



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3689

DATE FILMED 4-13-94 CAMERA NO. 2

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Nov 2 1 04 PM '92

MUR 3689

October 29, 1992

Federal Elections Commission
999 E Street, Northwest
Washington, DC 20463

Attn: General Counsel Office

RE: Campaign violation

Dear Sirs:

I am enclosing campaign literature which was mailed to my home and other homes in my congressional district. The letter was sent by Ted Strickland, Democratic candidate for United States Congress, Sixth District of Ohio.

There is no disclaimer on the literature indicating the name of the committee, or the treasurer for same. This is required by law. I wish to formally register a complaint about this campaign law violation. I would appreciate it if you see that this offense is prosecuted pursuant to U.S. law.

Sincerely,

Al Stauffer

Al Stauffer
108 Laramie Road
Marietta, OH 45750

Sworn to before me and subscribed in my presence this 29th day of October, 1992, by Al Stauffer.

Becky Kirkbride

Notary Public

BECKY KIRKBRIDE
Notary Public
State of Ohio
My Commission Expires 7/29/97

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FEDERAL ELECTION COMMISSION
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October 18, 1992

Dear Republican Committeeperson:

With every passing day, I understand exactly why Congressman Clarence Miller decided to stay in the race against Bob McEwen issuing a statement saying, "In good conscience, I felt I could not turn and walk away from this contest."

It is a matter of conscience. Bob McEwen must be stopped.

Congressman Miller warned us and we've experienced Bob McEwen's inability to tell the truth. As Mr. Miller said, "Time and time again, Bob looked across the desk at me and either denied saying what was attributed to him by the press or contended I misunderstood what he had told me. I had never seen such a performance since Pinocchio."

We are finding the same thing in his radio ads and much of what he says in his debates with me. Like Mr. Miller, I've accepted the difficult task of pointing these untruths out to the voters of Southern Ohio.

I'm writing you to ask for your support for Congress. We may consider ourselves Democrats or Republicans, but we are Americans first and I am asking you to put partisan politics aside this one time and do what's best for Southern Ohio.

Why should Republicans support Ted Strickland for Congress? Well, did you know Bob McEwen has missed 412 important roll call votes in Congress? I'm sure you know Bob McEwen was the biggest congressional spender in Ohio. I'm sure you're aware of his other problems in Congress such as bad checks, junkets, and overall abuse of percs.

If party loyalty is keeping you from supporting me, please read the enclosed articles. If Bob McEwen does not support your party's nominee for President, why should you support Bob McEwen?

Thank you for your time. I hope to hear from you.

Sincerely,

Ted Strickland

P.O. Box 580
Lucasville, Ohio 45648

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OFFICE

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McEwen blasts Bush's leadership

By RANDY WYNN
Times Washington Bureau

WASHINGTON — President Bush's weak leadership on domestic issues has opened the door for likely independent presidential candidate Ross Perot, an Ohio Republican congressman declared Tuesday.



McEwen

Rep. Bob McEwen, R-Hillsboro, said he and many voters are frustrated by Bush's failure to battle the Democratic-controlled Congress more forcefully on issues including health care, education and housing.

"He has tried to be too accommodating to the Congress, which is committed to a stagnant economy and to having a failed Bush presidency," McE-

wen said during an interview. "It has taken him three years to figure out — if he has figured it out — that they are shooting with real bullets."

As a result, McEwen added, Bush is "now coming to the American people with an empty basket" and has no more than a 50 percent chance of re-election.

McEwen is not the first Republican to become uneasy with Bush's re-election campaign. The congressman said the Bush campaign substitutes symbols and photo opportunities for forceful action.

Bush needs to stop talking about what ought to be done and "just do it," McEwen said angrily. "Sometimes I think he was born to be vice president," he added later.

The congressman attributed Perot's popularity to voter anger coupled with an easing of public anxiety over the threat

of nuclear war.

"The only reason this is going on is this is the only time the vote has not settled down on the issue of whose finger do you trust on the nuclear trigger," McEwen said.

"It's like when (students) elect a cow Homecoming queen," McEwen added. "People are feeling a little frisky at the moment."

McEwen, a candidate for re-election this fall from southern Ohio's redrawn Sixth District, said he has not decided how he will vote if he is re-elected and if the presidential election ends up in the House of Representatives.

The 12th Amendment to the Constitution provides for election of the president by the House if no candidate wins a majority of the electoral vote. Each state's House delegation would decide how to cast the state's single vote.

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OFFICE OF THE CHIEF CLERK

PORTSMOUTH

Thursday, June 25, 1992

DAILY TIMES

637 Sixth St., Portsmouth, Ohio 45662

Kenneth D. Parks
Publisher

Tammy Ramsdell
Managing Editor

Laura Pyle

Assistant Managing Editor

Portsmouth Daily Times

June 25, 1992

Rep. McEwen's stance puzzling district voters

Official tally of primary ballots finds Rep. Bob McEwen the winner over Rep. Clarence Miller for the Republican nomination for Sixth District congressman but the contenders now must await the results of a recount mandated by the narrow margin.

While the candidates and their supporters mark time we hope McEwen will address some issues that he chose to ignore during the less-than-inspiring primary campaign, the only contest in the nation between incumbent GOP congressmen.

With his political life hanging by a thread — 297 votes from 14 counties — McEwen last week unaccountably loosed a broadside at the administration, charging President Bush's re-election campaign is offering the people only an "an empty basket," opening a gaping window of opportunity for independent Ross Perot, should he choose to run.

It's a strange approach for a congressman in McEwen's position. Voters must wonder why *he* doesn't instead offer some positive ideas on solving the problems of unemployment, health care, education and housing.

It could be that McEwen, paying more attention to the opinion polls than the issues, hasn't really put much thought into specifics. Remedies, project costs, means of financing ... where is that information?

What is perhaps the most unsettling, however, is that McEwen's round of Bush-bashing illustrates his true motive: and that is getting re-elected, no matter what kind of public dance is necessary.

And that should leave voters feeling a more than just a little bit concerned and confused. Just exactly what does Bob McEwen stand for? And, depending on the polls, what will he stand for a month from now, two months from now?

Then, of course, there's an important issue that clearly was dodged or conveniently pushed aside during the primary campaign: overdrafts on the House bank checking account.

Perhaps McEwen should concentrate on cleaning his own house before aiming at the White House.

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Angry Miller is going after McEwen

By Roger K. Lowe
 Dispatch Washington Bureau

5/16/92
 DISPATCH

WASHINGTON — Four days after he was ready to drop out of the Republican primary, Rep. Clarence E. Miller re-entered it with a vengeance, charging fellow GOP Rep. Bob McEwen has been taking cheap shots at his age and effectiveness.

Miller, 74, was particularly irate yesterday about remarks from a radio interview last month in which McEwen said, "At age 42, I'm not ready for a rest home yet."

McEwen, of Hillsboro, said he respects and admires Miller and denied the remark was directed at Miller. McEwen said he made the comment about himself in response to a question about this race possibly being the end of his political career.

Still suffering from a hip injury from a fall in the bathtub May 4, Miller said he was ready Monday to drop out when he and McEwen met privately to clear the air.

Miller said he wanted to confront McEwen about statements McEwen made, and that if the answers were satisfactory, he would probably would have withdrawn and endorsed McEwen.

"Clear the air it didn't," Miller said. "Foul the air it did. Time and time again, Bob looked across the desk at me and either denied saying what was attributed to him by the press or contended I misunderstood what he had told me. I had never seen such a performance since Pinocchio."

Miller decided to stay in the race.

"To drop out would have been the easy course to take; some might say it would have been the prudent course to take," said Miller, who admits he is the underdog. "But deep down, I know it



Miller



McEwen

would have been the wrong course to take."

In an interview from Hillsboro yesterday afternoon, McEwen said he was disappointed by the "meanness" of Miller's remarks.

"He's looking for something, and I've never said anything about him negative, and he knows it," McEwen said. "He's grasping for reasons to justify his actions."

Miller's current district was split among four districts this year, with the largest chunk going to a newly drawn district that contains much of McEwen's existing district.

After filing April 3 to run against McEwen, Miller, of Lancaster, did not campaign much, while McEwen traveled the district and spoke to nearly every group that would listen.

Miller said McEwen's comment was misleading and wrong.

"In good conscience, I felt I could not turn and walk away from this contest," Miller said.

McEwen said he went to Miller's office Mon-

day to find out what he could do to help Miller make a decision. McEwen said it was apparent Miller was not dropping out and wanted to use the meeting to challenge McEwen's statements.

"Despite my personal request to Clarence that he stop the mud-slinging in this campaign by himself and his staff, and run on the issues that are important to the taxpayers in the 6th District, he has chosen to run a campaign based solely on striking out at Bob McEwen," McEwen said.

One issue will be McEwen's overdrafts at the House bank. The House ethics committee reported last month that McEwen had 166 overdrafts at the now-closed bank, and Miller had none. McEwen said he never knew his bank account was overdrawn because his monthly statements showed a positive balance.

Even after the ethics committee released its report, McEwen denied to audiences that he had a single overdraft.

Miller said yesterday the check issue will not be the centerpiece of his campaign. He argued the overdrafts and McEwen's statements about them are symbolic of McEwen's problems with integrity and trust.

Miller said he hopes the campaign will not get uglier.

"I do not intend to have just a negative campaign," he said. A mailing pitching Miller's record will be sent out early next week. That mailing, however, will likely be followed by negative literature on McEwen's overdrafts, which were the 32nd highest among House members.

Miller said his re-election is important because of his position as a senior Republican on the House Appropriations Committee.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 9, 1992

Al Stauffer
108 Laramie Road
Marietta, OH 45750

RE: MUR 3689

Dear Mr. Stauffer:

This letter acknowledges receipt on November 2, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Ted Strickland for Congress, and Wanda Kuhns, as treasurer, and Ted Strickland. 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 3689. 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,

A handwritten signature in dark ink, appearing to read "Lisa E. Klein".

Lisa E. Klein
Assistant General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 9, 1992

Wanda Kuhns, Treasurer
Ted Strickland for Congress
P.O. Box 580
1337 Thomas Hollow Road
Lucasville, OH 45648

RE: MUR 3689

Dear Ms. Kuhns:

The Federal Election Commission received a complaint which indicates that Ted Strickland for Congress ("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 3689. 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.

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Wanda Kuhns, Treasurer
Ted Strickland for Congress
Page 2

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690. 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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 9, 1992

Ted Strickland
P.O. Box 580
1337 Thomas Hollow Road
Lucasville, OH 45648

RE: MUR 3689

Dear Mr. Strickland:

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 3689. 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.

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Ted Strickland
Page 2

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690. 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

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3689

NAME OF COUNSEL: Anthony J. Celebrezze, Jr.
Porter, Wright, Morris and Arthur

ADDRESS: 41 South High Street
Columbus, Ohio 43215

TELEPHONE: (614) 227-2291

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

11-18-92
Date

Ted Strickland
Signature

RESPONDENT'S NAME: Ted Strickland

ADDRESS: P. O. Box 580
Lucasville, Ohio 45648

TELEPHONE: HOME(614) 259-3600

BUSINESS()

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PORTER, WRIGHT,
MORRIS & ARTHUR
Attorneys & Counselors at Law

41 South High Street
Columbus, Ohio 43215-3406
Telephone: 614-227-2000
Fax: 614-227-2100
Telex: 6503213584

Anthony J. Celebrezze, Jr.
614-227-2024

November 23, 1992

Ms. Veronica Gillespie, Esq.
Federal Elections Commission
Washington, D.C. 20463

Re: Matter Under Review 3689

Dear Ms. Gillespie:

Pursuant to our telephone conversation on this date, am requesting an extension on the response date for the above referenced Matter Under Review to December 4, 1992. I understand from our conversation that you have authority to grant such an extension, and gave verbal approval on the telephone.

I appreciate your accommodation of this request. With the Thanksgiving holiday and campaign workers taking time off, it will take a few extra days to gather the information necessary to respond.

Once again, thank you for your courtesy.

Sincerely,

Anthony J. Celebrezze, Jr.
Anthony J. Celebrezze,

AJC/bm

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FEDERAL ELECTIONS COMMISSION



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 2, 1992

Anthony J. Celebrezze, Esq.
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, Ohio 43215-3406

RE: MUR 3689

Dear Mr. Celebrezze:

This is in response to your letter dated November 23, 1992, received by this office on November 30, 1992, requesting an extension of time until December 4, 1992, to file a response in the above-referenced matter. After considering all the circumstances presented in your letter and pursuant to our discussion on November 23, 1992, the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on December 4, 1992.

If you have any questions, please contact me at
(202) 219-3690.

Sincerely,

A handwritten signature in cursive script that reads "Veronica M. Gillespie".

Veronica M. Gillespie
Attorney

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MAIN COPY ROOM

PORTER, WRIGHT,
MORRIS & ARTHUR
Attorneys & Counselors at Law

DEC 7 10 39 AM '92

41 South High Street
Columbus, Ohio 43215-3406
Telephone: 614-227-2000
Fax: 614-227-2100
Telex: 6505213584

Anthony J. Celebrezze, Jr.
614-227-2024

December 4, 1992

By Fax and First Class Mail

Ms. Veronica Gillespie, Esq.
Federal Elections Commission
Washington, D.C. 20463

Re: MUR 3689

Dear Ms. Gillespie:

I am writing in response to the November 9, 1992 correspondence from Lisa E. Klein, Assistant General Counsel to Wanda Kuhns, Treasurer, Ted Strickland for Congress Committee. The correspondence forwarded a complaint from Al Stauffer regarding a letter sent from the campaign to him which contained no disclaimer. I have been designated by the Committee as their Counsel in this matter.

We are requesting that no action be taken by the Federal Elections Commission on this complaint. Although Mr. Strickland's letter contains no formal disclaimer at the bottom, it complies with the intent of the Federal Election Campaign Act of 1971 as amended, which is to identify where campaign literature or correspondence originates, and provide a point of contact for anyone wishing to correspond with the Committee. Please note that the signature plainly identifies Ted Strickland as the sender, and the address listed below his signature includes the Post Office Box of the Ted Strickland for Congress Committee. Had Mr. Stauffer wished to correspond directly with the Committee, enough information is provided in the letter for him to do so.

More than 300,000 pieces of correspondence and literature were sent out properly by the Committee during the campaign. This particular letter was sent to approximately 77 Republican Committeemen in the District. Even if the Committee had wanted to avoid including enough information for a point of contact with the Committee, it would be illogical for a candidate from the Democratic party to purposely violate the Act on correspondence being sent to members of the opposite political party. This letter was drafted by a member of the campaign staff, signed by the candidate and sent during the final ten days of the campaign, a time when things are the

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FEDERAL ELECTIONS COMMISSION

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Ms. Veronica Gillespie, Esq.
December 4, 1992
Page 2

most hectic. The fact that the sender and address give a clear point of contact demonstrate that there was no intent on the part of the Campaign to hide what the letter was, or where it came from.

In summary, we feel that this matter does not warrant the time or resources of a full Commission investigation, since there was no intent to disguise the purpose of the letter or its origin and this particular mailing constituted only seventy-seven pieces out of over three hundred thousand that were mailed and distributed during the Campaign. We therefore respectfully request that no further action be taken.

Sincerely,


Anthony J. Celebrezze

AJC/bm

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

94 FEB 10 AM 9:39

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 3592, 3655
STAFF MEMBER: Richard Denholm

COMPLAINANTS:

MUR 3592: Kyle McSillarow
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

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

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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. NUR 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

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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**

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V. RECOMMENDATIONS

A. NUR 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.

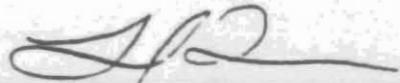
B. NUR 3689:

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.

9403097115

Lawrence M. Noble
General Counsel

2/17/94
Date

BY: 
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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3689
Congressman Ted Strickland;)
Ted Strickland for Congress and)
Wanda Kuhns, 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 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 as recommended in the General Counsel's report dated February 17, 1994.

(continued)

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4. 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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MARCH 14, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Al Stauffer
108 Laramie Road
Marietta, OH 45750

RE: MUR 3689

Dear Mr. Stauffer:

This is in reference to the complaint you filed with the Federal Election Commission dated October 29, 1992, concerning Ted Strickland for Congress and Wanda Kuhns, as treasurer, and Congressman Ted Strickland.

Based on that complaint, on March 3, 1994, the Commission found that there was reason to believe Ted Strickland for Congress and Wanda Kuhns, as treasurer, and Congressman Ted Strickland violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against Ted Strickland for Congress and Wanda Kuhns, as treasurer, and Congressman Ted Strickland, and closed the file in this matter on March 3, 1994. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action: See 2 U.S.C. § 437g(a)(8).

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. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Richard M. Denholm II
Attorney

Enclosure
General Counsel's Report

94030971119



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

MARCH 14, 1994

Anthony J. Celebrezze, Jr., Esquire
Porter, Wright, Morris and Arthur
41 South High Street
Columbus, OH 43215

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

Dear Mr. Celebrezze:

On March 3, 1994, the Federal Election Commission found reason to believe that your clients, Congressman Ted Strickland and Ted Strickland for Congress and Wanda Kuhns, as treasurer, violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act.") However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. 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.

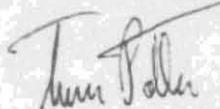
The Commission reminds you that your clients' mailing to 6th District Republican Committeepersons, without a disclaimer, appears to have been a violation of 2 U.S.C. § 441d(a). Your clients should take steps to ensure that this activity does not occur in the future.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Mr. Celebrezze
Page 2

If you have any questions, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

For the Commission,


Trevor Potter
Chairman

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3689

DATE FILMED 4-13-94 CAMERA NO. 2

CAMERAMAN JMH

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