The Christian in "The Great American Arena" must be an integral element in this process.

With 400,000 churches in America, and with Gallup polls now tabulating over half of our country's adult population as claiming to evangelical, the Christian voting bloc is too large to be ignored any longer.

5. The full paragraph reads:

NCAN's primary goals: promoting Christian involvement in the elective and legislative process; informing Christians on

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flier as a whole solicits the reader to participate through the electoral process to advance NCAN's goals.

The flier also clearly identifies two federal candidates, Republican Craig Thomas and Democrat John P. Vinich who are competing in the upcoming Special Election. The Alert first mentions the name of Mr. Vinich, pointing out in the narrative that he "refused to respond to the Scoreboard survey." Below, after the issue questions and the preferred answers, the Scoreboard Summary lists the two candidates by name along with their score on each question. On the other side of the flier, Thomas and Vinich as well as two minor party candidates are identified in the "Candidate Profiles" section by name, party, photograph, and "Church preference."

Just as the flier leaves no doubt as to NCAN's issue orientation, or its interest in furthering its issue agenda in the upcoming election, or as to the identity of the two competing candidates, there is also no question that it contains a clear plea for action. The expressed purpose of the Scoreboard Alert is to assist voters in choosing which of the two candidates they will support at the polls, and the Alert repeatedly exhorts the reader to vote on election day. As noted, the article on the backside declares in bold headline "Your One Vote Does Make a Difference."

Finally, the flier makes crystal clear to the reader which of the two candidates NCAN prefers. The narrative at the top of the

(Footnote 5 continued from previous page)

the voting records of elected officials; and encouraging elected leaders to support traditional family values, a strong national security, and our constitutional freedoms.

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first page attacks candidate Vinich for refusing to respond to the survey, ascribing to candidates who do so the opinion "that the public has no right to know where they stand on the issues."⁶ And, as next discussed, the Candidate Issue Questions and the Scoreboard Summary at the end inform the reader in easy to follow form which answers comport with NCAN's views and which candidate strikingly fails NCAN's test.

For each of the 20 "Candidate Issue Questions," the topic of the question is printed in bolded capital letters (e.g., for questions 1 and 2, "ABORTION", and "ABORTION FUNDING"). Each question is framed in the form of "Do you support or oppose....," and the next line explains, again in bolded capital letters, which response earns a "+" score for purposes of the scoreboard at the end. It also characterizes this correct answer by reference to certain issue positions. For example, question 17 on the topic of "NATIONAL SECURITY" asks: "Do you support or oppose the immediate phased deployment of the Space-Based Defense System commonly known

6. The two sentences read in full:

When a candidate refused to respond to the Scoreboard survey, as in the case of candidate John Vinich, staff researchers were sometimes able to determine their issue positions from news media account, campaign literature, and speeches.

However, some candidates still have a REFUSED TO RESPOND notation (R) after their names or on particular issues. These candidates apparently are of the opinion that the public has no right to know where they stand on the issues.

Although the second sentence refers generally to "some candidates," the scoreboard only rates candidates Thomas and Vinich. As Vinich is the only candidate with an (R) notation for certain issues, there can be no question to the reader that he is the target of this harsh criticism.

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as the Strategic Defense Initiative (SDI)? **SUPPORT (+)** is the pro-national security position." At the same time, question 2 regarding "ABORTION FUNDING" asks: "Do you support or oppose federal funds being used for abortion services, research or counseling? **OPPOSE (+)** is the pro-life position." Question 8 entitled "PORNOGRAPHY" asks: "Do you support or oppose the sale of adult pornographic magazines in drugstores, supermarkets and convenience stores? **OPPOSE (+)** is the anti-pornography position."⁷ As can be seen, the plus (+) designation does not

7. Each topic, and the answer key for all the questions is reprinted below:

1. **ABORTION-**
SUPPORT (+) is the pro-life position
2. **ABORTION FUNDING-**
OPPOSE (+) is the pro-life position
3. **CAPITAL PUNISHMENT-**
SUPPORT (+) is the pro-crime deterrent position
4. **BIRTH CONTROL-**
OPPOSE (+) is the pro-parental rights position
5. **PARENTAL CONSENT-**
OPPOSE (+) is the pro parental consent position
6. **ERA-**
OPPOSE (+) is the anti-feminist position
7. **SCHOOL PRAYER**
SUPPORT (+) is the pro-school prayer position
8. **PORNOGRAPHY-**
OPPOSE (+) is the anti-pornography position
9. **HOMOSEXUALITY-**
OPPOSE (+) is the anti-homosexual minority rights position
10. **AIDS-**
SUPPORT (+) is the stop AIDS position
11. **EUTHANASIA-**

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consistently stand for opposition or support but instead prominently signals the correct answer according to NCAN, for the issue positions which earn the "+" are readily recognizable as consistent with NCAN's "traditional family values" and "strong national security" agenda.

The Scoreboard Summary at the end of the questions gives Mr. Thomas and Mr. Vinich a score for each question, and readers are instructed to "add 5% for each plus (+) designation" to figure a candidate's percentage score. NCAN's scoreboard results in a

(Footnote 7 continued from previous page)

OPPOSE (+) is the pro-life position

12. LOTTERY-

OPPOSE (+) is the anti-gambling position

13. BALANCED BUDGET-

SUPPORT (+) is the pro-balanced budget position

14. TAX INCREASE-

OPPOSE (+) is the pro-family savings position

15. COMPARABLE WORTH-

OPPOSE (+) is the pro-free enterprise position

16. SOCIAL SECURITY-

SUPPORT (+) is the long-term pro-solvent position

17. NATIONAL SECURITY-

SUPPORT (+) is the pro-national security position

18. SOUTH AFRICA SANCTIONS-

OPPOSE (+) is the pro-black jobs position

19. FREEDOM FIGHTERS-

SUPPORT (+) is the pro-freedom position

20. FOREIGN LOANS-

OPPOSE (+) is the anti-communist position

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90% rating for Craig Thomas and a 25% rating for John Vinich.⁸ Thus, the scoreboard clearly identifies Craig Thomas as the candidate most supportive of NCAN's positions. Just underneath the Scoreboard Summary is the bolded exhortation: **VOTE ON APRIL 26.**⁹

In sum, the voter guide identified candidates Craig Thomas and John Vinich by name, party and office, made clear its issue agenda and its desire to advance this agenda through the electoral process, took pains to ensure that the reader understood which candidate's positions were supported by NCAN and which candidate NCAN opposed, and urged readers to use the guide to choose which candidate to vote for at the polls. Thus, in its totality, this

8. As discussed above, the narrative explains the two "Rs" received by Mr. Vinich as "REFUSED TO RESPOND". There is no explanation of the single "U" received by Mr. Thomas.

9. The candidate profiles which appear on the backside of the Wyoming Special Edition confirm that NCAN opposed John Vinich and supported Craig Thomas. The flier contains four paragraphs, one each for Mr. Thomas and John Vinich, the two major party candidates for the seat, as well as for two minor party candidates. This section includes sharply critical comments in each of the "profiles" except for that of Craig Thomas. The description of "CRAIG THOMAS -- Republican" contains a photograph of the candidate wearing a broad smile and begins: "Winner of seven elections for various elective offices, Craig Thomas enters the Congressional race as a three term member of the Wyoming legislature." The description of "JOHN P. VINICH -- Democrat" contains a photograph of an apparently smirking candidate Vinich and begins: "Should John Vinich win the Wyoming congressional seat, he'll be the first Wyoming bar owner to become a member of the U.S. House." Vinich's profile goes on to relate his minority leadership position for the Democratic Party in the state senate and then comments: "Often labeled as one of Wyoming's few true liberals in the legislature, Vinich's career has been marked by personality clashes with other legislators leading to only a 9.38 passage rate on Vinich-sponsored legislation." By these statements, NCAN tells the reader that Vinich will both cast Wyoming in a bad light and be ineffective, if elected.

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election flier is "susceptible of no other reasonable interpretation but as an exhortation to vote for [Craig Thomas] and against [John Vinich]." FEC v. Furgatch, 807 F.2d 857, 864 (9th Cir. 1987). Indeed, NCAN referred to this effort in a subsequent Scoreboard Alert publication. This publication, a Scoreboard Alert in the organization's regular magazine format, explicitly took credit for helping to elect Craig Thomas in the Wyoming Special Election several months earlier: "In the recent Wyoming special congressional election, NCAN/Scoreboard activists united, along with churches statewide to elect the candidate most supportive of family-moral-freedom issues." Attachment 3 at 9.¹⁰

It is important to recognize that the Commission's jurisdiction does not extend to issue advocacy. The Act does, however, extend to communications whose purpose is to urge voters to choose one of two named candidates to support at the polls, based on issues presented, rather than promoting a position on the issues themselves. That is precisely the case here. Like the election pamphlet at issue in MCFL, the Wyoming Special Edition goes "beyond issue discussion to express electoral advocacy" by using ratings of the candidates' positions on the issues to make clear which candidate NCAN is urging the reader to support. This explicit electoral message is inescapably obvious to any voter reading this flier about the candidates in the Special Election,

10. Attachment 3 is composed of a copy of the April/May 1989 national edition of the Scoreboard Alert, a copy of the June/July 1989 edition of the national Scoreboard Alert, and various notices and advertisements appearing in other NCAN publications which are discussed at pages 20 and 21 of this report.

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and nothing in the law requires the Commission to be "'blind" to what "[a]ll others can see and understand.'" Burger King Corp. v. Rudzewicz, 471 U.S. 462, 486 (1985) (quoting United States v. Rumely, 345 U.S. 41, 44 (1953)).

The Wyoming Special Edition apparently claims not to be an endorsement of any specific candidate, stating that it "is not intended, nor implied, to be a statistical judgment of [the candidates'] moral behavior or their relationship with God," even though "the moral conduct of a congressman can be a legitimate issue to consider when voters make their choice."¹¹ The communication at issue in MCFL even more explicitly stated that it did not "'represent an endorsement of any particular candidate,'" see MCFL at 243, but the Court there had no difficulty concluding that the Massachusetts Special Election Edition did expressly advocate the election of candidates, and that the "disclaimer of endorsement [could not] negate this fact." MCFL at 249.

For all these reasons, NCAN's publication of the Wyoming Special Edition is subject to section 441b's prohibition, unless, as next discussed, it is otherwise exempt from this prohibition.

2. Press Exemption

Regarding the press exemption, Respondent contends that the initial production of the Scoreboard Alert meets the first

11. The flier states that "[r]eaders should study the questions which candidates answered in order to make a decision on who to vote for on Election Day." Respondent also argues that the announcement on the back page demonstrates their lack of partiality. There, the flier notes: "Local Democratic and Republican headquarters will also be providing various types of get-out-the-vote assistance. Consult your telephone directory to contact the desired party headquarters within your county."

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criterion of being published through the facilities of a regular newsletter, and this Office has insufficient information to challenge this assertion. Whether Respondent met this criterion was not at issue in the General Counsel's Brief.

Respondent also contends that the Wyoming Scoreboard Alert met the second criterion of being distributed to the newsletter's regular audience because it was distributed to its "established Wyoming mailing list of past recipients and customers of [its] Scoreboard family of publications." Respondent further states that a state edition is not distributed outside of the designated state covered by that edition. In Respondent's own words: "[O]ur Scoreboard Alert special editions focused on whatever geographic area in which we felt our publication would benefit or educate our readers and produce financial income to the NCAN corporation and Scoreboard publications [N]one of our state editions were distributed outside the designated state area covered by the state edition."

Respondent further contends that the third criterion, that the publication be one in a continuing series of issues, was met. Respondent states that an examination of its letterhead demonstrates that it is a publisher of "'specialty publications,' meaning they are not generally notated by volume or issue number." Respondent argues that it is a special edition publisher, and that it is recognized as such by "R.R. Bowker which supplies [it] with the ISBN internationally recognized periodical coding reference number." Respondent further argues that its publications all have "consistent identifying designations" which demonstrate that these

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publications are "'normal publication[s] by the organization (NCAN/Scoreboard).'" These designations include "'special edition,' internal year and issue coding, cover dating, or external ISBN international reference coding."

Regarding Respondent's argument that the second criterion of the newspaper exemption was met, i.e. that the Wyoming Special Edition was distributed to the newsletter's regular audience, this Office first notes that the only time a Wyoming Special Edition was issued was in this one instance, in anticipation of the April 1989 Special Election. Respondent states that this newsletter was only sent to its Wyoming readers, not its usual national Scoreboard Alert audience.

In April/May of 1989, Respondent started publishing a monthly, national Scoreboard Alert, which had a total nationwide circulation of 50,000.¹² The June/July edition of this national Scoreboard Alert claimed that the Wyoming Special Edition had a circulation of 150,000. Attachment 3 at 13. Since the Wyoming Special Edition had a circulation three times the circulation of the national Scoreboard Alert, it is clear that it was not distributed to Respondent's normal readership.¹³

12. This April/May 1989 edition notes a total nationwide readership of 250,000. Attachment 3 at 1. Respondent explains that "readership is not the same as circulation; readership figures for determining advertising rates is five times actual circulation." Thus, the readership figure of 250,000 translates into a circulation of 50,000.

13. Indeed, in its response, Respondent included a copy of a Scoreboard Alert it produced for the September 1989 Special Election in Texas. This Scoreboard Alert was designated the "Texas 12th C[ongressional] D[istrict] Special Edition." When it is considered that the entire state of Wyoming is one

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Regarding Respondent's argument concerning the third criterion, the Supreme Court has set out certain characteristics which help to determine whether a publication can be considered a "normal publication." See MCFL at 251. The Wyoming Special Edition had none of those characteristics. It carried no volume and issue number identifying it as one in a continuing series of issues. Moreover, while Respondent claims that other factors can be used to determine whether a publication is a normal one, the one plausible factor it cites, year and issue coding, is absent from the Wyoming Special Edition.¹⁴ This Scoreboard Alert does not even resemble the national edition in the scope of its discussions or size: the Wyoming Special Edition is a one-page, two-sided document whose only topic is the candidates in the Wyoming Special Election, whereas national editions of the Scoreboard Alert have varied from eight to 16 pages and have discussed a variety of topics. Additionally, the Wyoming Special Edition permitted reproductions, while all regularly-published

(Footnote 13 continued from previous page)
congressional district, it becomes clear that Respondent distributes these Special Editions not into generally recognized geographic regions, but into areas which have been specifically created to serve as boundaries for certain electoral activity.

Also, while the national Scoreboard Alert was distributed through the mail, the Wyoming Special Edition carried a **SPECIAL ANNOUNCEMENT** requesting volunteers to distribute it. Such an effort would hardly be calculated to limit distribution of the Special Edition to the Scoreboard Alert's normal readership.

14. Respondent also argues that a "special edition" designation, cover dating, or an ISBN number identify its publications as normal publications of the organization. None of these additional factors, however, would demonstrate that a particular issue was one in a continuing series. The ISBN number does not even appear on the Wyoming Special Edition, as it does on Respondent's other publications.

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NCAN publications have stated that reproductions were not permitted, with rates being established for additional copies.

In MCFL, the Supreme Court noted that the factors it outlined are important in determining whether the press exemption applies because such factors "permit the distinction of campaign flyers from regular publications." Id. at 251. By issuing a two-sided election flyer specifically in conjunction with the April 1989 Wyoming special election and distributing it far beyond the circulation of its non-election publication, the NCAN engaged in that type of conduct which the Supreme Court has found falls outside the confines of the press exemption at 2 U.S.C. § 431(9)(B)(i).

3. MCFL Exception

Although Respondent does not argue the issue, the question arises as to whether Respondent, though incorporated, can still be exempt from the Section 441b prohibition on corporate expenditures. The MCFL Court noted three features of an organization which would prevent it from constitutionally being bound by the provisions of 2 U.S.C. § 441b: 1) the organization must have been formed for the express purpose of promoting political ideas and cannot engage in business activities; 2) the organization must have no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and 3) the organization cannot have been established by a business corporation or labor union and its policy must be not to accept contributions from such organizations. MCFL at 631.

Copies of other publications of the NCAN demonstrate that it

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falls outside of the narrow guidelines laid down by the Supreme Court. First, the NCAN itself engages in business activities. The NCAN's 1988 General Election Special Edition Presidential Biblical Scoreboard contains several ads allowing the reader to purchase numerous items. One ad is a two-page spread offering back issues of the NCAN's Family Protection Scoreboard and informational books and videos for purchase. Attachment 3 at 17-18. In addition, an ad on the back cover offers the opportunity to purchase from the NCAN lithograph portraits of President Ronald Reagan, George Bush, Abraham Lincoln and John Wayne. Attachment 3 at 19.

Additionally, the NCAN accepts corporate funds. For example, the 1988 Pre-Primary Edition of the Presidential Biblical Scoreboard states that "Biblical Scoreboard accepts paid advertisement on a space available basis." Attachment 3 at 20. That same edition contains a full page ad on its back cover from Nehemiah Ministries, Inc. and a one-page ad from Conservative Digest. Attachment 3 at 21-22.¹⁵ The 1988 Pre-Primary Edition also states that it is being published "in a joint venture relationship with Mott Media, a Milford, Michigan, Christian trade and school book publisher." Attachment 3 at 20. According to the Michigan Department of Commerce, Corporations and Securities Bureau, Mott Media, Inc. is a for-profit corporation under the laws of Michigan.

15. The 1988 General Election Special Edition Presidential Biblical Scoreboard carried a full-page ad from the Evangelical Book Club. Attachment 2 at 23.

As the above demonstrates, the NCAN is sufficiently intertwined with corporate activity and money to take it outside the category of those organizations constitutionally exempt from the provisions of 2 U.S.C. § 441b. Because it is not constitutionally exempt, and because, as shown above, the Wyoming Special Edition constituted express advocacy and did not meet the press exemption, this Office recommends that the Commission find probable cause to believe that the National Citizens Action Network violated 2 U.S.C. § 441b(a).

The Commission also found reason to believe that Respondent failed to place a proper disclaimer on the Scoreboard Alert, in violation of 2 U.S.C. § 441d. Respondent simply claims that no disclaimer was required. Respondent's claim only stands if the Scoreboard Alert did not constitute express advocacy, as an adequate disclaimer was not present on the Scoreboard Alert.¹⁶ Because the Scoreboard Alert did constitute express advocacy, and because it did not contain an adequate disclaimer, this Office recommends that the Commission find probable cause to believe that the National Citizens Action Network violated 2 U.S.C. § 441d.

B. Good Government Group

Pursuant to 2 U.S.C. § 431(4)(A), a political committee is

16. A line above the Scoreboard Alert's masthead reads: "A National Citizens Action Network Publication." However, an adequate disclaimer, if the communication is not authorized by a candidate, or an authorized political committee of that candidate, or its agent, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3). The line above the masthead falls far short of this mark.

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"any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year." A statement of organization must be filed with the Commission by each political committee not authorized by a candidate within 10 days of its becoming a political committee. See 2 U.S.C. §§ 432(g) and 433(a). The treasurer of each political committee must file periodic reports of receipts and disbursements as required by the Act. 2 U.S.C. § 434(a)(1). An expenditure is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i). Expenditures which are made for the purpose of financing communications expressly advocating the election or defeat of a clearly defined candidate, and which are not authorized by a candidate or his authorized political committees or their agents, must clearly state who paid for the communication and that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3).

The complainant has alleged, based on first-hand observations and reports from other individuals, that the Good Government Group produced and distributed a "Pro-Family Voter Report Card" (Attachment 4) in connection with the April 1989 special election in Wyoming. The complainant has further alleged that the Good Government Group also distributed the NCAN's Wyoming Special Edition. Both of these documents were, according to the

complainant, distributed in Wyoming in significant numbers, and were distributed in tandem. The NCAN has confirmed that it sold reprint rights to the GGG.¹⁷ No contrary evidence has been provided, and the GGG has not sought to answer these allegations. As explained above, the Scoreboard Alert constituted express advocacy, but did not contain an adequate disclaimer.

Likewise, the "Pro-Family Voter Report Card" constituted express advocacy. People are encouraged to vote for the candidate who will be most supportive of family values, and specific references are made to the "April 26th special election in Wyoming," and to "voting on Election Day." (Emphasis in original). Thus, a call to action exists. Moreover, candidate Craig Thomas is identified as "pro-family," while candidate John Vinich is identified as being opposed to pro-family issues. Thirteen issues are identified, along with the "pro-family" stance and the positions of Messrs. Thomas and Vinich. Mr. Thomas supports the "pro-family" stance on every issue, while Mr. Vinich opposes the "pro-family" stance on every issue. In identifying Mr. Thomas as the pro-family candidate and urging people to vote for the person who will protect pro-family values, the Good Government Group has sent the unmistakable message that people should vote for Mr. Thomas, and thus expressly advocated his election.

Although the Good Government Group did not respond either to the reason to believe finding or the General Counsel's Brief, the

17. This Office is unaware of why the GGG paid for reprint rights when the Special Edition stated that reproductions were permitted.

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National Citizens Action Network has stated that the Good Government Group spent approximately \$4,000 for the reproduction rights for the Scoreboard Alert, thus meeting the threshold requirement for a political committee.¹⁸ Therefore, this Office recommends that the Commission find that there is probable cause to believe that the Good Government Group failed to register as a political committee with the Commission and report its receipts and disbursements, in violation of 2 U.S.C. §§ 433 and 434. In addition, this Office also recommends that the Commission find that there is probable cause to believe that the Good Government Group violated 2 U.S.C. § 441d(a)(3) by failing to include adequate disclaimers on the Pro-Family Voter Report Card and on the Wyoming Special Edition.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

18. As noted above, this Office engaged a tracing service and located the president of the Good Government Group, so that this organization appears to have been adequately notified.

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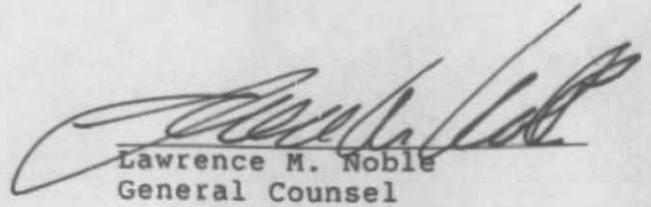
Finally, according to the Cumulative List of Organizations published by the Internal Revenue Service ("IRS"), the NCAN is a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3). That section provides that certain organizations are exempt from taxation except those that "participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." Given that the NCAN has engaged in express advocacy, this Office recommends that the Commission authorize it to report the NCAN to the Internal Revenue Service for whatever action it may deem appropriate.

IV. RECOMMENDATIONS

1. Find probable cause to believe that the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d.

2. Find probable cause to believe that the Good Government Group violated 2 U.S.C. §§ 433, 434 and 441d.
3. Enter into conciliation with the National Citizens Action Network and the Good Government Group.
4. Authorize the Office of the General Counsel to report the NCAN to the Internal Revenue Service for whatever action it may deem appropriate.
5. Approve the attached conciliation agreements and appropriate letters.

7/23/92
Date


Lawrence M. Noble
General Counsel

Attachments:

1. Wyoming Special Edition
2. Responses of the National Citizens Action Network
3. Compilation of NCAN published materials
4. Pro-Family Voter Report Card
5. Conciliation Agreements (2)

Staff assigned: Tony Buckley

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DONNA ROACH *DR*
COMMISSION SECRETARY

DATE: JULY 24, 1992

SUBJECT: MUR 2889 - GENERAL COUNSEL'S REPORT
DATED JULY 23, 1992.

The above-captioned document was circulated to the Commission on THURSDAY, JULY 23, 1992 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	<u>XXX</u>
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Potter	_____
Commissioner Thomas	_____

This matter will be placed on the meeting agenda for TUESDAY, AUGUST 4, 1992.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2889
Good Government Group;)
National Citizens Action Network.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 4, 1992, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 2889:

1. Find probable cause to believe that the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d.
2. Find probable cause to believe that the Good Government Group violated 2 U.S.C. §§ 433, 434, and 441d.
3. Enter into conciliation with the National Citizens Action Network and the Good Government Group.
4. Authorize the Office of the General Counsel to report the NCAN to the Internal Revenue Service for whatever action it may deem appropriate.

(continued)

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5. Approve the conciliation agreements and appropriate letters as recommended in the General Counsel's report dated July 23, 1992

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

Attest:

8-6-92
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 19, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Peter Waldron
812 Line Creek
Clark, WY 82435

RE: MUR 2889
Good Government Group

Dear Mr. Waldron:

On August 4, 1992, the Federal Election Commission found that there is probable cause to believe the Good Government Group, of which you are president, violated 2 U.S.C. §§ 433, 434 and 441d, provisions of the Federal Election Campaign Act of 1971, as amended, in connection with the publication and distribution of the Voter Report Card, and the distribution of the Wyoming Scoreboard Alert, in connection with the April 1989 special election in Wyoming.

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.

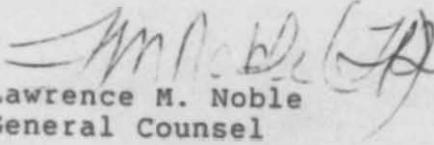
If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a

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Peter Waldron
Page 2

meeting in connection with a mutually satisfactory conciliation agreement, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 19, 1992

David W. Balsiger
National Citizens Action Network
P.O. Box 10459
Costa Mesa, CA 92627

RE: MUR 2889
National Citizens Action
Network

Dear Mr. Balsiger:

On August 4, 1992, the Federal Election Commission found that there is probable cause to believe the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d, provisions of the Federal Election Campaign Act of 1971, as amended, in connection with its publication of the Wyoming Scoreboard Alert in connection with the April 1989 special election in Wyoming.

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.

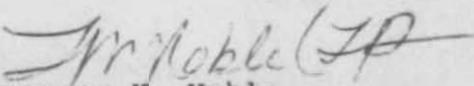
If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a

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David W. Balsiger
Page 2

meeting in connection with a mutually satisfactory conciliation agreement, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

93040953588



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 19, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Marcus S. Owens
Director
Exempt Organizations
Technical Division
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Mr. Owens:

In the course of an investigation conducted pursuant to 2 U.S.C. § 437g(a), the Federal Election Commission reviewed a publication entitled Scoreboard Alert, which was published in connection with the April 1989 special election in Wyoming by a corporation called National Citizens Action Network. It appears that the Scoreboard Alert expressly advocates the election of a clearly identified candidate. Furthermore, it does not appear that National Citizens Action Network is entitled to any exemption under the Federal Election Campaign Act of 1971, as amended, that would allow a corporation to publish such material. Enclosed is a copy of the Scoreboard Alert.

Because we understand that the National Citizens Action Network has been granted tax-exempt status pursuant to 26 U.S.C. § 501(c)(3), it appears that this information may constitute a violation within your jurisdiction. Therefore, the Commission has authorized me to report the National Citizens Action Network to you for whatever action you deem appropriate. See 2 U.S.C. § 437d(a)(9).

Please be advised that pursuant to 2 U.S.C. § 437g(a)(12)(A), no person may make public any notification or investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. No such consent has been given in the matter in which the National

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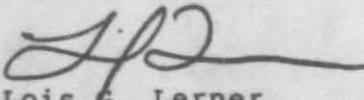
Marcus S. Owens
Page 2

Citizens Action Network is a respondent. Accordingly, we would appreciate your cooperation in maintaining our statutory requirement of confidentiality.

If you have any questions, please contact me, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel


BY: Lois G. Lerner
Associate General Counsel

Enclosure
Scoreboard Alert

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SCOREBOARD ALERT

A Monthly Newsletter Published by the Editors of the Family Protection Scoreboard and the Presidential Biblical Scoreboard

GRASSROOTS CITIZENS WORKING AN AGENDA FOR THE PRESERVATION OF AMERICAN VALUES

Congressional Election Scoreboard Released

The following *Biblical Scoreboard Alert* survey of congressional candidates seeking the U.S. House seat, vacated by congressman Dick Cheney (appointed to President Bush's cabinet), is not intended, nor implied, to be a statistical judgment of their moral behavior or their relationship with God. While the moral conduct of a congressman can be a legitimate issue to consider when voters make their choices, this *Scoreboard* survey should not be confused as a judgment in that regard.

It is completely fair, however, for citizens to understand whether congressional candidates represent their views. These are the elected officials who will make laws that dramatically impact American families and national morality.

In order to provide the most comprehensive *Scoreboard* for voters, the *Scoreboard Alert* editors have made an effort to interview House candidates from all political parties.

These candidates have been surveyed by telephone and by mail

using a *Scoreboard*-developed questionnaire. To further prevent the candidates from slanting their answers, the survey was conducted under a neutral name without making any reference to a "biblical" or "religious" point of view.

When a candidate refused to respond to the *Scoreboard* survey, as in the case of candidate John Vinich, staff researchers were sometimes able to determine their issue positions from news media accounts, campaign literature, and speeches.

However, some candidates still have a **REFUSED TO RESPOND** notation (R) after their names or on particular issues. These candidates apparently are of the opinion that the public has no right to know where they stand on the issues. No amount of persuasion could budge them to reveal their positions. Also, news media accounts failed to state clearly their issue positions.

Readers should study the questions which candidates answered in order to make a decision on who to vote for on Election Day.

Candidate Issue Questions

1. **ABORTION** — Do you support or oppose a Constitutional Amendment banning abortion?

SUPPORT (+) is the pro-life position.

2. **ABORTION FUNDING** — Do you support or oppose federal funds being used for abortion services, research, or counseling?

OPPOSE (+) is the pro-life position.

3. **CAPITAL PUNISHMENT** — Do you support or oppose capital punishment?

SUPPORT (+) is the pro-crime deterrent position.

4. **BIRTH CONTROL** — Do you support or oppose providing birth control contraceptive services and devices to minors in public schools?

OPPOSE (+) is the pro-parental rights position.

5. **PARENTAL CONSENT** — Do you support or oppose minors having birth control contraceptives without parental consent?

OPPOSE (+) is the pro-parental consent position.

6. **ERA** — Do you support or oppose the passage of the Equal Rights Amendment?

OPPOSE (+) is the anti-feminist position.

7. **SCHOOL PRAYER** — Do you support or oppose a Constitutional Amendment to restore voluntary school prayer?

SUPPORT (+) is the pro-school prayer position.

8. **PORNOGRAPHY** — Do you support or oppose the sale of adult pornographic magazines in drugstores, supermarkets, and convenience stores?

OPPOSE (+) is the anti-pornography position.

9. **HOMOSEXUALITY** — Do you support or oppose granting homosexuals the same minority legal status as blacks and other minorities?

OPPOSE (+) is the anti-homosexual minority rights position.

10. **AIDS** — Do you support or oppose more restrictive legislation* to stop the spread of AIDS by the high risk groups composed of homosexuals, IV drug abusers, and prostitutes?

SUPPORT (+) is the stop AIDS position.

11. **EUTHANASIA** — Do you support or oppose "right to die" legislation which would allow the withholding of medical treatment, food, and water for terminally ill patients?

OPPOSE (+) is the pro-life position.

12. **LOTTERY** — Do you support or oppose legalized gambling in the form of a state or federal lottery?

OPPOSE (+) is the anti-gambling position.

13. **BALANCED BUDGET** — Do you support or oppose Congressional passage of a Constitutional Balanced Budget Amendment?

SUPPORT (+) is the pro-balanced budget position.

14. **TAX INCREASE** — Do you support or oppose a tax increase to balance the budget?

OPPOSE (+) is the pro-family savings position.

15. **COMPARABLE WORTH** — Do you support or oppose the comparable worth (pay equity) concept of equal pay for dissimilar jobs?

OPPOSE (+) is the pro-free enterprise position.

16. **SOCIAL SECURITY** — Do you support or oppose the gradual privatization of the social security system to assure a solvent retirement program for today's young people?

SUPPORT (+) is the long-term pro-solvent position.

17. **NATIONAL SECURITY** — Do you support or oppose the immediate phased deployment of the Space-Based Defense System commonly known as the Strategic Defense Initiative (SDI)?

SUPPORT (+) is the pro-national security position.

18. **SOUTH AFRICA SANCTIONS** — Do you support or oppose stronger sanctions and disinvestment policies toward South Africa?

OPPOSE (+) is the pro-black jobs position.

19. **FREEDOM FIGHTERS** — Do you support or oppose humanitarian and military aid to democratic freedom fighters in Nicaragua, Angola, and Mozambique?

SUPPORT (+) is the pro-freedom position.

20. **FOREIGN LOANS** — Do you support or oppose loans to Marxist countries?

OPPOSE (+) is the anti-communist position.

*Prohibiting blood donations, establishing mandatory testing, criminal prosecution for knowingly spreading AIDS, results reporting to authorities, and contact tracing.

Scoreboard Summary

CANDIDATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Thomas (R)	+	+	+	+	+	+	+	+	+	U	+	+	+	+	+	+	+	+	+	+
Vinich (D)	-	+	+	+	+	+	+	+	+	R	+	+	+	+	+	+	+	+	+	R

To figure a candidates percentage score, add 5% for each plus (+) designation.

VOTE ON APRIL 26

SEE BACKSIDE FOR CANDIDATE PROFILES, ELECTION FEATURES AND VOLUNTEER OPPORTUNITIES

Your One Vote Does Make a Difference

Every year, critical local, statewide, and national elections take place. The Christian in "The Great American Arena" must be an integral element in this process.

With 400,000 churches in America, and with Gallup polls now tabulating over half of our country's adult population as claiming to be evangelical, the Christian voting bloc is too large to be ignored any longer.

That's the good news. The bad (and sad) news is this: the Gallup pollsters have also projected that evangelicals are "no more likely to vote" than the general population. If that is true, then just over half of the most potentially powerful group in the country will be voting in upcoming elections (Gallup's fig-

ures are 54% for the general and evangelical public).

The One Vote Factor

Political apathy, analysts agree, comes from the feeling that "my one vote won't really make a difference anyway."

How important is ONE VOTE?

- In 1645, one vote gave Oliver Cromwell control of England.

- In 1776, one vote determined that English, not German, would be the American language.

- In 1845, one vote brought Texas into the Union.

- In 1923, one vote gave Hitler control of the Nazi party.

- In 1941, two weeks before Pearl Harbor, one vote saved the Selective Service.

- In 1960, John Fitzgerald Kennedy defeated Richard Nixon by only 113,000 votes — one-half vote per precinct.

- In 1962, South Dakota elected its future (and to date only) candidate for President — Senator George McGovern — by a margin of 597 votes, less than one vote per precinct.

- In 1974, Paul Laxalt defeated Harry Reid by 615 votes and was elected to the United States Senate by less than one vote in each of Nevada's 930 precincts.

- In a special election in 1974, Pennsylvania congressman John Murtha won by a margin of one-fourth vote per precinct!

Your ONE VOTE is crucially important! In addition, if you become active in your church, neighborhood, school (public or private), then the multiplicity factor takes effect as you encourage dozens...maybe hundreds or thousands of other people to vote!

— Vern McLellan

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CONGRESSIONAL RACE: The Four Candidates

CRAIG THOMAS — Republican

Winner of seven elections for various elective offices, Craig Thomas enters the Congressional race as a three term member of the Wyoming legislature. He is the executive vice president of the Wyoming Farm Bureau, director of Natural Resources for the American Farm Bureau, general manager of the Wyoming Rural Electric Association, and a small business owner — general partner of the Kings Inn Motel in Torrington. He is president of the Wyoming Special Olympics, chairman of the Developmental Disabilities Council, vice chairman of the Council on Economic Education, and a Rotary Club member. While serving four years in the U.S. Marine Corps, he reached the rank of Captain. He and his wife Susan, a special education teacher, are the parents of four children. Thomas graduated from the University of Wyoming with a degree in agriculture. *Church preference* — Methodist.



JOHN P. VINICH — Democrat

Should John Vinich win the Wyoming congressional seat, he'll be the first Wyoming bar owner to become a member of the U. S. House. He enters the race having served 14 years in the state legislature. He currently serves as the Minority Whip for the Democratic Party in the state senate. Often labeled as one of Wyoming's few true liberals in the legislature, Vinich's career has been marked by personality clashes with other legislators leading to only a 9/38 passage rate on Vinich-sponsored legislation. He is a member of the Elks, the Hudson Volunteer Firemen, and the Fraternal Order of Eagles. Vinich is the former director of the Big Brothers of Casper and is on the advisory board of the Foster Grandparent Program. No military service is noted in his official legislative biography. He is a graduate of the University of Wyoming with a degree in social work. He and his wife Marianne are the parents of one daughter. *Church preference* — Catholic.



DANIEL JOHNSON — Independent

International corporate attorney and white supremacist, Daniel Johnson moved to Wyoming from California in time to run for congress. Johnson wrote the unsuccessful Pace Amendment to the U. S. Constitution, which calls for only whites of European descent to have rights and privileges of U.S. citizenship. It also calls for racial separation and sending blacks back to Africa and Hispanics to Latin America. His campaign chairman is a Ku Klux Klan organizer and his volunteers are neo-Nazi skinheads. His racist philosophies have caused the Northwest Coalition Against Malicious Harassment to encourage the state legislature to enact anti-hate crime legislation — Wyoming being the only Northwestern state without such a law. *Church preference* — Mormon.



CRAIG McCUNE — Libertarian

As the Libertarian candidate, Craig McCune is making his third try for the Wyoming congressional seat. Libertarian Party member McCune is a Cheyenne railroad engineer. The Libertarian Party Platform advocates legalizing prostitution, supports abortion, and urges the repeal of all laws prohibiting the production, sale, possession or use of drugs, pornography, and obscenity. *Church preference* — Undeclared.



SPECIAL ANNOUNCEMENT

The Good Government Group (GGG) headed by Peter Waldron is lobbying for volunteers during this special election period. According to Waldron, volunteer duties will center around distributing the *Scoreboard Alert*, encouraging registered voters to vote on Election Day, and providing transportation to polling places. Contact the GGG at P.O. Box 2592, Cody, WY 82414 or telephone (307) 645-3156.

Local Democratic and Republican headquarters will also be providing various types of get-out-the-vote assistance. Consult your telephone directory to contact the desired party headquarters within your county.

SCOREBOARD ALERT

Wyoming Special Edition
David W. Balgigan
Founder/Editor

NATIONAL CITIZENS ACTION NETWORK
P.O. Box 10459 • Costa Mesa, CA 92627

The National Citizens Action Network (NCAN) is an educational organization composed of grassroots citizens working on agenda for the preservation of American values.

NCAN's primary goals: promoting Christian involvement in the elective and legislative process; informing Christians on the voting records of elected officials and encouraging elected leaders to support traditional family values, a strong economy, and our constitutional freedoms.

REMEMBER TO VOTE
APRIL 26



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 10, 1992

Peter Waldron
P.O. Box 12339 #166
Scottsdale, Arizona 85267-2339

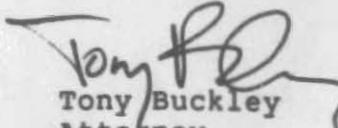
RE: MUR 2889
Good Government Group

Dear Mr. Waldron:

On August 19, 1992, the Federal Election Commission sent the enclosed materials to your address in Clark, Wyoming. Shortly thereafter, they were returned to our Office because the address to which they were sent was no longer valid. They are now being forwarded to you at the above address. Please note that, as the enclosed letter indicates, the Commission may institute a civil suit in United States District Court if we are unable to reach an agreement with you within 30 days.

Should you have any questions, please contact me at (202) 219-3690.

Sincerely,


Tony Buckley
Attorney

Enclosures
Letter
Conciliation Agreement

23040953593



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 10, 1992

David W. Balsiger
National Citizens Action Network
P.O. Box 10459
Costa Mesa, CA 92627

RE: MUR 2889
National Citizens Action
Network

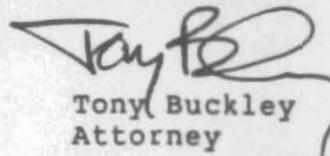
Dear Mr. Balsiger:

On August 19, 1992, you were notified that the Federal Election Commission found probable cause to believe that the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d. On that same date, you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. Insofar as the 30-day period is about to elapse, and we have not yet received a response from you, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a response from you by September 24, 1992.

Should you have any questions, please contact me at (202) 219-3690.

Sincerely,


Tony Buckley
Attorney

93040953594

David W. Balsiger

Author - Journalist - Filmmaker

Post Office Box 10428
Costa Mesa, CA 92627 USA
(714) 850-0349
FAX (714) 662-3952

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM

Nov 23 1 57 PM '92

November 17, 1992

Mr. Tony Buckley
Attorney at Law
Federal Election Commission
Washington, DC 20463

Ref. MUR 2889

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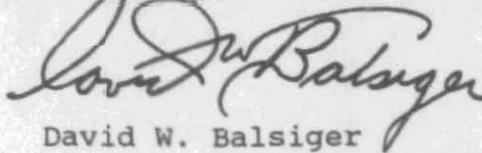
Dear Mr. Buckley:

In reference to case MUR 2889, the National Citizens Action Network (NCAN) has been inactive and defunct since mid-1989. The organization has had less than \$1,000 of annual income.

Not only has NCAN been inactive, but my personal financial situation has been such that I've had to file personal and business bankruptcy this year.

Because of my personal financial situation and the inactivity of NCAN, there is no way that a fine can be paid. This proposed fine has been included in my bankruptcy.

Sincerely,



David W. Balsiger

DWB:kd

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Good Government Group) MUR 2889
)
National Citizens Action Network)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 24, 1989, the Commission, inter alia, found reason to believe that the National Citizens Action Network had violated 2 U.S.C. §§ 441b(a) and 441d by making corporate contributions and by failing to place the proper disclaimer on communications which expressly advocated the election of Craig Thomas in the April 1989 Special Election in Wyoming, and that the Good Government Group had violated 2 U.S.C. §§ 433, 434 and 441d by failing to register as a political committee and to report receipts and disbursements, and by failing to place the proper disclaimer on communications which expressly advocated the election or defeat of candidates in this same special election. On August 4, 1992, the Commission found probable cause to believe the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d, and that the Good Government Group violated 2 U.S.C. §§ 433, 434 and 441d. For reasons explained below, this Office believes that the Commission should take no further action against these Respondents.

1. National Citizens Action Network

With respect to the National Citizens Action Network, findings were only made against that entity; no findings were made against its president, David Balsiger. Accordingly, the National

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Citizens Action Network as an organization is alone responsible for its activities. In a letter dated November 17, 1992, Mr. Balsiger stated that NCAN has not been active since mid-1989, and that it had an annual income of less than \$1,000. Attachment 1. Mr. Balsiger further stated that he had declared personal and business bankruptcy.

Upon receiving his letter, this Office contacted Mr. Balsiger directly to confirm the statements made therein. As a result of this conversation, Mr. Balsiger forwarded a copy of a document entitled "Notice of Commencement of Case Under Chapter 11 of the Bankruptcy Code, Meeting of Creditors, and Fixing of Dates," which pertains to David Balsiger, Nancy M. Dixon-Balsiger, and Christian Singles d/b/a Connection/Writeway Literature.

This Office is well aware that a civil penalty imposed by the Commission is a nondischargeable debt under 11 U.S.C. § 523(a)(7). See Schaefer v. Federal Election Commission, No. 92-0028 H, final judgment at 2 (S.D. Ca. filed Mar. 2, 1992), and thus the bankruptcy action initiated by the Balsigers would not defeat an attempt by the Commission to force payment of a civil penalty in this matter. However, as the bankruptcy proceedings and

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Mr. Balsiger's letter indicate, the NCAN and its founder do not appear to be able to repeat the activity which was the basis for the violations in this matter. Indeed, the NCAN ceased operations shortly after the violations at issue, some five years ago. The fact that the NCAN has been defunct for some time, and the fact that the principals in that organization have declared bankruptcy, suggests that resources expended in this effort could be put to better use.

2. Good Government Group

As with the NCAN, the Commission's findings against the Good Government Group were made solely against that entity; no individual was included in these findings. Additionally, despite the efforts of this Office, no one has been responsive to the Commission's notifications throughout the pendency of this matter. Indeed, the letter notifying Peter Waldron, the chairman of the Good Government Group, about the probable cause to believe finding was returned due to an expired forwarding order. A search service was hired to locate Mr. Waldron, and a new letter was mailed to a

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new address, but that too was returned. This Office has not made any further efforts to locate or notify Mr. Waldron.

II. SUMMARY

Further efforts with respect to these remaining respondents would not produce results which would merit the use of Commission resources. The principal respondent is defunct and not a threat to commit further violations, and the other respondent has not been located. Given these considerations, and consistent with the proper order of the Commission's priorities, this Office recommends that the Commission take no further action against the National Citizens Action Network and the Good Government Group. This Office further recommends that the Commission approve the appropriate letter to David Balsiger containing admonishment language, and that it close the file.

III. RECOMMENDATIONS

1. Take no further action against the National Citizens Action Network and the Good Government Group.
2. Approve the appropriate letters.
3. Close the file.

Lawrence M. Noble
General Counsel

9/13/93
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. First Response of David Balsiger
2. Second Response of David Balsiger

Staff Assigned: Tony Buckley

93040953599

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Good Government Group;) MUR 2889
National Citizens Action Network.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 19, 1993, the Commission decided by a vote of 6-0 to take the following actions in MUR 2889:

1. Take no further action against the National Citizens Action Network and the Good Government Group.
2. Approve the appropriate letters, as recommended in the General Counsel's Report dated July 13, 1993.
3. Close the file.

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

Attest:

7-20-93
Date

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

Received in the Secretariat:	Wed., July 14, 1993	12:20 p.m.
Circulated to the Commission:	Wed., July 14, 1993	4:00 p.m.
Deadline for vote:	Mon., July 19, 1993	4:00 p.m.

bjr

93040953600



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 9, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sarah Gorin
508 S. 11th
Laramie, WY 82070

RE: MUR 2889

Dear Ms. Gorin:

This is in reference to the complaint you filed with the Federal Election Commission on May 25, 1989.

In response to your complaint, the Commission found that there was no reason to believe that Wyoming Votes With Pride violated any statute. The Commission found that there was reason to believe that the Wyoming Rural Electric Association violated 2 U.S.C. § 441b(a); that the Good Government Group violated 2 U.S.C. §§ 433, 434 and 441d; that the National Citizens Action Network violated §§ 441b(a) and 441d; and that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1) and (2); and instituted an investigation in the matter.

Subsequently, a conciliation agreement signed by the Wyoming Rural Electric Association was accepted by the Commission. A copy of this agreement is enclosed for your information.

After an investigation was conducted and the General Counsel's, and one respondent's, briefs were considered, the Commission found that there was no probable cause to believe that Craig Thomas for Congress and John P. Wold, as treasurer, violated 2 U.S.C. §§ 434(b) and 441b(a), and 11 C.F.R. § 104.13(a)(1) and (2); but that there was probable cause to believe that the Good Government Group violated 2 U.S.C. §§ 433, 434 and 441d, and that the National Citizens Action Network violated §§ 441b(a) and 441d. In consideration of the circumstances of the matter, however, the Commission determined on July 19, 1993, to take no further action against the Good

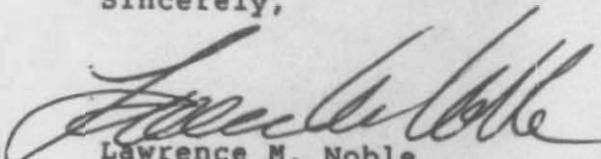
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Government Group and that the National Citizens Action Network, and closed the file in this matter. This matter will become part of the public record within 30 days.

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

If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

93040953602



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 9, 1993

John Herbst III
Wyoming Votes With Pride
P.O. Box 552
Casper, WY 82602

RE: MUR 2889
Wyoming Votes With
Pride

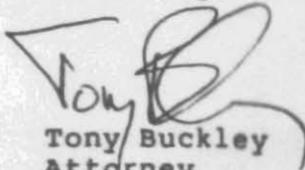
Dear Mr. Herbst:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,


Tony Buckley
Attorney

93040953603



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

AUGUST 9, 1993

David D. Uchner, Esq.
P.O. Box 1162
Cheyenne, WY 82003

RE: MUR 2889
Wyoming Rural Electric
Association

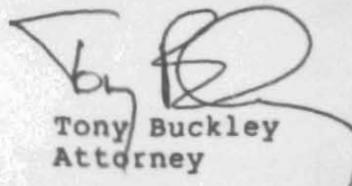
Dear Mr. Uchner:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,


Tony Buckley
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 9, 1993

CLOSED

E. Mark Braden, Esq.
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

RE: MUR 2889
Craig Thomas for Congress and
John P. Wold, as treasurer

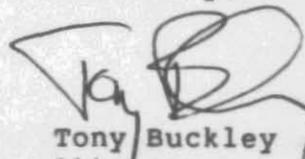
Dear Mr. Braden:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,


Tony Buckley
Attorney

93040953605



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 9, 1993

David W. Balsiger
National Citizens Action Network
P.O. Box 10459
Costa Mesa, CA 92627

RE: MUR 2889
National Citizens Action
Network

Dear Mr. Balsiger:

On August 19, 1992 you were notified that the Federal Election Commission found probable cause to believe that the National Citizens Action Network violated 2 U.S.C. §§ 441b(a) and 441d. After considering the circumstances of the matter, the Commission determined on July 19, 1993, to take no further action against the National Citizens Action Network, and closed the file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

The Commission reminds you that it is a violation of 2 U.S.C. § 441b(a) for a corporation to make expenditures for a communication which expressly advocates the election or defeat of a clearly identified candidate. The Commission further reminds you that failure to place a proper disclaimer on a communication which expressly advocates the election or defeat

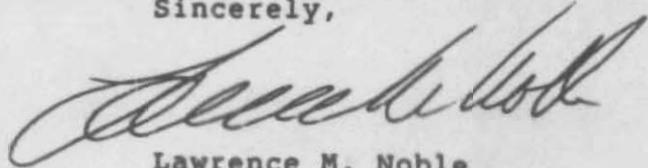
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David Balsiger
MUR 2889
Page 2

of a clearly identified candidate is a violation of 2 U.S.C. § 441d. You should take steps to ensure that this activity does not occur in the future.

If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lawrence M. Noble
General Counsel

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THIS IS THE END OF MUR # 2889

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2889

DATE FILMED 8/27/93 CAMERA NO. 4

CAMERAMAN ESS

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