

Part in file 10883 file



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM FOR: DAVE SPIEGEL

THROUGH: PETER ROMAN *R*

FROM: MICHAEL *MSH* BERSHMAN/BOB HAMM *BSH*

DATE: MAY 18, 1976

SUBJECT: AUDIT OF THE BENTSEN IN '76 COMMITTEE

The staff of the Audit Division will commence an audit of the Bentsen in '76 Committee on June 1, 1976. The audit is being conducted under the authority of Section 9038 of Title 26, U.S.C.

77040013151



APR 1976

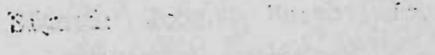
Honorable Lloyd Bentsen
U. S. Senate
Washington, D. C. 20510

Dear Senator Bentsen:

Your counsel, Robert Thomson, has inquired as to the status of a complaint filed by Philip Gramm with the Federal Election Commission asserting that you have diverted Presidential Primary Matching Funds toward your Texas Senatorial campaign. Upon my recommendation, which was based on an internal review by our staff, the Commission has decided to close the file in this matter.

The attorney assigned to the case was Victor Sterling (Telephone No. 202-382-4055). Please feel free to call if you have any questions.

Sincerely yours,


John G. Murphy, Jr.
General Counsel

MUR 083

77040015154

RECEIVED
APR 21 1976
U.S. SENATE

083

5 APR 1976

Honorable Lloyd Bentsen
U. S. Senate
Washington, D. C. 20510

Dear Senator Bentsen:

Your counsel, Robert Thomson, has inquired as to the status of a complaint filed by Phillip Gram with the Federal Election Commission asserting that you have diverted Presidential Primary Matching Funds toward your Texas Senatorial campaign. Upon my recommendation, which was based on an internal review by our staff, the Commission has decided to close the file in this matter.

The attorney assigned to the case was Victor Sterling (Telephone No. 202-382-4055). Please feel free to call if you have any questions.

Sincerely yours,

Signed: John G. Murphy, Jr.

John G. Murphy, Jr.
General Counsel

MUR 083

RECEIVED
GENERAL COUNSEL
APR 5 1976

770403155

5 APR 1976

Robert E. Rader, Jr., Esq.
1266 E. Ledbetter Drive
Dallas, Texas 75612

Dear Mr. Rader:

This letter is to acknowledge receipt of your complaint on behalf of Philip Gramm dated January 15, 1976, alleging violations of Title 26 U.S.C., Section 9001, et seq. I have reviewed your letter and have concluded that the Commission's enforcement authority under 2 U.S.C. §437g -- the provision under which your complaint was filed -- does not extend to Title 26. Moreover, you fail to indicate how 18 U.S.C. §608 is relevant to your allegations. Accordingly, upon my recommendation, the Commission proposes to close the file in this matter.

For your information, 26 U.S.C. §9039(b) gives the Commission the general authority to conduct audits and investigations pursuant to its administrative responsibilities under Title 26. Your letter however, presents the Commission with no evidence which would trigger such an inquiry outside of our normal auditing schedule.

I note that at the same time that your letter is presented in the form of a complaint, it may also be construed as a request for a Commission opinion on the propriety of public funds being given to a dual Federal candidate. Should you wish to formally request such an opinion, you are, of course, perfectly free to do so under 2 U.S.C. §437f once the Commission is reconstituted. In the interval pending reconstitution, however, the Commission is not issuing opinions of any description.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE
OFFICE OF GENERAL COUNSEL

77040013156

Should additional information come to your attention which you believe to be within the jurisdiction of the Commission, please contact me again. The attorney assigned to this matter was Victor Sterling (Telephone No. 202-382-4055).

Sincerely yours,

Signed: John G. Murphy, Jr.
John G. Muggly, Jr.
General Counsel

Revised per Commission Meeting
of 4/276 3rd and 4th pars.

MUR 083

77040013157

DATE AND TIME OF TRANSMITTAL: 3/31/76 10 noon

NO. MUR 083 (76)

REC'D: 1/30/76

FEDERAL ELECTION COMMISSION
Washington, D. C.

Complainant's Name: W. Philip Gramm

Respondent's Name: Senator Lloyd Bentsen

Relevant Statute: 26 U.S.C. §9001, et seq.; 18 U.S.C. §608 is mentioned

Internal Reports Checked: Bentsen's Senate and Presidential Reports

Federal Agencies Checked: None

SUMMARY OF ALLEGATION

The complainant, a candidate for U.S. Senate from Texas, alleges that the respondent, a candidate for the Senate, as well as the Presidency, is using Federal matching funds in his senatorial campaign in violation of 26 U.S.C. §9001, et seq. Complainant also cites 18 U.S.C. §608 but fails to indicate which particular provision of the section he is relying on, or how they are relevant to his claim.

PRELIMINARY LEGAL ANALYSIS

With regard to complaints filed under 2 U.S.C. 437g as in the present matter, the Commission lacks authority to investigate allegations relating to Title 26. The complainant's §608 references appear without basis. The Commission does have independent investigatory authority over Title 26 (see 26 U.S.C. §9039(b)); however, the extent of this authority and the manner in which it is triggered have not yet been established. It also should be noted that complainant has set forth no evidence in support of his allegations.

RECOMMENDATION

Close the file, sending the attached letters; transfer to the general audit program for further review in the ordinary course of business.

770413153



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

COMMISSIONER Joan D. Aikens

MUR NO. 083 (76)

1. Re Counsel's Recommendation:

APPROVE

HOLD

ABSTAIN

2. Re Correspondence Proposed:

APPROVE

HOLD

ABSTAIN

DATE: 3/31/76

Joan D. Aikens
Signature

ABSTENTION STATEMENT: _____

(Forms to be returned to Patty Clark)



FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

77040013150

COMMUNICATIONS CONTROL RECORD

DATE RECEIVED

MAR 3/8/76

FROM Rader, Robert E., Jr.
1266 E. Ledbetter Dr.
Dallas, Tx. 75216

SUBJECT

Complaint.

RFRD

DC

OGC

DATE

3/8

3/9

DATE REPLY DUE

DATE REPLY SENT

PREPARE REPLY FOR SIGNATURE OF

4 - RECORD COPY

NO CARBON PAPER
REQUIRED

GSA FORM 43 (REV. 4-75)

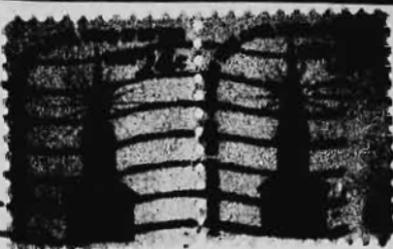
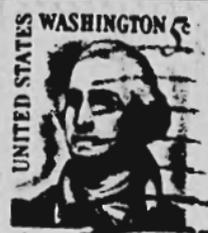
ROBERT E. RADER, JR.
ATTORNEY AT LAW
1266 E. LEDBETTER DRIVE
DALLAS, TEXAS 75216

CERTIFIED

No 582978

MAIL

RETURN RECEIPT REQUESTED



16 MAR 5 All: 06

Mr. Thomas B. Curtis, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463

7704

ROBERT E. RADER, JR.
ATTORNEY AT LAW
1266 E. LEDBETTER DRIVE
DALLAS, TEXAS 75216
(214) 371-2395

RECEIVED
FEDERAL ELECTION
COMMISSION

76 MAR 5 11:10

March 2, 1976

Mr. Thomas B. Curtis, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463

Mr. Drew McKay
Assistant Staff Director for
Disclosure and Compliance
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463

Office of General Counsel
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463

Gentlemen:

On January 15 I filed a complaint on behalf of Dr. W. Philip Gramm,
candidate for United States Senator from the State of Texas.

The complaint was directed against Senator Lloyd Bentsen's use of federal
matching funds to benefit his senatorial race in Texas -- thereby
denying Dr. Gramm equal protection of the laws.

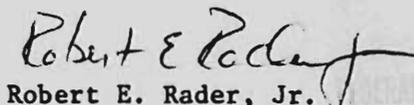
Thus far we have received no action from your office.

Please do not consider the point moot just because Senator Bentsen has
dropped out of the presidential race. We have information and reason to
believe that Senator Bentsen is using and plans to use in his Texas Senate
race large quantities of campaign buttons, bumper stickers and other
material paid for with federal matching funds.

Such actions by Senator Bentsen clearly violate federal law.

We will expect your prompt attention to this matter, since additional
delay may cause my client irreparable damage.

Sincerely,


Robert E. Rader, Jr.

mc

77040013163

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

1
6
ROBERT E. RADER, JR.
ATTORNEY AT LAW
1266 E. LEDBETTER DRIVE
DALLAS, TEXAS 75216

CERTIFIED

No 582980

MAIL

RETURN RECEIPT REQUESTED

FEDERAL ELECTION
COMMISSION

76 MAR 5 11:10

Office of General Counsel
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463



7704

ROBERT E. RADER, JR.
ATTORNEY AT LAW
1266 E. LEDBETTER DRIVE
DALLAS, TEXAS 75216
(214) 371-2385

RECEIVED
FEDERAL ELECTION
COMMISSION

76 MAR 5 11:07

March 2, 1976

Mr. Thomas B. Curtis, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463

Mr. Drew McKay
Assistant Staff Director for
Disclosure and Compliance
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463

Office of General Counsel
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463

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Sincerely,

Robert E. Rader, Jr.
Robert E. Rader, Jr.

mc

77040013163

ROBERT E. RADER, JR.

ATTORNEY AT LAW

1266 E. LEDBETTER DRIVE

DALLAS, TEXAS 75216

CERTIFIED

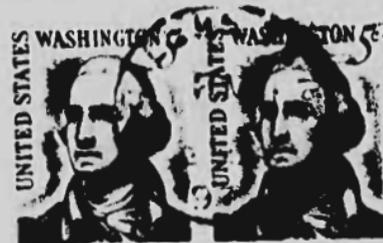
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582979

MAIL

RETURN RECEIPT REQUESTED

FEDERAL ELECTION COMMISSION



76 MAR 5 11:07

Mr. Drew McKay
Assistant Staff Director for
Disclosure and Compliance
Federal Election Commission
1325 K Street, Northwest
Washington, D. C. 20463

77400136

No CHANGE Action - 2/26

HUD 046-76

1 1st DRAFT
2 NJaney:mpc:2/19/76
3 I/C #511
4

5 OC 1976-12

6 Robert N. Thomson, Esq.
7 Preston, Thorgrimson, Ellis,
8 Holman and Fletcher
9 1776 F Street, N. W.
10 Washington, D. C. 20006

11 Dear Mr. Thomson:

12 This opinion of counsel is issued in response to your
13 letter of February 4, 1976. In that letter, you advise
14 that Senator Lloyd Bentsen of Texas continues to be a dual candidate for
15 the United States Senate in Texas and for the Presidency.
16 You have asked for my opinion on the following questions
17 concerning the applicability of the expenditure and contri-
18 bution limits to those dual candidacies:

- 19 1. How much may the Bentsen Senate campaign spend with
20 respect to the Texas Senate primary?
21 2. How much may the Bentsen Presidential campaign spend
22 in Texas with respect to the Presidential primary campaign?
23 3. How much may Senator Bentsen himself spend with
24 respect to his Senate primary campaign and Presidential primary
25 campaign?
26 4. How much may each member of Senator Bentsen's
27 immediate family contribute to his Presidential primary
28 campaign and Senatorial primary campaign?

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3 of the Act, including provisions for contribution limitations
4 and public financing of Presidential campaigns, it struck down
5 the expenditure limitations imposed by 18 U.S.C. §§608(a), (c),
6 and (e) as violative of the First Amendment. Buckley, supra,
7 Slip op. at 33-52. However, as noted by the Court, the
8 expenditure limitations of 18 U.S.C. §608(c) are applicable
9 to a Presidential campaign if the Presidential candidate has
10 accepted matching funds. Id. at 79-103 passim.

11 Of course, the Buckley decision substantially affects
12 the conclusions reached by the Commission in AO 1975-11 re-
13 garding limits on spending in connection with Senator Bentsen's
14 dual candidacy for Federal offices. In view of Buckley, and
15 its impact on AO 1975-11, my opinion as to each question
16 which you have raised is as follows:

17 1. There is no limit on the amount of money which
18 Senator Bentsen's Senate campaign may spend with respect to
19 the Texas Senate primary. The limitation on Senate expendi-
20 tures in 18 U.S.C. §608(c) (1) (C) was, as noted, struck down
21 in Buckley, supra. It should be noted, however, that any
22 expenditures made by Senator Bentsen for the Texas Senate primary
23 must be exclusively and unambiguously related to his Senatorial
24 campaign. Any expenditures which do not expressly advocate
25 Senator Bentsen's re-election to the Senate, (or which do
not, on the other hand, expressly advocate his

77-4001-1163

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2 of Presidential election campaigns and ruled that Congress could
3 constitutionally "condition acceptance of public funds on an agree-
4 ment by the candidate to abide by specified expenditure limitations."
5 Id. at 52 n. 65 and 79-103 passim. Senator Bentsen has agreed to
6 accept such expenditure limitations.

7 I would note that although counsel for the Bentsen Committee
8 has requested that the Commission discontinue processing two recent
9 submissions for matching funds, Senator Bentsen remains eligible
10 for such funds until such time as he is no longer officially a
11 candidate for President. Recent newspaper reports suggest that he
12 has discontinued his national candidacy for the Presidency. However,
13 the same reports indicate that he will remain a candidate for the
14 Texas Presidential primary and, thus, he is still a candidate for
15 President within the meaning of the Federal election laws.

16 Accordingly, unless Senator Bentsen refunds an amount equal
17 to the aggregate matching funds which he has received to date and
18 asks that the Commission revoke its prior determination of his
19 eligibility for public funding, he will continue to be subject to
20 expenditure limitations in connection with his Presidential primary
21 race in Texas.

22 3. With respect to expenditures from personal funds for his
23 dual candidacy, Senator Bentsen may spend as much of his personal
24 funds as he wants for his Senate campaign; however, expenditures
25 from personal funds for his Presidential campaign will be subject
to the expenditure ceiling applicable to his Presidential
candidacy in Texas.

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3 down by the Court in Buckley, supra, on First Amendment
4 grounds, Id. at 45-48.

5 While these expenditure limitations are no longer applicable
6 to expenditures of personal funds, overall expenditure limitations
7 are applicable to Presidential candidates who have accepted
8 Federal matching funds. See, the discussion at #2, supra.
9 Thus, as previously noted, since Senator Bentsen has accepted
10 matching funds, he is subject to the overall campaign expendi-
11 ture limit of 18 U.S.C. §608(c)(1)(A), with respect to the
12 Presidential primary in Texas, which is applicable to all
13 campaign spending whether it is from personal funds, private
14 contributions, or matching funds.

15 I would emphasize again that any spending which is not
16 unambiguously related to Senator Bentsen's Senatorial campaign
17 (or, on the other hand, his Presidential campaign), is pre-
18 sumably general campaign spending equally related to both
19 candidacies and must be allocated accordingly.

20 4. In light of the Buckley decision, supra, it is my
21 opinion that each member of Senator Bentsen's immediate family
22 may contribute only up to \$1,000 for the Presidential primary
23 campaign and \$1,000 for the Senatorial primary campaign.
24 See 18 U.S.C. §608(b)(1). According to AO 1975-11, supra,
25 Senator Bentsen's dual candidacy for Federal offices is

The foregoing constitutes an opinion of counsel which
the Commission has noted without objection.

Sincerely yours,

John G. Murphy, Jr.
General Counsel

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77040015171

026-75

February 24, 1976

MEMORANDUM TO: The File

FROM: David Spiegel

The complainant asserts that Senator Bentsen has been directing presidential primary matching funds to aid his Texas senatorial campaign. At present, complainant has set forth no facts to substantiate his allegations.

Notification and acknowledgement letters were sent on February 9, 1976. Despite the lapse of the 10 day communication period, nothing has yet been received from either respondent or complainant. *Neill Sent*

My own view is that if Bentsen comes forward with sufficient facts in rebuttal of the complainant's allegations, we should recommend a dismissal.

It should be noted that Robert E. Rader, Jr., counsel for complainant, has called this office on two separate occasions to inquire about the progress of the matter. The most recent call was on February 23, 1976.

*Hold pending new procedure - but the
name of*

RECEIVED
FEB 25 1976
DEPT. OF JUSTICE

77040013172

MUR 1026

*This letter was not accepted
at Executive Session on 2-9-76*



FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

*send copy to Thomas,
if rec sent*

February 9, 1976

Dr. W. Philip Gramm
P. O. Drawer A0
College Station, Texas 77840

Dear Dr. Gramm:

This will acknowledge receipt of your letter of complaint dated January 15, 1976, concerning alleged violations of the Federal Election Campaign Act of 1971, as amended, by Senator Lloyd Bentsen.

While this matter is currently under review by the Commission, we invite you to submit any additional data or information which would clarify or explain the matter referred to in your correspondence. This additional information should be received by the Commission not later than ten business days after receipt of this letter.

In keeping with the provisions of the Act, your letter will not be made available for public inspection and no announcements will be made by this office respecting any investigation which might ensue.

If further guidance or assistance is required, please do not hesitate to contact Mr. Michael Hershman by mail or by telephone (202/382-6023).

Sincerely,

Gordon Andrew McKay
Assistant Staff Director for
Disclosure and Compliance

cc: Mr. Robert E. Rader, Jr.

77040063173



MUR 0026

*This letter was not accepted
at Executive Session on 2-9-76*



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

*Send Copy To Thomson
if new sent*

February 9, 1976

The Honorable Lloyd Bentsen
240 Russell Senate Office Building
Washington, D. C. 20515

Dear Senator Bentsen:

The Federal Election Commission has received a complaint (copy attached) from Dr. W. Philip Gramm, candidate for United States Senate from the State of Texas. Dr. Gramm alleges violations of 26 U.S.C. 9031 et seq of the Federal Election Campaign Laws by you.

The Commission invites you to submit any information which would clarify, explain or correct the matter referred to above. Such information should be received by the Commission not later than ten business days after receipt of this letter.

In keeping with the provisions of the Act, this letter of notification and the subject matter shall remain confidential, except for any reports and statements or amendments thereto which you submit for the public record, unless and until you decide to release it and so confirm to the Commission in writing.

If further guidance or assistance is required, please do not hesitate to contact Mr. Michael Hershman by mail or telephone (202/382-6023).

Sincerely,

Gordon Andrew McKay
Assistant Staff Director for
Disclosure and Compliance

77040013171





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

February 6, 1976

MEMORANDUM

To: File
From: Michael J. Hershman
Subject: MUR #0026

I received a telephone call from Robert E. Rader, Jr., Attorney for W. Philip Gramm at approximately 3:30 p.m.. Mr. Rader inquired as to the status of Mr. Gramm's complaint against Senator Bentsen. I replied that the Commission had the matter under review and would contact his client in the near future.

77040013175



February 4, 1978

TO: Stephen Schachman
Michael Rotman

FROM: David R. Spiegel

SUBJECT: Letter regarding misuse of public funds by
Senator Leamon (e.g., Life West on TV)

The central allegation in this letter is that Senator
Leamon is using Presidential primary matching funds to support
his Senatorial campaign in Texas. AID has asked me for my
opinion as to whether the letter should be handled as a NLR
or as an OC request.

The allegation in the letter, if true, would appear to
involve a violation of 29 U.S.C. §9032. They would also in-
volve a violation of the spirit if not the letter of certain
portions of AO 1975-11 (40 FR 42829, Sept. 16, 1975). (E.g.,
AO 1975-11, Part A, pt. 3 notes that "contributions made with
respect to one campaign may not be expended with respect to
the other campaign, unless the contribution is actually returned
to the contributor and he or she thereafter contributes to the
other campaign." If Federal monies are tantamount to contri-
butions, the logic of AO 11, supra, clearly applies.)

7704001-1178

SEARCHED
SERIALIZED
INDEXED
FILED

RECEIVED
FEDERAL ELECTION
COMMISSION

76 FEB 3 P4:12

Shipping 1/28/74

Fed. Election Comm.

I hope you'll
investigate Mr.
Kopers motion very
thoroughly.

I request my
tax money being
paid to him so
he can work on
Mr. Ford's re-election
campaign

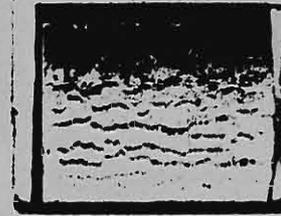
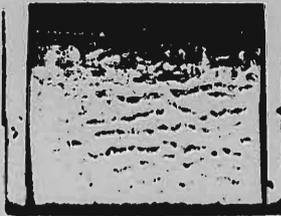
John E. Wells

77040015178



FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

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FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

St. Lawrence
#44,600

RECEIVED
FEDERAL ELECTION
COMMISSION

THE WICHITA EAGLE

Thursday, January 15, 1976

13A

Election Chief Doubts Legality Of Political Adviser to Ford

By United Press International

The chairman of the Federal Election Commission said Wednesday that President Ford is probably violating the law by having the taxpayers pay for a full-time White House political adviser.

Thomas B. Curtis, a Republican named to the commission by Ford, said that Rogers C.B. Morton, named by Ford as his political adviser, should get off the public payroll and go to work for the President's campaign committee.

"I think it's contrary to the law," Curtis said in an interview. "It's dangerous and he is treading on very thin ice with the law — it really is a question of law."

In other campaign activity, Ronald

Reagan ran into another challenge to his budget cutting proposals as he campaigned in Florida, and the Democrats denied they were thinking of pulling their convention out of New York City.

Reagan who returns to New Hampshire today, resumed his campaign for votes in the March 9 Florida primary with a series of appearances in Jacksonville.

Curtis said the law requires that all expenses made to influence an election must be reported as a campaign expense, and that would include Morton's salary. He said he could not understand the White House's attitude on Morton, since Ford has voluntarily agreed to have his campaign pay for

his travel expenses during the campaigning.

Curtis said the FEC may look into the issue independently if it is not brought to the baofy in a complaint by someone else.

Democratic National Chairman Robert Strauss said he was considering filing a complaint with the FEC over the Morton appointment. "It's disgraceful and contrary to the intent of the law," Strauss told reporters.

Curtis said he disagreed with Morton's statement that it was proper for him to handle politics for the President on the public payroll because every congressman had political advisers on his staff.

"In 18 years on the hill, I never did that," the former Missouri congressman said.



ROGERS MORTON
... Urged to resign

RECEIVED
FEDERAL ELECTION
COMMISSION

ROBERT E. RADER, JR.

ATTORNEY AT LAW

1266 E. LEDBETTER DRIVE

DALLAS, TEXAS 75216

(214) 371-2388

76 FEB 2 P3:37

January 15, 1976

Mr. Thomas B. Curtis, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

Mr. Drew McKay
Assistant Staff Director for
Disclosure and Compliance
Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

Office of General Counsel
Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

Gentlemen:

Please be advised that I represent Dr. W. Philip Gramm, candidate for United States Senate from the State of Texas.

We hereby submit a complaint against Senator Lloyd Bentsen for activities violating 26 USC §9001 et seq and 18 USC §608 of the Federal Election Campaign Laws.

Senator Bentsen is simultaneously seeking nomination for election to the Presidency and the office of United States Senator. As a presidential candidate Senator Bentsen has qualified for federal matching funds which are being used to illegally benefit his senatorial campaign in Texas.

26 USC §9038 makes it clear that federal matching campaign funds are to be used only to defray "qualified campaign expenses." Qualified campaign expenses are defined by §9032 as those incurred in connection with Senator Bentsen's campaign for nomination for the presidency. Therefore, use of federal monies to enhance Senator Bentsen's senatorial campaign violates both the letter and the spirit of the law.

When the Presidential Primary Matching Payment Account Act was passed, Congress expressly rejected the proposal to make federal matching funds available to candidates for the U.S. Senate and House of Representatives. Senator Bentsen's use of federal funds to benefit his senatorial campaign obviously frustrates and evades the intent of the Act. If Senator Bentsen's course is successful, other senatorial candidates may adopt the expedient course of simply declaring themselves to be presidential candidates as

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

77040013180

January 15, 1976

well, which would serve to make a sham of the limitations of the Federal Election Campaign Act Amendments of 1974, and would be sure to encourage a multitude of frivolous or spurious candidacies.

Whether Senator Bentsen uses his federal matching funds specifically for his senatorial campaign is immaterial. As the Commission pointed out in its Advisory Opinion 1975-11, the mere expenditure of presidential campaign funds obviously gives Senator Bentsen "a significant publicity advantage over his opposition."

We heartily concur.

Advisory Opinion 1975-11 aptly points out that to allow Senator Bentsen to use federal matching funds to gain an advantage over Dr. Gramm "runs afoul of the constitutional right of Senator Bentsen's rivals (Dr. Gramm) to communicate with the affected constituency on a basis substantially equivalent to that enjoyed by the Senator. In short, the law thus read would so discriminate against these rivals' (Dr. Gramm's) power to communicate as to deny them the equal protection of the laws, as that concept is embodied in the Due Process Clause of the Fifth Amendment to the United States Constitution."

Applicable principles of constitutional law, and indeed the basic spirit of the Federal Election Campaign Laws, seek to foreclose the possibility that one federal candidate will hold an insurmountable financial advantage over another. If Senator Bentsen may spend federal matching monies in Texas—while Dr. Gramm is required to raise 100% of his campaign funds on his own—the financial advantage thus gained by Senator Bentsen will violate the Federal Election Campaign Laws as well as the constitutional rights of my client.

We therefore request the Federal Election Commission to issue a ruling directing that:

- (a) No candidate for the presidency may use federal matching campaign funds to benefit his home-state campaign for another office.
- (b) A presidential candidate must show a geographical and/or pro-rata dispersion of federal matching funds in all states, to insure that a disproportionately large percent is not used in one state.
- (c) All political advertising paid for with federal matching funds must so specify.

Respectfully,

Robert E. Rader, Jr.
Robert E. Rader, Jr.

RER/gb

77040013181

STATE OF TEXAS

COUNTY OF Brazos

On this day personally appeared W. Philip Gramm, who upon being sworn, states that he is a candidate for United States Senator; that his address is P. O. Drawer A0, College Station, Texas 77840, telephone 713/846-7786; and that the foregoing complaint is true and correct to the best of his knowledge and belief.

W. Philip Gramm

W. Philip Gramm

Sworn and Subscribed to before me this 27th day of January, 1976.

Danna Jones

Notary Public in and for Brazos County, Texas

my commission expires June 1, 1977

77040016182

ROBERT E. RADER, JR.

ATTORNEY AT LAW

266 E. LEDBETTER DRIVE

DALLAS, TEXAS 75216



**RETURN RECEIPT
REQUESTED**

CERTIFIED

No. 531711

MAIL

Mr. Drew McKay
Assistant Staff Director for
Disclosure and Compliance
Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

10 FEB 2 PM 2:43

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COMMUNICATIONS CONTROL RECORD

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FROM

SUBJECT

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DATE

DATE REPLY DUE

DATE REPLY SENT

PREPARE REPLY FOR SIGNATURE OF

2 FOLLOWUP COPY**NO CARBON PAPER
REQUIRED****GSA FORM 43 (REV. 4-75)**

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FEDERAL ELECTION
COMMISSION

ROBERT E. RADER, JR.
ATTORNEY AT LAW
1266 E. LEDBETTER DR.
DALLAS, TEXAS 75216
(214) 371-2398

76 JAN 30 A10: 28

January 15, 1976

Mr. Thomas B. Curtis, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

Mr. Drew McKay
Assistant Staff Director for
Disclosure and Compliance
Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

Office of General Counsel
Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

Gentlemen:

Please be advised that I represent Dr. W. Philip Gramm, candidate for United States Senate from the State of Texas.

We hereby submit a complaint against Senator Lloyd Bentsen for activities violating 26 USC §9001 et seq and 18 USC §608 of the Federal Election Campaign Laws.

Senator Bentsen is simultaneously seeking nomination for election to the Presidency and the office of United States Senator. As a presidential candidate Senator Bentsen has qualified for federal matching funds which are being used to illegally benefit his senatorial campaign in Texas.

26 USC §9038 makes it clear that federal matching campaign funds are to be used only to defray "qualified campaign expenses." Qualified campaign expenses are defined by §9032 as those incurred in connection with Senator Bentsen's campaign for nomination for the presidency. Therefore, use of federal monies to enhance Senator Bentsen's senatorial campaign violates both the letter and the spirit of the law.

When the Presidential Primary Matching Payment Account Act was passed, Congress expressly rejected the proposal to make federal matching funds available to candidates for the U.S. Senate and House of Representatives. Senator Bentsen's use of federal funds to benefit his senatorial campaign obviously frustrates and evades the intent of the Act. If Senator Bentsen's course is successful, other senatorial candidates may adopt the expedient course of simply declaring themselves to be presidential candidates as

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January 15, 1976

well, which would serve to make a sham of the limitations of the Federal Election Campaign Act Amendments of 1974, and would be sure to encourage a multitude of frivolous or spurious candidacies.

Whether Senator Bentsen uses his federal matching funds specifically for his senatorial campaign is immaterial. As the Commission pointed out in its Advisory Opinion 1975-11, the mere expenditure of presidential campaign funds obviously gives Senator Bentsen "a significant publicity advantage over his opposition."

We heartily concur.

Advisory Opinion 1975-11 aptly points out that to allow Senator Bentsen to use federal matching funds to gain an advantage over Dr. Gramm "runs afoul of the constitutional right of Senator Bentsen's rivals (Dr. Gramm) to communicate with the affected constituency on a basis substantially equivalent to that enjoyed by the Senator. In short, the law thus read would so discriminate against these rivals' (Dr. Gramm's) power to communicate as to deny them the equal protection of the laws, as that concept is embodied in the Due Process Clause of the Fifth Amendment to the United States Constitution."

Applicable principles of constitutional law, and indeed the basic spirit of the Federal Election Campaign Laws, seek to foreclose the possibility that one federal candidate will hold an insurmountable financial advantage over another. If Senator Bentsen may spend federal matching monies in Texas—while Dr. Gramm is required to raise 100% of his campaign funds on his own—the financial advantage thus gained by Senator Bentsen will violate the Federal Election Campaign Laws as well as the constitutional rights of my client.

We therefore request the Federal Election Commission to issue a ruling directing that:

- (a) No candidate for the presidency may use federal matching campaign funds to benefit his home-state campaign for another office.
- (b) A presidential candidate must show a geographical and/or pro-rata dispersion of federal matching funds in all states, to insure that a disproportionately large percent is not used in one state.
- (c) All political advertising paid for with federal matching funds must so specify.

Respectfully,
Robert E. Rader, Jr.
Robert E. Rader, Jr.

RER/gb

77040013185

STATE OF TEXAS

COUNTY OF

Brazos

On this day personally appeared W. Philip Gramm, who upon being sworn, states that he is a candidate for United States Senator; that his address is P. O. Drawer A0, College Station, Texas 77840, telephone 713/846-7786; and that the foregoing complaint is true and correct to the best of his knowledge and belief.

W. Philip Gramm

W. Philip Gramm

Sworn and Subscribed to before me this 31st day of January, 1976.

Dorinda Jones

Notary Public in and for Brazos
County, Texas

My Commission expires
June 1, 1977

77040013187

TEXAS
OFFICE OF THE CLERK
STATE OF TEXAS

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GSA FORM 43 (REV. 4-75)

ROBERT E. RADER, JR.

ATTORNEY AT LAW

1266 E LEDBETTER DRIVE

DALLAS, TEXAS 75216

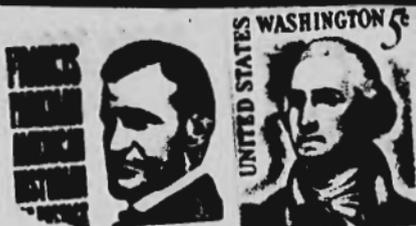
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No. 531710

MAIL

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Mr. Thomas B. Curtis, Chairman
Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

76 JAN 29 AIO: 19

FEDERAL ELECTION COMMISSION