



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3804

DATE FILMED 6/15/94 CAMERA NO. 2

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SECTION

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FEDERAL ELECTION
COMMISSION
MAIL ROOM

93 JUL 28 PM 3:35

JUL 28 11 02 AM '93

Thursday 22 July 1993

Walter Hallett
508 N. College Ave. #198
Bloomington, IN. 47404-3831

Good Morning FEC:

Two situations have recently come to my attention concerning the 'Devine for Congress' campaign. I have reason to believe that one or both of which may be in violation of FEC campaign rules.

First, Mr. Devine's campaign committee (campaign address-Devine for Congress, PO BOX 15852, Evansville, Indiana 47716) has been issuing bumper stickers and other campaign materials (ie., campaign envelopes) without the proper disclaimer. Enclosed you'll find a bumper sticker from the Devine camp without said disclaimer.

Secondly, it is my understanding that Mr. Devine's father (who owns a car dealership) has donated two 1993 Chrysler Le Baron Convertibles (license plate number ATTRNEY on one -- second plate unknown) for campaign use. Mr. Devine recently used one of these cars in the 1993 Fourth of July Parade in Vincennes, Indiana. Mr. Devine also uses said vehicles to attend various campaign functions in this District.

I don't understand how someone just out of Law School (as of May 1992) can afford the two new cars, two new independent law offices, a new house, support a wife and child, and run for Congress at the same time without already having spent \$5000.00 during the first reporting period. (It should also be pointed out that Mr. Devine spends very little time practicing Law.)

Please take these situations into consideration as other Congressional Candidates are following the FEC rules to the letter. Shouldn't he?

Sincerely,

Walter Hallett
Walter Hallett

Nancy E. Flynn

NANCY E. FLYNN, Notary Public,
County of Monroe
My commission expires 2-11-95

This 26th day of July 1993

94043524065



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 30, 1993

Walter Hallett
508 N. College Ave. #198
Bloomington, IN 47404-3831

Dear Mr. Hallett:

This is to acknowledge receipt on July 28, 1993, of your letter dated July 22, 1993. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this ____ day of ____, 19__." A statement by the notary that the complaint was sworn to and subscribed before her also will be sufficient. We are sorry for the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

Enclosed is a Commission brochure entitled "Filing a Complaint." I hope this material will be helpful to you should you wish to file a legally sufficient complaint with the Commission.

If you have any questions concerning this matter, please contact me at (202) 219-3410.

Sincerely,

Retha Dixon
Retha Dixon
Docket Chief

Enclosure
cc: Devine for Congress

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Dear Miss Dixon,

Here are the corrected letters.

Sorry for the inconvenience

Thank you for your time.

Walter H. Kelly

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Wednesday 18 August 1993 (09:53)

Walter Hallett
508 N. College Ave. #198
Bloomington, IN. 47404-3831

MUR 3804

SENSITIVE

Good Morning FEC:

Two situations have recently come to my attention concerning the 'Devine for Congress' campaign. I have reason to believe that one or both of which may be in violation of FEC campaign rules.

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Secondly, it is my understanding that Mr. Devine's father (who owns a car dealership) has donated two 1993 Chrysler Le Baron Convertibles (license plate number ATTNEY on one -- second plate unknown) for campaign use. Mr. Devine recently used one of these cars in the 1993 Fourth of July Parade in Vincennes, Indiana. Mr. Devine also uses said vehicles to attend various campaign functions in this District.

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Please take these situations into consideration as other Congressional Candidates are following the FEC rules to the letter. Shouldn't he?

Sincerely,

Walter Hallett
Walter Hallett

SUBSCRIBED AND SWORN TO BEFORE ME
ON THIS DATE --Wednesday 18 August 1993 (09:54)

George E. Flynn

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COMMISSION
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JUL 28 PM 1993

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Thursday 22 July 1993

Walter Hallett
508 N. College Ave. #198
Bloomington, IN. 47404-3831

Good Morning FEC:

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Please take these situations into consideration as other Congressional Candidates are following the FEC rules to the letter. Shouldn't he?

Sincerely,
Walter Hallett
Walter Hallett

94043524069

Nancy E. Flynn
NANCY E. FLYNN, Notary Public
County of Montgoe.
My commission expires 2-11-95.

This 26th day of July 1993

ELECT

JEFF DEVINE
CONGRESS '94

5

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 25, 1993

Walter Hallett
508 N. College Ave., #198
Bloomington, IN 47404-3831

RE: MUR 3804

Dear Mr. Hallett:

This letter acknowledges receipt on August 20, 1993, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Devine for Congress and Paul Kinney, as treasurer, and Mr. Devine. 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 3804. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

Enclosure
Procedures

94043524071



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 25, 1993

Paul Kinney, Treasurer
Devine for Congress
1415 Read Street
Evansville, IN 47710

RE: MUR 3804

Dear Mr. Kinney:

The Federal Election Commission received a complaint which indicates that Devine 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 3804. 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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Paul Kinney, Treasurer
Devine for Congress
Page 2

If you have any questions, please call (202) 219-3690 and ask to speak with a member of the Central Enforcement Docket (CED). For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

94043524073



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 25, 1993

Mr. Devine
c/o Jeff Devine
Devine for Congress
1415 Read Street
Evansville, IN 47710

RE: MUR 3804

Dear Mr. Devine:

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 3804. 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.

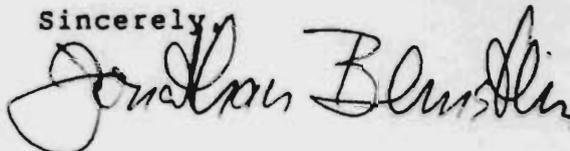
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94043524074

Mr. Devine
Page 2

If you have any questions, please call (202) 219-3690 and ask to speak with a member of the Central Enforcement Docket (CED). For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

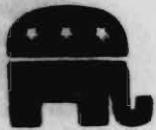


Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

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DEVINE FOR CONGRESS

P.O. Box 15852
Evansville, Indiana 47716

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM

cc# 9890

SEP 10 2 15 PM '93

August 31, 1993

Mr. Jonathan A. Bernstein
Assistant General Counsel
Federal Election Commission
Washington, D C 20463

RE: Mur 3804
Respondent: Devine for Congress Committee
Complainant: Walter Hallett

Dear Mr. Bernstein:

I am writing today in response to your letter of August 25, 1993 concerning the complaint filed with the Federal Election Commission by Walter Hallett alleging a violation of the Federal Election Campaign Act of 1971, as amended. I will respond to the allegations contained in Mr. Hallett's letter, of which I may add the Committee view as totally meritless and groundless, in the order in which made.

First, as to the allegation of no disclaimer on the bumper stickers issued by Devine for Congress, it is correct that said bumper stickers do not have the disclaimer printed upon them. According to 11 CFR 110.11 (a)(2) "the requirements of 11 CFR 110.11 (a)(1) do not apply to bumper stickers . . . and similar small items upon which the disclaimer cannot be conveniently printed."

Secondly, as to the allegation of no disclaimer on the campaign envelopes, these items too do not have printed upon them a disclaimer. According to 11 CFR 110.11 (a)(1) "Except as provided at 11 CFR 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 candidate . . . a disclaimer meeting the requirements of 11 CFR 110.11 (a)(1), (i), (ii), (iii), or (iv) 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 the communication. Such person is not required to place the disclaimer on the front face or page of any such material, as long as a disclaimer appears within the communication". As to any and all correspondence that has been, is being, and will be issued by this Campaign Committee, while the envelopes do not have the disclaimer, the communications inside such do have, thereby satisfying 11 CFR 110.11 (a)(1). In addition, I would proffer that 11 CFR 110.11 (a)(2) also applies in that "the requirements of 11 CFR 110.11 (a)(1) do not apply to . . . similar small items upon which the disclaimer cannot be conveniently printed," and as such envelopes are not required to have disclaimers".

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As to the allegation in this paragraph of "other campaign material" the only material that has been issued by the Devine for Congress Campaign outside of the letter correspondence are bumper stickers. We have not yet printed any formal campaign material. When printed it will obviously contain the required disclaimers.

Next, as to the complaints in the second paragraph, I would respond as follows. First, my father, Edward L. Devine, does not own an automobile dealership, but rather is a union worker, employed in the plant at Alcoa Aluminum in Warrick County, Indiana. Thus, he has not donated two 1993 Chrysler LeBaron Convertibles for campaign use. Furthermore, the Devine for Congress Campaign has not had two 1993 Chrysler LeBaron Convertibles, nor any other vehicle donated to the campaign, by anyone for campaign use.

Finally, it is correct that I do use a convertible for campaign use, this convertible having the Indiana license plate number "ATTORNY." The vehicle in question is a 1990 Pontiac Sunbird LE Convertible which is my personal vehicle, owned outright by my wife and I. It is my understanding, after consulting with Ms. Sue Wadel, General Counsel at the NRCC, that my personal vehicle can be used by me for campaign use and travel. In addition, we obviously are keeping record of travel expenses (i.e. gasoline) and these expenses will be listed upon our FEC report filed for the next reporting period ending December 31, 1993.

I now come to the complaints in the final paragraph alleging the Devine for Congress Committee has raised or expended \$5,000 during the first reporting period.

It is true that I am recently graduated from law school, correct date being January 1992. It is incorrect that I can afford two new vehicles. As stated above, my wife and I own a 1990 Pontiac Sunbird Convertible, our second vehicle is a 1989 Ford Thunderbird LX. This allegation is interesting in the fact that the complainant, who in his second paragraph, alleges the "two new cars" are donated now asserts that we own these fictitious vehicles. As to the two law offices and new home, it is correct that I rent two offices (one in Evansville, Indiana and a second in Boonville, Indiana) and yes my wife and I did, in November 1992, purchase a modest home, our first, and it can further be stated that my wife and I support ourselves as well as our 2 1/2 year old son. However, as I am sure General Counsel of the FEC is aware, personal financing, real estate holdings, personal property holdings or employment or career situations have nothing whatsoever to do with reaching the \$5,000 benchmark figure for a campaign committee to be required to report with the FEC. As stated by 11 CFR 100.3 a person becomes a candidate when he "has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000." At that time the candidate must file a statement of Candidacy and designate a Campaign Committee, which must within 10 days file its Statement of Organization. Once this threshold is met then the Committee must file by the appropriate date for that reporting period.

The Jeff Devine for Congress Committee has filed its Statement of Organization and I as the Candidate have filed my Statement of Candidacy. However, these filings were done on a voluntary basis when the campaign had not raised or expended \$5,000. In addition, as of the deadline of the Mid-Year Reporting period of 1993, namely June 30, 1993, the Jeff Devine

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for Congress Committee had not raised or expended \$5,000, and according to the advice we received from the FEC the committee did not need to file a Mid-Year report since we had only voluntarily filed our Statement of Organization and not yet reached the threshold.

Should the Commission have any further questions please do not hesitate to contact the Committee.

Respectfully submitted,

Jeff Devine
Jeff Devine, Candidate

Ed Berry
Ed Berry, Treasurer

Paul R. Kinney
Paul R. Kinney, Asst. Treasurer

STATE OF INDIANA)
COUNTY OF VANDERBURGH) SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jeff Devine, Ed Berry and Paul R. Kinney and acknowledged the same to be their voluntary act and deed this 2nd day of September, 1993.

Lara W. Culiver
Notary Public

Lara W. Culiver
Printed Signature

My Commission Expires:

6/10/99
Residence: ~~Warrick~~ County, Indiana.

94043524078

GENERAL COUNSEL'S REPORT, DATED APRIL 5, 1994,
AND CERTIFICATION OF COMMISSION VOTE, DATED MAY 5, 1994,
ARE FILED AT THE FOLLOWING MICROFILM LOCATION:

MUR ROLL: 352

FRAMES: 2832-2847

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

June 6, 1994

Walter Hallet
508 N. College Avenue, #198
Bloomington, IN 47404-3831

RE: MUR 3804

Dear Mr. Hallet:

On August 20, 1993, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on June 3, 1994. This matter will become part of the public record within 30 days.

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,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

94043524080

MUR 3804
DEVINE FOR CONGRESS

The complainant, Walter Hallett, alleges that the Devine for Congress Committee issued bumper stickers and campaign materials without proper disclaimers. The complainant also alleges that the Committee failed to file a disclosure report for the first quarter of 1993 despite the fact that the Committee had raised and spent \$5,000 and accepted two new automobiles.

In response to the complaint, the Committee stated that the campaign materials at issue, bumperstickers and envelopes, do not require disclaimers and that the Committee has proper disclaimers on materials such as letterhead. The Committee also stated that it was not required to file reports because it had not raised or expended \$5,000 and had not received any donated automobiles.

The matter involves less significant issues relative to the other issues pending before the Commission. There is no evidence that the activity had a significant impact on the process and a limited amount of money is involved.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20411

June 6, 1994

Ed Berry, Treasurer
Jeff Devine for Congress
1415 Read Street
Evansville, IN 47710

RE: MUR 3804
Jeff Devine for Congress and Ed Berry,
as treasurer

Dear Mr. Berry:

On August 25, 1993, the Federal Election Commission notified the Jeff Devine for Congress Committee ("Committee") and its treasurer of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Committee and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on June 3, 1994.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

94043524082

Ed Berry, Treasurer
MUR 3804
Page 2

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

94043524083

MUR 3804
DEVINE FOR CONGRESS

The complainant, Walter Hallett, alleges that the Devine for Congress Committee issued bumper stickers and campaign materials without proper disclaimers. The complainant also alleges that the Committee failed to file a disclosure report for the first quarter of 1993 despite the fact that the Committee had raised and spent \$5,000 and accepted two new automobiles.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

June 6, 1994

Edward L. Devine
c/o Jeff Devine
Jeff Devine for Congress
1415 Read Road
Evansville, IN 47710

RE: MUR 3804
Edward L. Devine

Dear Mr. Devine:

On August 25, 1993, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

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Edward L. Devine
MUR 3804
Page 2

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

94043524086

**MUR 3804
DEVINE FOR CONGRESS**

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3804

DATE FILMED 6/15/94 CAMERA NO. 2

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