



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

THIS IS THE BEGINNING OF MUR # 3120

DATE FILMED 11/9/90 CAMERA NO. 4

CAMERAMAN AS

20040804403

OGC 7650

DEMOCRATIC PARTY OF ILLINOIS

13126 Merchandise Mart
Chicago, IL 60654
312-464-1900
FAX: 312-464-1907

MUR 3120

GARY J. LA PAILLE
Chairman

IOLA McGOWAN
First Vice-Chairman
PATRICK WELCH
Second Vice-Chairman
MARGARET LAURINO
Third Vice-Chairman
EUGENIA CHAPMAN
Secretary
STEWART WINSTEIN
Treasurer

BARBARA BROWN
Deputy Chairman
BOBBY RUSH
Deputy Chairman

PHILIP CORBOY
General Counsel

August 27, 1990

90 AUG 29 P 12:04

RECEIVED
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

4000444

Lee Ann Elliott
Commissioner
Federal Elections Commission
999 "E" Street, NW
Washington, D.C. 20463

Dear Commissioner Elliott:

I am writing to bring to your attention a fundraising practice of the National Republican Senatorial Committee that may violate federal regulations or federal law.

Over the last few months, the NRSC has mailed to voters throughout the country and in Illinois a form that is disturbingly similar to an official voter registration form. At least one voter mistakenly believed that this form was an official form, and asked her County Clerk if this new mailing meant she now had to pay to register to vote.

The mailing includes a "1990 National Voter Data Card" and a "Voter Address Confirmation Card." This form looks like a standard voter registration card issued by County Clerks throughout the state. Only in small print can a voter learn that this is not their official voter registration card.

The real danger here is that voters can lose their right to vote in November. Voters who change their address may respond to this partisan card and believe they are still properly registered. They may fail to notify their official local election authority of the new address. Then on election day, they will go to the polls and be turned away.

I am formally requesting that the Federal Elections Commission conduct a formal investigation into this matter to ascertain if any laws or regulations were violated.

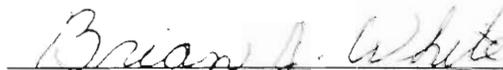
I look to your prompt action on this matter.

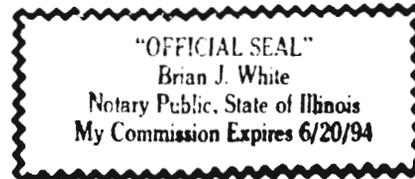
Cordially,



Gary J. LaPaille
Chairman
Democratic Party of Illinois

Subscribed and sworn to before
me this 27th day of August 1990.


NOTARY PUBLIC



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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 5, 1990

Gary J. LaPaille, Chairman
Democratic Party of Illinois
13126 Merchandise Mart
Chicago, Illinois 60654

RE: MUR 3120

Dear Mr. LaPaille:

This letter acknowledges receipt on August 29, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the National Republican Senatorial Committee, James L. Hagen, as treasurer. 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 3120. 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

A handwritten signature in black ink, appearing to read "Lois G. Lerner", written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

September 5, 1990

James L. Hagen, Treasurer
National Republican Senatorial Committee
452 Second Street, N.E.
Washington, D.C. 20002

RE: MUR 3120

Dear Mr. Hagen:

The Federal Election Commission received a complaint which alleges that the National Republican Senatorial Committee and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3120. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Lerner
Associate General Counsel

Enclosures

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

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OGC 8075

RECEIVED
FEDERAL ELECTION COMMISSION

WILEY, REIN & FIELDING

90 OCT -4 AM 11:44

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

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

October 3, 1990

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

ATTN: Jeffrey D. Long, Esq.

Re: MUR 3120 (National Republican Senatorial Committee)

Dear Mr. Noble:

This office represents the National Republican Senatorial Committee ("NRSC") and James L. Hagen, as treasurer, in the above-captioned matter. Enclosed please find an executed Statement of Designation of Counsel. This letter is in reply to a Complaint filed by Gary J. LaPaille and designated Matter Under Review ("MUR") 3120.* For the reasons set forth herein, the Federal Election Commission ("FEC" or "Commission") should find no reason to believe that the NRSC has violated any provision of the Federal Election Campaign Act of 1971, as amended (the "Act").

* The General Counsel's notification letter of September 5, 1990 to Mr. Hagen was not received until September 25, 1990.

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 OCT -4 PM 3:40

WILEY, REIN & FIELDING

Lawrence M. Noble, Esq.
October 3, 1990
Page 2

DISCUSSION

The National Republican Senatorial Committee is a "national committee" of the Republican Party as defined in 11 C.F.R. § 100.13. As such a committee, it has primary responsibility for national party activities on behalf of Republican candidates for the United States Senate. Among the activities undertaken by the NRSC are voter research, issue analysis, polling, and solicitation of contributions.

The Complaint calls into question the legality of a recent NRSC mailing concerning its National Voter Data Card Program, an effort designed to increase voter participation. The National Voter Data Card provides the recipient with the opportunity to confirm his or her current address, identify types of elections in which the recipient traditionally votes, and register concerns about significant national issues. In addition, the mailing solicited a small contribution to defray the cost of operating this program.

The Complaint's allegation is that this practice "may violate federal regulations or federal law." It is well established that the Federal Election Commission, as well as other law enforcement organizations, do not regulate the content of political communications except in narrow instances where Congress constitutionally has provided such authority. An examination of the mailing at issue in this

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WILEY, REIN & FIELDING

Lawrence M. Noble, Esq.
October 3, 1990
Page 3

proceeding indicates that the NRSC has complied with the only conceivably applicable provision of the Federal Election Campaign Act of 1971. 2 U.S.C. §441d(a). As required by law, the Voter Data Card clearly states that the communication was "paid for and authorized by" the National Republican Senatorial Committee. Having satisfied this statutory requirement, the mailing may not be subjected to the additional content analysis sought by the Complainant.

Furthermore, the Complaint is so broad in its allegations that it is without merit. It alleges violations of federal regulations or laws without specificity. Rather than accompanying the Complainant on a "fishing expedition," the FEC should dismiss this Complaint because the mailing clearly delineates its purpose and origin without violating any applicable provision of the Act. For example, the form letter to the recipient that comprises a part of the mailing explains that the Voter Data Card is "part of a new program being tested by Republicans to increase the voter turnout in key voting districts."

Furthermore, the Complainant is misguided in asserting that the Voter Data Card will in some way cause voters to lose their right to vote. The following statement is printed

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WILEY, REIN & FIELDING

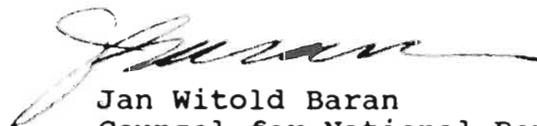
Lawrence M. Noble, Esq.
October 3, 1990
Page 4

on the National Voter Data Card: "**IMPORTANT!** This is NOT your voter registration card. To be eligible to vote you must officially register with your State Voter Registrar's Office. If you are not registered to vote, please do so immediately." (emphasis in original). In addition, the word "Republican" appears throughout the mailing and provides the recipient with sufficient notice that the form is not comparable to the official voter registration card issued by county clerks in Illinois. Thus, the NRSC has sought to avoid conveying the impression that its Voter Data Card is more than a means of collecting information regarding the location of potential supporters of Republican electoral candidates.

Conclusion

Accordingly, the Commission should find no reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated the Federal Election Campaign Act.

Sincerely,



Jan Witold Baran
Counsel for National Republican
Senatorial Committee, and
James L. Hagen, as treasurer

cc: James L. Hagen
William B. Canfield, III, Esq.

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3120

NAME OF COUNSEL: Jan Baran, Esq.

ADDRESS: Wiley, Rein & Fielding

1776 K Street, NW

Washington, D.C. 20006

TELEPHONE: (202) 429-7330

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

9/25/90
Date

James L. Hagen
Signature

RESPONDENT'S NAME: James L. Hagen

ADDRESS: National Republican Senatorial Committee

425 2nd Street, NE

Washington, D.C. 20002

HOME PHONE: (703) 845-1028

BUSINESS PHONE: (202) 675-4291

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RECEIVED
FEDERAL ELECTION COMMISSION

90 OCT 19 PM 12:23

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3120
DATE COMPLAINT RECEIVED
BY OGC: August 29, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: September 5, 1990
STAFF MEMBER: George F. Rishel

COMPLAINANT: Gary J. LaPaille, Chairman
Democratic Party of Illinois

RESPONDENTS: National Republican Senatorial
Committee and James L. Hagen, as
treasurer

RELEVANT STATUTE: 2 U.S.C. § 441d

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was initiated by a complaint from Gary J. LaPaille, chairman of the Democratic Party of Illinois, filed on August 29, 1990. The complaint referred to a fundraising solicitation by the National Republican Senatorial Committee ("NRSC") that the complainant alleged was misleading and asked that the Commission investigate the solicitation for possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A response was received on October 4, 1990, from counsel for the National Republican Senatorial Committee and James L. Hagen, as treasurer ("Respondents"). Attachment.

II. FACTUAL AND LEGAL ANALYSIS

The Act provides that whenever a person, including a political committee, makes an expenditure for the purpose of

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soliciting contributions through direct mail or any other type of general public political advertising, such solicitation shall state who paid for it and whether it was authorized by any candidate. 2 U.S.C. § 441d. Commission regulations require such disclaimer to be "clear and conspicuous" but do not require that they be on the front face or page "as long as a disclaimer appears within the communication." 11 C.F.R. § 110.11(a)(1). The Commission has stated that in a solicitation mailing consisting of several items, the disclaimer need appear on only one of the items. Advisory Opinion 1980-145.

Gary LaPaille states in his complaint that his office had learned of a solicitation mailing from the NRSC Voter Information Processing Center. He states that this mailing is similar to an official voter registration form and had caused confusion among voters in his state, despite the "small print" disclaimers in the mailing. He said some people may believe they had to fill out the voter address confirmation card enclosed in the mailing and pay a \$9.00 fee in order to be a registered voter or believe that by returning the card they had registered or properly notified election officials of a change of address. A copy of this mailing was attached to the referral.

The mailing consists of a 5 by 8 1/2 inch brochure with a return address of NRSC Voter Information Processing Center, 425 Second Street, N.E., Washington, D.C. 20002 and a replica of an eagle. It states on the front "Official 1990 National Voter Data Card Enclosed." The front also has a nonprofit postage notice stating the postage was paid by the NRSC. It also carried a

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statement that it was issued from Washington, D.C. and a control number.

The first inside page also had a replica of an eagle and a message addressed to "Dear Voter." It stated that two cards were enclosed: a 1990 National Voter Data Card for the person's use; and a Voter Address Confirmation Card, which the message said must be filled out and returned by a specified date. The message further stated:

This National Voter Data Card Program is part of a new program being tested by Republicans to increase the voter turnout in key voting districts. By determining where to concentrate our get-out-the-vote efforts it could make the critical difference in winning Republican victories in upcoming elections in your state and across the country.

The message again urged the recipient to fill out the confirmation card and return it "along with your check in the amount of \$9.00 to pay for the issuance of your Voter Data Card and processing your Voter Address Confirmation Card." The message further stated that the \$9.00 would help finance vote-tracking, issue-research, polling, voter research, and communications programs.

The next page contained the 1990 National Voter Data Card with the person's name typed on it along with the congressional district and the names of the person's senators, congressman, and governor as well as the date of the next general election. The back of this page informed the person that this card was not a voter registration card. Instead, it informed the person that he or she must be registered with the state voter registrar's office and urged the person to register.

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The next two pages contained the Voter Address Confirmation Card. The card had 10 places for information: (1) a place to make any corrections to the person's name or address; (2) a question regarding whether the person had lived at the present address for at least one year; (3) a question whether other eligible voters lived at the same place; (4) items 4, 5, and 6 were in a box that included a check off for enclosing the \$9.00 fee plus another \$10.00 "to help win more Republican elections" and a statement to "Please make checks payable to National Republican Senatorial Committee"; (5) item 7 asked about the person's voting history; (6) item 8 asked whether the person needed more information; (7) item 9 asked about the person's feelings on certain issues; and (8) item 10 asked for occupation and employer information. The bottom of this page carried the following statements:

Paid for and authorized by the National Republican Senatorial Committee
Contributions to the National Republican Senatorial Committee are not deductible as charitable contributions for federal income tax purposes.

Included in the mailing was a return envelope addressed to "NRSC Voter Information Processing Center." The back of the envelope carried reminders to complete the voter address confirmation card, made out the \$9.00 processing check to "NRSC Voter Information Processing Center," and to return both in the postage paid envelope.

Counsel for the Respondents points out that the Act does not regulate the content of political communications except for disclaimers. He notes that the mailing stated it was "paid for

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and authorized by" the NRSC. Moreover, he states that the mailing repeatedly referred to its Republican connection and stated that Voter Data Card carried a statement that it was not a voter registration card and urged recipients to register with the appropriate state or local official. In this regard, he contends that the mailing was not misleading.

The mailing does contain two different directions on how to make out the check and there is evidence that the mailing has misled some people into believing it is some type of official voter registration document. Nevertheless, the mailing contains a clear and conspicuous disclaimer. Therefore, there does not appear to be any reason to believe the NRSC has violated 2 U.S.C. § 441d. Moreover, the Act does not contain any provisions directed at whether the substance of a solicitation is misleading or fraudulent. Thus, a review of its contents does not indicate any other potential violation of the Act or regulations.

Accordingly, this Office recommends that the Commission find no reason to believe the Respondents have violated 2 U.S.C. § 441d.

III. RECOMMENDATIONS

1. Find no reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated 2 U.S.C. § 441d.
2. Approve the appropriate letters.

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3. Close the file.

Lawrence M. Noble
General Counsel

10/18/90
Date

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

Attachments

1. Response

90040801419



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20461

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: OCTOBER 23, 1990

SUBJECT: MUR 3120 - FIRST GENERAL COUNSEL'S REPORT
DATED OCTOBER 18, 1990

The above-captioned document was circulated to the Commission on Monday, October 22, 1990 at 11:00 a.m..

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Josefiak	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Thomas	_____ XXX

This matter will be placed on the meeting agenda for TUESDAY, OCTOBER 30, 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)
) MUR 3120
National Republican Senatorial)
Committee and James L. Hagen, as)
treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 30, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3120:

1. Find no reason to believe that the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated 2 U.S.C. § 441d.
2. Direct the Office of General Counsel to send appropriate letters containing certain language agreed to during the meeting discussion this date.
3. Close the file.

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

Attest:

11-1-90
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 6, 1990

CLOSED

Jan Witold Baran, Esquire
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

RE: MUR 3120
National Republican Senatorial
Committee and James L. Hagen,
as treasurer

Dear Mr. Baran:

On September 5, 1990, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On October 30, 1990, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated 2 U.S.C. § 441d. The Commission noted that a solicitation directed to the general public on behalf of a political committee that is not an authorized committee of a candidate need only state who paid for it. 11 C.F.R. § 110.11(a)(1)(iv)(A). The solicitation in question in this matter contained such a disclaimer. Accordingly, the Commission closed its file in this matter.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

0040000442



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 6, 1990

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Gary J. LaPaille, Chairman
Democratic Party of Illinois
13126 Merchandise Mart
Chicago, IL 60654

RE: MUR 3120

Dear Mr. LaPaille:

On October 30, 1990, the Federal Election Commission reviewed the allegations of your complaint dated August 27, 1990, and found that on the basis of the information provided in your complaint, and information provided by the National Republican Senatorial Committee, there is no reason to believe the National Republican Senatorial Committee and James L. Hagen, as treasurer, violated 2 U.S.C. § 441d. The Commission noted that a solicitation directed to the general public on behalf of a political committee that is not an authorized committee of a candidate need only state who paid for it. 11 C.F.R. § 110.11(a)(1)(iv)(A). The solicitation in question in this matter contained such a disclaimer. Accordingly, on October 30, 1990, the Commission closed the file in this matter.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3120

DATE FILMED 11/9/90 CAMERA NO. 4

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