



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3955

DATE FILMED 8-31-94 CAMERA NO. 8

CAMERAMAN JMU

24043564828

MUR 3955

Information pertaining to an open enforcement matter has been deleted from the public record copies of the complaint, response and summary sheets (attached to closeout letters) in MUR 3955 made available on August 31, 1994. Complete copies of those documents will be disclosed when the other matter has been resolved.

24043564829

0604# 1019

LAW OFFICES OF  
**BAGATELOS & FADEM**

THE INTERNATIONAL BUILDING  
601 CALIFORNIA STREET  
SUITE 1801  
SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE  
(415) 982-7100  
FAX  
(415) 982-1085

BARRY FADEM  
PETER A. BAGATELOS

April 15, 1994

**BY FEDERAL EXPRESS**

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

MUR 3955

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
APR 18 5 01 11 '94

Re: Complaint Against Mike Stoker For Congress Committee,  
Mike Stoker, and Ed Murray

Dear Mr. Noble:

**I. INTRODUCTION**

This complaint is being filed by the undersigned against the above referenced parties on behalf of Andrea Seastrand, Friends of Assemblywoman Andrea Seastrand, and Friends of Andrea Seastrand for Congress.

This complaint is being filed to protect the rights of Andrea Seastrand and her committees. We assert that those rights have been breached by the Mike Stoker For Congress Committee, Mike Stoker, and Ed Murray.

**II. DESCRIPTION OF PARTIES**

1. Andrea Seastrand is a member of the California State Assembly, representing the 33rd Assembly District. She declared her candidacy for the 22nd Congressional District from California on September 14, 1993.

2. The Friends of Assemblywoman Andrea Seastrand ("FAAS"), known officially as the Friends of Assemblywoman Andrea Seastrand 33 Club, is a political committee organized under the California Political Reform Act of 1974, as amended, and registered with the California Secretary of State's office. Its Treasurer is Mildred Dostalek. Under California law, this Committee raises and expends funds in support of Assemblywoman Seastrand's officeholder functions during her current term of office.

3. The Friends of Andrea Seastrand for Congress is a principal campaign committee of Andrea Seastrand. The Committee Treasurer is Pete Agalos. The Committee identification

24043564830

number is C00284083.

4. The undersigned, Peter A. Bagatelos, is an attorney duly licensed to practice in the State of California, and serves as attorney for Andrea Seastrand, the Friends of Assemblywoman Andrea Seastrand and the Friends of Andrea Seastrand for Congress Committee

5. Mike Stoker is a County Supervisor for the Fifth District in the County of Santa Barbara, State of California. Mr. Stoker is a declared candidate for the 22nd Congressional District from California.

6. The Mike Stoker for Congress Committee is the principal campaign committee of Mike Stoker. The Committee is located at 201 South Miller Street, Suite 107, Santa Maria, California 93454.

7. Ed Murray is the Treasurer of the Stoker for Congress Committee.

8. Charles H. Bell, Jr. is a partner with the law firm of Bell, McAndrews & Hiltachk, located at 555 Capitol Mall, Suite 530, Sacramento, California 95814. Mr. Bell and his law firm represent the Stoker for Congress Committee.

### **III. NATURE OF COMPLAINT**

Complainant herein alleges possible violation of 2 United States Code §437g(a)(12) and Title 11 of the Code of Federal Regulations §111.21(a) by the Respondents. Specifically, the cited regulation prohibits any person from disclosing to the public any complaint which is filed with the FEC without the written consent of a Respondent with respect to whom the complaint is filed. Based on facts presented below, Complainant asserts that Respondents have not complied with this regulation and have irreparably violated the rights of Respondents in

Complainant requests that the FEC take strict disciplinary action against the Respondents herein, as appropriate, given that (a) the purposes of the regulation have been totally undermined, (b) Respondents have abused the FEC complaint process, (c)

and (d) there is no other adequate remedy.

### **IV. FACTUAL BACKGROUND**

1. Complainant asserts that Charles H. Bell, Jr. of the law firm of Bell, McAndrews & Hiltachk, prepared a complaint letter against Andrea Seastrand, Friends of Andrea Seastrand for Congress Committee, and Friends of Assemblywoman Andrea Seastrand (33 Club)

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Committee (Non-Federal), which letter was dated February 25, 1994, and sent by Federal Express to the General Counsel's office of the FEC.

2. On information and belief, Complainant asserts that Ed Murray, Treasurer of the Stoker for Congress Committee, distributed multiple copies of Mr. Bell's February 25, 1994 complaint letter (notarized as of February 25, 1994) to members of the public (including specifically numerous contributors to FAAS), along with a cover letter, dated February 24, 1994 from Mr. Murray. Mr. Murray's multiple letters to various persons were delivered and received by those persons on and after February 26, 1994. Mr. Murray's letter, although dated February 24, 1994, could not have been sent until February 25, 1994, or later, because it included a notarized copy of Mr. Bell's complaint letter.

## V. DISCUSSION

2 USC §437g(a)(12) and 11 CFR §111.21(a) are intended to protect the confidentiality of complaints filed with the FEC. The underlying purpose of the rules is to ensure that (1) there is fairness in the consideration of assertions of violations, and whether those assertions involve true violations of the Federal Election Campaign Act of 1971, as amended, and regulations promulgated thereunder, and (2) there is a proper resolution of such assertions without publicly prejudicing the Respondents involved through unfair publicity prior to a fair determination.

It is altogether too easy for a person to allege written violations in a simple 29 cent stamped envelope, often without justification for such allegations. To avoid confusion and basic unfairness to parties involved with free speech activities in the democratic election process, a strict enforcement prohibition has been devised to protect the rights of parties against whom complaints are filed. That prohibition is contained in 11 CFR §111.21(a).

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**VI. CONCLUSION**

Complainant requests that the FEC take appropriate action against Respondents herein as a result of their clear efforts to undermine the confidentiality requirements of the Code of Federal Regulations relating to enforcement matters. Complainant asserts that the Respondents have abused the enforcement process for their own personal political reasons. Such activity should not be condoned, should in fact be discouraged, and should be punished vigorously so that the regulatory requirements are not rendered useless and of no effect.

I, Peter A. Bagatelos, doing business at 601 California Street, Suite 1801, San Francisco, California 94108, swear under penalty of perjury that the statements contained herein are true and correct and of my own personal knowledge, except as to those things stated on information and belief, and as to those things I believe them to be true.

Executed this 15th day of April, 1994, at San Francisco, California.

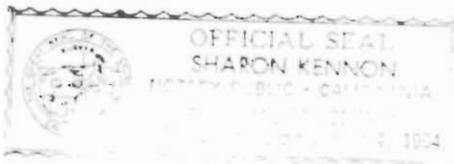
Peter A. Bagatelos  
PETER A. BAGATELOS

PAB:bz

seastran 415fec2.ltr

cc: (w/encls.) Chairman Potter  
Vice Chairman McDonald  
Commissioner Aikens  
Commissioner Elliott  
Commissioner McGarry  
Commissioner Thomas  
Hon. Andrea Seastrand

Subscribed and sworn before me this 15th day of April, 1994.



Sharon Kennon  
Notary Public

94043564833



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

APRIL 21, 1994

Mike Stoker  
c/o Mike Stoker for Congress Committee  
201 South Miller Street, Suite 107  
Santa Maria, CA 93454

RE: MUR 3955

Dear Mr. Stoker:

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 3955. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

24043564834

Mike Stoker  
Mike Stoker for Congress Committee  
Page 2

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

74043564835



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20543

APRIL 21, 1994

Peter A. Bagatelos, Esq.  
Bagatelos & Fadem  
601 California Street, Suite 1801  
San Francisco, CA 94108

RE: MUR 3955

Dear Mr. Bagatelos:

This letter acknowledges receipt on April 18, 1994, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 3955. 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

74043564836



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

APRIL 21, 1994

Ed Murray, Treasurer  
Mike Stoker for Congress Committee  
201 South Miller Street, Suite 107  
San Francisco, CA 94108

RE: MUR 3955

Dear Mr. Murray:

The Federal Election Commission received a complaint which indicates that the Mike Stoker for Congress Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3955. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

Ed Murray

24043564837

Ed Murray  
Mike Stoker for Congress Committee  
Page 2

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

24043564838

TO : PHONE NO. :  
FROM : Law Offices of John W. Belsher

MAY 9 1994 2:02PM P 2  
RECEIVED: 805 542 9949  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

LAW OFFICES OF  
**JOHN W. BELSHER**  
ATTORNEYS AT LAW  
1012 PACIFIC STREET, SUITE A-1  
SAN LUIS OBISPO, CALIFORNIA 93401  
TELEPHONE 805-542-9900  
FAX 805 542 9949

MAY 10 8 02 AM '94

*Of Counsel*  
VAUGHN C. TAUS  
HOWARD MARK BECKER

215 EAST HERRICK  
SANTA MARIA, CALIFORNIA 93454  
TELEPHONE 805-349-7929

May 9, 1994

Mary Taksar, Esq.  
Central Enforcement Docket  
Federal Elections Commission  
Washington, DC 20463

VIA FACSIMILE  
ORIGINAL MAILED

Re: MUR 3965

Dear Ms. Taksar:

I have been referred your letter of April 21, 1994, which was received by the Respondent on April 27, 1994. Enclosed find a completed Statement of Designation of Counsel. This letter requests an extension of three weeks, up to and including June 2, 1994, in which to respond to the referenced complaint.

This extension is requested in order to review FEC authorities, which are not readily available in Central California. I have ordered, via Federal Express, the "Explanation and Justification Notebook Volume" and am seeking access to the "MUR Index" elsewhere on the West Coast.

I appreciate your consideration of this request.

Sincerely,

  
John W. Belsher

JWB:ntg  
Enclosure

cc: Mike Stoker

94043564839

TO : PHO NO. :  
FROM : Law Offices of John W. Belsher & ASSOCIATES, P.C.

MAY. 9. 1994 2:02PM P 3  
PHONE NO. : 805 542 9949  
0003492698 P.2 p.02

STATEMENT OF DESIGNATION OF COUNSEL

MUR 399  
NAME OF COUNSEL John W. Belsher  
ADDRESS: 1012 Pacific Street, Suite A-1  
San Luis Obispo, CA 93401  
  
TELEPHONE: ( 805 ) 542-9900

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.

5/9/94  
Date

Michael B. Stoker  
Signature

RESPONDENT'S NAME: Michael B. Stoker  
ADDRESS: 201 S. Miller St., Suite 107  
Santa Maria, CA 93454  
  
TELEPHONE: HOME (  )   
BUSINESS ( 805 ) 349-0833

94043564840



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MAY 12, 1994

John W. Belsher, Esq.  
1012 Pacific Street, Suite A-1  
San Luis Obispo, CA 93401

RE: MUR 3955  
Michael B. Stoker

Dear Mr. Belsher:

This is in response to your letter dated May 9, 1994, requesting an extension until June 2, 1994, to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on June 2, 1994.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

24043564041

TO : PHON : 12022193923  
FROM : Law Offices of John W. Sher

JUN. 2. 1994 11:21AM P 2  
FAX NO. : 805 542 9949

ATTORNEYS AT LAW  
1012 PACIFIC STREET, SUITE A-1  
SAN LUIS OBISPO, CALIFORNIA 93401  
TELEPHONE 805-542-9900  
FAX 805-542-9949

Of Counsel  
VAUGHN C. TAUS  
HOWARD MARK BECKER

215 EAST MILLER  
SANTA MARIA, CALIFORNIA 93454  
TELEPHONE 805-349-7929

June 2, 1994

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

VIA FACSIMILE

Re: MUR 3955

24043564842  
This letter responds to the referenced complaint on behalf of Mike Stoker for Congress Committee, Mike Stoker and Ed Murray. The complaint was filed by his opponent in the June 1994 primary, Andrea Seastrand, and her State and federal campaign organizations. As the FEC authorities cited amply demonstrate, the complaint is completely meritless. Had counsel for Ms. Seastrand examined any of the dozen or so FEC decisions spanning nearly 20 years on this subject, the complaint would never have been filed.

The frivolity of the complaint is best demonstrated by the fact the complaint itself admits facts which FEC authorities have relied on to absolve past victims of such harassment. Ms. Seastrand goes to great length to allege that copies of a complaint to the FEC filed by Stoker for Congress against Seastrand

were mailed to Seastrand contributors the very day the complaint against Seastrand was mailed to the FEC. No further "disclosures" are alleged and, in fact, no other action, statement, press release, mailing or "disclosure" of any kind was made by the Stoker campaign team. Under such facts, time and again the FEC has ruled that such disclosures are permissible under its statutes and regulations, including those cited by Seastrand, and protected as a First Amendment right.

"[T]he Commission has consistently held that the Act's confidentiality provisions do not prevent a complainant from releasing the fact that a complaint has been filed, or from releasing the substance of that complaint." Yates v. Eisendrath, MUR 3037, First General Counsel's Report, page 2 (1990). See also Franklin v. McCloud, MUR 2980 (1990); NCPAC v. McGovern, MUR 1244 (1980); National Right to Life Committee v. National Abortion Rights Action League, MUR 1161 (1980); MINNPAC v. Common Cause, MUR 804 (1976); In re Common Cause, MUR 270 (1978).

Federal Elections Commission  
June 2, 1994  
Page 2 of 2

This rule has been extended to cases where the substance of the complaint itself has been made public after notification to the respondent of the filing of a complaint. Handgun Control, Inc. v. NRA, MUR 2142 (1986).

The Commission has also recognized the First Amendment right of a complainant to make public the filing and subject of a complaint. MINNPAC v. Common Cause, supra, MUR 804, First General Counsel's Report at page 3, citing Landmark Communications, Inc. v. Virginia (1978) 435 U.S. 829, 56 L.Ed.2d 1, 98 S.Ct. 1535.

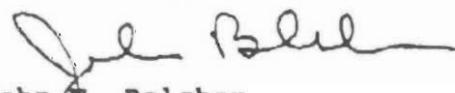
In this case, no public disclosure of any Commission action or investigation is alleged or, in fact, took place. As alleged by Seastrand, "disclosures" took place the very day the complaint was mailed well before action by the Commission, including the notification to the respondent. Therefore, no violation occurred.

The line of FEC rulings makes sense when viewed in the context of this complaint. Stoker sought to inform contributors to Seastrand

In the extremely unlikely event the Commission chooses to pursue this matter, Mr. Stoker wishes to make clear that Ed Murray, Campaign Treasurer, acted in this matter only on the direct instructions of Mr. Stoker and should bear no responsibility whatsoever for liability stemming from the complaint.

Given the clarity of FEC rulings on the single issue raised in this complaint and the continuing political season, a prompt rejection of this complaint would be appropriate, fair and appreciated.

Respectfully submitted,

  
John W. Belsher

JWB:ntg

cc: Mike Stoker

94043564843

JUN 30 3 55 PM '94

BEFORE THE FEDERAL ELECTION COMMISSION

**SENSITIVE**

In the Matter of

)  
) Enforcement Priority  
)

GENERAL COUNSEL'S QUARTERLY REPORT

I. INTRODUCTION

This report is the second Enforcement Priority System Quarterly Report. The purpose of this Quarterly Report is to recommend that the Commission no longer pursue the identified lower priority and stale cases.

II. CASES RECOMMENDED FOR CLOSING

A. Cases Not Warranting Further Pursuit Relative to Other Cases Pending Before the Commission

A critical component of the Priority System is identifying those pending cases that do not warrant the further expenditure of resources. Each incoming matter is evaluated using Commission approved criteria

By closing such cases the Commission is able to use its limited resources to focus on more important cases.

Having evaluated incoming matters, this Office has identified 16 cases which do not warrant further pursuit relative to the other pending cases.<sup>1</sup> A short

1. These matters are: MUR 3920; MUR 3930; MUR 3934; MUR 3939; MUR 3942; MUR 3943; MUR 3945; MUR 3948; MUR 3953; MUR 3955; MUR 3957; MUR 3964; MUR 3965; MUR 3967; RAD 94L-22; and RAD 94L-25.

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description of each case and the factors leading to assignment of a relatively low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 1-16. For the Commission's convenience, the narratives for externally-generated matters are immediately followed by the complaint and response(s) and the narratives for internally-generated matters are immediately followed by the referral.

#### B. Stale Cases

Investigations are severely impeded and require relatively more resources when the activity and evidence are old. Consequently, the Office of General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 42 cases that

do not warrant further investment of significant Commission resources.<sup>2</sup> Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate

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2. These matters are: MUR 3132; MUR 3432; MUR 3466; MUR 3470; MUR 3473; MUR 3495; MUR 3558; MUR 3575; MUR 3581; MUR 3594; MUR 3600; MUR 3625; MUR 3647; MUR 3663; MUR 3684; MUR 3698; MUR 3712; MUR 3733; MUR 3744; MUR 3749; MUR 3756; MUR 3759; MUR 3767; MUR 3776; MUR 3779; RAD 92L-26, RAD 93L-25; RAD 93L-26; RAD 93L-29; RAD 93L-31; RAD 93L-33; RAD 93L-35; RAD 93L-36; RAD 93L-38; RAD 93L-39; RAD 93NF-02; RAD 93NF-03; RAD 93NF-06; RAD 93NF-10; RAD 93NF-12; RAD 93NF-15; and RAD 93NF-20.

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narratives for these cases. However, for externally-generated matters in which the Commission has made no findings, the complaint and response(s) are attached to the report and for internally-generated matters in which the Commission has made no findings, the referral is attached. See Attachments 17-53. Because the Commission has already made findings in five of the stale cases, no additional information is being attached to this report in regard to these cases.<sup>3</sup>

24043564846

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3. These matters are: MUR 3132, MUR 3432, MUR 3466, MUR 3495, and MUR 3733.

This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the identified cases effective August 1, 1994. This will allow the Legal Review Team adequate time to prepare the Pre-MUR and MUR files so that the cases can appear on the public record by September 1, 1994, within 30 days of the August 1, 1994, closing date. This timeframe also will enable this Office to prepare closing letters so that the letters can be mailed on August 2, 1994. Additionally, the Press Office will need time to review the files for inclusion in one of its press releases.

III. RECOMMENDATIONS

A. Decline to open a MUR and close the file in the following matters to be effective on August 1, 1994:

- 1) RAD 92L-26
- 2) RAD 93L-25
- 3) RAD 93L-26
- 4) RAD 93L-29
- 5) RAD 93L-31
- 6) RAD 93L-33
- 7) RAD 93L-35
- 8) RAD 93L-36
- 9) RAD 93L-38
- 10) RAD 93L-39
- 11) RAD 94L-22
- 12) RAD 94L-25
- 13) RAD 93NF-02
- 14) RAD 93NF-03
- 15) RAD 93NF-06
- 16) RAD 93NF-10
- 17) RAD 93NF-12
- 18) RAD 93NF-15
- 19) RAD 93NF-20

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B. Take no action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3470
- 2) MUR 3473
- 3) MUR 3558
- 4) MUR 3575
- 5) MUR 3581
- 6) MUR 3594
- 7) MUR 3600
- 8) MUR 3625
- 9) MUR 3647
- 10) MUR 3663
- 11) MUR 3684
- 12) MUR 3698
- 13) MUR 3712
- 14) MUR 3744
- 15) MUR 3749
- 16) MUR 3756
- 17) MUR 3759
- 18) MUR 3767
- 19) MUR 3776
- 20) MUR 3779
- 21) MUR 3920
- 22) MUR 3930
- 23) MUR 3934
- 24) MUR 3939
- 25) MUR 3942
- 26) MUR 3943
- 27) MUR 3945
- 28) MUR 3948
- 29) MUR 3953
- 30) MUR 3955
- 31) MUR 3957
- 32) MUR 3964
- 33) MUR 3965
- 34) MUR 3967

24043564848

C. Take no further action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3132
- 2) MUR 3432
- 3) MUR 3466
- 4) MUR 3495
- 5) MUR 3733

6/30/94  
Date \_\_\_\_\_

  
\_\_\_\_\_  
Lawrence M. Noble  
General Counsel

24043564849

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Enforcement Priority ) Agenda Document  
#X94-72

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 19, 1994, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to Agenda Document #X94-72:

A. Decline to open a MUR and close the file in the following matters to be effective on August 1, 1994:

- 1) RAD 92L-26
- 2) RAD 93L-25
- 3) RAD 93L-26
- 4) RAD 93L-29
- 5) RAD 93L-31
- 6) RAD 93L-33
- 7) RAD 93L-35
- 8) RAD 93L-36
- 9) RAD 93L-38
- 10) RAD 93L-39
- 11) RAD 94L-22
- 12) RAD 94L-25
- 13) RAD 93NF-02
- 14) RAD 93NF-03
- 15) RAD 93NF-06
- 16) RAD 93NF-10
- 17) RAD 93NF-12
- 18) RAD 93NF-15
- 19) RAD 93NF-20

(continued)

24043564860

B. Take no action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3470
- 2) MUR 3473
- 3) MUR 3558
- 4) MUR 3575
- 5) MUR 3581
- 6) MUR 3594
- 7) MUR 3600
- 8) MUR 3625
- 9) MUR 3647
- 10) MUR 3663
- 11) MUR 3684
- 12) MUR 3698
- 13) MUR 3712
- 14) MUR 3744
- 15) MUR 3749
- 16) MUR 3756
- 17) MUR 3759
- 18) MUR 3767
- 19) MUR 3776
- 20) MUR 3779
- 21) MUR 3920
- 22) MUR 3930
- 23) MUR 3934
- 24) MUR 3939
- 25) MUR 3942
- 26) MUR 3943
- 27) MUR 3945
- 28) MUR 3948
- 29) MUR 3953
- 30) MUR 3955
- 31) MUR 3957
- 32) MUR 3964
- 33) MUR 3965
- 34) MUR 3967

(continued)

24043564851

Federal Election Commission  
Certification: Enforcement Priority  
July 19, 1994

Page 3

C. Take no further action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3132
- 2) MUR 3432
- 3) MUR 3466
- 4) MUR 3495
- 5) MUR 3733

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

Attest:

7-20-94  
Date

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

24043564852



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 2, 1994

Peter A. Bagatelos, Esq.  
Bagatelos & Fadem  
601 California Street, Suite 1801  
San Francisco, CA 94108

RE: MUR 3955

Dear Mr. Bagatelos:

On April 18, 1994, 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 August 1, 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

24043564053

MUR 3955

MIKE STOKER FOR CONGRESS

In their complaint, Andrea Seastrand, Friends of Assemblywoman Andrea Seastrand, and Friends of Andrea Seastrand for Congress allege that the Mike Stoker for Congress Committee and Ed Murray, its treasurer, violated the confidentiality provisions of the Act by publicizing the complaint which the Stoker Committee filed against the complainants. The complainants allege that after the complaint was filed with the Commission, the Stoker Committee distributed copies of the complaint to contributors to Andrea Seastrand's state committee.

In response to the complaint, the Stoker Committee indicates that its disclosure regarding the complaint occurred on the same day the complaint was mailed to the Commission. The Committee states that the Commission has consistently held that the Act's confidentiality provision does not prevent a complainant from releasing the substance of the complaint filed and that such disclosures are protected by the First Amendment. In addition, the Committee states that it was important that it disseminate the information to contributors

This matter involves less significant issues relative to the other issues pending before the Commission. There is no indication of serious intent to violate FECA.

24043564854



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 2, 1994

John W. Belsher, Esq.  
1012 Pacific Street, Suite A-1  
San Luis Obispo, CA 93401

RE: MUR 3955  
Michael B. Stoker

Dear Mr. Belsher:

On April 21, 1994, the Federal Election Commission notified your client 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 your client. See attached narrative. Accordingly, the Commission closed its file in this matter on August 1, 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.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

94043564055

**MUR 3955**  
**MIKE STOKER FOR CONGRESS**

In their complaint, Andrea Seastrand, Friends of Assemblywoman Andrea Seastrand, and Friends of Andrea Seastrand for Congress allege that the Mike Stoker for Congress Committee and Ed Murray, its treasurer, violated the confidentiality provisions of the Act by publicizing the complaint which the Stoker Committee filed against the complainants. The complainants allege that after the complaint was filed with the Commission, the Stoker Committee distributed copies of the complaint to contributors to Andrea Seastrand's state committee.

In response to the complaint, the Stoker Committee indicates that its disclosure regarding the complaint occurred on the same day the complaint was mailed to the Commission. The Committee states that the Commission has consistently held that the Act's confidentiality provision does not prevent a complainant from releasing the substance of the complaint filed and that such disclosures are protected by the First Amendment. In addition, the Committee states that it was important that it disseminate the information to contributors

This matter involves less significant issues relative to the other issues pending before the Commission. There is no indication of serious intent to violate FECA.

24043564856



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 2, 1994

Ed Murray, Treasurer  
Mike Stoker for Congress Committee  
201 South Miller Street, Suite 107  
San Francisco, CA 94108

RE: MUR 3955

Dear Mr. Murray:

On April 21, 1994, the Federal Election Commission notified the Mike Stoker for Congress Committee ("Committee") and you, as 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 August 1, 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.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

94043564857

**MUR 3955**  
**MIKE STOKER FOR CONGRESS**

In their complaint, Andrea Seastrand, Friends of Assemblywoman Andrea Seastrand, and Friends of Andrea Seastrand for Congress allege that the Mike Stoker for Congress Committee and Ed Murray, its treasurer, violated the confidentiality provisions of the Act by publicizing the complaint which the Stoker Committee filed against the complainants. The complainants allege that after the complaint was filed with the Commission, the Stoker Committee distributed copies of the complaint to contributors to Andrea Seastrand's state committee.

In response to the complaint, the Stoker Committee indicates that its disclosure regarding the complaint occurred on the same day the complaint was mailed to the Commission. The Committee states that the Commission has consistently held that the Act's confidentiality provision does not prevent a complainant from releasing the substance of the complaint filed and that such disclosures are protected by the First Amendment. In addition, the Committee states that it was important that it disseminate the information to contributors

This matter involves less significant issues relative to the other issues pending before the Commission. There is no indication of serious intent to violate FECA.

24043564858



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3955

DATE FILMED 8-31-94 CAMERA NO. 2

CAMERAMAN JMH

94043564859



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Date: 12/7/94

Microfilm  
 Public Records  
 Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED NUR 3955

4043600430

0604 1019

LAW OFFICES OF  
**BAGATELOS & FADEM**

THE INTERNATIONAL BUILDING  
601 CALIFORNIA STREET  
SUITE 1801  
SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE  
(415) 982-7100  
FAX  
(415) 982-1085

BARRY FADEM  
PETER A. BAGATELOS

April 15, 1994

**BY FEDERAL EXPRESS**

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

MUR 3955

Apr 16 5 01 PM '94

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Re: Complaint Against Mike Stoker For Congress Committee,  
Mike Stoker, and Ed Murray

Dear Mr. Noble:

**I. INTRODUCTION**

This complaint is being filed by the undersigned against the above referenced parties on behalf of Andrea Seastrand, Friends of Assemblywoman Andrea Seastrand, and Friends of Andrea Seastrand for Congress.

This complaint is being filed to protect the rights of Andrea Seastrand and her committees. We assert that those rights have been breached by the Mike Stoker For Congress Committee, Mike Stoker, and Ed Murray.

**II. DESCRIPTION OF PARTIES**

1. Andrea Seastrand is a member of the California State Assembly, representing the 33rd Assembly District. She declared her candidacy for the 22nd Congressional District from California on September 14, 1993. Mrs. Seastrand is a named respondent to a complaint filed with the Federal Election Commission ("FEC"), dated February 25, 1994, and assigned MUR 3937.

2. The Friends of Assemblywoman Andrea Seastrand ("FAAS"), known officially as the Friends of Assemblywoman Andrea Seastrand 33 Club, is a political committee organized under the California Political Reform Act of 1974, as amended, and registered with the California Secretary of State's office. Its Treasurer is Mildred Dostalek. Under California law, this Committee raises and expends funds in support of Assemblywoman Seastrand's officeholder functions during her current term of office. This Committee is a named respondent to a complaint, dated February 25, 1994, which was assigned MUR 3937.

3. The Friends of Andrea Seastrand for Congress is a principal campaign committee of Andrea Seastrand. The Committee Treasurer is Pete Agalos. The Committee identification

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number is C00284083. This Committee is a named respondent to a complaint, dated February 25, 1994, which was assigned MUR 3937.

4. The undersigned, Peter A. Bagatelos, is an attorney duly licensed to practice in the State of California, and serves as attorney for Andrea Seastrand, the Friends of Assemblywoman Andrea Seastrand and the Friends of Andrea Seastrand for Congress Committee in connection with MUR 3937.

5. Mike Stoker is a County Supervisor for the Fifth District in the County of Santa Barbara, State of California. Mr. Stoker is a declared candidate for the 22nd Congressional District from California.

6. The Mike Stoker for Congress Committee is the principal campaign committee of Mike Stoker. The Committee is located at 201 South Miller Street, Suite 107, Santa Maria, California 93454.

7. Ed Murray is the Treasurer of the Stoker for Congress Committee.

8. Charles H. Bell, Jr. is a partner with the law firm of Bell, McAndrews & Hiltachk, located at 555 Capitol Mall, Suite 530, Sacramento, California 95814. Mr. Bell and his law firm represent the Stoker for Congress Committee.

### **III. NATURE OF COMPLAINT**

Complainant herein alleges possible violation of 2 United States Code §437g(a)(12) and Title 11 of the Code of Federal Regulations §111.21(a) by the Respondents. Specifically, the cited regulation prohibits any person from disclosing to the public any complaint which is filed with the FEC without the written consent of a Respondent with respect to whom the complaint is filed. Based on facts presented below, Complainant asserts that Respondents have not complied with this regulation and have irreparably violated the rights of Respondents in MUR 3937.

Complainant requests that the FEC take strict disciplinary action against the Respondents herein, as appropriate, given that (a) the purposes of the regulation have been totally undermined, (b) Respondents have abused the FEC complaint process, (c) Respondents in MUR 3937 have been compelled needlessly and unjustifiably to incur substantial costs to answer groundless assertions and to protect their rights in MUR 3937, and (d) there is no other adequate remedy.

### **IV. FACTUAL BACKGROUND**

1. Complainant asserts that Charles H. Bell, Jr. of the law firm of Bell, McAndrews & Hiltachk, prepared a complaint letter against Andrea Seastrand, Friends of Andrea Seastrand for Congress Committee, and Friends of Assemblywoman Andrea Seastrand (33 Club)

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Committee (Non-Federal), which letter was dated February 25, 1994, and sent by Federal Express to the General Counsel's office of the FEC.

2. On information and belief, Complainant asserts that Ed Murray, Treasurer of the Stoker for Congress Committee, distributed multiple copies of Mr. Bell's February 25, 1994 complaint letter (notarized as of February 25, 1994) to members of the public (including specifically numerous contributors to FAAS), along with a cover letter, dated February 24, 1994 from Mr. Murray. Mr. Murray's multiple letters to various persons were delivered and received by those persons on and after February 26, 1994. Mr. Murray's letter, although dated February 24, 1994, could not have been sent until February 25, 1994, or later, because it included a notarized copy of Mr. Bell's complaint letter. A sample copy of Mr. Murray's cover letter and a mailing envelope, with the Bell complaint letter enclosed, is included herewith as Exhibit A. The envelope bears a postage meter stamp with the date of March 2, 1993 (SIC). While it appears that the year may inadvertently not have been permanently changed on the meter after December 31, 1993, the month and day certainly were and the presumption is that the mailing was done on March 2, 1994. In further support of this presumption, we enclose as Exhibit B a copy of an envelope mailed by the Stoker for Congress Committee to FASC, which used the same numbered postage meter. The date of the meter stamp is April 12, 1993. The post office stamp is dated April 14, 1994 and the envelope was received by FASC on April 15, 1994.

## V. DISCUSSION

2 USC §437g(a)(12) and 11 CFR §111.21(a) are intended to protect the confidentiality of complaints filed with the FEC. The underlying purpose of the rules is to ensure that (1) there is fairness in the consideration of assertions of violations, and whether those assertions involve true violations of the Federal Election Campaign Act of 1971, as amended, and regulations promulgated thereunder, and (2) there is a proper resolution of such assertions without publicly prejudicing the Respondents involved through unfair publicity prior to a fair determination.

It is altogether too easy for a person to allege written violations in a simple 29 cent stamped envelope, often without justification for such allegations. To avoid confusion and basic unfairness to parties involved with free speech activities in the democratic election process, a strict enforcement prohibition has been devised to protect the rights of parties against whom complaints are filed. That prohibition is contained in 11 CFR §111.21(a).

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Committee (Non-Federal), which letter was dated February 25, 1994, and sent by Federal Express to the General Counsel's office of the FEC. Mr. Bell's complaint letter was stamped-filed as received by the FEC on February 28, 1994. That letter, assigned MUR 3937, was subsequently sent to the Respondents, who are my clients, for response.

2. On information and belief. Complainant asserts that Ed Murray, Treasurer of the Stoker for Congress Committee, distributed multiple copies of Mr. Bell's February 25, 1994 complaint letter (notarized as of February 25, 1994) to members of the public (including specifically numerous contributors to FAAS), along with a cover letter, dated February 24, 1994 from Mr. Murray. Mr. Murray's multiple letters to various persons were delivered and received by those persons on and after February 26, 1994. Mr. Murray's letter, although dated February 24, 1994, could not have been sent until February 25, 1994, or later, because it included a notarized copy of Mr. Bell's complaint letter. A sample copy of Mr. Murray's cover letter and a mailing envelope, with the Bell complaint letter enclosed, is included herewith as Exhibit A. The envelope bears a postage meter stamp with the date of March 2, 1993 (SIC). While it appears that the year may inadvertently not have been permanently changed on the meter after December 31, 1993, the month and day certainly were and the presumption is that the mailing was done on March 2, 1994. In further support of this presumption, we enclose as Exhibit B a copy of an envelope mailed by the Stoker for Congress Committee to FASC, which used the same numbered postage meter. The date of the meter stamp is April 12, 1993. The post office stamp is dated April 14, 1994 and the envelope was received by FASC on April 15, 1994.

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It is altogether too easy for a person to allege written violations in a simple 29 cent stamped envelope, often without justification for such allegations. To avoid confusion and basic unfairness to parties involved with free speech activities in the democratic election process, a strict enforcement prohibition has been devised to protect the rights of parties against whom complaints are filed. That prohibition is contained in 11 CFR §111.21(a).

In the instant case, it appears that the real motive of the Complainants in MUR 3937 is to utilize the filed complaint for purely political purposes. Those purposes apparently include the undermining of Mrs. Seastrand's attempted election bid for Congress by a competitor for the same office, namely Mr. Stoker and his campaign committee. The ink was no sooner dry on Mr. Bell's complaint when Mr. Murray distributed copies of it to multiple parties, apparently for the purpose of disrupting Mrs. Seastrand's political fundraising activities and damaging her

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reputation. It is presumed that Mr. Stoker would know, or should know, about the activities of his principal campaign committee, and that, therefore, he expressly or impliedly approved the activity of Mr. Murray in sending out his letter.

## VI. CONCLUSION

Complainant requests that the FEC take appropriate action against Respondents herein as a result of their clear efforts to undermine the confidentiality requirements of the Code of Federal Regulations relating to enforcement matters. Complainant asserts that the Respondents have abused the enforcement process for their own personal political reasons. Such activity should not be condoned, should in fact be discouraged, and should be punished vigorously so that the regulatory requirements are not rendered useless and of no effect.

I, Peter A. Bagatelos, doing business at 601 California Street, Suite 1801, San Francisco, California 94108, swear under penalty of perjury that the statements contained herein are true and correct and of my own personal knowledge, except as to those things stated on information and belief, and as to those things I believe them to be true.

Executed this 15th day of April, 1994, at San Francisco, California.

Peter A. Bagatelos  
PETER A. BAGATELOS

PAB:bz

seastran:415fec2.ltr

cc: (w/encls.) Chairman Potter  
Vice Chairman McDonald  
Commissioner Aikens  
Commissioner Elliott  
Commissioner McGarry  
Commissioner Thomas  
Hon. Andrea Seastrand

Subscribed and sworn before me this 15th day of April, 1994.



Sharon Kennon  
Notary Public

4043600435

4 0 4 3 6 0 0 4 3 6

***EXHIBIT A***



# STOKER for Congress Proven Effectiveness

201 S. Miller Street · Suite 107 · Santa Maria, California 93454 · (805) 349-0833  
Paid for by Mike Stoker for Congress

Honorary Co-Chairpersons  
Honorable Robert Lippmann  
Honorable Carol Hatten

Treasurer  
Ed Murray

Severing Committee  
S. B. Co. Sheriff Jim Thomas  
S. B. Co. D.A. Tom Sorddon, Jr.  
S. B. Co. Supervisor Tom Staffel  
Jen Parker  
Councilman Curtis Turner  
Councilman George Stillman  
Councilman Richard Polton  
Councilman Rusty Farly  
Milo & Georganne Ferris  
Mabel Shales

February 24, 1994

Coast County Pharmacy Assoc.  
1245 Broad Street  
San Luis Obispo, Ca. 93401

Attn: Contribution Intermediary

TO WHOM IT MAY CONCERN:

As you are aware, your Political Action Committee contributed \$330.00 to Assemblywoman Andrea Seastrand in September, 1993. As you are probably not aware, Assemblywoman Seastrand announced her intention to seek office at the Federal level in September of 1993 and, in fact, in the same month, filed with the Federal Elections Commission a Statement of Organization whereby she created the Friends of Andrea Seastrand for Congress committee.

We are sure you are aware that Federal Election Law prohibits contributions from State Political Action Committees to candidates seeking federal office. As a result of this statutory prohibition, it is illegal for a candidate to receive or a contributor to knowingly contribute to a State Campaign Committee where such funds will be diverted for the direct or indirect benefit of the candidate seeking Federal office. In fact, the Federal Election Commission, consistent with this determination, has administratively ruled that no state officeholder can transfer state funds in the State Campaign Committee to the Federal Campaign Committee without undergoing a specific "cleansing" process.

In the case before us, Assemblywoman Andrea Seastrand, after announcing her intention to seek Federal office, solicited campaign funds from your State Political Action Committee of which were paid into her State campaign committee and thereafter spent to directly or indirectly assist her towards her Federal Campaign efforts. We are certain that you are unaware of this activity. However, to confirm your political action committee's intent to not participate in this wrongful diversion of campaign contributions, we would ask that you require Assemblywoman Andrea Seastrand to reimburse your political action committee so that no question of impropriety would exist.

4043600438

George Gavigano  
Norm Teixeira  
JJ Hollister  
Don Talley  
Dale Hampton  
Michael Tomches  
Chet Dittler  
Rob Engel  
Jack Murchart  
Dennis Moresco  
Jay Will  
Pete Clark  
Lion Fletcher  
Charles Capriel  
Rosaire Gherusa  
Bibb Ross  
Richard Quandt  
Chel Rick  
Jeff Wagner  
Bibb Torres  
Pete & Carol Jordano  
Bill Sommermeier  
Sandy Curry  
Maureen Casack  
Paul Segura  
Steve Will  
Rich Barwick  
Alexander Kallman  
Bill Gordon  
Mike Rivera  
Dave Smith  
Beverly Faltersbagen  
Jack Loren  
Craig Smith  
Levy Barden  
Rob Down  
David Williams  
Ben Hawkins  
Joel Huber  
Rick Frazer  
Joe Prankins  
Dr. Fred & Rose Grant  
Gary Winters  
Robert Agostapace  
Ted Scott  
Paula R. Gherusa Pyche  
Ian Franz  
Elmer & Anne Brown  
Perry Rademaker  
Douglas Mandak  
Howard Mandak  
Don Lahr, Jr.  
Carol Pruitt  
Sue Mason  
Theresa Mary Langley  
Jerry Bess  
Michael Marino  
Doug King  
Cal Guevara  
Dan Lind  
Lore Hansen  
John Bekker  
Bob Bergman  
Frank Machado  
Ken Bornhardt  
CJ Smith  
Cheryl & Ted Maddux  
Nick Ferravanti  
Patsy Gresser  
Brenda Carter  
Marie Whitford  
Kenneth Roseme  
Art Green  
Ned Rodman  
George Tamias  
Dick Frank  
Dr. Michael Cooper  
K. Brent Aftan  
Shannon Horn  
Tom Kittenburgh  
Rob Hallett  
Walter Galton  
Dan Lopez  
Dr. Ochoa  
Loretha Thomas  
Ernie Rigbetti  
S. B. Co. Supervisor Wally Chamberlin  
S. B. Co. Sheriff Ed Williams  
S. B. Co. D.A. Barry La Barbera

(Partial List)

Our campaign committee is currently in the process of reviewing the situation and evaluating which parties complaints with the Federal Election commission should be pursued. We have enclosed for your review, a Complaint, drafted by our attorney, Mr. Chuck Bell, whereby the status of the applicable law is discussed. Your may want to refer to Mr. Bell's complaint for your own information.

Please advise us of your decision in this matter. Please feel free to contact me should you have any questions in regards to this matter.

Very truly yours,



Ed Murray  
Campaign/Treasurer

Enclosure

4043600439

**BELL, MCANDREWS & HILTACHK**

ATTORNEYS AND COUNSELORS AT LAW

999 CAPITOL HALL, SUITE 830

SACRAMENTO, CALIFORNIA 95814

(916) 442-7757

FAX (916) 442-7759

CHARLES M. BELL, JR.  
COLLEEN C. MCANDREWS  
THOMAS W. HILTACHK

1441 FOURTH STREET  
SANTA MONICA, CA 90401  
(310) 488-1405

February 25, 1994

BY FEDERAL EXPRESS

Lawrence C. Noble  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20543

Re: Complaint against Andrea Seastrand; Friends of Andrea  
Seastrand for Congress Committee; and Friends of  
Assemblywoman Andrea Seastrand (33 Club) Committee  
(Non-Federal)

Dear Mr. Noble:

Subject of Complaint

On behalf of the Mike Stoker for Congress Committee, the undersigned files this complaint against the above referenced candidate for federal office (22nd C.D., California). The candidate's federal campaign committee and non-federal campaign committee are also named as Respondents.<sup>1</sup>

Supporting Materials

This complaint is based upon a review of the federal and non-federal committees' year end 1993 campaign statements, pertinent copies of which are attached as Attachments A and B hereto. These campaign statements make clear the violations of

<sup>1</sup> This complaint relates to one issue raised in a complaint filed with the FEC against the Seastrand Committees by one Stephen Anderson, which I understand Mr. Anderson may have attempted to withdraw. The allegations in this complaint cover additional issues under FECA.

4043600440

Letter to Lawrence C. Noble  
February 25, 1994  
Page 2

the Federal Election Campaign Act ("FECA") referred to more particularly herein.

#### Specific Violations

This complaint further alleges that the candidate, using funds of a non-federal campaign committee which she controls under California law, has engaged in communications and other activities involving the expenditure of non-federal funds to "influence a federal election."

These activities constitute "contributions" and "expenditures" under Title 2, United States Code, sections 431(8) and 431(9) respectively. In addition, because the expenditures were made by a federal candidate using the candidate's non-federal funds (which included a substantial amount of prohibited source dollars), these contributions constitute prohibited "transfers" under FEC Regulation 110.3 (11 C.F.R. 110.3), which transfers also include "excessive contributions" under Title 2, United States Code, section 441a, and "prohibited contributions" under Title 2, United States Code, section 441b.

#### Factual Background

Andrea Seastrand announced her candidacy for federal office on September 15, 1993. Thereafter, she engaged in substantial federal campaign activity in support of her candidacy, by and through the Friends of Assemblywoman Andrea Seastrand Committee, a non-federal committee. This activity included: most importantly (1) broadcast media communications over radio stations whose primary coverage areas are within the congressional district she is pursuing nomination and election to represent. These expenditures included a substantial expenditure on a Santa Barbara radio station which broadcasts primarily to an audience outside her state assembly district; (2) payment for the treasurer services of the treasurer of her federal campaign committee, Mr. Pete Agalos; (3) payment for extensive computer services and for postage stamps. On information and belief, the use of the computer may include list development of benefit to her federal campaign, and the purchase of postage stamps permits almost undetected use of those stamps for federal campaign mailings; and, (4) extensive campaign travel to her assembly district for campaign related appearances at which, on information and belief, her federal campaign was discussed.

4043600441

Letter to Lawrence C. Noble  
February 25, 1994  
Page 3

In engaging in these radio broadcast communications, and particularly those outside her existing state assembly district, Mrs. Seastrand cannot argue that she was engaging in state-candidacy related campaign activity. Nor can she argue that in these circumstances the broadcast messages were not for the purpose of influencing her federal campaign.

All the broadcast messages were paid for with non-federal funds. The Seastrand non-federal committee reported expenditures for such broadcasts to station KTMS Radio, Santa Barbara, California (\$2,520.00). The committee also reported payments totalling another \$2,500 to broadcast stations which broadcast to areas which are within both Mrs. Seastrand's state assembly district and the new congressional district.

These payments were made through the firm of Suggs, Lombardi Advertising. Surprisingly, there is no indication that Suggs, Lombardi kept or was paid any creative fee or production costs out of the amounts paid by the Seastrand non-federal committee. It is customary for a media vendor to take such a fee, in addition to commissions which may be retained or rebated by the broadcast stations. However, on the Seastrand federal committee report, the Suggs, Lombardi firm is shown as a payee for what may be production costs related to this broadcast advertising, on the report for the period ending December 31, 1993.

Why the Respondents' Activity Constituted  
"Influencing a federal election."

A variety of factors indicate this substantial federal committee activity was for the purpose of influencing Mrs. Seastrand's federal election.

First, Mrs. Seastrand had no particular reason to engage in broadcast communications other than to increase her name identification for her federal campaign. She was not a candidate for re-election to state office. Further, while there was a special state election in 1993 -- and there were several statewide ballot measures on that ballot -- there is no indication that Mrs. Seastrand intended to campaign for any such measure, and her non-federal committee report does not identify that she made either an "in-kind" contribution or an "independent expenditure" on behalf of any such measures.

Second, the campaign messages focused on identification of Mrs. Seastrand as an elected officeholder, a factor she is

4043600442



Letter to Lawrence C. Noble  
February 25, 1994  
Page 5

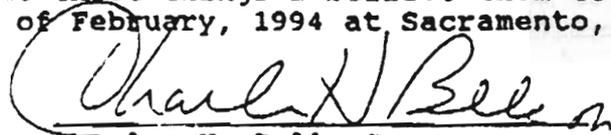
Enclosed are the following attachments:

Attachment A: Copy of selected pages of the Friends of Assemblywoman Andrea Seastrand non-federal committee report for the period July 1, 1993 through December 31, 1993.<sup>3</sup>

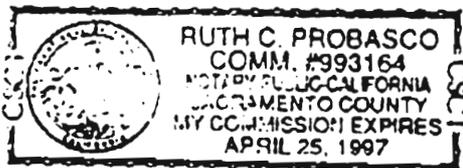
Attachment B: Copy of selected pages of the Friends of Andrea Seastrand for Congress Committee report for the period ending December 31, 1993.

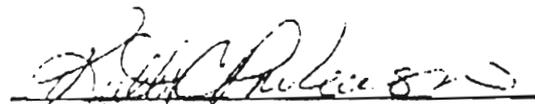
Attachment C: Copies of newspaper articles reporting Mrs. Seastrand's announcement of candidacy.

I, Charles H. Bell, Jr., doing business at 555 Capitol Mall, Suite 530, Sacramento, California 95814, swear under of penalty of perjury, these statements are true and correct and of my own personal knowledge, except as to those things stated on information and belief, and as to those things I believe them to be true. Executed this 25th day of February, 1994 at Sacramento, California.

  
Charles H. Bell, Jr.

Subscribed and sworn to before me on this 25<sup>th</sup> day of February, 1994.



  
NOTARY PUBLIC

<sup>3</sup> Copies are marked in the margin to denote non-federal PAC's and corporations listed as contributors. Complainant does not allege that any of the non-federal PAC's or corporations knew or had reason to know Seastrand used proceeds of their contributions for federal campaigning. Complainant had knowledge or reason to believe that some of these contributors did not know of the alleged use for federal purposes.

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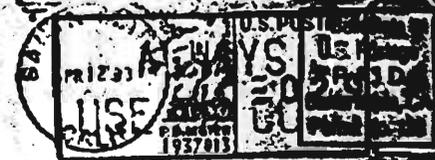
4043600445

***EXHIBIT B***

4 0 4 3 6 0 0 4 4 6

**STOKER**  
*for Congress*  
**Proven Effectiveness**

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Paid for by Mike Stoker for Congress



FRIENDS OF ANDREA SEASTRAND FOR CONGRESS

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TO :  
FROM : Law Offices of John W. Stoker

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JUN. 2. 1994 11:21AM P 2  
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June 2, 1994

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

VIA FACSIMILE

Re: MUR 3955

This letter responds to the referenced complaint on behalf of Mike Stoker for Congress Committee, Mike Stoker and Ed Murray. The complaint was filed by his opponent in the June 1994 primary, Andrea Seastrand, and her State and federal campaign organizations. As the FEC authorities cited amply demonstrate, the complaint is completely meritless. Had counsel for Ms. Seastrand examined any of the dozen or so FEC decisions spanning nearly 20 years on this subject, the complaint would never have been filed.

The frivolity of the complaint is best demonstrated by the fact the complaint itself admits facts which FEC authorities have relied on to absolve past victims of such harassment. Ms. Seastrand goes to great length to allege that copies of a complaint to the FEC filed by Stoker for Congress against Seastrand (assigned MUR 3937) were mailed to Seastrand contributors the very day the complaint against Seastrand was mailed to the FEC. No further "disclosures" are alleged and, in fact, no other action, statement, press release, mailing or "disclosure" of any kind was made by the Stoker campaign team. Under such facts, time and again the FEC has ruled that such disclosures are permissible under its statutes and regulations, including those cited by Seastrand, and protected as a First Amendment right.

"[T]he Commission has consistently held that the Act's confidentiality provisions do not prevent a complainant from releasing the fact that a complaint has been filed, or from releasing the substance of that complaint." Yates v. Eisendrath, MUR 3037, First General Counsel's Report, page 2 (1990). See also Franklin v. McCloud, MUR 2980 (1990); NCPAC v. McGovern, MUR 1244 (1980); National Right to Life Committee v. National Abortion Rights Action League, MUR 1161 (1980); NINCPAC v. Common Cause, MUR 804 (1976); In re Common Cause, MUR 270 (1978).

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TO :

PHONE NO. : 12022193923

JUN. 2. 1994 11:22AM P 3

FROM : Law Offices of John W. Belsher

FONE NO. : 805 542 9949

Federal Elections Commission  
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This rule has been extended to cases where the substance of the complaint itself has been made public after notification to the respondent of the filing of a complaint. Handgun Control, Inc. v. NRA, MUR 2142 (1986).

The Commission has also recognized the First Amendment right of a complainant to make public the filing and subject of a complaint. MINNPAC v. Common Cause, supra, MUR 804, First General Counsel's Report at page 3, citing Landmark Communications, Inc. v. Virginia (1978) 435 U.S. 829, 56 L.Ed.2d 1, 98 S.Ct. 1535.

In this case, no public disclosure of any Commission action or investigation is alleged or, in fact, took place. As alleged by Seastrand, "disclosures" took place the very day the complaint was mailed well before action by the Commission, including the notification to the respondent. Therefore, no violation occurred.

The line of FEC rulings makes sense when viewed in the context of this complaint. Stoker sought to inform contributors to Seastrand's State campaign organization that Ms. Seastrand was using her position as State Assemblywoman to solicit funds for a congressional election. This information was important to such contributors who might otherwise unwittingly violate federal election laws.

In the extremely unlikely event the Commission chooses to pursue this matter, Mr. Stoker wishes to make clear that Ed Murray, Campaign Treasurer, acted in this matter only on the direct instructions of Mr. Stoker and should bear no responsibility whatsoever for liability stemming from the complaint.

Given the clarity of FEC rulings on the single issue raised in this complaint and the continuing political season, a prompt rejection of this complaint would be appropriate, fair and appreciated.

Respectfully submitted,

  
John W. Belsher

JWB:ntg

cc: Mike Stoker

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**MUR 3955**  
**MIKE STOKER FOR CONGRESS**

In their complaint, Andrea Seastrand, Friends of Assemblywoman Andrea Seastrand, and Friends of Andrea Seastrand for Congress allege that the Mike Stoker for Congress Committee and Ed Murray, its treasurer, violated the confidentiality provisions of the Act by publicizing the complaint which the Stoker Committee filed against the complainants. The complainants allege that after the complaint was filed with the Commission, the Stoker Committee distributed copies of the complaint to contributors to Andrea Seastrand's state committee.

In response to the complaint, the Stoker Committee indicates that its disclosure regarding the complaint occurred on the same day the complaint was mailed to the Commission. The Committee states that the Commission has consistently held that the Act's confidentiality provision does not prevent a complainant from releasing the substance of the complaint filed and that such disclosures are protected by the First Amendment. In addition, the Committee states that it was important that it disseminate the information to contributors of the state committee because it believed Ms. Seastrand was using her position as State Assemblywoman to solicit contributions for Congressional election.

This matter involves less significant issues relative to the other issues pending before the Commission. There is no indication of serious intent to violate FECA.

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