



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4491

DATE FILMED 1/16/98 CAMERA NO. 2

CAMERAMAN EES

28043854536

BRAD SHERMAN
FOR UNITED STATES CONGRESS

14008 VENTURA BOULEVARD
SHERMAN OAKS, CA 91423
PHONE: (818) 906-0333 • FAX: (818) 906-8119

SEP 25 12 01 PM '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

September 23, 1996

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

RE: Citizens for Fair Representation (FEC No. C00295238);
Douglas A. Hewitson; Thomas Lee; Rich Sybert and the Rich
Sybert for Congress Committee (FEC No. C00283939)

Dear Sir or Madam:

Pursuant to 11 CFR 111.4¹, the undersigned complains that the following persons or entities have violated the Federal Election Campaign Act, 2 U.S.C. section 431 et seq., and applicable Federal Election Commission ("FEC") regulations:

- (1) the committee known as "Citizens for Fair Representation" which is registered with the Commission as committee number C00295238 at P.O. Box 1275, Woodland Hills, CA 91367;
- (2) Mr. Thomas Lee, President, Citizens for Fair Representation, whose address is listed in Rich Sybert for Congress Form 3 reports as 117 Jeranio Court, Thousand Oaks, CA 91362;
- (3) Mr. Douglas A. Hewitson, Treasurer, Citizens for Fair Representation, whose address is listed in Rich Sybert for Congress Form 3 reports as 5158 East Wagner Way, Oak Park, CA 91301;
- (4) Rich Sybert and the Rich Sybert for Congress Committee. Mr. Sybert is the Republican U.S. House nominee in California-24.

Citizens for Fair Representation, Mr. Hewitson, and Mr. Lee independently or in coordination with California-24 Republican candidate Richard Sybert and his principal campaign committee, Rich Sybert for Congress, have violated the Federal Election Campaign

¹ Unless otherwise noted, all citations herein are to Title 11 of the Code of Federal Regulations.

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Act and 11 CFR Section 110.11² by distributing general public political advertising which fails to contain the disclaimer required by Section 110.11, even though this literature expressly advocates the defeat of Democratic congressional candidate Brad Sherman and the election of Republican Richard Sybert.

Moreover, this activity by Citizens for Representation contravenes the committee's written December 18, 1995 statement to the FEC that:

"It is our intention to terminate our committee at the end of this year. We have had absolutely no fund raising activity and virtually no expenditures since our last report."

Exhibit A hereto. See also, Exhibit B hereto (July 3, 1995 letter from Citizens for Fair Representation which states "our activities are suspended").

In addition, Sybert and the Rich Sybert for Congress Committee have distributed in public literature which does not contain the disclaimer required by 11 CFR Section 110.11(a)(1)(i).

I. The FECA Definition of "Express Advocacy."

I begin by quoting the Commission's newly adopted definition of "express advocacy" in 11 CFR Section 100.22:

Expressly advocating means any communication that -- (a) Uses phrases such as "vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for the U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '94", "vote Pro-Life" or "vote Pro-Choice" followed by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent", or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning that to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Nixon's the One", "Carter '76", "Reagan/Bush", or "Mondale!", or

(b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because-

As well as United States Code, Title 2, Section 441d

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(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.

II. The Close Relationship Between Sybert And Citizens For Fair Representation

I also respectfully direct the Commission's attention to its public records regarding Citizens for Fair Representation and the Rich Sybert for Congress Committee, which reflect that:

(1) Citizens for Fair Representation first registered with the FEC June 15, 1994, which is eight days after the June 7, 1994 California primary in which Mr. Sybert was nominated as the Republican nominee to oppose Congressman Anthony Beilenson in CA-24;

(2) the two addresses used by Citizens for Fair Representation (P.O. Box 1275, Woodland Hills, CA 91367; 1125 Lindero Canyon Road, Suite A8, Westlake Village, CA 91362) are both in California-24;

(3) the Citizens for Fair Representation Treasurer in 1994 and 1995 was Douglas A. Hewitson, who: (1) is listed by Sybert as a member of his "Steering/Finance Committee"³; and (2) contributed to the Rich Sybert for Congress Committee as follows: \$1,000 on September 30, 1994⁴, \$650 in 1995⁵, and \$300 on February 29, 1996; moreover, on September 30, 1994, Ms. Lucinda M. Hewitson, also of 5158 East

³ See Exhibit G attached hereto, an endorsement list appearing on the Sybert for Congress World Wide Web page.

⁴ For this contribution only, the Rich Sybert for Congress Form 3 lists Mr. Hewitson's address as P.O. Box 1275, Woodland Hills, CA 91365 -- the same P.O. Box, city and state (but a slightly different ZIP code) as the address used by Citizens for Fair Representation). The Commission is respectfully advised that Woodland Hills is assigned only two ZIP codes -- 91364 and 91367.

⁵ \$500 under the name of "Douglas A. Newitson" from the 5158 East Wagner address in Oak Park, CA, on December 31, 1995, and according to that entry, an additional \$150 previously in calendar year 1995.

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Wagner Way, Agoura, CA 91301⁶ contributed \$500 to the Rich Sybert for Congress Committee;

(4) as indicated below, Citizens for Fair Representation President Thomas Lee has received payments from the Rich Sybert for Congress Committee; and,

(5) as indicated in Exhibits A and B hereto, Citizens for Fair Representation represented to the FEC in 1995 that the committee's activities would "terminate" or "are suspended", but in 1996 Citizens for Fair Representation is engaged in the express advocacy demonstrated by Exhibit C hereto.

III. Citizens For Fair Representation Literature Does Not Contain The Disclaimer Required By 11 CFR Section 110.11; The President And Treasurer of Citizens for Fair Representation Appear On Sybert's Reports; The Treasurer Of Citizens For Fair Representation Serves On The Sybert Steering/Finance Committee

I, the undersigned, have personal knowledge of the following facts:

1. On or about August 22, 1996, I was given the original of Exhibit C hereto, a flyer containing the name of "Tom Lee, President, Citizens for Fair Representation", which expressly advocates the defeat of Brad Sherman, claiming that Mr. Sherman is supported by labor unions.

I respectfully direct the Commission's attention to the Form 3 reports filed by Rich Sybert for Congress, which indicate that a Mr. Thomas Lee of 117 Jeranio Court, Thousand Oaks, CA 91362 was the recipient of the following payments from the Rich Sybert for Congress Committee

10/20/94 -- "Expenses" -- \$162.13
10/30/94 -- "Prof. Services" -- \$150.00
11/14/94 -- "Prof. Services + Expenses" -- \$235.18

It is therefore possible that Mr. Lee and Citizens for Fair Representation may be distributing Exhibit C in coordination with the Rich Sybert for Congress Committee.

⁶ The Commission is respectfully advised that 5158 East Wagner Way in Oak Park is the same street address as 5158 East Wagner Way in Agoura; Oak Park and Agoura unfortunately have the same ZIP Code, 91301. The address 5158 East Wagner Way, Oak Park is the same location as 5158 East Wagner Way, Agoura.

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Exhibit C expressly advocates the defeat of Brad Sherman in the California-24 U.S. House race. The words used in Exhibit C constitute "communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning that to urge the election or defeat of one or more clearly identified candidate(s)." In addition, when taken as a whole in a period less than 90 days before the November 5, 1996 election, Exhibit C "could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s)." Thus, the 11 CFR section 100.22 standard is met by Exhibit C.

Moreover, as indicated above, a review of Citizens for Fair Representation and Rich Sybert for Congress FEC reports indicates that: (1) the President of Citizens for Fair Representation has been paid by the Sybert campaign; (2) the Treasurer of Citizens for Fair Representation has contributed to the Sybert campaign, and serves on its Steering/Finance Committee; and (3) the address used by the Treasurer of Citizens for Fair Representation for the making of a contribution to the Sybert campaign is the same P.O. Box used by Citizens for Fair Representation.

Thus, Citizens for Fair Representation may be illegally coordinating with the Rich Sybert for Congress Committee.

Exhibit C does not contain the 11 CFR section 110.11(a)(1)(iii) disclaimer⁷.

IV. Citizens For Fair Representation Has Violated The Federal Election Campaign Act By Expressly Advocating The Defeat Of Sherman After Having Stated To The Commission That It Was Terminating Federal Activity

Attached as Exhibits D and E hereto are letters from the Commission to Citizens for Fair Representation directing the committee to: (1) list a campaign depository; and (2) file a mid-year report. In response, Citizens for Fair Representation stated in Exhibits A and B that its activity was "terminated" or "suspended." But as indicated in Exhibit C, Citizens for Fair Representation is now expressly advocating the defeat of a federal candidate.

⁷ "[The communication] shall clearly state that the communication has been paid for by such person and is not authorized by any candidate or candidate's committee."

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V. Candidate Sybert Distributes Literature Which Lacks The Disclaimer Required By 11 CFR Section 110.11(a)(1)(i).

Finally, on or about August 22, 1996, Republican nominee Rich Sybert distributed to the public an original or a copy of Exhibit F hereto and stated that Exhibit F expressed his views on federal economic policy. Exhibit F does not contain any of the disclaimers required by 11 CFR section 110.11, or any identification of the person or persons who wrote, authorized, or paid for it.

Moreover, Exhibit F appears to have been produced by the same photoduplication process as Exhibit C, which indicates that the facilities of Citizens for Fair Representation may have been used for its production.

VI. Conclusion

I respectfully submit that Citizens for Fair Representation, Thomas Lee, Douglas Hewitson, Rich Sybert, and the Rich Sybert for Congress Committee have violated the above-referenced FEC regulations and the Federal Election Campaign Act. I therefore request that the Commission take all appropriate action, including but not limited to appropriate fines.

If you have any questions, please do not hesitate to contact me c/o Sherman for Congress, 5152 Sepulveda Blvd., Suite 1996, Sherman Oaks, CA 91423.

Very truly yours,



Ken Goldman

sybfair4.fec



9-23-96

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EXHIBIT

A

28043854543

FEDERAL ELECTION
COMMISSION
MAIL ROOM

"Citizens for Fair Representation"

DEC 26 9 28 AM '95

December 18, 1995

Federal Election Commission
Washington, DC 20463

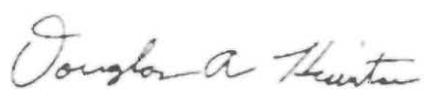
Subject: Termination of Committee

Ref: FEC ID # C00295238

Dear FEC,

It is our intention to terminate our committee at the end of this year. We have had absolutely no fund raising activity and virtually no expenditures since our last report – but if it is still required, please forward an FEC form 3X to my attention.

Thank you for your help



Douglas A. Hewitson
Treasurer - "Citizens for Fair Representation"

98043015238048

EXHIBIT

B

28043854545

REC'D
FEDERAL ELECTION COMMISSION
JUL 13 11 12 AM '95

"Citizens for Fair Representation"

July 3, 1995

Darren Comras
Reports Analysis Division
Federal Election Commission
Washington, DC 20463

Subject: Campaign Depository

Ref: Your letter of June 13, 1995

Mr. Comras,

I am in receipt of your letter of June 13. Unfortunately I must inform you that our group never obtained a checking account for the 1994 campaign. 80% of our donations were in-kind and those that were not in-kind were small cash donations of \$20 or less. Since we never had a balance larger than \$50, we did not feel that we could afford the cost of checks and a checking account (upwards of \$10 per month).

Our current campaign balance is zero and our activities are suspended. We do not expect to be raising any money this year. Unless after your review of this letter, you tell us that we must obtain an account, I will hold off on getting an account until when (and if) we decide to raise funds in the future. Otherwise we will seriously have to consider disbanding the group.

I would also like to inform you that our address has changed to P.O. Box 1275 Woodland Hills, Ca. 91367.

Thank you for your help

Douglas A. Hewitson
Treasurer - "Citizens for Fair Representation"

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EXHIBIT

C

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**EXTRA!
EXTRA!**

**ORGANIZED LABOR BEHIND
SHERMAN CAMPAIGN**

Democrat Brad Sherman never misses a chance to try and convince the public that he is a "pro-business" candidate.

Yet, a careful examination of Mr. Sherman's FEC contributor list reveals a completely different person than the candidate he would like the voters to believe he is. In fact, these public records show he is largely funded by East Coast Labor Unions.

Mr. Sherman has already taken several thousand dollars from Labor Unions this year. In fact, he has taken over \$50,000 - which amounts to over 50% of his total contributions for the last filing period.

With Organized Labor's anti-business legislative agenda, we find it more than a little dubious that one of our own so-called "pro-business" candidates would so easily sell out to East Coast Labor interests.

Who do you think Brad Sherman will answer to if we send him to Washington, the pro-business voters of the 24th Congressional District, or the East Coast Labor Bosses who financed his campaign?

**Tom Lee, President
Citizens for Fair Representation**

SCHEDULE A		ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page (40109-06/99)	PAGE 1 OF 6
Contributions from Other Political Committees					FOR LINE NUMBER 11 (c)
Any information copied from such Reports and Statements may not be used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.					
NAME OF COMMITTEE (in Full) SHERMAN FOR CONGRESS C00308742					
A. Full Name, Mailing Address and ZIP Code ABC United Food and Commercial Workers International Union 1775 K Street N.W. Washington, DC 20006		Name of Contributor	Date (month, year) 05/07/96	Amount of Each Receipt this Period 2,000.00	
Receipt for: <input type="checkbox"/> Other (specify) <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		Appropriate Year-to-Date	7,000.00		
B. Full Name, Mailing Address and ZIP Code Amalgamated Transit Union Cope Account 5025 Wisconsin Avenue N.W. Washington, DC 20016		Name of Contributor	Date (month, year) 06/12/96	Amount of Each Receipt this Period 500.00	
Receipt for: <input type="checkbox"/> Other (specify) <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		Appropriate Year-to-Date	500.00		
C. Full Name, Mailing Address and ZIP Code American Federation of State, County and Municipal Employees 1625 L Street N.W. Washington, DC 20036		Name of Contributor	Date (month, year) 06/22/96	Amount of Each Receipt this Period 3,000.00	
Receipt for: <input type="checkbox"/> Other (specify) <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		Appropriate Year-to-Date	8,000.00		
D. Full Name, Mailing Address and ZIP Code American Federation of Teachers COPE 555 New Jersey Avenue N.W. #1000 Washington, DC 20001		Name of Contributor	Date (month, year) 06/29/96	Amount of Each Receipt this Period 5,000.00	
Receipt for: <input type="checkbox"/> Other (specify) <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		Appropriate Year-to-Date	7,500.00		
B. Full Name, Mailing Address and ZIP Code California State Pipes Trades Council 915 L Street #1240 Sacramento, CA 95814		Name of Contributor	Date (month, year) 06/29/96	Amount of Each Receipt this Period 1,000.00	
Receipt for: <input type="checkbox"/> Other (specify) <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		Appropriate Year-to-Date	1,500.00		
C. Full Name, Mailing Address and ZIP Code Carpenters' Legislative Improvement Committee 101 Constitution Avenue N.W. Washington, DC 20001		Name of Contributor	Date (month, year) 06/29/96	Amount of Each Receipt this Period 5,000.00	
Receipt for: <input type="checkbox"/> Other (specify) <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		Appropriate Year-to-Date	7,500.00		
A. Full Name, Mailing Address and ZIP Code Ironworkers Political Action League 1750 New York Avenue NW Washington, DC 20006		Name of Contributor	Date (month, year) 05/08/96	Amount of Each Receipt this Period 2,000.00	
Receipt for: <input type="checkbox"/> Other (specify) <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General		Appropriate Year-to-Date	2,000.00		
B. Full Name, Mailing Address and ZIP Code Laborers' Political League 905-16th Street N.W. Washington, DC 20006		Name of Contributor	Date (month, year) 06/22/96	Amount of Each Receipt this Period 1,000.00	
Receipt for: <input type="checkbox"/> Other (specify) <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		Appropriate Year-to-Date	1,000.00		
D. Full Name, Mailing Address and ZIP Code Transport Workers Union POC 80 West End Avenue New York, NY 10023		Name of Contributor	Date (month, year) 06/22/96	Amount of Each Receipt this Period 500.00	
Receipt for: <input type="checkbox"/> Other (specify) <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General		Appropriate Year-to-Date	500.00		

LABOR UNION

(The attached Sherman for Congress FEC page contains only a partial list of Mr. Sherman's Union contributions) Paid for by Citizens for Fair Representation

PRO BUSINESS?

EXHIBIT

D

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-7

SEP 1 1995

Douglas A. Hewitson, Treasurer
Citizens For Fair Representation
P.O. Box 1275
Woodland Hills, CA 91367

Identification Number: C00295238

Reference: Mid-Year Report (1/1/95-6/30/95)

Dear Mr. Hewitson:

It has come to the attention of the Federal Election Commission ("the Commission") that your committee may be in violation of 2 U.S.C. §434(a) for failing to file the above referenced Report of Receipts and Disbursements. You were previously notified of the due date for this report.

It is important that you file this report immediately with the Federal Election Commission, 999 E Street, NW, Washington, DC 20463 (or with the Clerk of the House or the Secretary of the Senate, as appropriate). A copy of the report or its relevant portions should also be filed with the Secretary of State or equivalent state officer. 11 CFR §§108.2, 108.3, 108.4

Although the Commission may initiate an audit or legal enforcement action concerning this matter, your prompt response and a letter of explanation will be taken into consideration.

If you have any questions, please contact Darren Comras on our toll-free number (800) 424-9530. Our local number is (202) 219-3580.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

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EXHIBIT

E

155438408



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

RQ-1

Douglas A. Hewitson, Treasurer
Citizens For Fair Representation
1125 Lindero Canyon Road, Ste. A8
Westlake Village, CA 91362

JUN 13 1994

Identification Number: C00295238

Reference: Statement of Organization dated 6/6/94

Dear Mr. Hewitson:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Your committee failed to list a campaign depository on Line 9. Please be advised that each registered political committee must designate a campaign depository or depositories. The committee must maintain at least one checking account or transaction account at one of the depositories. 11 CFR §103.2 Please identify the depository or depositories that will be used by your committee. 11 CFR §102.2(a)(1)(vi)

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Darren Comras
Reports Analyst
Reports Analysis Division

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EXHIBIT

F

3 5 5 4 5 8 3 4 0 8

I SUPPORT THE DOLE/KEMP TAX PLAN AND SO SHOULD YOU

The Dole/Kemp tax plan will cut taxes across the board for every American by %15. This tax cut will create more jobs, more opportunity, and more stability for every American. It worked for President Kennedy in 1962, and it worked for President Reagan in 1981.

For example, as a result of President Reagan's tax cut in the 1980's, the federal government brought in two times the revenue of the Carter Administration despite a significantly lower tax rate. Why? Because when given the opportunity, the American people will always prove to be far better investors of their own money than Washington Bureaucrats.

Under the Dole/Kemp plan, the average family of four will take home \$1,272 more per year of their paycheck. That breaks down to \$106 more per month that you have to spend that you would otherwise never see again. Take a look at some of the things you could do with that extra money:

1. Take your family out to dinner and a movie	\$100.00
2. Pick up a phonics package to help your children learn how to read	\$250.00
3. Give your daughter a new dress	\$80.00
4. Buy a classic book to read to your children	\$24.95
5. Give an elderly relative a subscription to Reader's Digest	\$23.46
6. Sponsor a child overseas for six months	\$120.00
7. Send flowers to mom	\$40.00
8. Buy a glove and play catch with a child	\$29.95
9. Go shopping for a shut-in neighbor	\$6.00
10. Call a friend you have not talked to years	\$8.96
11. Join your local zoo	\$35.00
12. Volunteer to help clean up a local park	FREE
13. Volunteer at the hospital one day per week	FREE
14. Coach a little league team	\$100.00
15. Put something away for a rainy day	\$453.68
	<hr/>
	\$1,272.00

EXHIBIT

G

28043854555

RICH SYBERT'S ENDORSEMENTS



STEERING / FINANCE COMMITTEE MEMBERS

Mr. Robert C. Ash, Ash Capital
 Mr. Andrew F. Barth, The Capital Group
 Mr. Rick Caruso, Caruso Affiliated Holdings
 Mr. Stephen E. Chaudet, VP Public Affairs, Lockheed Martin Corporation
 Mr. James Emmons, The Emmons Company
 Mr. David Fleming, Latham & Watkins
 Ms. Connie Friedman
 Mr. Rickey Gelb, President, Gelb Enterprises
 Mr. B. Kipling Hagopian, Brentwood Associates
 Mr. Gordon F. Hampton, Partner, Sheppard Mullin Richter & Hampton
 Ms. Emily Harlow
 Mr. Douglas A. Hewitson, Vice President, Ronan Engineering
 Mr. William T. Huston, Watson Land Co.
 Ms. Lois Curran-Klein
 Mr. Nicolas Liakas, CEO, Digital Imaging of Southern California
 Mr. Robert A. "Rocky" Mills, Sutro & Co., Woodland Hills
 Mr. Biff Naylor, American Restaurant Service
 Mr. Stephen T. Pettise, VP Marketing, IHOP Corporation
 Mr. Robert Philibosian, Sheppard Mullin Richter & Hampton
 Dr. Edward J. Pope, President, MATECH Corporation
 Ms. Carol Rowen, Member Harbor Commission, City of Los Angeles
 Mr. Joseph Sage, Universal Sage Nissan
 Mr. Marvin Saul, Junior's Restaurant
 Mr. Stuart E. Siegel, CEO, Metropolitan Marketing
 Ms. Nancy Spero
 Mr. Fred Ulrich, Buttonwood Capital
 Mr. Douglas Yarrow

PUBLIC OFFICIALS

Hon. Pete Wilson, Governor
 Hon. Newt Gingrich, Speaker of the House
 Hon. Dick Armey, Congressman, Majority Leader
 Hon. George Deukmejian, Former California Governor
 Hon. Matt Fong, California State Treasurer
 Hon. Ernest J. Dronenburg, Jr., Member, State Board of Equalization
 Hon. Douglas P. Wheeler, Secretary, California Resources Agency
 Hon. Tom Campbell, Congressman
 Hon. Chris Cox, Congressman



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1996

Ken Goldman
c/o Sherman for Congress
5152 Sepulveda Boulevard
Suite 1996
Sherman Oaks, California 91423

Dear Mr. Goldman:

This is to acknowledge receipt on September 25, 1996, of your letter dated September 23, 1996. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this ____ day of ____, 19__." A statement by the notary that the complaint was sworn to and subscribed before him also will be sufficient. We regret 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. Sc 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.

Please note that this matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. The respondents will then have an additional 15 days to respond to the complaint on the merits. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

Celebrating the Commission's 20th Anniversary

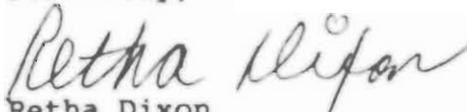
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

28043854557

Page 2
Letter to Ken Goldman

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

Sincerely,


Betha Dixon
Docket Chief

Enclosure

cc: Douglas Hewitson, Treasurer
Citizens for Fair Representation
Rich Sybert
Rich Sybert for Congress
Thomas Lee

28043854558

MUR 4491

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
CLERK
OCT 2 12 02 PM '96

September 30, 1996

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

RE: Citizens for Fair Representation (FEC No. C00295238);
Douglas A. Hewitson; Thomas Lee; Rich Sybert and the Rich
Sybert for Congress Committee (FEC No. C00283939)

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Unless otherwise noted, all citations herein are to Title of the Code of Federal Regulations.

304385459

Act and 11 CFR Section 110.11² by distributing general public political advertising which fails to contain the disclaimer required by Section 110.11, even though this literature expressly advocates the defeat of Democratic congressional candidate Brad Sherman and the election of Republican Richard Sybert.

Moreover, this activity by Citizens for Representation contravenes the committee's written December 18, 1995 statement to the FEC that

"It is our intention to terminate our committee at the end of this year. We have had absolutely no fund raising activity and virtually no expenditures since our last report."

Exhibit A hereto. See also, Exhibit B hereto (July 3, 1995 letter from Citizens for Fair Representation which states "our activities are suspended").

In addition, Sybert and the Rich Sybert for Congress Committee have distributed in public literature which does not contain the disclaimer required by 11 CFR Section 110.11(a)(1)(i).

I. The FECA Definition of "Express Advocacy."

I begin by quoting the Commission's newly adopted definition of "express advocacy" in 11 CFR Section 100.22:

Expressly advocating means any communication that -- (a) Uses phrases such as "vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for the U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '94", "vote Pro-Life" or "vote Pro-Choice" followed by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent", or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning that to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Nixon's the One", "Carter '76", "Reagan/Bush", or "Mondale!", or

(b) When taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because-

As well as United States Code, Title 2, Section 441d.

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(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.

II. The Close Relationship Between Sybert And Citizens For Fair Representation

I also respectfully direct the Commission's attention to its public records regarding Citizens for Fair Representation and the Rich Sybert for Congress Committee, which reflect that:

(1) Citizens for Fair Representation first registered with the FEC June 15, 1994, which is eight days after the June 7, 1994 California primary in which Mr. Sybert was nominated as the Republican nominee to oppose Congressman Anthony Beilenson in CA-24;

(2) the two addresses used by Citizens for Fair Representation (P.O. Box 1275, Woodland Hills, CA 91367; 1125 Lindero Canyon Road, Suite A8, Westlake Village, CA 91362) are both in California-24;

(3) the Citizens for Fair Representation Treasurer in 1994 and 1995 was Douglas A. Hewitson, who: (1) is listed by Sybert as a member of his "Steering/Finance Committee"³; and (2) contributed to the Rich Sybert for Congress Committee as follows: \$1,000 on September 30, 1994⁴, \$650 in 1995⁵, and \$300 on February 29, 1996; moreover, on September 30, 1994, Ms. Lucinda M. Hewitson, also of 5158 East

³ See Exhibit G attached hereto, an endorsement list appearing on the Sybert for Congress World Wide Web page.

⁴ For this contribution only, the Rich Sybert for Congress Form 3 lists Mr. Hewitson's address as P.O. Box 1275, Woodland Hills, CA 91365 -- the same P.O. Box, city and state (but a slightly different ZIP code) as the address used by Citizens for Fair Representation). The Commission is respectfully advised that Woodland Hills is assigned only two ZIP codes -- 91364 and 91367.

⁵ \$500 under the name of "Douglas A. Newitson" from the 5158 East Wagner address in Oak Park, CA, on December 31, 1995, and according to that entry, an additional \$150 previously in calendar year 1995.

8043854561

FEC Complaint Against Citizens for Fair Representation
September 30, 1996
Page 4

Wagner Way, Agoura, CA 91301⁶ contributed \$500 to the Rich Sybert for Congress Committee;

(4) as indicated below, Citizens for Fair Representation President Thomas Lee has received payments from the Rich Sybert for Congress Committee; and,

(5) as indicated in Exhibits A and B hereto, Citizens for Fair Representation represented to the FEC in 1995 that the committee's activities would "terminate" or "are suspended", but in 1996 Citizens for Fair Representation is engaged in the express advocacy demonstrated by Exhibit C hereto.

III. Citizens For Fair Representation Literature Does Not Contain The Disclaimer Required By 11 CFR Section 110.11; The President And Treasurer of Citizens for Fair Representation Appear On Sybert's Reports; The Treasurer Of Citizens For Fair Representation Serves On The Sybert Steering/Finance Committee

I, the undersigned, have personal knowledge of the following facts:

1. On or about August 22, 1996, I was given the original of Exhibit C hereto, a flyer containing the name of "Tom Lee, President, Citizens for Fair Representation", which expressly advocates the defeat of Brad Sherman, claiming that Mr. Sherman is supported by labor unions.

I respectfully direct the Commission's attention to the Form 3 reports filed by Rich Sybert for Congress, which indicate that a Mr. Thomas Lee of 117 Jeranio Court, Thousand Oaks, CA 91362 was the recipient of the following payments from the Rich Sybert for Congress Committee:

10/20/94 -- "Expenses" -- \$162.13
10/30/94 -- "Prof. Services" -- \$150.00
11/14/94 -- "Prof. Services + Expenses" - \$235.18

It is therefore possible that Mr. Lee and Citizens for Fair Representation may be distributing Exhibit C in coordination with the Rich Sybert for Congress Committee.

⁶ The Commission is respectfully advised that 5158 East Wagner Way in Oak Park is the same street address as 5158 East Wagner Way in Agoura; Oak Park and Agoura unfortunately have the same ZIP Code, 91301. The address 5158 East Wagner Way, Oak Park is the same location as 5158 East Wagner Way, Agoura.

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Exhibit C expressly advocates the defeat of Brad Sherman in the California-24 U.S. House race. The words used in Exhibit C constitute "communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning that to urge the election or defeat of one or more clearly identified candidate(s)." In addition, when taken as a whole in a period less than 90 days before the November 5, 1996 election, Exhibit C "could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s)." Thus, the 11 CFR section 100.22 standard is met by Exhibit C.

Moreover, as indicated above, a review of Citizens for Fair Representation and Rich Sybert for Congress FEC reports indicates that: (1) the President of Citizens for Fair Representation has been paid by the Sybert campaign; (2) the Treasurer of Citizens for Fair Representation has contributed to the Sybert campaign, and serves on its Steering/Finance Committee; and (3) the address used by the Treasurer of Citizens for Fair Representation for the making of a contribution to the Sybert campaign is the same P.O. Box used by Citizens for Fair Representation.

Thus, Citizens for Fair Representation may be illegally coordinating with the Rich Sybert for Congress Committee.

Exhibit C does not contain the 11 CFR section 110.11(a)(1)(iii) disclaimer⁷.

IV. Citizens For Fair Representation Has Violated The Federal Election Campaign Act By Expressly Advocating The Defeat Of Sherman After Having Stated To The Commission That It Was Terminating Federal Activity

Attached as Exhibits D and E hereto are letters from the Commission to Citizens for Fair Representation directing the committee to: (1) list a campaign depository; and (2) file a mid-year report. In response, Citizens for Fair Representation stated in Exhibits A and B that its activity was "terminated" or "suspended." But as indicated in Exhibit C, Citizens for Fair Representation is now expressly advocating the defeat of a federal candidate.

⁷ "[The communication] shall clearly state that the communication has been paid for by such person and is not authorized by any candidate or candidate's committee."

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V. Candidate Sybert Distributes Literature Which Lacks The Disclaimer Required By 11 CFR Section 110.11(a)(1)(i).

Finally, on or about August 22, 1996, Republican nominee Rich Sybert distributed to the public an original or a copy of Exhibit F hereto and stated that Exhibit F expressed his views on federal economic policy. Exhibit F does not contain any of the disclaimers required by 11 CFR section 110.11, or any identification of the person or persons who wrote, authorized, or paid for it.

Moreover, Exhibit F appears to have been produced by the same photoduplication process as Exhibit C, which indicates that the facilities of Citizens for Fair Representation may have been used for its production.

VI. Conclusion

I respectfully submit that Citizens for Fair Representation, Thomas Lee, Douglas Hewitson, Rich Sybert, and the Rich Sybert for Congress Committee have violated the above-referenced FEC regulations and the Federal Election Campaign Act. I therefore request that the Commission take all appropriate action, including but not limited to appropriate fines.

If you have any questions, please do not hesitate to contact me c/o Sherman for Congress, 5152 Sepulveda Blvd., Suite 1996, Sherman Oaks, CA 91423.

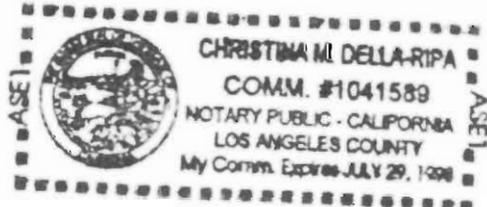
Very truly yours,

Ken Goldman

Ken Goldman

Subscribed and sworn to before me this
30th day of September 1996

sybfair4, Inc. *[Signature]* Notary Public
in and for the county of Ventura Los Angeles
State of California



8043854564

EXHIBIT

A

18043854565

"Citizens for Fair Representation"

DEC 26 9 28 AM '95

December 18, 1995

Federal Election Commission
Washington, DC 20463

Subject: Termination of Committee

Ref: FEC ID # C00295238

Dear FEC,

It is our intention to terminate our committee at the end of this year. We have had absolutely no fund raising activity and virtually no expenditures since our last report -- but if it is still required, please forward an FEC form 3X to my attention.

Thank you for your help



Douglas A. Hewitson
Treasurer - "Citizens for Fair Representation"

95030123808
8043854566

EXHIBIT

B

8043854567

"Citizens for Fair Representation"

FEDERAL ELECTION COMMISSION
JUN 13 11 12 AM '95

July 3, 1995

Darren Comras
Reports Analysis Division
Federal Election Commission
Washington, DC 20463

Subject: Campaign Depository

Ref: Your letter of June 13, 1995

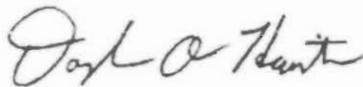
Mr. Comras,

I am in receipt of your letter of June 13. Unfortunately I must inform you that our group never obtained a checking account for the 1994 campaign. 80% of our donations were in-kind and those that were not in-kind were small cash donations of \$20 or less. Since we never had a balance larger than \$50, we did not feel that we could afford the cost of checks and a checking account (upwards of \$10 per month).

Our current campaign balance is zero and our activities are suspended. We do not expect to be raising any money this year. Unless after your review of this letter, you tell us that we must obtain an account, I will hold off on getting an account until when (and if) we decide to raise funds in the future. Otherwise we will seriously have to consider disbanding the group.

I would also like to inform you that our address has changed to P.O. Box 1275 Woodland Hills, Ca. 91367.

Thank you for your help



Douglas A. Hewitson
Treasurer - "Citizens for Fair Representation"

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EXHIBIT

C

28043854569

**EXTRA!
EXTRA!**

**ORGANIZED LABOR BEHIND
SHERMAN CAMPAIGN**

Democrat Brad Sherman never misses a chance to try and convince the public that he is a "pro-business" candidate.

Yet, a careful examination of Mr. Sherman's FEC contributor list reveals a completely different person than the candidate he would like the voters to believe he is. In fact, these public records show he is largely funded by East Coast Labor Unions.

Mr. Sherman has already taken several thousand dollars from Labor Unions this year. In fact, he has taken over \$50,000 - which amounts to over 50% of his total contributions for the last filing period.

With Organized Labor's anti-business legislative agenda, we find it more than a little dubious that one of our own so-called "pro-business" candidates would so easily sell out to East Coast Labor interests.

Who do you think Brad Sherman will answer to if we send him to Washington, the pro-business voters of the 24th Congressional District, or the East Coast Labor Bosses who financed his campaign?

**Tom Lee, President
Citizens for Fair Representation**

SCHEDULE A ITEMIZED REPORT OF CONTRIBUTIONS FROM OTHER POLITICAL COMMITTEES

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)
SHERMAN FOR CONGRESS C00308742

A. Full Name, Mailing Address and ZIP Code	Name of Contributor	Date (month, year)	Amount of Each Receipt this Period
ABC United Food and Commercial Workers International Union 1775 K Street N.W. Washington, DC 20006	LABOR UNION	05/07/96	2,000.00
Amalgamated Transit Union Cope Account 5025 Wisconsin Avenue N.W. Washington, DC 20016	LABOR UNION	06/12/96	500.00
American Federation of State, County and Municipal Employees 1625 L Street N.W. Washington, DC 20036	LABOR UNION	06/22/96	3,000.00
American Federation of Teachers COFE 555 New Jersey Avenue N.W. #1000 Washington, DC 20001	LABOR UNION	06/29/96	5,000.00
California State Pipes Trades Council 915 L Street #1240 Sacramento, CA 95814	LABOR UNION	06/29/96	1,000.00
Carpenters' Legislative Improvement Committee 101 Constitution Avenue N.W. Washington, DC 20001	LABOR UNION	06/29/96	5,000.00
Ironworkers Political Action League 1750 New York Avenue NW Washington, DC 20006	LABOR UNION	05/08/96	2,000.00
Laborers' Political League 905-16th Street N.W. Washington, DC 20006	LABOR UNION	06/22/96	1,000.00
Transport Workers Union PCU 80 West End Avenue New York, NY 10023	LABOR UNION	06/22/96	500.00

(The attached Sherman for Congress FEC page contains only a partial list of Mr. Sherman's Union contributions) Paid for by Citizens for Fair Representation

PRO BUSINESS

EXHIBIT

D

8043854571

EXHIBIT

E

28043854573



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-1

Douglas A. Hewitson, Treasurer
Citizens For Fair Representation
1125 Lindero Canyon Road, Ste. A8
Westlake Village, CA 91362

JUN 13 1994

Identification Number: C00295238

Reference: Statement of Organization dated 6/6/94

Dear Mr. Hewitson:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Your committee failed to list a campaign depository on Line 9. Please be advised that each registered political committee must designate a campaign depository or depositories. The committee must maintain at least one checking account or transaction account at one of the depositories. 11 CFR §103.2 Please identify the depository or depositories that will be used by your committee. 11 CFR §102.2(a)(1)(vi)

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Darren Comras
Reports Analyst
Reports Analysis Division

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80438545/A

EXHIBIT

F

28043854575

I SUPPORT THE DOLE/KEMP TAX PLAN AND SO SHOULD YOU

The Dole/Kemp tax plan will cut taxes across the board for every American by %15. This tax cut will create more jobs, more opportunity, and more stability for every American. It worked for President Kennedy in 1962, and it worked for President Reagan in 1981.

For example, as a result of President Reagan's tax cut in the 1980's, the federal government brought in two times the revenue of the Carter Administration despite a significantly lower tax rate. Why? Because when given the opportunity, the American people will always prove to be far better investors of their own money than Washington Bureaucrats.

Under the Dole/Kemp plan, the average family of four will take home \$1,272 more per year of their paycheck. That breaks down to \$106 more per month that you have to spend that you would otherwise never see again. Take a look at some of the things you could do with that extra money:

1. Take your family out to dinner and a movie	\$100.00
2. Pick up a phonics package to help your children learn how to read	\$250.00
3. Give your daughter a new dress	\$80.00
4. Buy a classic book to read to your children	\$24.95
5. Give an elderly relative a subscription to Reader's Digest	\$23.46
6. Sponsor a child overseas for six months	\$120.00
7. Send flowers to mom	\$40.00
8. Buy a glove and play catch with a child	\$29.95
9. Go shopping for a shut-in neighbor	\$6.00
10. Call a friend you have not talked to years	\$8.96
11. Join your local zoo	\$35.00
12. Volunteer to help clean up a local park	FREE
13. Volunteer at the hospital one day per week	FREE
14. Coach a little league team	\$100.00
15. Put something away for a rainy day	\$453.68
	<hr/>
	\$1,272.00

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EXHIBIT

G

28043854577

RICH SYBERT'S ENDORSEMENTS



STEERING / FINANCE COMMITTEE MEMBERS

- Mr. Robert C. Ash, Ash Capital
- Mr. Andrew F. Barth, The Capital Group
- Mr. Rick Caruso, Caruso Affiliated Holdings
- Mr. Stephen E. Chaudet, VP Public Affairs, Lockheed Martin Corporation
- Mr. James Emmons, The Emmons Company
- Mr. David Fleming, Latham & Watkins
- Ms. Connie Friedman
- Mr. Rickey Gelb, President, Gelb Enterprises
- Mr. B. Kipling Hagopian, Brentwood Associates
- Mr. Gordon F. Hampton, Partner, Sheppard Mullin Richter & Hampton
- Ms. Emily Harlow
- Mr. Douglas A. Hewitson, Vice President, Ronan Engineering
- Mr. William T. Huston, Watson Land Co.
- Ms. Lois Curran-Klein
- Mr. Nicolas Liakas, CEO, Digital Imaging of Southern California
- Mr. Robert A. "Rocky" Mills, Sutro & Co., Woodland Hills
- Mr. Biff Naylor, American Restaurant Service
- Mr. Stephen T. Pettise, VP Marketing, IHOP Corporation
- Mr. Robert Philibosian, Sheppard Mullin Richter & Hampton
- Dr. Edward J. Pope, President, MATECH Corporation
- Ms. Carol Rowen, Member Harbor Commission, City of Los Angeles
- Mr. Joseph Sage, Universal Sage Nissan
- Mr. Marvin Saul, Junior's Restaurant
- Mr. Stuart E. Siegel, CEO, Metropolitan Marketing
- Ms. Nancy Spero
- Mr. Fred Ulrich, Buttonwood Capital

PUBLIC OFFICIALS

- Hon. Pete Wilson, Governor
- Hon. Newt Gingrich, Speaker of the House
- Hon. Dick Armey, Congressman, Majority Leader
- Hon. George Deukmejian, Former California Governor
- Hon. Matt Fong, California State Treasurer
- Hon. Ernest J. Dronenburg, Jr., Member, State Board of Equalization
- Hon. Douglas P. Wheeler, Secretary, California Resources Agency
- Hon. Tom Campbell, Congressman
- Hon. Chris Cox, Congressman



FEDERAL ELECTION COMMISSION

Washington, DC 20463

October 9, 1996

Ken Goldman
c/o Sherman for Congress
5152 Sepulveda Blvd.
Suite 1996
Sherman Oaks, CA 91423

RE: MUR 4491

Dear Mr. Goldman:

This letter acknowledges receipt on October 2, 1996, of the complaint you filed alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) 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 4491. 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,

A handwritten signature in cursive script, appearing to read "Colleen T. Sealander".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

8043854579



FEDERAL ELECTION COMMISSION

Washington, DC 20463

October 9, 1996

Charles F. Zilm, Treasurer
Rich Sybert for Congress
79 South Ellis Place
Newbury Park, CA 91320

RE: MUR 4491

Dear Mr. Zilm:

The Federal Election Commission received a complaint which indicates that Rich Sybert for Congress ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4491. 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.

08043854530

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

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FEDERAL ELECTION COMMISSION

Washington, DC 20463

October 9, 1996

Richard Sybert
PO Box 8572
Calabasas, CA 91372

RE: MUR 4491

Dear Mr. Sybert:

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 4491. 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.

28043854532

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

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FEDERAL ELECTION COMMISSION

Washington, DC 20463

October 9, 1996

Douglas A. Hewitson, Treasurer
Citizens for Fair Representation
PO Box 1275
Woodland Hills, CA 91367

RE: MUR 4491

Dear Mr. Hewitson:

The Federal Election Commission received a complaint which indicates that Citizens for Fair Representation ("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 4491. 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.

354514

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

08047854535



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 9, 1996

Thomas Lee
117 Jeranio Court
Thousand Oaks, CA 91362

RE: MUR 4491

Dear Mr. Lee:

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 4491. 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.

18043854536

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

8 0 4 3 8 5 4 5 3 7



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 10, 1996

Douglas A. Hewitson, Treasurer
Citizens for Fair Representation
P.O. Box 1275
Woodland Hills, CA 91367

RE: MUR 4491

Dear Mr. Hewitson:

You requested, in your letter of September 26, 1996 that the Federal Election Commission permit Citizens for Fair Representation ("Committee") to terminate pursuant to 2 U.S.C. § 433(d) and Section 102.3 of the Commission's Regulations. Because of the ongoing enforcement matter involving your Committee, this request has been denied. Therefore, you are reminded that the Committee must continue to file all the required reports with the Commission until such time as the enforcement matter has been closed as to the Committee.

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,


Colleen Sealander, Attorney
Central Enforcement Docket

cc: Reports Analysis Division

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"Citizens for Fair Representation"

October 22, 1996

Colleen T. Sealander
Federal Election Commission
Washington, DC 20463

Subject: Your letter of October 10, 1996
Ref: MUR 4491

Dear Ms. Sealander

I am in receipt of your letter of October 10, 1996. I can understand that since you are currently investigating the Sherman Complaint, you will postpone closing this committee. However, I can once again assure you there have been no activities performed by this group in 1996. No fundraising, no expenses, nothing.

If there are additional forms that you require to be filled out, please have them sent to my attention. Otherwise I will assume that this matter will be closed once the Sherman complaint is disposed of.

Best Regards,



Douglas A. Hewitson
Former Treasurer - *"Citizens for Fair Representation"* C00295238

08043854539

BELL, MCANDREWS & HILTACHK

ATTORNEYS AND COUNSELORS AT LAW

455 CAPITOL MALL, SUITE 801

SACRAMENTO, CALIFORNIA 95814

(916) 442-7757

FAX (916) 442-7759

CHARLES H. BELL, JR.
COLLEEN E. MCANDREWS
THOMAS W. HILTACHK

144 FOURTH STREET
SANTA MONICA, CA 90401
(310) 458-4406

October 24, 1996

BY FEDERAL EXPRESS

Ms. Colleen T. Sealander
Office of General Counsel
Federal Election Commission
999 E Street N.W.
Washington DC 20463

Re: MUR 4491

Dear Ms. Sealander:

The undersigned represents Mr. Richard Sybert and the Rich Sybert for Congress Committee, ID C00283939, in connection with the above referenced matter. Enclosed is a designation of counsel form.

The complaint in question largely concerns activity by persons and committees other than the Rich Sybert for Congress Committee, and this response is not on their behalf.

1. The Rich Sybert for Congress Committee has no knowledge of, and had no participation in any purported "independent expenditure" activity in support of Mr. Sybert's candidacy or in opposition to his opponent. Specifically, the Rich Sybert for Congress Committee had no knowledge of, and had no participation in the document entitled Exhibit "C" to the complaint. Respondents have no reason to know what complainant means when he states that Exhibit "C" and Exhibit "F" appear "to have been produced by the same photoduplication process." (Xeroxing?) Further, the claim that this suggests that "the facilities" of "Citizens for Fair Representation" would have been used for production of both exhibits is false and ridiculous. Furthermore, it is illogical to suggest that if documents A and B

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FEDERAL
ELECTION
COMMISSION
OCT 24 1996

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Letter to Colleen T. Sealander
Office of General Counsel
Federal Election Commission
October 25, 1996
Page 2

to suggest that if documents A and B were both xeroxed, therefore the producer of A must have produced B.

2. Mr. Douglas A. Hewitson is listed as a member of the Rich Sybert for Congress Committee's "1996 Steering/Finance Committee." However, that informal group last met in late 1995 or early 1996, has not been a formal part of the functioning operation of the Rich Sybert for Congress Committee operations, and no person on that list would have had any knowledge of the Committee's plans and prospects, as described in FEC Regulation 109.1(b)(4)(I)(A) and (B). Moreover, Mr. Hewitson has undertaken no action, nor had any authority to act, as an agent of the Rich Sybert for Congress Committee in 1995 or 1996. FEC Regulation 109.1(b)(5).

3. Mr. Thomas Lee was paid by Sybert for Congress in 1994. However, he has not been employed by or paid by, nor has he acted in any capacity on behalf of the Rich Sybert for Congress Committee in the 1996 primary or general election campaign. Thus, the speculation contained in the complaint is simply unfounded.

4. The Rich Sybert for Congress Committee does acknowledge that it produced approximately 100 copies of the document identified as Exhibit F. This document was produced based upon material obtained by the Committee, the text of which was typed and reproduced by the Committee, and was placed on a table at an appearance by Mr. Sybert before the Calabasas Chamber of Commerce, along with other material of the Committee which contained its disclaimer. According to the Committee's staff, approximately 15 copies were picked up at the event. No other distribution has been made of the remainder of the material. The failure to include a disclaimer is a de minimis issue.

5. The Rich Sybert for Congress Committee has no knowledge of any other facts related to the complaint that concern this Committee.

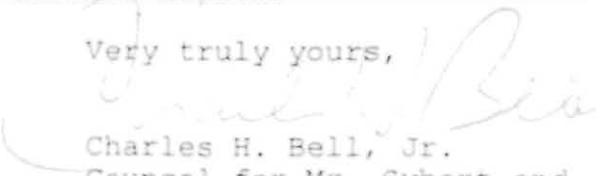
This is a mudball that amounts to a speck. It won't stick to the wall. On behalf of Mr. Sybert and the Rich Sybert for

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Letter to Colleen T. Sealander
Office of General Counsel
Federal Election Commission
October 25, 1996
Page 3

Congress Committee, I respectfully request the Commission dismiss
the complaint and take no further action.

Very truly yours,


Charles H. Bell, Jr.
Counsel for Mr. Sybert and
Rich Sybert for Congress Committee

CHB\crb

1136.01

3043854512

10/23/1996 17:19

9164427759

BELL MCANDREWS HILTA

PAGE 04

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4491

NAME OF COUNSEL: Charles H. Bell, Jr.

ADDRESS: Bell, McAndrews & Hiltachk
455 Capitol Mall, Suite 801
Sacramento CA 95814

TELEPHONE: (916) 442-7757/Facsimile (916) 442-7759

Oct 28 11 16 AM '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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.

DATE: 10/24/96

SIGNATURE: Rich Sybert

RESPONDENT'S NAME: Richard Sybert; Rich Sybert for Congress
Committee

ADDRESS: Rich Sybert for Congress Committee

20121 Ventura Blvd. #207

Woodland Hills CA 91367

TELEPHONE: (818) 704-8396

28043854593

"Citizens for Fair Representation"

October 21, 1996

Colleen T. Sealander
Federal Election Commission
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Oct 28 11 26 AM '96

Subject: Your letter of October 9, 1996
Ref: MUR 4491

Dear Ms. Sealander

I am in receipt of your letter of October 9, 1996 which includes a copy of the Sherman for Congress Complaint dated September 30, 1996. In direct response to this complaint and following the order of the Sherman complaint, I would like to confirm, clarify or deny those items of which I have direct knowledge:

- 1) The committee know as "*Citizens for Fair Representation*" registered under C00295238 was last registered at P.O. Box 1275, Woodland Hills, CA.
- 2) N/A
- 3) My home address is 5158 East Wagner Way, Oak Park, CA 91301.
- 4) N/A

Neither I, nor the "*Citizens for Fair Representation*" registered under C00295238, have distributed any literature expressing advocacy of the defeat of Brad Sherman.

I reaffirm the statements made in my letter of December 18, 1995.

- I. N/A
- II.1 The registration for "*Citizens for Fair Representation*" was mailed on June 6, 1994, (which actually was one day before any candidate won a primary election in the 1994 election cycle.)
- II.2 Both addresses used by "*Citizens for Fair Representation*" were within the 24th Congressional District.
- II.3 I have contributed to a number of candidates in the 94 and '96 elections. To the Sybert Campaigns, I have contributed:

2 8 0 4 3 8 5 4 5 9 4

<u>Date</u>	<u>Amount</u>
2/9/94	\$100.00
8/22/94	\$100.00
2/22/95	\$125.00
12/28/95	\$500.00
2/23/96	\$300.00

Any other donations mentioned in the Sherman Complaint were not by me.

II.4) N/A

II.5) "*Citizens for Fair Representation*" registered under C00295238 did terminate its activity in 1995. "*Citizens for Fair Representation*" registered under C00295238 did not engage in the express advocacy such as that listed in Exhibit C.

III. I do not serve as both Treasurer of a group expressing advocacy of the defeat of Brad Sherman, and on the Steering Committee of Rich Sybert for Congress.

III.1 N/A

IV. I reaffirm the statements made in my letter of December 18, 1995.

V. N/A

Concluding Points

I. I, Douglas A. Hewitson, believed that I had terminated "*Citizens for Fair Representation*" registered under C00295238 in 1995.

II. I, Douglas A. Hewitson, have never been involved in nor had any knowledge of the creation, distribution or financing of any flyers or material expressing advocacy of the defeat of Brad Sherman

III. I, Douglas A. Hewitson, had never even seen material expressing advocacy of the defeat of Brad Sherman until I received exhibit C along with the Sherman complaint.

Therefore I ask that both I, Douglas A. Hewitson, and the group "*Citizens for Fair Representation*" registered under C00295238 be dismissed from this complaint.

Best Regards,



Douglas A. Hewitson
 Former Treasurer - "*Citizens for Fair Representation*" C00295238

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DEC 12 1997



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

DEC 9 1997

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner *[Signature]*
Associate General Counsel

RE: EPS Closings of Major 96 Cases

DATE: 12/5/97

**EXECUTIVE SESSION
SUBMITTED LATE**

8043854596

At the December 2, 1997 Executive Session, the Commission considered the Enforcement Priority System (EPS) Closing Report recommendations. After discussion, the Commission decided to hold over consideration of four MURs until the December 9, 1997 meeting. The following information may be useful to the Commission, in conjunction with its consideration of those remaining four MURs contained in Agenda Document X97-77.

1 MUR 4491-Sherman for Congress--Allegations that Citizen's for Fair Representation (CFR) put out a flyer expressly advocating for Rick Sybert for Congress without including a disclaimer. CFR responded that it did not put the flyer out. Rick Sybert for Congress responded that it had no knowledge of or participation in CFR activity and had no knowledge of the flyer prior to its dissemination. There is no additional information regarding who else might have put out the flyer.

2 MUR 4519-Al Salvi for Senate--Allegations that Family Taxpayer's Foundation (FTF) coordinated with Al Salvi for Congress with regard to a voter guide. FTF and the Salvi campaign deny coordination. The Salvi campaign and FTF responded that FTF contacted the campaign after the voter guides were prepared and asked whether the Salvi Campaign would like some copies. According to respondents, a Salvi volunteer went to

FTF and used a publicly available fax machine to send the documents to other Salvi volunteers. Salvi campaign also argues that voter guides are not a thing of value under the Act and do not contain express advocacy, so there can be no violation.

3. MUR 4563-Al D'Amato Campaign--Allegations that D'Amato's appearance in ads put out by the New York State Democratic Committee (NYSDC) purportedly in support of a bond issue was really a ruse to support his campaign. Also, there were allegations that a foreign national contributed to a D'Amato PAC supporting this effort. The response from the alleged foreign national states that he has been a naturalized citizen for many years, and that his support was for the bond issue. D'Amato campaign and NYSDC deny that there was any intent to promote D'Amato's reelection and state that D'Amato was asked to appear because he is the Senator from New York. Nothing in the ads mentioned D'Amato's candidacy or the election.

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4.

5. Decided by a vote of 5-0 to close the files with respect to MUR 4491, MUR 4519, and MUR 4563.

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

Attest:

12-9-97
Date

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

8043854599



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ken Goldman
c/o Sherman for Congress
5152 Sepulveda Blvd.
Suite 1996
Sherman Oaks, CA 91423

RE: MUR 4491

Dear Mr. Goldman:

On October 2, 1996, 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 exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997. 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. § 437(g)(a)(8).

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

8043854600



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Charles F. Zilm, Treasurer
Rich Sybert for Congress Committee
79 Sought Ellis Place
Newbury Park, CA 91320

RE: MUR 4491

Dear Mr. Zilm:

On October 9, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

8043854601



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Charles H. Bell, Jr., Esq.
Bell, McAndrews & Hiltachk
455 Capitol Mall, Suite 801
Sacramento, CA 95814

RE: MUR 4491
Richard Sybert and Rich Sybert for Congress

Dear Mr. Bell:

On October 9, 1996, the Federal Election Commission notified your clients 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 exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Tarley
Supervisory Attorney
Central Enforcement Docket

28043854602



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Douglas A. Hewitson, Treasurer
Citizens for Fair Representation
P.O. Box 1275
Woodland Hills, CA 91367

RE: MUR 4491

Dear Mr. Hewitson:

On October 9, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against Citizens for Fair Representation and you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

18043854603



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Thomas Lee
117 Jeranio Court
Thousand Oaks, CA 91362

RE: MUR 4491

Dear Mr. Lee:

On October 9, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against you. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4491
DATE FILMED 1/16/98 CAMERA NO. 2
CAMERAMAN SES

28043854605



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

Date: 1/26/98

Microfilm

Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4491

93043873812



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM

TO: Commissioners
Staff Director Surina
General Counsel Noble
Press Officer Harris

FROM: Marjorie W. Emmons/Lisa R. Davis 
Secretary of the Commission

DATE: January 26, 1998

SUBJECT: Statement of Reasons for MURs 4491, 4519
and 4563.

Attached is a copy of the Statement of Reasons in MURs 4491, 4519 and 4563 signed by Vice Chairman Scott E. Thomas, Commissioner Danny Lee McDonald and Commissioner John Warren McGarry. This was received in the Commission Secretary's Office on January 23, 1998 at 2:42 p.m.

cc: V. Convery

98043873813



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SENSITIVE

In the matters of)	
)	
Citizens for Fair Representation, et al.)	
)	MURs 4491, 4519, and 4563
Family Taxpayers' Foundation, et al.)	
)	
Renew New York PAC, et al.)	

STATEMENT OF REASONS

**VICE CHAIRMAN SCOTT E. THOMAS
COMMISSIONER DANNY LEE MCDONALD
COMMISSIONER JOHN WARREN MCGARRY**

We opposed the staff recommendation to close the three above-captioned cases. In our view, these matters should have been slated for activation as soon as resources became available in the General Counsel's Office. They presented special or aggravating circumstances warranting immediate action. Even if not activated as soon as resources became available, these cases should have been kept on the docket along with other similar 1996 or 1998 election cycle matters involving allegations of "express advocacy" ads masquerading as "issue" ads or coordinated ads masquerading as independent ads. These types of cases involve perhaps the greatest potential for evasion of the current statutory scheme and have been targeted as a class under the FEC's current Enforcement Priority System (EPS). Only by keeping all such similar cases on the docket can we commissioners retain the ability to exercise judgment as to which targeted matters should be activated and which ultimately dismissed.

Our colleagues, Commissioners Aikens and Elliott, pressed to close MURs 4491, 4519, and 4563. During the meeting discussion we were told, in essence, based purely on the date the complaints were filed, these cases had become "stale" under EPS and there would be chaos if commissioners tried to decide which of the many cases raising similar issues ought to be pursued. Beyond that, our colleagues made clear, even without the benefit of analysis by the General Counsel's staff, they did not see any allegations in these cases that warranted pursuit. Given this, it was pointless to let these cases languish on the docket with no expectation that any findings would be made. Thus, in order to make a record, we supported a motion to activate these matters; only when that failed 3-2 (Aikens and Elliott opposed) did we support a motion to close the files.

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I.

The FEC has experienced an explosion in its enforcement workload over the last few election cycles. The number of complaints has increased, the number of apparent violations flagged internally by staff has increased, and the complexity of allegations has increased. In an effort to meet this challenge, the commissioners have worked with the staff to develop several responses such as: reducing the number of enforcement matters referred internally from the Reports Analysis Division and Audit Division, using technology to speed legal research and writing and to eliminate duplicative paper processing, adopting more flexible investigative techniques that do not require formal Commission approval at each step, and streamlining other internal procedures as much as possible.

In late 1991, commissioners urged the staff to develop the EPS. It was approved in early 1993. It is designed to rate cases objectively and allow the staff to focus limited resources on cases that most warrant pursuit. These include cases presenting the most serious violations and cases in certain target areas presenting potential for evasion of the law or the fundamental requirement of disclosure. Under EPS, cases periodically are reviewed and recommended for dismissal either because they have remained inactive on the docket for a certain period of time or because they simply do not rate high enough on the objective point system. With only about 30 line attorneys to work cases, and (as of December 1 of this year) 281 cases pending involving 2,255 respondents, inevitably many cases simply must be dropped with no findings by the Commission.

The EPS, however, was not designed to turn commissioners into human automatons blindly rubber-stamping the recommendations of the General Counsel's Office. It was not structured so that when the staff recommends closing particular cases because they have been on the docket for a certain length of time the commissioners must mechanically say, "Aye." Commissioners retain the ability to analyze the cases recommended for closure and to disagree with the recommendation to close based on factors indicating, for example, that the cases raise allegations of serious violations or allegations that fall in a target area. Indeed, commissioners have voted to reject such staff recommendations in the past, and did so on one occasion the same day MURs 4491, 4519, and 4563 were considered.

II.

In our view, any objective analysis of the three cases at issue would conclude they involve serious allegations. Beyond that, we believe these cases should have been retained on the docket for a reasonable time to compare them against other cases raising similar allegations. While we can say nothing about the other cases pending on the docket, these three cases clearly warranted pursuit if resources became available.

9 8 9 4 3 8 7 3 8 1 6

The first, MUR 4491, involved allegations that an organization called Citizens for Fair Representation distributed a flyer saying in its headline, "Organized Labor Behind Sherman Campaign," referring to Sherman as "a completely different person than the candidate he would like the voters to believe he is," and concluding with "Who do you think Brad Sherman will answer to if we send him to Washington, the pro-business voters of the 24th Congressional District, or the East Coast Labor Bosses who financed his campaign?" At a minimum, this case presented a clear case of "express advocacy" under the FEC's regulation at 11 CFR 100.22(b). Even if the group could have escaped the prohibition applicable to corporations (2 U.S.C. §441b), there appears to have been no disclosure of who funded this activity and whether permissible funds were used. Moreover, this case presented aggravating circumstances. The treasurer of the group formally registered with the FEC as Citizens for Fair Representation responded the group had disbanded long ago. Thus, someone appears to have been hiding behind the name Citizens for Fair Representation in order to thoroughly escape any disclosure or detection. Given these facts, it is baffling our colleagues would not at least want to retain this case on the docket to see if resources would permit investigation.

MUR 4519 involved admitted coordination between the Salvi Senate campaign and an organization called the Family Taxpayers' Foundation regarding the distribution of 80,000 voter guides in October of 1996. The Salvi campaign admitted in its response that its employee requested the voter guides and the guides were as a result delivered to the candidate's committee. Even if the voter guides were not "express advocacy" (an unlikely claim given the slanted description of Salvi's opponent), the actions of the Family Taxpayers' Foundation and the Salvi campaign were not disclosed, involved a clear corporate in-kind contribution, and should have been subjected to further review.

Finally, MUR 4563 involved allegations that in the Fall of 1996, through state-registered political action committees controlled by Sen. Alphonse D'Amato, extensive advertising was run in the State of New York which indirectly promoted Sen. D'Amato's campaign for reelection in 1998. The ads were described as containing images of Sen. D'Amato strolling the beach with his family and a comment by his daughter describing him as a "fighter." As this case involves allegations of a carefully crafted effort to make an in-kind contribution using funds not regulated under federal election law, it presents a serious allegation. More than anything, however, we objected to closing out this case on the ground it was "stale" when it involves charges about an upcoming election. Surely, commissioners should not permit the enforcement priority system to force such contortions.

III.

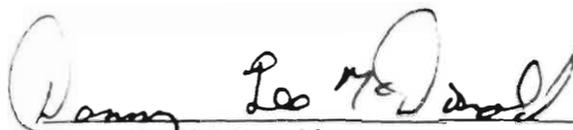
In sum, we think the cases cited above warranted further analysis by the staff and commissioners. To simply drop them now, rather than wait to see if they present better cases to pursue than others involving the same or similar targeted issues, belittles our role as supervisory officials.

1/23/98
Date



Scott E. Thomas
Vice Chairman

1/23/98
Date



Danny Lee McDonald
Commissioner

1/23/98
Date



John Warren McGarry
Commissioner

9 8 0 4 5 8 7 3 8 1 7