FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

THIS IS THE BEGINNING OF MUR # 3592

DATE FILMED 4-13-94 CAMERA NO. 2

CAMERAMAN JMH

9403097 1123

BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES OF AMERICA

MUR 3592

In the matter of:

Moran for Congress '92 and
Edward M. Holland, Treasurer
Mary Sue Terry, Attorney General of the Commonwealth of Virginia
and Terry for Virginia Committee, Elman P. Gray, Treasurer

Complaint

NOW COMES, Kyle McSlarrow candidate for Congress in the 8th District of Virginia hereinafter referred to as "McSlarrow" to file this Complaint pursuant to 2 U.S.C. 437g(a)(1) and 11C.F.R. 111.4 against Moran for Congress and Edward M. Holland, Treasurer hereinafter referred to as "Moran" of P.O. Box 2518, Alexandria, VA 22301; and Mary Sue Terry, Attorney General for the Commonwealth of Virginia, Richmond, VA 23219 hereinafter referred to as "Attorney General;" and The Terry for Virginia Committee, Elman P. Gray, Treasurer of Terry for Virginia, hereafter referred to as "Terry Committee.""

FACTS

McSlarrow, pursuant to the provisions of the Federal Election Campaign Act (the Act) and the Federal Election Commission (FEC) regulations, does hereby state the following:

1. Moran for Congress is the authorized principal campaign committee for Jim Moran, candidate for the United States House of Representatives from the 8th District of Virginia.

2. Mary Sue Terry is the Attorney General for the Commonwealth of Virginia.

3. The Terry for Virginia Committee is the non-federal campaign committee of Mary Sue Terry.

4. The basis of this Complaint is a letter written by the Attorney General in support of Congressman Moran's re-election. The mailing at issue contained solely the letter and a sheet detailing certain locations to apply for absentee ballot applications. See Exhibit A.

5. Neither the letter nor the accompanying document included a written disclaimer indicating who had financed the communication. The letter simply stated "Not Printed at Public Expense." See Exhibit A

9403097112 4

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 AUG 26 AM 11:53

DISCUSSION OF LAW

Disclaimer Requirement

The provisions of 2 U.S.C. 441d, 11 C.F.R. 110.11(a)(1) state:

> Except as provided at 11 C.F.R. 110.11(a) (2) whenever any person makes an expenditure for the purpose of financing a communication that expressly advocates the election or defeat of a clearly identified,... Through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing, or any form of general public political advertising, a disclaimer... shall appear and be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for, and where required, who authorized a communication. (emphasis added)

Therefore, the issue is whether the letter signed by Attorney General Terry represents an expenditure advocating the election of defeat of a clearly identified candidate. The answer is unequivocally yes. An expenditure has obviously been made for the production and distribution of the letter itself and the communication has been conveyed by means of a direct mailing.

The standard of express advocacy is established by the text of the Attorney General letter itself. It specifically identifies federal candidate Jim Moran in the following text:

> "I would also like to take this opportunity to express my strong support for Congressman Jim Moran."

And, it actively advocates the election of Jim Moran in the following statement:

> "I hope you'll join me in helping re-elect Jim Moran to Congress in the 8th Congressional District."

There is no question the omission of a disclaimer on this letter constitutes a violation of 2 U.S.C. 441d, 11 C.F.R. 110.11(a)(1).

It is clear from the face of the documents that the intent was to encourage voters, drawing upon the full credibility of the Attorney General, to exercise their right to vote by absentee ballot. However, by the same token, it is also clear from the face of the documents that the intent was to encourage voters, drawing upon that same credibility of the Attorney General, to vote for the re-election of Jim Moran.

9403097112 5

Potential Impermissible Contribution by Non-Federal Committee

As stated above, contributions for use in connection with federal election law may not be received from impermissible sources. Note that the Commonwealth of Virginia allows receipts of corporate contributions by non-federal campaign committees. This means that any campaign organization such as the Terry for Virginia Committee may contain contributions from sources impermissible in federal campaigns. Therefore, since corporate contributions may have been received by the Terry Campaign Committee, it is arguable that the Moran Committee is in violation of the law in receiving contributions from a committee which has received corporate funds.

Authorization Requirement

In addition to the disclaimer requirements of 11 C.F.R. 110.11(a)(1) a separate disclaimer may be required pursuant to the provisions of subparagraph (i) (ii) depending upon who made the expenditure on behalf of Moran. Those sections state:

> (i) Such communication, including any solicitation, if authorized by a candidate, an authorized committee of a candidate, or its agent thereof, shall clearly state that the communication is paid for by such other person and, is authorized by such candidate, authorized committee or agent;

If these expenditures were made by the Moran Committee, the disclaimer to meet the requirements of the Act must state "Paid for by Moran for Congress '92." To the extent that another individual or committee paid for this communication, the disclaimer must state "Paid for by (person or organization)." The additional disclaimer "Authorized by Moran for Congress '92." must also be included.

There are several factors regarding the communication which could lead a reader to believe this is a communication which carries the weight of the endorsement of the Commonwealth of Virginia.

1. The letterhead specifically states "The Commonwealth of Virginia, Office of the Attorney General, Richmond, VA 23219" in official printed letterhead style.

2. Mary Sue Terry, in the same typeface is clearly identified as the Attorney General.

3. She refers to her official role in the opening of the communication, as follows: "As the Commonwealth's Attorney General,..."

4. She first addresses an important subject the average reader would regard as falling within the purview of her role as Attorney General and state official. Regardless of whether or not urging citizens to vote is a prescribed role of the chief law enforcement officer, her choice to speak to this issue clearly would appear to the average reader as an official pronouncement because voter participation is a desired goal of government at all levels in the United States.

5. If this communication had been in compliance with the Act, the disclaimer on the letter would have read without regard to

9403097126

additional authorization language described later "Paid for by _____." This disclaimer would have clearly informed contributors that this was not an official endorsement but one reproduced and financed by an interested political entity for partisan political purposes. Providing the reader with this disclaimer allows the reader to determine the value and motivation of this communication.

The value of the use of "official" status, as well as its potential for abuse has been recognized and addressed at the federal level. The Federal Election Commission recognized the value of the use of corporate or labor organization logos, trademarks and letterhead. The Commission concluded that the use of such items does constitute value and "may assist the candidate in garnering support or soliciting funds, and thus constitutes a prohibited corporate or labor organization contribution." 57 Fed. Reg., pg. 33554 (1992).

Donor Limitations

The original source of contributions used in connection with federal elections must be one that is permissible under the prohibitions and limitations of the Act. The provisions of 11 C.F.R. 114.(a)(b) strictly prohibit the use of corporate funds in connection with federal elections. Further, the campaign finance statutes of the Commonwealth permit the use of corporate funds in the financing of non-federal elections.

In light of the strict prohibition against the use of corporate funds in financing federal elections and the contrary treatment by the Commonwealth of permissible corporate funding in connection with non-federal elections, contributions from entities or organizations unregistered with the Federal Election Commission are inherently suspect. Therefore, it is critical that a legal determination be made as to the source of funding of the letter. If it is determined that the expenditure was made from the non-federal Terry for Virginia Committee, there is a likelihood that the expenditure may have been made with impermissible funds. Additionally, if it is determined that the expenditure was made by a corporate entity, that too would be impermissible.

While it is true that the communication does state it was not paid for at "public expense," it is clear that the stationery is intended to convey the "official status" of the Attorney General. Any attendant costs of the design, printing or production of this letter, beyond the mere duplication of the letter, by Commonwealth employees or contractors would represent a prohibited contribution.

The Attorney General in choosing to issue this communication clearly intends to provide as much value to Moran through this endorsement as possible. The value of writing a letter with the impression that it is an official communication from the highest ranking attorney and chief law enforcement officer of the Commonwealth gives significant support to the campaign of Moran. In other words, this communication with its official appearance is considerably more valuable to Moran than a letter written by Mary Sue Terry as a private citizen on her personal stationery.

9403097127

PRAYER FOR RELIEF

Therefore, McSlarrow respectfully requests, that the Federal Election Commission investigate these violations and in the course of the proceedings determine who made the expenditure in connection with permissible funds, and at a minimum, find the following conclusions of law:

1. The letter signed by Attorney General was, in fact, an expenditure for a communication expressly advocating the election of Jim Moran for federal office and the omission of a disclaimer is a violation of 11 C.F.R. 110.11(a)(1).

2. The use of letterhead purposefully to represent the Commonwealth represents value and an expenditure made on behalf of the Moran Campaign as defined in 11 C.F.R. 100.8(a)(1). Said expenditure is a violation of the prohibitions against the use of impermissible funds in connection with federal elections found in 11 C.F.R. 114.2(b).

3. The legally correct disclaimer was omitted from this communication in an effort to maintain the "official" appearance of the endorsement.

Therefore, Kyle McSlarrow further requests the federal Election Commission assess all appropriate penalties for said violation of the above provisions in accordance with 2 U.S.C. 437g (a) (5) (A).

The above statements are true and correct to the best of my knowledge, information and belief.

Respectfully submitted,

Subscribed and sworn before me this 26th day of August, 1992.

(Notary Public)

My Commission Expires March 31, 1996

My Commission expires:

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 AUG 26 AM 11:53

COMMONWEALTH OF VIRGINIA
OFFICE OF ATTORNEY GENERAL
RICHMOND 23219

MARY SUE TERRY
ATTORNEY GENERAL

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 SEP -3 PM 4:01

August 6, 1992

Greetings:

As the Commonwealth's Attorney General, I would like to take this opportunity to remind you to vote in the upcoming November 3rd election. I believe that citizen involvement is the key to good government and that voting is a critical part of that involvement. Our participation in the electoral process is vital in keeping federal, state and local government responsive and responsible to the people. It is both our right and our responsibility.

If you will be away at school, on vacation or on business during the election, please take the time to send in the enclosed Absentee Ballot Application. The process is simple and will ensure that your vote is counted and your voice is heard.

I would also like to take this opportunity to express my strong support for Congressman Jim Moran. Since first being elected in 1990, Congressman Moran has served with integrity and commitment. As one of the original co-sponsors of the Freedom of Choice Act, Congressman Moran has been steadfast in his support of a woman's right to privacy. He has been tireless in fighting to change Congress and to improve our quality of life. His tenacity has earned him the reputation of being an extraordinarily effective lawmaker during his first term. I hope you'll join me in helping re-elect Jim Moran to Congress in the 8th Congressional District

For any questions regarding Absentee Ballots or Voter Registration, please call the Fairfax County Electoral Board at (703) 246-8683.

Very sincerely,

Mary Sue Terry

Enclosure

9403097129

NOT PRINTED AT PUBLIC EXPENSE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 31, 1992

Kyle Eugene McSlarrow
Kyle McSlarrow for Congress
3505 North 14th Street
Arlington, VA 22201

RE: MUR 3592

Dear Mr. McSlarrow:

This letter acknowledges receipt on August 26, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Moran for Congress '92, and Edward M. Holland, as treasurer, Congressman James P. Moran and Mary Sue Terry. 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 3592. 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.

Sincerely,

Lisa E. Klein
Assistant General Counsel

Enclosure
Procedures

9403097113 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 31, 1992

Edward M. Holland, Treasurer
Moran for Congress '92
P.O. Box 2518
Alexandria, VA 22301

RE: MUR 3592

Dear Mr. Holland:

The Federal Election Commission received a complaint which indicates that Moran for Congress '92 ("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 3592. 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 Committee and you, as treasurer, 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.

9403097113 1

If you have any questions, please contact Noriega E. James, the staff member assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

9403097113 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 31, 1992

Congressman James P. Moran
1523 Longworth HOB
Washington, DC 20515-4608

RE: MUR 3592

Dear Mr. Moran:

The Federal Election Commission received a complaint which indicates that you 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 3592. 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.

9403097113

If you have any questions, please contact Noriega E. James, the staff member assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

9403097113 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 31, 1992

Mary Sue Terry, Attorney General
Commonwealth of Virginia
Office of Attorney General
Richmond, VA 23219

RE: MUR 3592

Dear Ms. Terry:

The Federal Election Commission received a complaint which indicates that you 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 3592. 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.

9403097135

If you have any questions, please contact Noriega E. James, the staff member assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

9403097113 6

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

SEP 17 11 54 AM '92

YOUNG, GOLDMAN & VAN BEEK
A PROFESSIONAL CORPORATION
LAWYERS
P.O. BOX 1946
ALEXANDRIA, VIRGINIA 22313-1946
(703) 684-3260
FACSIMILE (703) 548-4742

H. ALAN YOUNG
NEIL D. GOLDMAN
JOHN P. VAN BEEK*
OF COUNSEL
KENNETH E. LABOWITZ
*ALSO ADMITTED IN MD

510 KING STREET
SUITE 416
ALEXANDRIA, VIRGINIA
2000 L STREET, N.W.
SUITE 504
WASHINGTON, D.C.

September 16, 1992

VIA FIRST CLASS MAIL AND TELEFAX TRANSMISSION 202-219-3923

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 SEP 17 PM 4:25

9403097113 7

Noriega E. James
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3592 Moran for Congress '92 Campaign

Dear Mr. James:

As we discussed on the telephone today, I represent the Moran for Congress '92 Campaign with regard to the pending FEC complaint. I am forwarding by telefax and first class mail the Statement of Designation of Counsel reflecting my representation.

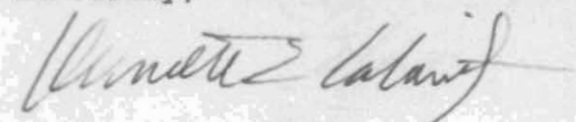
I am hereby requesting an extension of time in which to respond to the complaint, which the Moran for Congress '92 Campaign intends to contest. While my investigation reveals what occurred in the matters complained of, I have not been able to obtain copies of the documents that should have sent in the mailing that was the subject of the complaint. The documents that I require are among the files of the Campaign, but as yet I have not been able to secure the specific documents involved in the mailing complained of.

In addition, the complaint named as respondents the Honorable Mary Sue Terry, Attorney General of Virginia, and the Terry for Virginia Committee. I have been in contact with representatives of the Attorney General, and I will be sharing with them the results of my investigation when it is completed. That will require additional time after I prepare the Moran Campaign's response to the complaint.

Therefore, on behalf of the Moran for Congress '92 Campaign, I am requesting an extension of time until October 3, 1992 for the filing of the Campaign's response to the complaint in MUR 3592.

Thank you for your assistance and cooperation.

Sincerely,



Kenneth E. Labowitz

cc: Honorable Edward M. Holland
Treasurer, Moran for Congress '92
Marshall Cook, Esquire
Office of the Attorney General
Richmond, Virginia

9403097113 8

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 SEP 17 PM 4:25

MUR 3592

NAME OF COUNSEL: Kenneth E. Labowitz

ADDRESS: 510 King Street, Suite 416
Post Office Box 1946
Alexandria, Virginia 22313

TELEPHONE: (703) 684-3260

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.

9/16/92
Date

Mary M. Moran
Signature

RESPONDENT'S NAME: Moran for Congress '92 Campaign

ADDRESS: P.O. Box 2518
Alexandria, Virginia 22301

HOME PHONE: 683-1020

BUSINESS PHONE:

9403097113 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 21, 1992

Kenneth E. Labowitz, Esquire
Young, Goldman & Van Beek
510 King Street
Suite 416
Alexandria, VA 22313

RE: MUR 3592
Congressman James P. Moran
Moran for Congress '92 and
Edward M. Holland, as
treasurer

Dear Mr. Labowitz:

This is in response to your letter dated September 16, 1992, requesting an extension until October 3, 1992, to respond to the complaint filed in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on October 3, 1992.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Noriega E. James

Noriega E. James
Paralegal

9403097114 0

ANDERSON, HIBEY & BLAIR
1708 NEW HAMPSHIRE AVENUE, N. W.
WASHINGTON, D. C. 20009

(202) 483-1900

A PARTNERSHIP INCLUDING
PROFESSIONAL CORPORATIONS

TELEX: 248929
AHNB UR
TELECOPIER: (202) 483-7462

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

SEP 22 11 07 AM '92

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 SEP 22 PM 4:27

21 September 1992

**VIA REGISTERED MAIL
AND FACSIMILE # 202-219-3923**

Mr. Noriega E. James
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20436

Re: **MUR 3592**
Mary Sue Terry, Attorney General for the Commonwealth of Virginia
Terry for Virginia Committee

Dear Mr. James:

Per our telephone conference this morning, this is to advise that this firm represents Mary Sue Terry, Attorney General for the Commonwealth of Virginia, and the Terry for Virginia Committee, respondents in the above-captioned matter. A Designation of Counsel Statement is enclosed.

As we discussed, this firm has recently been retained to handle this matter, and we will require additional time to complete our investigation of the facts alleged in the complaint. Accordingly, we would respectfully request an extension of time until Wednesday, October 7, 1992 for the filing of our clients' response to the complaint in this matter.

9403097114 1

ANDERSON, HIBEY & BLAIR
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Thank you for your cooperation and assistance.

Sincerely,

Thomas P. Steindler

TPS/pdb
enclosure

cc: Robert A. Blair, Esquire

The Honorable Mary Sue Terry
Attorney General for the Commonwealth of Virginia

Terry for Virginia Campaign

9403097142

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3592

NAME OF COUNSEL: Robert A. Blair

ADDRESS: Thomas P. Steindler
Anderson, Hibey & Blair
1708 New Hampshire Avenue, N.W.
Washington, D.C. 20009

TELEPHONE: (202) 483-1900

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.

September 18, 1992
Date

Signature

RESPONDENT'S NAME: Mary Sue Terry

ADDRESS: 101 N. 8th Street
Richmond, Virginia 23219

HOME PHONE:

BUSINESS PHONE: (804) 786-2435

9403097143

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3592

NAME OF COUNSEL: Robert A. Blair

ADDRESS: Thomas P. Steindler
Anderson, Hibey & Blair
1708 New Hampshire Avenue, N.W.
Washington, D.C. 20009

TELEPHONE: (202) 483-1900

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.

September 18, 1992
Date

Signature

RESPONDENT'S NAME: The Terry for Virginia Committee

ADDRESS: Post Office Box 714
Richmond, Virginia 23206

HOME PHONE: (804) 270-7596

BUSINESS PHONE: (804) 644-1993

9403097114 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 24, 1992

Robert A. Blair, Esquire
Thomas P. Steindler, Esquire
Anderson, Hibey & Blair
1708 New Hampshire Avenue, N.W.
Washington, DC 20009

RE: MUR 3592
Mary Sue Terry

Dear Sirs:

This is in response to your letter dated September 21, 1992, requesting an extension until October 7, 1992, to respond to the complaint filed in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on October 7, 1992.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Noriega E. James

Noriega E. James
Paralegal

9403097114 5

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

OCT 5 10 04 AM '92

YOUNG, GOLDMAN & VAN BEEK
A PROFESSIONAL CORPORATION
LAWYERS
P.O. BOX 1946
ALEXANDRIA, VIRGINIA 22313-1946
(703) 684-3260
FACSIMILE: (703) 548-4742

H. ALAN YOUNG
NEIL D. GOLDMAN
JOHN P. VAN BEEK*
OF COUNSEL
KENNETH E. LABOWITZ
*ALSO ADMITTED IN MD

510 KING STREET
SUITE 416
ALEXANDRIA, VIRGINIA
2000 L STREET, N.W.
SUITE 504
WASHINGTON, D.C.

October 2, 1992

VIA FIRST CLASS MAIL AND TELEFAX TRANSMISSION 202-219-3923

Federal Election Commission
Washington, D.C. 20463

Attention: Noriega E. James
Office of the General Counsel

92 OCT -5 PM 4:01
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

9 4 0 3 0 9 7 1 1 4 6

Re: MUR 3592, Complaint against Moran for Congress '92

Dear Mr. James:

On behalf of the Moran for Congress '92 Committee, and the Honorable Edward M. Holland, its treasurer, I am hereby responding to the pending complaint filed against the Committee and Mr. Holland regarding a mailing by the Committee in August 1992.

My investigation of this matter as to the circumstances of the mailing reveals that the Committee prepared a mailing that included three separate elements: the cover page (printed front and back on Moran for Congress '92 letterhead with the required disclaimer at the bottom) detailing legislation sponsored by Congressman Moran; the letter from Attorney General Mary Sue Terry that is reproduced in the complaint; and a flyer regarding absentee ballots.

Attached are duplicates of the contents of the mailing as prepared by the Moran for Congress '92, along with a sample of one of the envelopes used in the mailing.

The mailing was sent in envelopes clearly labeled as originating from the Moran campaign. The Moran campaign office in Alexandria was shown as the return address and no frank was used for the mailing.

The mailing was prepared entirely at the expense of the Moran for Congress '92 campaign. Unpaid volunteers were employed to stuff and address the envelopes; approximately 12,000 envelopes

were prepared and mailed by the corps of volunteers assisting in this mailing.

Attorney General Terry simply provided the original of the letter of support as her sole participation in the mailing. The letter was reproduced at Moran campaign expense; neither the Attorney General nor any other campaign committee participated in any way in the mailing, which was a Moran campaign enterprise. The mailing was made entirely at the expense of the Moran for Congress '92 Committee; no other person or entity contributed to the expense of the mailing or made any other expenditure in connection with it.

Accepting the account of the complainant (Congressman Moran's opponent in the upcoming election) as true, apparently one of the pieces among the thousands sent as part of the Moran campaign mailing went out without the first sheet. The cover sheet of the mailing included the disclaimer and identification of the Moran campaign committee and its treasurer as the originator of the mailing.

No violation of the Federal campaign laws and regulations was intended or committed. The mailing was sent in Moran campaign envelopes at campaign expense, with appropriate indicia; the contents were headed by a page printed on Moran for Congress '92 letterhead, with the required disclaimer and identification of the treasurer appearing at the bottom.

If a less-than-careful volunteer omitted the first sheet from one of the pieces included among this extensive mailing, that is an error that the Moran for Congress '92 Committee regrets. Additional procedures have been put into place to ensure that volunteers are reminded of the need to include all elements of a mailing in each piece stuffed and sealed, to avoid any similar errors in future mailings.

I will be happy to provide any additional information that the Commission requires in the disposition of this complaint. Thank you for your consideration.

Very truly yours,

Kenneth E. Labowitz

cc: Honorable James P. Moran, Jr.
Honorable Mary Sue Terry
Honorable Edward M. Holland

9403097147

Moran for Congress '92

Co-Chairman
Honorable Clive DuVal 2d
Honorable William Newman

P.O. Box 2518, Alexandria, VA 22301

LEGISLATION SPONSORED BY REPRESENTATIVE JAMES P. MORAN DURING THE 102ND CONGRESS

Metropolitan Washington Waste Management Study Act - A bill to prohibit the expansion of the I-95 sanitary landfill in Lorton, Virginia, unless an environmental impact statement on any such expansion is completed and approved by the Administrator of the Environmental Protection Agency, and for other purposes. (Bill introduced on October 17, 1991, and referred to House Committee on Energy and Environment)

George Mason Memorial - Approves a specified location on federal land in the District of Columbia for a memorial to honor George Mason. (Resolution signed into law April 28, 1992)

Homeowners' Equity Protection Act - A bill to protect homeowners with substantial equity interests in their mortgaged principal residences from the loss of their homes through mortgage foreclosure when forbearance can reasonably be extended by the mortgage holders, to provide for the protection of the equity interests of homeowners in cases of foreclosure, and for other purposes. (Bill referred to House Committee on Banking, Finance, and Urban Affairs on March 11, 1992)

Law Enforcement Responsibility Act of 1991 - A bill to ensure that law enforcement officers and agencies are responsive to the public by establishing minimum standards designed to promote effective and responsible policing and to provide for the rights of law enforcement officers and citizens in alleged cases of police misconduct. (Bill referred to House Committee on Judiciary on February 19, 1992)

Driver's License Information Protection Act of 1992 - A bill to protect the privacy of individuals by restricting access to driver's license information. (Bill referred to House Committee on Judiciary on March 26, 1992)

9403097114 8

Authorized and paid for by the Moran for Congress '92 Committee, Honorable Edward M. Holland, Treasurer

Public Service Recognition Week - A joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week." (Resolution signed into law on May 11, 1992)

Credit Crunch Resolution - The resolution calls for the reinstatement of passive loss tax deductions; new long term sources of capital financing; securitization of commercial loans, and elimination of "mark-to-market" liquidation-based appraisals. (Amendment passed on November 27, 1991)

Above-Ground Storage Regulation - A bill to regulate aboveground storage tanks used to store regulated substances, and for other purposes. (Bill referred to the Energy and Commerce Committee on May 26, 1992)

Women's Soccer Resolution - A concurrent resolution expressing the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia. (Referred to House Committee on Foreign Affairs on May 26, 1992)

Fair Representation Act of 1992 - A joint resolution providing full Congressional representation for residents of the District of Columbia.

Financial Accountability, and Impact Reform Act ("FAIR") - A bill to improve federal decision making by requiring a thorough evaluation of the economic impact of federal legislative and regulatory requirements on state and local governments and the economic resources located therein.

Census Data Fair Share Act of 1992 - To require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census.

9403097149

COMMONWEALTH OF VIRGINIA
OFFICE OF ATTORNEY GENERAL
RICHMOND 23219

MARY SUE TERRY
ATTORNEY GENERAL

August 6, 1992

Greetings:

As the Commonwealth's Attorney General, I would like to take this opportunity to remind you to vote in the upcoming November 3rd election. I believe that citizen involvement is the key to good government and that voting is a critical part of that involvement. Our participation in the electoral process is vital in keeping federal, state and local government responsive and responsible to the people. It is both our right and our responsibility.

If you will be away at school, on vacation or on business during the election, please take the time to send in the enclosed Absentee Ballot Application. The process is simple and will ensure that your vote is counted and your voice is heard.

I would also like to take this opportunity to express my strong support for Congressman Jim Moran. Since first being elected in 1990, Congressman Moran has served with integrity and commitment. As one of the original co-sponsors of the Freedom of Choice Act, Congressman Moran has been steadfast in his support of a woman's right to privacy. He has been tireless in fighting to change Congress and to improve our quality of life. His tenacity has earned him the reputation of being an extraordinarily effective lawmaker during his first term. I hope you'll join me in helping re-elect Jim Moran to Congress in the 8th Congressional District

For any questions regarding Absentee Ballots or Voter Registration, please call the Fairfax County Electoral Board at (703) 246-8683.

Very sincerely,

Mary Sue Terry

Enclosure

NOT PRINTED AT PUBLIC EXPENSE

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COMMONWEALTH OF VIRGINIA

APPLICATION FOR ABSENTEE BALLOT

Mail in time to be received at least five days before election; or Complete in registrar's office at least three days before election.

To the General Registrar, County/City of _____:

I hereby make application for a ballot to cast my vote in the following election:

☐ General or Special ☐ Democratic Primary ☐ Republican Primary

to be held on _____, 19____ for the reason checked below:

CERTIFICATE OF REGISTRAR FOR OFFICE USE ONLY

Application Number _____

Precinct _____

Date Received _____

☐ In person ☐ By mail ☐ Other

Applicant is registered: ☐ Yes ☐ No

_____
Signature of Registrar

[You MUST check one, and only one, of the following squares.]

I am duly registered in, and expect to be absent from, the above county or city on the day of election and I:

1A ☐ AM A STUDENT ATTENDING 1B ☐ AM THE SPOUSE OF STUDENT ATTENDING

_____
Name and address of school or institution of learning [must be entered]

1C ☐ WILL BE AWAY ON BUSINESS _____
Name of employer or business [must be entered]

1D ☐ WILL BE AWAY ON PERSONAL BUSINESS OR ON VACATION

_____
Name of Virginia county or city or the state or country to which you are travelling [must be entered]

I am duly registered in the above county or city and I am:

2A ☐ UNABLE TO GO IN PERSON TO THE POLLS ON ELECTION DAY BECAUSE OF A PHYSICAL DISABILITY OR PHYSICAL ILLNESS

_____
Nature of physical illness or physical disability [type of illness or disability must be entered]

3A ☐ CONFINED AWAITING TRIAL 3B ☐ CONFINED HAVING BEEN CONVICTED OF A MISDEMEANOR

_____
Name and address of institution of confinement [must be entered]

4A ☐ A MEMBER OF AN ELECTORAL BOARD, A REGISTRAR, AN OFFICER OF ELECTION, OR A CUSTODIAN OF VOTING MACHINES

I expect to be absent from the above county or city and I am. [may register by mail at any time]

6A ☐ A MEMBER OF THE U.S. ARMED FORCES ON ACTIVE SERVICE OR THE U.S. MERCHANT MARINE

6B ☐ SPOUSE OR DEPENDENT OF ABOVE

_____
Branch of Service Rank, Grade or Rate Service Identification Number

I expect to be absent from the above county or city and I am. [may register by mail up to 31 days prior to election]

6D ☐ REGULARLY EMPLOYED IN BUSINESS, PROFESSION, OR OCCUPATION OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

6D ☐ SPOUSE OR DEPENDENT RESIDING WITH SUCH PERSON

_____
Name and address of employer [must be entered]

MAIL BALLOT TO ME AT THIS ADDRESS: (COMPLETE ONLY IF BALLOTS ARE NOT AVAILABLE FOR VOTING TODAY)

_____ ZIP

[**MUST BE** either address where registered or where you will be located while away from your county or city of residence **CANNOT** be sent in care of any other person.]

☐ **I WILL NEED ASSISTANCE IN THE PREPARATION OF MY BALLOT DUE TO A PHYSICAL OR EDUCATIONAL DISABILITY.**

I declare **under penalty of perjury** that, to the best of my knowledge and belief, the facts contained in this application are true and correct and that I have not and will not vote in this election at any other place in Virginia or in any other state.

WITNESSED BY:

_____
Witness must sign here

_____
Print full name

_____
Address

City/Town _____ ZIP _____

Given under my hand this _____ day of _____, 19____

_____
Applicant must sign here

_____
Print full name

_____
Legal Virginia resident address

City/Town _____ ZIP _____

Social Security Number _____

SBE-228.1 REV. 5/92-100M

The social security number is part of your voter record and is requested to assure that no other person is permitted to vote in your name. This document upon

9 4 0 3 0 9 7 1 1 5 1

In ARLINGTON COUNTY, please send your completed application to:

General Registrar
Arlington County Government
2100 Clarendon Boulevard, Suite 320
Arlington, VA 22201-5400

In the CITY OF FALLS CHURCH, send your completed application to:

Voter Registration
City Hall
300 Park Avenue
Falls Church, 22046

In the CITY OF ALEXANDRIA, send your completed application to:

General Registrar
421 King Street, Room 300
Alexandria, VA 22314

In FAIRFAX COUNTY, completed applications should be sent to:

Office of the General Registrar
4031 University Drive
Fairfax, VA 22030

9 4 0 3 0 9 7 1 1 5 2

OGC 6817

ANDERSON, HIBEY & BLAIR
1708 NEW HAMPSHIRE AVENUE, N. W.
WASHINGTON, D. C. 20009

(202) 483-1900

A PARTNERSHIP INCLUDING
PROFESSIONAL CORPORATIONS

TELEX: 248929
AHNB UR
TELECOPIER: (202) 483-7462

October 7, 1992

VIA MESSENGER

92 OCT -7 PM 3:57
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D.C. 20463

Attention: Mr. Noriega E. James
Office of the General Counsel

Re: **MUR 3592**
Mary Sue Terry, Attorney General for the Commonwealth of Virginia
Terry for Virginia Committee

Dear Mr. James:

On behalf of Mary Sue Terry, Attorney General for the Commonwealth of Virginia, and the Terry for Virginia Committee, we hereby respond to the above-referenced Complaint filed on August 26, 1992 by Kyle McSlarrow, candidate for Congress in the 8th District of Virginia.

The facts of this case involve a mailing by the Moran for Congress '92 Committee targeted at absentee voters. The mailing contained three documents: (1) a cover page on Moran for Congress '92 letterhead with the required disclaimer at the bottom detailing legislation sponsored by Congressman Moran; (2) a letter from Attorney General Mary Sue Terry expressing support for Congressman Moran; and (3) a flyer regarding absentee ballots.

Mr. McSlarrow alleges that the letter from Mary Sue Terry violates federal election laws governing the disclosure of funding sources for communications that advocate the election or defeat of a candidate, as well as laws prohibiting corporate

9403097115 3

contributions to federal election campaigns. Mr. McSlarrow further alleges that the letter represents a contribution of the "value" of Mary Sue Terry's official status to a federal campaign, which is somehow impermissible under the federal election laws. Each of these allegations is meritless.

The short answer to these allegations is that Attorney General Mary Sue Terry did not pay for the mailing, and that the funding source for the mailing was fully disclosed as required by law. Attorney General Terry's role in this matter was limited solely to providing the original of the letter of support. It is our understanding that the letter was subsequently reproduced by the Moran Campaign at Moran Campaign expense, and that the letter was included with the other documents in a Moran campaign envelope, sent at campaign expense, with appropriate indicia. The contents of this envelope were headed by a page printed on Moran for Congress '92 letterhead, with the required disclaimer at the bottom, stating "Paid for by Moran for Congress '92, Honorable Edward M. Holland, Treasurer." This disclaimer clearly satisfies the disclosure requirements for a "communication" advocating the election of a federal candidate under the applicable federal regulations.

In addition, Mr. McSlarrow's allegation that the letter represents an illegal contribution of Mary Sue Terry's official status to a federal campaign is unfounded, for two reasons. First, the letter clearly contains a disclaimer stating that the letter is not printed at public expense. Second, even assuming, arguendo, that Mr. McSlarrow's allegation were true, there is nothing in the federal election laws that prohibit an elected state official from contributing the value of her official status in support of a candidate for federal office. While corporations and labor organizations may be barred from contributing the value of their logos, trademarks and letterheads, no such restrictions apply to individuals holding state office. Accordingly, McSlarrow's complaint has no basis in the law.

We respectfully submit, therefore, that no violation of the federal campaign laws and regulations was intended or committed by Attorney General Mary Sue Terry or the Terry for Virginia

9403097115 4

Committee, and that the above-referenced Complaint should be dismissed.

We will be happy to provide any additional information that the Commission requires in connection with this matter.

Respectfully submitted,

ANDERSON, HIBEY & BLAIR

By: Robert A. Blair
Robert A. Blair
Thomas P. Steindler

RAB/tps

cc: Mary Sue Terry, Attorney General for the Commonwealth of Virginia

Terry for Virginia Committee

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RECEIVED
FEC
SECRETARIAT
94 FEB 10 AM 9:09

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

FIRST GENERAL COUNSEL'S REPORT **SENSITIVE**

MUR: 3592, 3655
STAFF MEMBER: Richard Denholm

COMPLAINANTS:

MUR 3592: Kyle McSlarrow
MUR 3689: Al Stauffer

RESPONDENTS:

MUR 3592: Congressman James P. Moran
Moran for Congress '94 and
Francis X. O'Leavy, as treasurer
Mary Sue Terry
Terry for Virginia Committee and Elman P. Gray, as treasurer

MUR 3689: Congressman Ted Strickland
Ted Strickland for Congress and Wanda Kuhns, as treasurer

9403097115 6

RELEVANT STATUTES: 2 U.S.C. § 441d(a)
11 C.F.R. § 110.11(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTERS

These matters arise from four complaints filed with the Federal Election Commission ("Commission") during the 1992 election cycle. Each complaint alleges the distribution of

documents without the disclaimer required by 2 U.S.C. § 441d(a). Accordingly, the complaints are treated in one report. Details about the generation of each particular matter and the material facts of each case are provided in the next section.

II. FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") requires a disclaimer for communications that expressly advocate the election or defeat of a clearly identified candidate through any newspaper, direct mailing, or other form of general public political advertising. 2 U.S.C. § 441d(a). The disclaimer must clearly identify the person or political committee who paid for the communication. Id. If it was paid for by someone other than a candidate's authorized political committee, the disclaimer must also state whether the communication was authorized by the candidate or candidate's committee. Id.

Commission regulations further require that the disclaimer appear in a clear and conspicuous manner so that the reader, observer, or listener is given adequate notice of the identity of persons who paid for and authorized the communication. 11 C.F.R. § 110.11(a)(1). The disclaimer is not required to be on the front face or page of the advertisement, so long as it is somewhere within the communication. Id. Bumper stickers, pins, buttons, pens and similar small items are exempted from

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the disclaimer requirement because of the undue inconvenience of printing on such items. 11 C.F.R. § 110.11(a)(2).

B. The Cases

1. MUR 3592

This matter was generated by a complaint received from Kyle McSlarrow of Arlington, Virginia against: Congressman James P. Moran; Moran for Congress '94 and Francis X. O'Leavy, as treasurer;[1] Mary Sue Terry; and the Terry for Virginia Committee and Elman P. Gray, as treasurer, ("Respondents"). The complaint alleges that Mary Sue Terry, Attorney General for the Commonwealth of Virginia, wrote a letter endorsing Congressman Moran in his 1992 re-election campaign. In the letter, Ms. Terry stated: "I hope you'll join me in helping re-elect Jim Moran to Congress in the 8th Congressional District." (Attachment A-2, at 1). The complaint alleges that this letter was part of a mailing which also contained an absentee ballot application, but that neither the Terry letter nor the application reflected the appropriate 2 U.S.C. § 441d(a) disclaimer. (Attachment A-1, at 1 and A-2, at 1-2). According to the complaint, the Terry letter expressly advocated the election of Congressman Moran. Thus, the disclaimer requirement

1. The complaint alleges violations by Moran for Congress '92 and Edward M. Holland, as treasurer. On February 27, 1993, the Committee amended its Statement of Organization to show its new name as Moran for Congress '94. On December 18, 1993, the Committee reported its new treasurer as Francis X. O'Leavy. Accordingly, Moran for Congress '94 and Francis X. O'Leavy, as treasurer, are the respondents in this matter.

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of 2 U.S.C. § 441d(a) was triggered. Although the letter was written on Attorney General letterhead and reflected the words "Not Printed at Public Expense," there was no additional statement on the letter disclosing who actually authorized or paid for the mailing. Id. Therefore, the mailing did not appear to satisfy the disclaimer requirement.

Respondents contend that the complaint did not include the entire mailing. The actual mailing included a "cover page" detailing legislation sponsored by Congressman Moran. Respondents further explain that the cover page included the required disclaimer. (Attachment A-2, at 3). Respondents suggest that a "less-than-careful volunteer" may have inadvertently sent out one or two mailings without the cover page. (Attachment A-4, at 2).

The statement "Authorized and Paid for By the Moran for Congress '92 Committee, Honorable Edward M. Holland, Treasurer" was apparently on a cover page, which accompanied the mailing. (Attachment A-2, at 3). Commission regulations require that the sponsorship statement appear in a clear and conspicuous manner to give the reader adequate notice of the identity of persons who paid for or authorized the communication. 11 C.F.R. § 110.11(a)(1); and see Advisory Opinion 1980-145. The statement does not, however, have to be on the front face or page of the material soliciting contributions. (Id.) In this case, it appears that the disclaimer statement was included with the mailing and advised the reader that it was authorized and

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paid for by the Moran Committee. Therefore, the disclaimer requirement of the Act and regulations appear to have been satisfied as to Ms. Terry's letter. Further, Respondents' explanation that one or two letters were sent without the cover page is plausible. The complaint does not provide additional information to substantiate that the letters, in general, were mailed without disclaimers. Moreover, there is no evidence that Congressman Moran was personally involved in the production or distribution of the mailing. Therefore, this Office recommends that the Commission find no reason to believe that Congressman James P. Moran and Moran for Congress '94 and Francis X. O'Leavy, as treasurer, violated 2 U.S.C. § 441d(a).

The complaint further alleges that Ms. Terry or the Terry for Virginia Committee violated 2 U.S.C. § 441d(a) by failing to print a disclaimer on the endorsement letter. Ms. Terry's attorney explains that her role in this matter was solely limited to providing the original letter of support to Moran for Congress '94, and neither she nor the Terry for Virginia Committee had any role in the subsequent reproduction and distribution of the letter. (Attachment A-3, at 2). Further, the evidence indicates that the mailing was authorized by Moran for Congress '94, and the letters were reproduced and distributed at its expense. Id.

Based on the responses, there is no evidence to dispute the claim of Moran for Congress '94 and Ms. Terry that the letter was part of a mailing which, as a whole, satisfied the disclaimer requirement. Furthermore, a disclaimer is only

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required when a person "makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate." 2 U.S.C. § 441d(a). It appears that Moran for Congress '94 paid for the reproduction and distribution of the mailing, and a disclaimer accompanied that mailing. See Advisory Opinion 1980-145. Accordingly, this Office recommends that the Commission find no reason to believe that the Terry for Virginia Committee and Elman P. Gray, as treasurer, and Mary Sue Terry violated 2 U.S.C. § 441d(a) with respect to MUR 3592, and close the file in this matter.

2. MUR 3689

This matter was generated by a complaint received from Al Stauffer of Marietta, Ohio against: Ted Strickland; and Ted Strickland for Congress and Wanda Kuhns, as treasurer ("Respondents"). The complaint alleges that a mailing sent out by the Committee failed to reflect the required disclaimer. The mailing, sent to 77 Republican Committeepersons in the 6th Congressional District of Ohio, included a letter signed by Ted Strickland and photocopies of three newspaper articles. The letter apparently advocated the election of Ted Strickland because it stated: "I'm writing you to ask for your support for Congress...." (Attachment B-2, at 1). Further, the newspaper articles attempted to discredit Mr. Strickland's opponent. (Attachment B-2, at 2-4).

Respondents admit that the mailing did not include a disclaimer. (Attachment B-3, at 1). Nonetheless, Respondents argue that "the signature [on the letter] plainly identifies

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Ted Strickland as the sender, and the address listed below his signature includes the Post Office Box of the Ted Strickland for Congress committee." (Attachment B-3, at 1). Respondents contend that this information satisfies the intent of the disclaimer provision of the Act. Id.

The Commission's regulations require a disclaimer that is sufficient to give "adequate notice of the identity of persons who paid for and, where required, who authorized the communication." 11 C.F.R. § 110.11(a)(1). In this matter, the mailing appears to have expressly advocated the election of Ted Strickland, but the mailing does not provide notice as to who paid for it. Although Mr. Strickland signed the letter, it was not printed on Committee letterhead. (Attachment B-2, at 1). The signature and address alone do not necessarily indicate who paid for the mailing. Thus, the mailing does not appear to disclose the information required by the Act and Commission regulations.

Accordingly, this Office recommends that the Commission find reason to believe that Ted Strickland for Congress and Wanda Kuhns, as treasurer, and Ted Strickland violated 2 U.S.C. § 441d(a). This Office further recommends, however, that the Commission take no further action with regard to this violation. During their 1992 campaign, Respondents mailed over 300,000 pieces of literature, but the mailing at issue in this matter was sent to only 77 individuals. Thus, this recommendation recognizes the limited nature of the violation. Furthermore, this recommendation considers the priorities of the Commission

9403097116 2

given its limited resources. See Heckler v. Chaney, 470 U.S. 821 (1985). Provided the Commission approves this recommendation, this Office will admonish Respondents to include disclaimers on all future correspondence falling under the requirements of 2 U.S.C. § 441d(a).

NOTICE

THE REMAINDER OF PAGE 8, AND PAGES 9 THRU 12, CONTAIN INFORMATION PERTAINING TO A MATTER CURRENTLY UNDER CONSIDERATION BY THE COMMISSION

9403097116 3

V. RECOMMENDATIONS

A. MUR 3592:

1. Find no reason to believe that Moran for Congress '94 and Francis X. O'Leavy, as treasurer, violated 2 U.S.C. § 441d(a).

2. Find no reason to believe that Congressman James P. Moran violated 2 U.S.C. § 441d(a).

3. Find no reason to believe that the Terry for Virginia Committee and Elman P. Gray, as treasurer, and Mary Sue Terry violated 2 U.S.C. § 441d(a).

4. Approve the appropriate letters.

5. Close the file.

B. MUR 3689:

1. Find reason to believe that Ted Strickland for Congress and Wanda Kuhns, as treasurer, violated 2 U.S.C. § 441d(a), but take no further action.

2. Find reason to believe that Ted Strickland violated 2 U.S.C. § 441d(a), but take no further action.

3. Approve the appropriate letters.

4. Close the file.

9403097116 4

Lawrence M. Noble
General Counsel

2/17/94
Date

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

Attachments:

A. MUR 3592:
   A-1. Complaint
   A-2. Terry endorsement letter and enclosures
   A-3. Response of Terry for Virginia Committee
   A-4. Response of Moran for Congress '92 Committee

B. MUR 3689:
   B-1. Complaint
   B-2. Strickland letter and enclosures
   B-3. Response of Strickland for Congress Committee

9403097116 5

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: FEBRUARY 24, 1994

SUBJECT: MURs 3592, - FIRST GENERAL COUNSEL'S REPORT DATED FEBRUARY 17, 1994.

The above-captioned document was circulated to the Commission on Friday, February 18, 1994 at 12:00 p.m.

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	XXX
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for Thursday, March 3, 1994 (After the Open Meeting).

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

9403097116 6

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3592
Congressman James P. Moran;	)	
Moran for Congress '94 and Francis X. O'Leavy, as treasurer;	)	
Mary Sue Terry;	)	
Terry for Virginia Committee and Elman P. Gray, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 3, 1994, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3592:

1. Find no reason to believe that Moran for Congress '94 and Francis X. O'Leavy, as treasurer, violated 2 U.S.C. § 441d(a).

2. Find no reason to believe that Congressman James P. Moran violated 2 U.S.C. § 441d(a).

3. Find no reason to believe that the Terry for Virginia Committee and Elman P. Gray, as treasurer, and Mary Sue Terry violated 2 U.S.C. § 441d(a).

4. Approve the appropriate letters as recommended in the General Counsel's report dated February 17, 1994.

(continued)

9403097 1167

5. Close the file.

Commissioners Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioner Aikens did not vote in this matter.

Attest:

3-4-94
Date

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

9403097 1168

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MARCH 14, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kyle Eugene McSlarrow
Kyle McSlarrow for Congress
3505 North 14th Street
Arlington, VA 22201

RE: MUR 3592

Dear Mr. McSlarrow:

On March 3, 1994, the Federal Election Commission reviewed the allegations of your complaint received on August 26, 1992, and found that on the basis of the information provided in your complaint, and the responses thereto, that there is no reason to believe Moran for Congress '94 and Francis X. O'Leavy, as treasurer, Congressman James P. Moran, Terry for Virginia Committee and Elman P. Gray, as treasurer, and Mary Sue Terry violated 2 U.S.C. § 441d(a). Accordingly, on March 3, 1994, the Commission closed the file in this matter. We are enclosing a copy of the General Counsel's Report. Please note that certain portions of the report have been removed because those portions involve an unrelated, but open MUR, which remains subject to the confidentiality requirement of the Act.

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

9403097169

FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

MARCH 14, 1994

Kenneth E. Labowitz, Esquire
Young, Goldman & Van Beek
510 King Street, Suite 416
Alexandria, VA 22313

RE: MUR 3592
Moran for Congress '94 and
Francis X. O'Leavy, as
treasurer

Dear Mr. Labowitz:

On August 31, 1992, the Federal Election Commission notified your clients, Moran for Congress and its treasurer of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 3, 1994, the Commission found, on the basis of the information in the complaint, and the responses thereto, that there is no reason to believe Moran for Congress '94 and Francis X. O'Leavy, as treasurer, violated 2 U.S.C. § 441d(a). Accordingly, the Commission closed its file in this matter. We are enclosing a copy of the General Counsel's Report. Please note that certain portions of the report have been removed because those portions involve an unrelated, but open MUR, which remains subject to the confidentiality requirement of the Act.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply to MUR 3592, 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

9403097117 0

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MARCH 14, 1994

The Honorable James P. Moran
430 Cannon House Office Building
Washington, DC 20515

RE: MUR 3592
The Honorable James P. Moran

Dear Mr. Moran:

On August 31, 1992, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 3, 1994, the Commission found, on the basis of the information in the complaint, and the responses thereto, that there is no reason to believe you violated 2 U.S.C. § 441d(a). Accordingly, the Commission closed its file in this matter. We are enclosing a copy of the General Counsel's Report. Please note that certain portions of the report have been removed because those portions involve an unrelated, but open MUR, which remains subject to the confidentiality requirement of the Act.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply to MUR 3592, 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

9403097171

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MARCH 14, 1994

Robert A. Blair, Esquire
Anderson, Hibey & Blair
1708 New Hampshire Ave., N.W.
Washington, DC 20009

RE: MUR 3592
Mary Sue Terry and
Terry for Virginia Committee
and Elman P. Gray, as
treasurer

Dear Mr. Blair:

On August 31, 1992, the Federal Election Commission notified your clients, Mary Sue Terry and Terry for Virginia Committee and Elman P. Gray, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 3, 1994, the Commission found, on the basis of the information in the complaint, and the responses thereto, that there is no reason to believe Mary Sue Terry and Terry for Virginia Committee and Elman P. Gray, as treasurer, violated 2 U.S.C. § 441d(a). Accordingly, the Commission closed its file in this matter. We are enclosing a copy of the General Counsel's Report. Please note that certain portions of the report have been removed because those portions involve an unrelated, but open MUR, which remains subject to the confidentiality requirement of the Act.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply to MUR 3592, 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

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public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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 # 3592

DATE FILMED 4-13-94 CAMERA NO. 2

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