



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3831

DATE FILMED 2-22-75 CAMERA NO. 2

CAMERAMAN JMH

25043625072

Jonathan C. Clouse
1000 Bayside Dr., #103
Palatine, IL 60067

OGC 0726

October 19, 1993

OCT 25 9 5 PM '93

Federal Election Commission
999 E Street NW
Washington, D.C. 20463

93OCT 25 PM 3:43

RECEIVED
FEDERAL ELECTION COMMISSION

Dear Madam or Sir:

I have enclosed a copy of a mailing I received yesterday from President Bill Clinton and the Democratic National Committee. I am bringing this to your attention because I am concerned with the deceitful way this solicitation for election campaign funds is presented.

The letter refers to a "Democratic Action Network" and a "National Health Care Campaign," both of which are described only as grass roots organizations to rally support for the health care reforms proposed recently by the President. One paragraph on the second page states:

"This grassroots campaign is similar to a political campaign. But unlike a political campaign, the winner of this campaign would not be a politician, but every American family." (emphasis added).

Nowhere in the letter's 4 pages is there any mention that contributions will be spent on the election campaigns of Democratic Party candidates.

The return card specifies that checks be made out to the Democratic National Committee/Federal Account, rather than to a "Democratic Action Network", or a "National Health Care Campaign." It is only in the fine print on the backside of the return card that mention is made that contributions made to the Democratic National Committee/Federal Account are used for federal elections.

I find this solicitation for campaign funds to be very misleading and deceitful. Please investigate this matter and make sure that the funds collected in this solicitation are used exclusively to promote public support for the health care initiative (as described in the letter) and not for the election campaigns of Democratic candidates.

Sincerely,

Jonathan C. Clouse

25043625073



BILL CLINTON



Dear Fellow American,

We have put before the American people a dramatic blueprint for reforming our nation's health care system.

Now, it is up to every American to assure that this essential reform occurs. We cannot let this historic opportunity fall victim to the partisan fighting and special-interest group lobbying seen so often in our nation's capital.

The health care crisis is the greatest continuing threat to the personal security of many American families, and the economic strength of our country.

As it is, every month in this country 2 million people will lose their health care coverage. And those who currently have health insurance run the risk of losing it if they change jobs, or even if they become sick.

This summer we began to bring to an end the gridlock that has paralyzed our government in Washington, by passage of such key legislation as the Family Leave Act, National Service, Campaign Finance Reform, and our economic growth plan.

Despite the importance of these hard fought victories, health care reform is essential to continuing our efforts to bringing about meaningful change in this country.

By the end of the decade, American workers will lose \$655 in income each year if health care costs continue to eat up wage increases. And, health care costs per family will double by the year 2000.

Today, we have a once-in-a-lifetime opportunity to make health care protection affordable and more secure for all Americans.

For the first time in our nation's history, we can guarantee that virtually no American family will fall through the cracks in America's health care system.

In the weeks ahead, people all across America will form their first impressions of this landmark health care proposal. And, in that time, we know that many groups will be trying hard to define the debate through "scare tactics" and misleading information.

(over, please)



25043625074

It is imperative that we make the facts of the health care crisis, and the solution we've put forth, known to the American people.

The Democratic Party is taking a leading role in assuring that the American people are made a part of the health care debate.

Through the Democratic Action Network -- a citizen's participation initiative designed specifically to change the politics of Washington into the politics of the people -- the Democratic Party is launching a nation-wide health care reform initiative.

The goal of the Democratic Action Network is to mobilize millions of Americans in the critical early stage of the fight for health care reform, assuring that their voices are heard above those who seek to profit from the current system.

The Action Network will build public support for health care reform in all 435 Congressional districts in this country, and greatly strengthen the chances of succeeding in our far-reaching effort to move our nation forward.

I am writing today to ask you to take part in this national effort to renew our government and overwhelm politics-as-usual in Washington by supporting the Democratic Action Network's National Health Care Campaign with a financial contribution.

This grassroots campaign is similar to a political campaign. But, unlike a political campaign, the winner of this campaign would not be a politician, but every American family.

Here are just some of the steps the Action Network's National Health Care Campaign will be taking to assure victory:

- * The National Health Care Campaign will use phones and mailings to contact millions of families, letting them know what health care reform means to them and what specific steps they can take to let their Representatives in Congress know how strongly they feel about the need for health care reform.
- * In key states and Congressional districts, National Health Care Campaign organizers will set up speakers' bureaus, organize rallies, and launch door-to-door petition drives.
- * The National Health Care Campaign will organize "action teams" of health care professionals to publicly speak out in support of this health care campaign. And they'll send ready-to-print newspaper ads to community organizations to put in their newsletters.

(next page, please)

25043625075

- 25043625076
- * The National Health Care Campaign will produce informational videos which will be shown by activists in house parties.
 - * And, the National Health Care Campaign will ask Americans to send letters to the editor and to call radio talk shows in support of our health care plan.

Getting our ambitious and wide-ranging health care plan through Congress will not be easy. But, I am confident that with help from people like you, we will succeed.

With this spirited, grassroots effort, the Democratic Party's National Health Care Campaign can be a vehicle that allows families all across the nation to speak out on health care.

Many seasoned observers are predicting that record-setting amounts of money will be spent by special interest lobbies during the health care debate. We'll see multi-million dollar media blitzes and legions of highly-paid lobbyists all over Capitol Hill.

But, if we have our way, the future of American health care will be decided not in Washington, but out in America -- around kitchen tables, at water coolers and in cafeterias, at community centers, and in church halls.

There are three concrete ways in which you can help to quickly demonstrate broad public support for this health care initiative.

First, I urge you to immediately contact your Representatives in Congress by calling the Capitol at (202) 224-3121, and asking to be connected to your Representative. In your call, let them know that you strongly support our plan to control spiralling health care costs and provide security to America's families.

We know from the past that a small but vocal minority often has the ability to create a false sense of widespread opposition to any meaningful change. So, it's essential that members of Congress hear right away from supportive citizens like you.

The second step I hope you will take, if possible, is volunteering in your own community to participate in the National Health Care Campaign.

The National Health Care Campaign will need all kinds of help, from attending rallies to gathering petitions to phoning friends and neighbors.

(over, please)

If you'd like to volunteer, simply check the box on the enclosed support form. An Action Network health care organizer will get in touch with you to discuss how you'd like to help.

That brings me to my final but most important request.

I am hoping that I can count on you to send as generous a contribution as possible to support the Democratic Action Network's National Health Care Campaign.

You and I have a chance not many people get -- the chance to make history.

Democrats in other generations led America forward with Social Security, Medicare, and other far-reaching initiatives.

Now it is our responsibility to bring quality, affordable health care within the reach of each and every citizen of our great nation.

I am counting on you to personally commit yourself to achieving this goal. The National Health Care Campaign can only succeed with a genuine, personal commitment from people like you.

This endeavor deserves that kind of support -- because, measured by the dramatic changes it can create in peoples' lives and the economic health of our country, health care reform is one of the most vital efforts to shape the direction of our nation that you and I will ever undertake.

I have dedicated myself to doing everything I possibly can to see the National Health Care Campaign through to victory.

I urge you to do the same.

Sincerely,


Bill Clinton

P.S. In the upcoming months, you will hear a lot of opposing views taking issue with how we propose to solve our nation's health care problems. But, what we must remember is that the cost of doing nothing is a cost this nation cannot afford. Please act now, support the National Health Care Campaign with your contribution and, if possible, with your time.

25043625077

DEMOCRATIC NATIONAL COMMITTEE

ident Clinton,

To provide the Democratic Action Network with the resources it needs to organize millions of Americans in its National Health Care Campaign, I am enclosing my special contribution of:

_____ \$20 _____ \$35 _____ \$50 _____ \$100 _____ Other

ZZP158

Mr. Jonathan Close
1000 Bayside Dr Apt 103
Palatine, IL 60067-3224



PLEASE MAKE CHECK PAYABLE TO THE DNC/FEDERAL ACCOUNT SEE REVERSE SIDE FOR IMPORTANT FEDERAL REGULATIONS

In addition to my financial support, I would like to participate in the National Health Care Campaign's nation-wide neighbor-to-neighbor organizing effort in support of President Clinton's Health Care Plan.

_____ I would like to volunteer in my community. Please have someone contact me. My phone number is: _____

_____ Also, in order to provide the strong, early momentum behind the President's Health Care Plan, I have contacted my Representatives in the House and Senate.

The Capitol Switchboard number is (202) 224-3121.

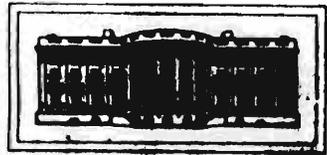
Please return this entire form with your contribution in the envelope provided. Please make check payable to the Democratic National Committee/Federal Account. Paid for and Authorized by the DNC. Your contribution is not tax-deductible for income tax purposes.

ZZP158 Mr. Jonathan Close

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25043695079

NATIONAL HEALTH CARE CAMPAIGN
DEMOCRATIC NATIONAL COMMITTEE
430 SOUTH CAPITOL STREET, S.E.
WASHINGTON, D.C. 20003



PRESIDENT BILL CLINTON



NONPROFIT
ORG.



U.S. POSTAGE

0.08

0021277



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCTOBER 28, 1993

Jonathan C. Close
1000 Bayside Drive, #103
Palatine, IL 60067

Dear Mr. Close:

This is to acknowledge receipt on October 25, 1993, of your letter dated October 19, 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 did not contain a notarization on your signature and 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 him/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
Docket Chief

Enclosure

cc: Democratic National Committee/Federal Account

25043625080

SENSITIVE

Jonathan C. Close
1000 Bayside Dr., #103
Palmer, IL 60067

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE DIVISION

October 19, 1993

Nov 9 9 35 AM '93

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F.E.C.
SECRETARIAT

93 NOV 10 PM 4:30:31
mur 3031

RECEIVED
FEDERAL ELECTION COMMISSION
93 NOV -9 AM 10:20

Federal Election Commission
999 E Street NW
Washington, D.C. 20463

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Sincerely,

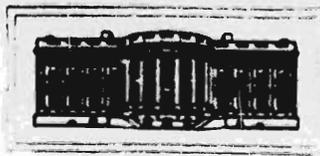
Jonathan C. Close

Subscribed and sworn to before me
on this 19th day of November,
1993.

Kathleen S. Szafanski

" OFFICIAL SEAL "
KATHLEEN S. SZAFANSKI
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires 7/25/97

25043625081



BILL CLINTON



Dear Fellow American,

We have put before the American people a dramatic blueprint for reforming our nation's health care system.

Now, it is up to every American to assure that this essential reform occurs. We cannot let this historic opportunity fall victim to the partisan fighting and special-interest group lobbying seen so often in our nation's capital.

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In the weeks ahead, people all across America will form their first impressions of this landmark health care proposal. And, in that time, we know that many groups will be trying hard to define the debate through "scare tactics" and misleading information.

(over, please)

25043625082

It is imperative that we make the facts of the health care crisis, and the solution we've put forth, known to the American people.

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Through the Democratic Action Network -- a citizen's participation initiative designed specifically to change the politics of Washington into the politics of the people -- the Democratic Party is launching a nation-wide health care reform initiative.

The goal of the Democratic Action Network is to mobilize millions of Americans in the critical early stage of the fight for health care reform, assuring that their voices are heard above those who seek to profit from the current system.

The Action Network will build public support for health care reform in all 435 Congressional districts in this country, and greatly strengthen the chances of succeeding in our far-reaching effort to move our nation forward.

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(next page, please)

35043625083

- * The National Health Care Campaign will produce informational videos which will be shown by activists in house parties.
- * And, the National Health Care Campaign will ask Americans to send letters to the editor and to call radio talk shows in support of our health care plan.

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But, if we have our way, the future of American health care will be decided not in Washington, but out in America -- around kitchen tables, at water coolers and in cafeterias, at community centers, and in church halls.

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We know from the past that a small but vocal minority often has the ability to create a false sense of widespread opposition to any meaningful change. So, it's essential that members of Congress hear right away from supportive citizens like you.

The second step I hope you will take, if possible, is volunteering in your own community to participate in the National Health Care Campaign.

The National Health Care Campaign will need all kinds of help, from attending rallies to gathering petitions to phoning friends and neighbors.

(over, please)

25043625034

If you'd like to volunteer, simply check the box on the enclosed support form. An Action Network health care organizer will get in touch with you to discuss how you'd like to help.

That brings me to my final but most important request.

I am hoping that I can count on you to send as generous a contribution as possible to support the Democratic Action Network's National Health Care Campaign.

You and I have a chance not many people get -- the chance to make history.

Democrats in other generations led America forward with Social Security, Medicare, and other far-reaching initiatives.

Now it is our responsibility to bring quality, affordable health care within the reach of each and every citizen of our great nation.

I am counting on you to personally commit yourself to achieving this goal. The National Health Care Campaign can only succeed with a genuine, personal commitment from people like you.

This endeavor deserves that kind of support -- because, measured by the dramatic changes it can create in peoples' lives and the economic health of our country, health care reform is one of the most vital efforts to shape the direction of our nation that you and I will ever undertake.

I have dedicated myself to doing everything I possibly can to see the National Health Care Campaign through to victory.

I urge you to do the same.

Sincerely,



Bill Clinton

P.S. In the upcoming months, you will hear a lot of opposing views taking issue with how we propose to solve our nation's health care problems. But, what we must remember is that the cost of doing nothing is a cost this nation cannot afford. Please act now, support the National Health Care Campaign with your contribution and, if possible, with your time.

25043625085

DEMOCRATIC NATIONAL COMMITTEE

ident Clinton,

To provide the Democratic Action Network with the resources it needs to organize millions of Americans in its National Health Care Campaign, I am enclosing my special contribution of:

_____ \$20 _____ \$35 _____ \$50 _____ \$100 _____ Other

ZZP158

Mr. Jonathan Close
1000 Bayside Dr Apt 103
Palatine, IL 60067-3224
[Barcode]

PLEASE MAKE CHECK PAYABLE TO THE DNC/FEDERAL ACCOUNT. SEE REVERSE SIDE FOR IMPORTANT FEDERAL REGULATIONS.

In addition to my financial support, I would like to participate in the National Health Care Campaign's nation-wide neighbor-to-neighbor organizing effort in support of President Clinton's Health Care Plan.

_____ I would like to volunteer in my community. Please have someone contact me. My phone number is: _____

_____ Also, in order to provide the strong, early momentum behind the President's Health Care Plan, I have contacted my Representatives in the House and Senate.

The Capitol Switchboard number is (202) 224-3121.

Please return this entire form with your contribution in the envelope provided. Please make check payable to the Democratic National Committee/Federal Account. Paid for and Authorized by the DNC. Your contribution is not tax-deductible for income tax purposes.

ZZP158 Mr. Jonathan Close

25043625036

THE FEDERAL ELECTION COMMISSION REQUIRES THAT WE REQUEST
THE FOLLOWING INFORMATION:

OCCUPATION _____

EMPLOYER _____

Check if self-employed

Your contribution to the DNC Federal Account is for use in connection with federal elections and is subject to federal contribution prohibitions and limitations. Your contribution is not tax-deductible as a charitable contribution for federal income tax purposes.

PAID FOR AND AUTHORIZED BY THE DEMOCRATIC NATIONAL COMMITTEE
170 SOUTH CAPITOL STREET S.E. WASHINGTON, D.C. 20003



25043625087



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

NOVEMBER 17, 1993

Jonathan C. Close
1000 Bayside Drive, #103
Palatine, IL 60067-3224

RE: MUR 3831

Dear Mr. Close:

This letter acknowledges receipt on November 9, 1993, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the DNC Services Corporation/Democratic National Committee and Robert T. Matsui, as treasurer, the Democratic Action Network and its Executive Director, and the National Health Care Campaign and its Executive Director. 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 3831. 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,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

95043625088



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

NOVEMBER 17, 1993

Robert T. Matsui, Treasurer
DNC Services Corporation/Democratic
National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 3831

Dear Mr. Matsui:

The Federal Election Commission received a complaint which indicates that the DNC Services Corporation/Democratic National Committee ("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 3831. 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.

25043625089

Robert T. Matsui, Treasurer
DNC Services Corporation/Democratic
National Committee

If you have any questions, please contact Joan McEnery at
(202) 219-3400. For your information, we have enclosed a brief
description of the Commission's procedures for handling
complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

25043625090



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

NOVEMBER 17, 1993

Executive Director
Democratic Action Network
c/o DNC Services Corporation/
Democratic National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 3831

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that the Democratic Action Network and 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 3831. 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 Democratic Action Network and 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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25043625091

**Executive Director
Democratic Action Network**

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

1. Complaint
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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

NOVEMBER 17, 1993

Executive Director
National Health Care Campaign
c/o DNC Services Corporation/
Democratic National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 3831

Dear Sir or Madam:

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**Executive Director
National Health Care Campaign**

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Sincerely,

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Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures
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25043625094

DEMOCRATIC ★ NATIONAL ★ COMMITTEE

David Wilhelm, Chairman

OGC 0554

December 3, 1993

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

Attention: Joan McEnery

Re: MUR 3831

Dear Ms. McEnery:

This response to the complaint in the above-referenced MUR is filed on behalf of all respondents, including the Democratic National Committee/DNC Services Corporation, the Democratic Action Network and the National Health Care Campaign. The Democratic Action Network and the National Health Care Campaign are projects of the Democratic National Committee and are not federal political committees.

The subject of the complaint is a recent DNC direct mail solicitation, which asks for contributions to the DNC to help support The National Health Care Campaign, which the complainant correctly characterizes as a project to mobilize grassroots support for the President's proposed health care reforms. The complaint charges that the mailing is "misleading" and "deceitful" because the text of the letter does not mention federal elections, while the disclaimer on the reply card refers to use of the funds for federal elections.

The costs of certain of the DNC's ongoing operations supporting The National Health Care Campaign project are subject to allocation between the DNC's federal and non-federal accounts under 11 C.F.R. § 106.5(b). This mailing solicited funds for the DNC's federal account. Consequently, under the Commission's regulations, the solicitation was required to have a disclaimer including a statement that "the contribution will be used in connection with a federal election," 11 C.F.R. § 102.5(a)(2)(ii).

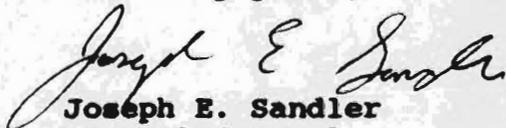
Thus, the reference to federal elections in the disclaimer was not only appropriate but was indeed required by the Commission's rules. It is clear, therefore, that the mailing in no way violated the Federal Election Campaign Act of 1971 as amended (the "Act") or the Commission's rules. Nor was it in any way misleading.

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For these reasons, the Commission should find no reason to believe that the DNC or any of the other named respondents violated the Act, and should dismiss the complaint.

Sincerely yours,



Joseph E. Sandler
General Counsel
Neil P. Reiff
Deputy General Counsel
Democratic National Committee
430 S. Capitol Street, S.E.
Washington, D.C. 20003

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3831

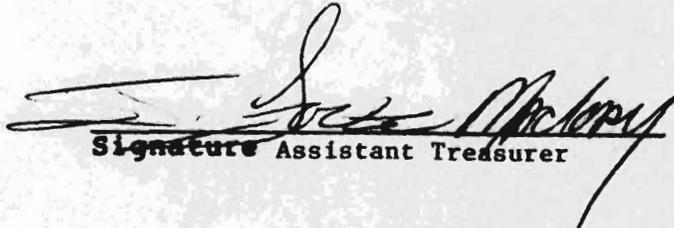
NAME OF COUNSEL: Joseph E. Sandler, Esq. / Neil P. Reiff, Esq.

ADDRESS: Democratic National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

TELEPHONE: (202) 863-7110

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.

12/3/93
Date


Signature Assistant Treasurer

RESPONDENT'S NAME: DNC Services Corp./Democratic National Committee, Robert T. Matsui, as Treasurer

ADDRESS: 430 South Capitol Street, S.E.
Washington, D.C. 20003

TELEPHONE: HOME (202) 863-8000

BUSINESS (202) 863-8000

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3831

DATE COMPLAINT FILED: November 9, 1993
DATE OF NOTIFICATION: November 17, 1993
DATE ACTIVATED: June 30, 1994
STAFF MEMBER: Elizabeth Stein

COMPLAINANT: Joseph C. Close

RESPONDENTS: Democratic National Services Corporation/
Democratic National Committee and Robert T. Matsui, as
treasurer

RELEVANT STATUTES: 2 U.S.C. § 432(i)
2 U.S.C. § 441d(a)
2 U.S.C. § 441h
11 C.F.R. § 102.5(b)
11 C.F.R. § 104.7
11 C.F.R. § 110.11(a)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission ("Commission"). See 2 U.S.C. § 437g(a)(1). The basis for the complaint is a misleading direct mail solicitation sent by the Democratic National Committee ("DNC"). The mailing seeks contributions on behalf of a group called the Democratic Action Network for a National Health Care Campaign. The mailing contains a disclaimer on the enclosed response card stating that the advertisement is authorized and paid for by the DNC.

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II. DISCUSSION

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The mailing at issue is a letter written on "Bill Clinton" letterhead and signed by Bill Clinton, urging recipients to contribute to the Democratic Action Network ("Network"). The letter also states that the "Democratic Party is taking a part in making sure the American people are made a part of the health care debate . . . [t]hrough the Democratic Action Network." The mailing states that the purpose of the Network is to "build public support for health care reform." See Attachment 1. The solicitation goes on to say that the Network is sponsoring a National Health Care Campaign in order to generate grassroots support for the Clinton Health Care Plan and that the campaign is similar to a political campaign. The four page solicitation letter also includes a response card with two disclaimers. The first disclaimer asks that checks be made payable to the DNC/Federal Account and states, "Paid for and Authorized by the DNC." The second disclaimer, contained on a card which requests required occupation and employer data states that "The Federal Election Commission requires that we request the following information" and that, "your contribution to the DNC/Federal Account is for use in connection with a federal election and is subject to federal contribution and prohibition limitations." Id.

The complaint asserts that the solicitation is misleading because contributions are paid into the DNC Federal Account and may be spent on the election campaigns of Democratic Party candidates rather than on the National Health Care Campaign. Complainant claims that the failure to acknowledge, in the body of

the letter, that funds resulting from the solicitation could be spent on political candidates rather than on grassroots health care reform is deceitful and misleading in violation of the Act.

A. Disclaimer

The Federal Election Campaign Act of 1971 as amended ("the Act"), requires that any communication that solicits a contribution, including a direct mail solicitation, contain a disclaimer which clearly states the name of the person who paid for the communication and indicates whether the communication was authorized by a candidate, an authorized political committee of a candidate, or an agent of a candidate. 2 U.S.C. § 441d(a), 11 C.F.R. § 110.11. The purpose of the disclaimer is to provide notice to the reader as to the identity of the persons who paid for the communication. The disclaimer must be clear and conspicuous but is not required to appear on the front page or face of the solicitation so long as it appears within the communication. 11 C.F.R. § 110.11.

The DNC mailing solicits contributions and, hence, is required by the Act to include a disclaimer. The mailing contained a disclaimer which stated that it was paid for and authorized by the DNC. The disclaimer appeared in legible print on a response cards included with the solicitation letter. While this information is not included in the body of the solicitation, the inclusion of the disclaimer language on the response card satisfies the regulatory requirement that the disclaimer appear within the communication, be clear and conspicuous and provide the reader with notice that the solicitation is paid for by the DNC.

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The Act imposes additional requirements where a solicitation is paid for by a political committee which finances election activity in connection with both federal and non-federal elections. If a committee engages in both federal and non-federal election activity, contributions may only be deposited in a political committee's federal account where notice is provided to the contributor that the contribution is going towards a federal election. 11 C.F.R. § 102.5. Under the Act, one acceptable way to provide notice to contributors is to expressly state on the solicitation that the contribution will be used in connection with a federal election. 11 C.F.R. § 102.5(b)(ii).

The DNC states, in response to the complaint, that the Democratic Action Network and the National Health Care campaign are projects of the DNC and that funds raised in support of the National Health Care Campaign are allocated between the DNC's federal and non-federal accounts. See Attachment 2. Since the DNC intends to deposit contributions raised by the solicitation in their federal account, the solicitation letter was also required to contain disclaimer language providing notice to contributors that the funds could be used for federal election activities. The mailing contained the required language, stating on an enclosed card, "your contribution to the DNC/Federal Account is for use in connection with federal elections and is subject to federal contribution prohibitions and limitations." This language satisfies the requirements of the Act and contrary to the allegations in the complaint, assures that recipients are on notice that contributions can be spent in federal elections.

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The DNC mailing complied with the requirements of the Act regarding disclaimers and provided the required notice to recipients of the mailing regarding who paid for the solicitation, who authorized the solicitation, and that contributions may be spent on federal election activities. Therefore there is no reason to believe that Respondents have violated the disclaimer notification requirements of the Act.

B. Misrepresentation

The Act also regulates political communications by prohibiting fraudulent misrepresentation of campaign authority. 2 U.S.C. § 441h(1). Pursuant to the Act, no person who is a candidate for federal office, or an employee or agent of a candidate, may make fraudulent representations that they are speaking, acting, or writing on behalf of any other candidate or political party. Id. The solicitation at issue makes no representation that the DNC is speaking on behalf of any opposition candidate or political party. Rather, the solicitation is made by the DNC on behalf of its own projects. Making representations that contributions will be used for a grassroots health care reform campaign when funds raised could be used for candidate campaigns does not amount to making representations on behalf of an opposing candidate, political party, or group. While the language of the solicitation letter does not clearly explain the relationship between the projects and the DNC, in addition to the disclaimer, the letter makes reference to the Democratic Party, the historic role played by Democrats in the country, and is signed by a Democratic President. The DNC mailing makes no

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representations that it is speaking on behalf of an opposing candidate or party.

A violation of section 441h(1) also requires that a misrepresentation be fraudulent. A fraudulent representation requires an intent to deceive. Blacks Law Dictionary 596 (5th ed., 1979). By attaching disclaimer language required by the Act, the DNC has alerted recipients that they are contributing to a national party organization rather than a grassroots campaign. See MURs 3690 and 3700.¹ The DNC has evidenced no intent to deceive the contributor or make fraudulent representations in the solicitation. Therefore there is no reason to believe Respondents violated 2 U.S.C. § 441h(1).

C. Best Efforts of the Treasurer

Although not alleged in the complaint, the attached solicitation raises the issue of whether the DNC is in compliance with the reporting requirements of the Act. The Act requires that treasurers of political committees file periodic reports disclosing the identification of each person making aggregate contributions to the reporting committee in excess of \$200 per calendar year. 2 U.S.C. § 434(b)(3)(A). Identification of an individual includes the name, mailing address, and occupation of the contributor, as well as the address of the contributor's

1. In MURs 3690 and 3700, the Commission found no reason to believe that section 441h(1) had been violated where satirical cards were paid for by the National Republican Congressional Committee but written as if they came from democratic candidates. The finding was based in part on the lack of intent to deceive the recipients since the cards contained a disclaimer and statements of sponsorship on the return address and postage stamp.

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employer. 2 U.S.C. § 431(13). Where the treasurer of the committee can show that he or she has made best efforts to obtain, maintain, and submit the information required by 2 U.S.C. § 431(13), any report or records of the committee shall be considered in compliance with the Act. 2 U.S.C. § 432(i). A treasurer will only be deemed to have exercised best efforts in obtaining the required information where they have also met the prerequisites detailed in Commission regulation 11 C.F.R. § 104.7.

Prior to March 3, 1994, 11 C.F.R. § 104.7(b) required that the treasurer have made at least one effort per solicitation to obtain the required identification information. The request had to inform the contributor that "the reporting of such information is required by law." 11 C.F.R. § 104.7(b)(1993). Under the revised regulation effective March 3, 1994, in order to demonstrate that best efforts have been exercised in obtaining information, treasurers are required to include a specifically worded statement that, "federal law requires political committees to report the name, mailing address, occupation and the name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year." 11 C.F.R. § 104.7(b).

The solicitation at issue appears to fall under the old regulation. While the solicitation is not dated, the complaint dated October 19, 1993, references a mailing "received yesterday." See Attachment 1. The request for information contained in the solicitation at issue states that "the Federal Election Commission requires that we request the following information from you." The language of the DNC request is clearly insufficient under the new

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standard set forth in 11 C.F.R. § 104.7(b) and, more importantly, fails to comply with the regulation in effect at the time it was sent. Rather than informing contributors that the information sought is required to be reported, the solicitation merely indicates that the Committee is required to ask for the information. Additionally, the request fails to make clear that the requirement is imposed by law rather than by this Agency. However, failure to comply with 11 C.F.R. § 104.7(b) merely limits a committee's ability to invoke the defense of best efforts and only arises where the committee has failed to meet its underlying 434(b)(3)(A) reporting obligations.

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The Democratic National Committee received an RFAI for

failure to supply the required identification information on their Amended 30-day Post Run-Off Report for the reporting period of January 1, 1993 through May 3, 1993. See Attachment 3. The DNC responded to the RFAI by providing amendments for various reporting periods during the 1993-1994 election cycle.

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Given the lack of evidence of non-compliance with the reporting requirements of the Act, the low rate of omission, and the fact that the applicable regulation has been changed and clarified, this Office makes no recommendation on this issue.

III. RECOMMENDATIONS

1. Find no reason to believe that the Democratic National Services Corporation/Democratic National Committee and Robert T. Matsui, as treasurer violated 2 U.S.C. §§ 441d(a) or 441h.
2. Approve the appropriate letter.
3. Close the file.

Lawrence M. Noble
General Counsel

1/23/95
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Complaint
2. Response
3. Request For Additional Information

25043625107



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA R. DAVIS *L.R.D.*
COMMISSION SECRETARY

DATE: JANUARY 30, 1995

SUBJECT: MUR 3831 - WITHDRAWAL OF FIRST GENERAL'S COUNSEL'S
REPORT DATED 1/12/95. RESUBMISSION OF
FIRST GENERAL'S COUNSEL'S REPORT 1/23/95.

The above-captioned document was circulated to the
Commission on WEDNESDAY, JANUARY 25, 1995 at 11:00 a.m.

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

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

This matter will be placed on the meeting agenda
for TUESDAY, FEBRUARY 7, 1995.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Democratic National Services Corporation/) MUR 3831
Democratic National Committee and Robert T.)
Matsui, as treasurer.)

CERTIFICATION

I, Delores Hardy, recording secretary for the Federal Election Commission executive session on February 7, 1995, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions on MUR 3831:

1. Find no reason to believe that the Democratic National Services Corporation/Democratic National Committee and Robert T. Matsui, as treasurer violated 2 U.S.C. §§ 441d(a) or 441h.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated January 23, 1995.
3. Close the file.

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

Attest:

February 8, 1995
Date

Delores Hardy
Delores Hardy
Administrative Assistant

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FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

February 15, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jonathan C. Close
1000 Bayside Drive, #103
Palatine, IL 60067-3224

RE: MUR 3831
Democratic National Services
Corporation/Democratic National
Committee and Robert T. Matsui, as
treasurer

Dear Mr. Close:

On February 7, 1995, the Federal Election Commission reviewed the allegations of your complaint dated November 10, 1993, and found that on the basis of the information provided in your complaint and information provided by Respondents, there is no reason to believe that the Committee violated the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, on February 7, 1995, the Commission closed the file in this matter.

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,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

25043625110



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 15, 1995

Joseph E. Sandler, General Counsel
Democratic National Committee
430 S. Capitol St. S.E.
Washington, D.C. 20003

RE: MUR 3831
Democratic National Services
Corporation/Democratic National
Committee and Robert T. Matsui, as
treasurer

Dear Mr. Sandler:

On November 17, 1993, the Federal Election Commission notified the Democratic National Committee ("Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

On February 7, 1995, the Commission found, on the basis of the information in the complaint and information provided by you that there is no reason to believe the Committee violated 2 U.S.C. § 441d(a) or 2 U.S.C. § 441h. Accordingly, the Commission closed its file in this matter.

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

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 DC 20463

THIS IS THE END OF MUR # 3831

DATE FILMED 2-22-55 CAMERA NO. 2

CAMERAMAN JMW

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