



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1231

Date Filmed 8/20/80 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 6, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102

Re: MUR 1231

Dear Mr. Herge:

On May 7, 1980, the Federal Election Commission notified your clients, National Conservative Political Action Committee and People for an Alternative to McGovern, of a complaint alleging that they may have violated the Federal Election Campaign Act of 1971, as amended.

The Commission, on July 29, 1980, determined that there is no reason to believe a violation of the Act has been committed. On the basis of the information provided in the complaint and the information provided by respondents, the Commission determined that there was insufficient evidence to warrant finding reason to believe any violation had occurred. Accordingly, the Commission has closed the file in this matter. This matter will become part of the public record within 30 days.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles N. Steele", is written over the word "Sincerely,".

Charles N. Steele
General Counsel

300410202892



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

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Sincerely,

Charles N. Steele
General Counsel

101
8/6/80



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 6, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener
Jenkins, Nystrom & Sterlacci
2033 M Street, N.W.
Washington, D.C. 20036

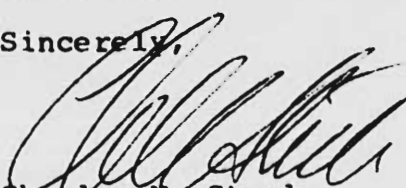
Re: MUR 1231

Dear Mr. Schoener:

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Charles N. Steele
General Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

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James F. Schoener
Jenkins, Nystrom & Sterlacci
2033 M Street, N.W.
Washington, D.C. 20036

Re: MUR 1231

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Sincerely,

Charles N. Steele
General Counsel

15
8/4/80



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 6, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
1101 Seventeenth Street, N.W.
Suite 406
Washington, D.C. 20036

Re: MUR 1231

Dear Mr. Bauer:

The Federal Election Commission has reviewed the allegations of the complaint filed by the South Dakota Democratic Party on May 2, 1980, and determined that there is no reason to believe a violation of the Federal Election Campaign Act of 1971, as amended, has been committed. On the basis of the information provided in the complaint and the information provided by respondents, the Commission determined that there was insufficient evidence to warrant finding reason to believe any violation had occurred. Accordingly, the Commission has closed the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the Act, please contact Scott Thomas, the attorney assigned to this matter, at (202) 523-5071.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles N. Steele", is written over the typed name.

Charles N. Steele
General Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
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1101 Seventeenth Street, N.W.
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Sincerely,

Charles N. Steele
General Counsel

151
2/6/80

9004002037

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1231
National Conservative Political)
Action Committee)
People for an Alternative to)
McGovern)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on August 6, 1980, the Commission decided by a vote of 6-0 to take the following actions regarding MUR 1231:

1. Send the letters as attached to the General Counsel's August 4, 1980 memorandum.
2. CLOSE THE FILE in this matter.

Voting for this determination were Commissioners Aikens, Friedersdorf, Harris, McGarry, Reiche, and Tiernan.

Attest:

8/6/80
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Received in Office of the Commission Secretary: 8-4-80, 12:28
Circulated on 48 hour vote basis: 8-4-80, 4:00

August 4, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MMUR 1231

Please have the attached Memo distributed to the
Commission on a 48 hour tally basis. Thank you.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

80 AUG 4 PI2: 28
August 4, 1980

MEMORANDUM TO: The Commission

FROM: Charles N. Steele *CN*
General Counsel

SUBJECT: Proposed letters providing notification of the
Commission's action in MUR 1231

On July 29, 1980, the Commission determined that there was no reason to believe violations had been committed by any of the respondents in MUR 1231. The General Counsel has prepared proposed notification letters to be sent to the respondents and the complainant (copies attached). The notification letters state the reason for the Commission's determination, i.e., that on the basis of the information provided in the complaint and the information provided by respondents, the Commission determined there was insufficient evidence to warrant a finding of reason to believe any violation had occurred.

A statement of the reason for the Commission's action is advisable in the event suit is filed under 2 U.S.C. § 437g(a)(8) challenging the Commission's action. In Hampton v. Federal Election Commission, Fed. Elec. Camp. Fin. Guide (CCH) ¶9036 (D.D.C. 1977), aff'd, No. 77-1546 (D.C.Cir. July 21, 1978), and Brown v. Federal Election Commission, No. 79-0940 (D.D.C. July 17, 1980), the courts relied on the statements of reasons set forth in the General Counsel's Reports to find the Commission's actions not contrary to law.

As a final matter, we also recommend that the Commission vote to close the file in this matter. No such recommendation has been acted on by the Commission.

Recommendation

1. Send the attached letters;
2. Close the file in this matter.

Attachment:
Proposed letters



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
1101 Seventeenth Street, N.W.
Suite 406
Washington, D.C. 20036

Re: MUR 1231

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Should additional information come to your attention which you believe establishes a violation of the Act, please contact Scott Thomas, the attorney assigned to this matter, at (202) 523-5071.

Sincerely,

Charles N. Steele
General Counsel

80040202901



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
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James F. Schoener
Jenkins, Nystrom & Sterlacci
2033 M Street, N.W.
Washington, D.C. 20036

Re: MUR 1231

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Sincerely,

Charles N. Steele
General Counsel

30040202902



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

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RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102

Re: MUR 1231

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Sincerely,

Charles N. Steele
General Counsel

30040202903

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
National Conservative Political) MUR 1231
Action Committee)
People for an Alternative to)
McGovern)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission's executive session on July 29, 1980, do hereby certify that the Commission determined by a vote of 4-2 to take the following actions in MUR 1231:

1. Find no reason to believe that NCPAC violated 2 U.S.C. §441a(a)(2)(A) by making excessive in-kind contributions to Representative James Abdnor;
2. Find no reason to believe that NCPAC violated 2 U.S.C. §434(b)(6)(B) by not reporting certain expenditures as contributions to Friends of Jim Abdnor;
3. Find no reason to believe that People for an Alternative to McGovern (PAM) violated 2 U.S.C. §§433 or 434 for not registering and reporting to the Commission or that NCPAC failed to report properly with regard to PAM's activities;
4. Find no reason to believe that Friends for Jim Abdnor violated 2 U.S.C. §441a(f) by accepting excessive contributions from NCPAC.

Commissioners Aikens, Friedersdorf, Harris, and Reiche voted affirmatively for the decision; Commissioners McGarry and Tiernan dissented.

Attest:

7/30/80

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 28, 1980

MEMORANDUM TO: The Commission

FROM: Charles N. Steele *CS*
General Counsel

SUBJECT: Response from Congressman Abdnor in MUR 1231

The Commission has held over discussion of the First General Counsel's Report in this MUR pending receipt of a response from Congressman Abdnor to the complaint. On July 21, 1980, the General Counsel received a written response from counsel for the Congressman. See Attachment A. In addition, on July 25, 1980, the General Counsel received an affidavit of Congressman Abdnor. See Attachment B.

We are submitting these materials to the Commission on an expedited basis so that they may be discussed at the meeting of July 29, 1980, along with the First General Counsel's Report. We continue to recommend the actions set forth on pages 6 and 7 of the report, and further recommend that the Commission find reason to believe Congressman Abdnor's committee, Friends for Jim Abdnor, has violated 2 U.S.C. §441a(f) for accepting excessive contributions from NCPAC.

The objections raised in the letter of counsel for Congressman Abdnor dated July 17, 1980, do not warrant otherwise, in our view. The absence of specific statements in the complaint as to which allegations are based on information and belief, as opposed to personal knowledge, is not fatal. The Commission's regulations, at 11 C.F.R. §111.4(c) and (d)(2), indicate that while such statements are preferable, they are not required.

As to the assertion that the complaint is not submitted under penalty of perjury, it is our view that indeed the complaint is submitted under penalty of perjury by the terms of the statute. Express words by the complainant are not necessary as is the case with a sworn statement. The Commission's regulations set forth this distinction. See 11 C.F.R. §111.4(b)(1).

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The notice letter was not sent to Congressman Abdnor's committee within five days because upon initial staff review of the complaint it was not clear that the committee was "a person alleged in the complaint to have committed . . . a violation." 2 U.S.C. §437g(a)(1). The complaint does not "clearly identify as a respondent" the Congressman's committee. 11 C.F.R. §111.4(d)(1). However, in the interests of providing a response opportunity to persons who might be in violation of the Act on the basis of the allegations in the complaint, the staff did later send a notice letter to the Congressman's committee. The committee would not appear to be prejudiced in any way by the delay in receiving the Commission's notification.

With regard to the final suggestion in counsel's letter that the Commission must go beyond the bounds of the complaint to specify the possible violation which might have been committed by the Congressman's committee, the Act clearly does not contemplate such action. The Commission is only required to give notice that a complaint has been filed so that the person involved may respond "on the basis of the complaint." 2 U.S.C. §437g(a)(1).

Turning to the affidavit of Congressman Abdnor, we do not believe that it provides any basis for altering our earlier recommendation of reason to believe. The Congressman acknowledges having had at least two discussions with NCPAC representatives. The affidavit fails to be specific as to the substance of the conversations (using instead the phrase, "to discuss general political conditions in South Dakota," for example). The affidavit then makes a legally conclusive statement that the Congressman "made no request, arrangement, coordination, consultation, suggestion, or prior consent" with regard to NCPAC's expenditures. No specific facts are put forward to rebut the allegation in the complaint that NCPAC, through People for an Alternative for McGovern, carried out a series of media expenditures in coordination with the Congressman's announcement of candidacy.

Recommendation

1. Follow the recommendations set forth in the First General Counsel's Report dated June 27, 1980; and
2. Additionally, find reason to believe that Friends for Jim Abdnor violated 2 U.S.C. §441a(f) by accepting excessive contributions from NCPAC and send an appropriate notification letter.

Attachments:

- A-- response letter
- B-- affidavit

Thomas

RECEIVED

'80 JUL 21 AM 10:02

LAW OFFICES
JENKINS, NYSTROM & STERLACCI, P.C.

MERLE R. JENKINS
DENNIS H. NYSTROM
MICHAEL A. STERLACCI
CARL F. SCHIER
JOSEPH E. JANNETTA
JAMES F. SCHOENER
STEPHEN J. HITCHCOCK
CHRIS M. PARFITT
GARY J. NYSTROM
RONALD A. DENEWETH
TIMOTHY J. MULLINS

2033 M STREET, N.W.
WASHINGTON, D. C. 20036
(202) 293-2505

OF COUNSEL
JOHN B. CONLAN
EDWARD A. RYDER

MICHIGAN OFFICE
18999 WEST TWELVE MILE ROAD
SOUTHFIELD, MICHIGAN 48076
(313) 559-2828

909155

July 17, 1980

Honorable Charles Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1231

Dear Mr. Steele:

I believe your office has received the notice of my retainer on behalf of Representative James Abdnor in the above-entitled M.U.R. I have examined the Complaint filed by Robert F. Bauer in behalf of the South Dakota Democratic Party. I believe that the Complaint is defective for failure to comply with the Federal Election Commission regulations. In particular, I believe that the Complaint fails to state what matters are under oath, what matters are on information and belief, and it fails to be submitted under penalty of perjury under Section 1001 of Title 18 of the United States Code. Complaints must be 1) sworn to, 2) notarized, 3) made under penalty of perjury, and 4) subject to the provisions of 18 U.S.C. 1001, See 11 C.F.R. §11.4(b)(c) and (d). Mr. Bauer, in his Complaint, merely had the Complaint notarized without making further compliance with the F.E.C. complaint procedure.

I was surprised to receive this Complaint on July 7th when your letter of transmittal indicates the Complaint was received by the F.E.C. on May 2, 1980. I believe the act requires notification by the F.E.C. of any complaint within 5 days of receipt of the complaint. I would appreciate hearing why the statute was not followed originally or to be informed of matters not appearing in the Complaint that caused this belated notice to be given. I note that 11.4(d)(1) requires that a respondent be clearly identified; I can see no place where my client has been so identified.

The letter dated June 27 to Cleo Urban, co-treasurer of the Friends For Jim Abdnor (received by the Committee on July 7th) indicates that the Complaint "contains evidence that Friends For Jim Abdnor may have violated certain sections of the Federal Election Campaign Act." Since the Complaint does not allege any violation of the Act on behalf of my client, I would request you detail the possible

Attachment A

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GENERAL COUNSEL

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Honorable Charles Steele

-2-

July 17, 1980

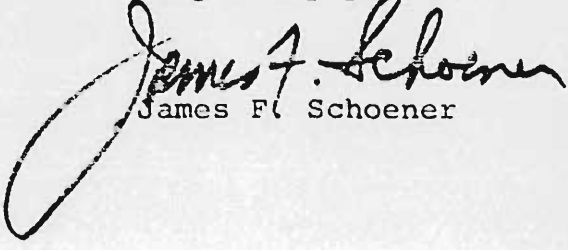
violations of the Act that refer to Friends For Jim Abdnor or Representative Abdnor.

We are prepared to submit affidavits of the following facts if they may be relevant to the matters you are investigating.

1. That the South Dakota N.C.P.A.C. poll shown to Representative Abdnor in December 1979 was not a major motivating factor in determination of candidacy for the office of United States Senator.
2. That there have been no contacts regarding the South Dakota campaign with persons involved with, employed by, or agents of, N.C.P.A.C. or any of its affiliates since the time that Representative Abdnor had decided to become a candidate for the office of United States Senator.
3. That no request, arrangement, coordination, consultation, suggestion, or prior consent of Representative Abdnor, his principal campaign committee or its agents has been in any way involved with, directly or indirectly, the expenditures made by N.C.P.A.C. on behalf of, or in opposition to, any candidate for Federal office.
4. That no information of the candidate's needs, plans, or projects has been provided to any person with a view toward making independent expenditures by Representative Abdnor, his committee or its agents.
5. That no campaign materials have been transferred to N.C.P.A.C. or its agents by Representative Abdnor or his committee or its agents

If you will please advise me of the possible violation you might allege, I would be glad to be more specific in the affidavits to be filed.

Very truly yours,


James F. Schoener

JFS:dw

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Call 20463

Thomas

LAW OFFICES
JENKINS, NYSTROM & STERLACCI, P.C.

MERLE R. JENKINS*
DENNIS H. NYSTROM*
MICHAEL A. STERLACCI*
JOSEPH E. JANNETTA
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STEPHEN J. HITCHCOCK
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CHARLES M. LOWTHER
MICHAEL A. MURPHY*Δ
JAMES M. SCHOENER
GERARD P. PANARO*+
JANIS B. DeGENARRO
THOMAS H. KOHN*Δ

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OF COUNSEL
JOHN B. CONLAN*
JOHN F. GOETZ

MICHIGAN OFFICE
15999 WEST TWELVE MILE ROAD
SOUTHFIELD, MICHIGAN 48076
(313) 559-2828

*ADMITTED IN D.C.
Δ ADMITTED IN VA.
+ADMITTED IN MD.

July 25, 1980

Scott Thomas, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

HAND DELIVERED

Re: MUR 1231

Dear Mr. Thomas:

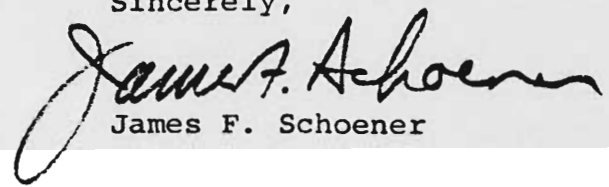
Enclosed please find the original and two copies of an affidavit of Representative James Abdnor regarding the facts involved in the above referred matter.

I have yet to receive an affidavit of the campaign director in South Dakota which will confirm the non-consultation and non-request facts. This will probably arrive in my office Monday and I will have it delivered to you.

I believe these two affidavits should justify immediate dismissal of Representative Abdnor from the matter. You must appreciate the fact that it is difficult to respond to a complaint that does not provide specific charges against my client nor relate the factual basis of asking his response.

If you have any further questions, please contact me.

Sincerely,


James F. Schoener

JFS:db

Enclosure

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JUL 26 1980
FEDERAL ELECTION COMMISSION

Attachment B

AFFIDAVIT

Submitted to: Federal Election Commission

In Re: M.U.R. 1231

James Abdnor being duly sworn deposes and says:

1. That he formally announced his candidacy for the office of United States Senator from the State of South Dakota on March 19, 1980. That he had decided to become a candidate on February 11, 1980 and so notified the F.E.C.
2. That prior to deciding on his candidacy numerous people from South Dakota urged him to become a candidate.
3. That among the numbers of people urging him to run for this office, on one occasion, one Hal Wick in August of 1979, discussed all potential candidates and discussed a survey that was general public knowledge; thereafter he had no other contact with Mr. Wick concerning his candidacy.
4. That on October 9, 1979, representatives of NCPAC called his Washington office to discuss general political conditions in South Dakota.
5. That on December 6, 1979, representatives of NCPAC brought in an unsolicited political poll taken some time in November of 1979, and spent a short period of time further discussing the South Dakota Senate race.
6. That in response to these NCPAC visits he declined interest in the candidacy for such office; that at this time, Governor William Janklow was still a potential candidate and that support to Governor Janklow had been pledged; nothing in the December meeting caused any change in decision. That on at least two occasions, he met with Governor Janklow

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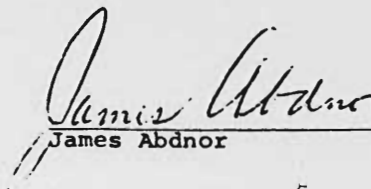
for extended periods of time to urge him to run for the Senate seat.

7. That in January of 1980 after Governor Janklow had disqualified himself (see attached clipping of January 9, 1980) after discussion with South Dakota Republican Party leaders and with Republican Senatorial leaders, he commissioned two polls that caused him to become a candidate for the office of United States Senate in South Dakota. That the first of these is for targeted telephone services of \$375.95 paid on February 4, 1980, to Betty Thoreson of Pierre, South Dakota and the second, an advance payment to DMI of Santa Ana, California, on January 28, 1980 of \$3,850.00.
8. That on February 12, 1980, NCPAC sent a letter indicating an in-kind contribution of the disclosure of the December 6, 1969 poll results with an attributed value of \$500.00; such results were recorded by amendment in the year-end 1979 FEC report; the attributed value of such "in-kind contribution" was not disputed, but he states that he would not have spent actual campaign funds for the information involved.
9. That the decision to become a candidate for United States Senate from the State of South Dakota was based upon other information; consultations, and polls, and that the NCPAC poll and conversations with NCPAC were not a major motivating factor in that decision.
10. That there have been no contracts regarding the South Dakota campaign with persons involved with, employed by, or agents of NCPAC or any of its affiliates since the time that he decided to become a candidate

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for the office of United States Senator.

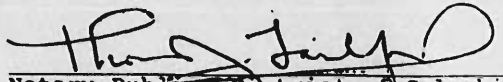
11. That he made no request, arrangement, coordination, consultation, suggestion, or prior consent nor did his principal campaign committee or its agents become in any way involved with, directly or indirectly, the expenditures made by NCPAC on behalf of, or in opposition to, any candidate for Federal Office.
12. That neither he nor his committee has furnished information of his campaign needs, plans, or projects to any person with a view toward making independent expenditures.
13. That neither he nor his committee has furnished any campaign materials to NCPAC or its agents.
14. That the only correspondence in his Congressional office dealing with NCPAC was a computer-typed solicitation letter which indicated erroneously a contribution by him which was acknowledged as corrected by the attached letter from NCPAC on February 22, 1980, and the letter concerning the "in-kind contribution" of the poll results.
15. That he has caused an examination to be made and finds there is no correspondence in any campaign records to or from NCPAC.


James Abdnor

20040202912

District of Columbia)
City of Washington, D.C.) ss:

On this 24 day of July 1980, personally appeared James Abdnor who being duly sworn and recognizing the penalties of perjury under 18 U.S.C. 1001 did swear that the above facts were true and correct to the best of his knowledge and belief, and were based upon information and belief obtained from the attached exhibits and the records of the Federal Election Commission.


Notary Public, District of Columbia

Prepared by:

James F. Schoener
Jenkins, Nystrom & Sterlacci, P.C.
2033 M Street, N.W.
Suite 504
Washington, D.C. 20036
(202) 293-2505

30040202913

80040202914

SD CLIPPING
PA BUREAU
BROOKINGS, SD

JAN 9 - 1980

Brookings
Register
Cir. 5,112

state 74



ABDNOR

PIERRE (AP) — Gov. Bill Janklow flatly ruled out a race this year against Sen. George McGovern.

"I don't intend for any reason or under any circumstances to seek another office during my term as governor," Janklow told a joint session of the Legislature during his State of the State message.

"I wouldn't allow my name to be placed in nomination or be party to the draft," he added.

U.S. Rep. James Abdnor, state House Majority Leader Joe Barnett, R-Aberdeen, and state House Speaker George Mickelson, R-Brookings, are mentioned as strong contenders.

PIERRE (AP) — Rancher Wayne Peterson explained his candidacy for the U.S. Senate today. For details, see the story on page three.

SEDAN & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7000 OLD SPRINGHOUSE ROAD

MCLEAN, VIRGINIA 22102

GLENN J. SEDAN, JR.
J. CURTIS HERGE

(703) 821-1000

THOMAS M. DAVIS, III
JOHN J. FLOOD (S.C. ONLY)
MICHAEL S. HUGHES
ROBERT R. SPARKS, JR.

February 22, 1980

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 821-1000
TELEX 88-8388 (AEMPOWER WHEN)
TWX 710-828-0833 (TELEREP 600)

The Honorable James Abdnor
Room 1224
Longworth House Office Building
Washington, D. C. 20515

Re: National Conservative
Political Action Committee

Dear Rep. Abdnor:

As general counsel to National Conservative Political Action Committee, I am writing to you on behalf of Terry Dolan to acknowledge receipt of your letter to him of February 7, 1980 and to express our apologies to you for the correspondence you received, which erroneously indicated you had made a recent contribution to NCPAC.

We are at a loss to explain how this error occurred, as it appears to reflect a malfunction in the computer. Nevertheless, we have issued instructions to have the mistake corrected immediately.

Please accept our apologies.

Sincerely,


J. Curtis Herge

cc: Mr. Dave Buffkin
Richard A. Viguerie Company, Inc.

Mr. John T. Dolan
National Conservative Political
Action Committee

30040202913

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
National Conservative Political)
Action Committee)
People for an Alternative to)
McGovern)

MUR 1231

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission's executive session on July 8, 1980, do hereby certify that the Commission determined by a vote of 6-0 to continue consideration of MUR 1231 on July 22, 1980.

Attest:

7/14/80

Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO: CHARLES STEELE

MWE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY *me*

DATE: JULY 2, 1980

SUBJECT: MUR 1231 - First General Counsel's Report
dated 6-27-80; Received in OCS 6-27-80,
5:25

The above-named document was circulated on a 48
hour vote basis at 11:00, June 30, 1980.

Commissioner Friedersdorf submitted an objection at
10:25, July 2, 1980.

This matter will be placed on the Executive Session
Agenda for Tuesday, July 8, 1980.

Commissioner Aikens submitted an objection at 1:21,
this date.

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June 27, 1980

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 1231

Please have the attached First GC Report
distributed to the Commission on a 48 hour tally basis.
Thank you.

800411202918

FEDERAL ELECTION COMMISSION
1325 K Street N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 6-27-80

MUR NO. 1231
DATE COMPLAINT RECEIVED
BY OGC 5-2-80

STAFF MEMBER Scott Thomas

COMPLAINANT'S NAME: South Dakota Democratic Party

RESPONDENT'S NAME: National Conservative Political Action Committee
People for an Alternative to McGovern

RELEVANT STATUTE: 2 U.S.C. § 441a(a)(2)(A); 2 U.S.C. § 431(8), (17);
11 C.F.R. § 109.1; 2 U.S.C. § 434(b)(6)(B);
2 U.S.C. § 433

INTERNAL REPORTS CHECKED: National Conservative Political Action Committee

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On May 2, 1980, the Commission received a complaint (Attachment A) against the National Conservative Political Action Committee ("NCPAC"). The complaint was filed by the South Dakota Democratic Party. The allegations are as follows:

1. That NCPAC has violated the \$5,000 per candidate contribution limitation of 2 U.S.C. § 441a(a)(2)(A) in that its "independent expenditures" against Senator George McGovern, a Democratic primary candidate, were actually contributions to Representative James Abdnor, a Republican primary candidate; 1/
2. That NCPAC failed to report as contributions those independent expenditures alleged to be contributions;
3. That an organization named People for an Alternative to McGovern ("PAM") is a "political committee" which has failed to register or report to the Commission; and

1/ NCPAC is a multi-candidate political committee.

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4. That NCPAC and PAM are affiliated committees within the meaning of 11 C.F.R. § 100.5(g)(2) and that NCPAC's reports do not reflect any transfers of funds to PAM.

FACTUAL AND LEGAL ANALYSIS

The central allegation of the complaint is that substantial expenditures undertaken by NCPAC in 1979 and 1980 against the nomination of Senator McGovern for the Senate seat in South Dakota were actually contributions to Representative Abdnor, a candidate for the nomination of a different party for the same seat. 2/ The complaint relies almost exclusively upon press reports for its evidence that the expenditures by NCPAC were not "independent" of Abdnor.

While much of the support put forward by the complainant is of little probative value in an analysis of whether the expenditures were contributions to Abdnor, there is some evidence that cooperation, consultation, or coordination may have taken place between NCPAC and Representative Abdnor. According to a newspaper article relied upon by the complainant, Abdnor admitted being contacted before he announced as a candidate by a NCPAC pollster, Arthur Finkelstein, about a poll conducted by NCPAC; the poll concerned Abdnor's chances of success against Senator McGovern. Complaint, Exhibit J. Abdnor was also reported to have admitted consulting with NCPAC's Director, Terry Dolan, about the poll. *Id.* An amendment letter to Abdnor's campaign reports (which reflect the poll itself as a contribution to Abdnor) indicates that these meetings took place around December 6, 1979, when the poll was presented to Abdnor. Complaint, Exhibit N. NCPAC's response to the complaint (Attachment C) confirms that around that date the NCPAC poll results were "shared with, and explained to" Representative Abdnor and states further that "representatives and agents of NCPAC had discussions with Rep. Abdnor relative to the merits of his seeking the Republican nomination for election to the United States Senate from South Dakota."

2/ NCPAC's reported expenditures against Senator McGovern total over \$120,529.62. The first of these expenditures was made in June of 1979. By month, the expenditures break down as follows:

June	\$ 7,547	December	\$14,230
July	\$ 7,387	January	\$10,628
August	\$ 5,004	February	\$11,431.53
September	\$10,284	March	\$16,768.99
October	\$21,897	April	\$ 8,170.10
November	\$ 7,542		

Abdnor was reported by another press account to have said he had an even earlier meeting with a person associated with NCPAC. According to this report (Complaint, Exhibit K), Abdnor stated, "My first direct contact with NCPAC was last August during State Fair week when shown a NCPAC poll. I was flattered by the high rankings but not impressed by their poll." Abdnor was further reported in this article to have said that he was shown the NCPAC poll by Hal Wick, a state legislator who chairs People for an Alternative to McGovern. Id.

Thus, by the reported admissions of Representative Abdnor, it appears that at least two meetings between Abdnor and persons associated with NCPAC took place where his potential candidacy was discussed. An opportunity to cooperate, consult, or coordinate with NCPAC in its expenditures has therefore been alleged by the complaint.

As evidence that the communications between Abdnor and NCPAC actually resulted in coordination as to NCPAC's expenditures, the complaint asserts that PAM, "NCPAC's South Dakota affiliate," announced that it would run a "media blitz" against Senator McGovern in close proximity to the time that Representative Abdnor announced his candidacy for the Senate. Complaint, p. 6 and Exhibits O and P. NCPAC's activity was planned for the week of March 17-24, 1980, and Abdnor announced his candidacy on March 19, 1980, according to the complaint.

NCPAC in its response to the complaint (Attachment C) asserts that its expenditures against Senator McGovern were all independent expenditures and thus not contributions to Representative Abdnor. It asserts that the Commission's statements in Advisory Opinion 1979-80, issued on March 12, 1980, to NCPAC, indicate that its expenditures should not be deemed contributions to a candidate.

The requirements for independent expenditures are set forth at 2 U.S.C. § 431(17) and 11 C.F.R. § 109.1. An independent expenditure must not be "made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." 11 C.F.R. § 109.1(a). The Commission's regulations further provide:

'Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of a candidate or any agent or authorized committee of the candidate' means - (i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication distribution, display, or broadcast of the communication.

Finally, the regulations state that, "[a]n expenditure not qualifying

under this section as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate unless otherwise exempted." This latter rule follows from the Supreme Court's analysis in Buckley v. Valeo, 424 U.S. 1, 46, 47, and n. 53(1976) (controlled or coordinated expenditures are treated as contributions rather than expenditures; all expenditures placed in cooperation with or with the consent of a candidate are contributions). See also 2 U.S.C. § 441a(a)(7)(B)(i).

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The evidence contained in the complaint is that NCPAC officers or agents met at least twice with Representative Abdnor to discuss certain poll results and that NCPAC had discussions with Abdnor relative to the merits of his seeking the Republican nomination. Furthermore, NCPAC apparently planned extensive expenditures around Abdnor's public announcement of candidacy. These facts, we believe, would support a determination that there is reason to believe more than \$5,000 worth of the expenditures undertaken by NCPAC against Senator McGovern were made in cooperation or consultation with, or through coordination by, Representative Abdnor and were thus contributions to him in excess of 2 U.S.C. § 441a(a)(2)(A). 3/

NCPAC's contention that AO 1979-80 stands for the proposition that expenditures against a primary candidate of one party cannot be deemed contributions to a primary candidate of a different party is erroneous. There, in response to NCPAC's first question concerning the use of an advertising firm receiving compensation from a primary candidate supported by NCPAC to make expenditures against a primary candidate of a different party, the Commission stated that it did not appear from the facts presented that NCPAC would be precluded from engaging the firm to make independent expenditures against the primary candidate opposed. 4/ The Commission then stated, however, that if the candidate went on to become the nominee of his party, NCPAC would presumably be precluded from engaging the firm to make its independent expenditures during the general election.

3/ As the previous footnote indicates, over \$120,529.62 worth of expenditures were made by NCPAC against Senator McGovern. These expenditures began as early as June 1, 1979, and have continued through the most recent reporting period. An investigation would seek to establish a link between the candidate and each expenditure made against Senator McGovern, whether it be specific authorization for each expenditure or a more general authorization.

4/ The assumption in the AO was that NCPAC would have already reached its \$5,000 limit with respect to the candidate it supported and that any further expenditures made by NCPAC would have to be truly independent of the candidate in order to be permissible at all.

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The narrow question presented in question 1 of the AO was whether the presumption of non-independence called for by 11 C.F.R. § 109.1(b)(4)(i)(B) (use of a person compensated by the candidate) would apply. Unlike the present situation there was no indication in the advisory opinion request that the candidate supported by NCPAC had directly cooperated, consulted, or coordinated with NCPAC in the making of its expenditures. If a primary candidate of one party does cooperate, consult, or coordinate with a person making expenditures in opposition to a primary candidate of the other party, the funds so expended are by the terms of the statute contributions to the requesting candidate, even though the candidates do not then oppose each other. The AO only indicated that in the absence of such evidence of cooperation with the candidate, the use of a firm compensated by the candidate supported will presumptively make the expenditures contributions to the candidate supported when the candidate is the nominee in the general election.

Also without merit is NCPAC's argument that the response in AO 1979-80 to question 8 indicates that under no circumstances could communications to a primary candidate affect whether the expenditures made by the communicating party against a primary candidate of another party are independent rather than contributions. The Commission there stated that communications to a primary candidate could preclude the person from making truly independent expenditures in the general election if that candidate became his party's nominee. The AO should not be read to mean that only if two candidates are opponents in the general election could communication with one candidate compromise the ability to make independent expenditures against the other candidate. As indicated above, if a primary candidate cooperates, consults, and coordinates with a person regarding expenditures against a primary candidate of a different party, the person making the expenditures would plainly be making a contribution to the candidate consulted as a result of such communication.

Contrary to NCPAC's assertion, the fact that Representative Abdnor was not an announced candidate at the time the communications took place would not preclude the expenditures from being deemed contributions to Abdnor. First of all, communications with Abdnor prior to his official announcement in which he requested that certain specified expenditures be made if he became a candidate would clearly compromise the independence of such expenditures made after his announcement. Moreover, the definition of the term "contribution" is not confined to payments to influence the nomination or election of "candidates." Rather, the term extends to payments made "for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8). Finally, if Representative Abdnor cooperated, consulted, or coordinated with NCPAC with regard to expenditures made before he announced, it would follow that he "consented" to them within the meaning of 2 U.S.C. § 431(2) and thereby became a candidate

as a very result of consenting to such expenditures.

Because we recommend finding reason to believe that these expenditures were contributions to Representative Abdnor in excess of the limitation of § 441a(a)(2)(A), we also recommend finding reason to believe that these contributions were not properly reported by NCPAC. NCPAC reported the expenditures involved as independent expenditures. Therefore, NCPAC appears to have violated 2 U.S.C. § 434(b)(6)(B) by not reporting these expenditures as contributions made by it. 5/

As to the final allegations of the complaint, that People for an Alternative to McGovern (PAM) is a political committee under the Act required to register and report separately, we find no basis for this allegation. NCPAC's response to the complaint states that PAM is not a separate organization at all and that all of PAM's activity is reported fully by NCPAC. In a June 1, 1980, letter to the Commission, NCPAC notified the Commission that PAM was a bank account opened by NCPAC in Sioux Falls, South Dakota, and that it was "a project of the National Conservative Political Action Committee." It thus appears that the receipts and expenditures of PAM are treated as those of NCPAC and that no grounds exist for finding that PAM has failed to register or that NCPAC has improperly reported its transactions arising from the PAM account.

RECOMMENDATION

1. Find reason to believe that NPCAC violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions to Representative James Abdnor;
2. Find reason to believe that NCPAC violated 2 U.S.C. § 434(b)(6)(B) by not reporting certain expenditures as contri-

5/ Our office would ordinarily recommend that there is reason to believe Representative Abdnor's campaign committee, Friends for Jim Abdnor, may have violated 2 U.S.C. § 441a(f) by knowingly accepting excessive contributions and 2 U.S.C. § 434(b)(2)(D), (3) (B), and 11 C.F.R. § 104.13(a)(1) by not reporting these expenditures as contributions in-kind. However, we do not make these recommendations at this time because Friends for Jim Abdnor has not yet had 15 days to respond to the complaint. A routine notice letter was not sent to Friends for Jim Abdnor because it was not clearly identified as a respondent in the complaint. Upon receipt of a response from Friends for Jim Abdnor, the Office of General Counsel will promptly submit a First General Counsel's Report to the Commission.

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butions to Friends of Jim Abdnor;

3. Find no reason to believe that People for an Alternative to McGovern (PAM) violated 2 U.S.C. §§ 433 or 434 for not registering and reporting to the Commission or that NCPAC failed to report properly with regard to PAM's activities.

Attachments:

- A - complaint
- B - 5 day notice letters
- C - NCPAC response
- D - Proposed letter

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ALC 1227

LAW OFFICES OF

DECHERT PRICE & RHOADS

888 17TH STREET, N. W.

WASHINGTON, D. C. 20006

TELEX 84 5324 • BARDEP

(202) 872-8600

COMPLAINT

BEFORE

THE FEDERAL ELECTION COMMISSION

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1040 BRUSSELS, BELGIUM
(02) 511 80 40

PRINCES HOUSE
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1800 MARKET STREET
PHILADELPHIA, PA. 19102
(818) 972-3400

SUITE 1760
ENERGY CENTER ONE
717 SEVENTEENTH STREET
DENVER, COLORADO 80202
(303) 623-1777

800 NORTH THIRD STREET
HARRISBURG, PA. 17102
(717) 233-7947

I. Introduction

The South Dakota Democratic Party (the "South Dakota Party") files herewith this complaint, pursuant to §437g of the Federal Election Campaign Act (the "Act"), alleging, inter alia, that the National Conservative Political Action Committee (NCPAC) violated §441a of the Act by making contributions in-kind to U.S. Representative James Abdnor, candidate for the Republican nomination to the United States Senate in South Dakota, in amounts well in excess of the lawful limits. The allegations of the South Dakota Party are presented in this complaint as follows:

I. Introduction

- A. Summary of the South Dakota Party's Complaint
- B. Summary of the South Dakota Party's Request for Relief

II. NCPAC Undertook Through Direct Consultations with Mr. Abdnor and Otherwise, To Persuade Him to Enter The Race For The Republican U.S. Senate Nomination in South Dakota, and Cannot, Therefore, Claim "Independence" From His Candidacy

- A. Background of NCPAC's Attempts to Persuade Mr. Abdnor to Become a Candidate for the U.S. Senate
- B. NCPAC's Interest in an Abdnor Candidacy
- C. NCPAC's Contacts with Abdnor to Persuade Him to Enter the Republican Primary Contest
- D. NCPAC Support to Abdnor After the Declaration of His Candidacy

III. The Activities of NCPAC in Encouraging Congressman Abdnor to Become a Candidate, and in Supporting His Candidacy Beyond the Date of his Formal Announcement, Make it Clear that NCPAC's Expenditures Were Not "Independent" Within the Meaning of the Act

- A. NCPAC's Activities Clearly Included "Consultation" and "Coordination" with the Abdnor Campaign
- B. NCPAC's Conduct Cannot be Reconciled with the True Nature and Purpose of "Independent" Expenditures as Established by the Supreme Court in Buckley v. Valeo

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U.S. DEPT. OF JUSTICE

Attachment A

- C. The Commission's Own Treatment of the "Independent Expenditure" Area Also Mandates a Conclusion that NCPAC has not Achieved True Independence in South Dakota.

IV. Violations by NCPAC and its Affiliate, People for an Alternative to McGovern, of the Registration and Reporting Requirements of the Act

V. Relief Requested by the Party

A. Summary of the South Dakota Party's Complaint

Specifically, in expending sums for the benefit of Mr. Abdnor's candidacy, NCPAC sought to operate as a Committee making "independent" -- and therefore unlimited -- expenditures against Mr. Abdnor's likely opponent in the general election, incumbent Democratic Senator George McGovern. As the material below will establish, NCPAC's operations were not operated in a truly "independent" manner, but instead were intimately and inextricably associated with Mr. Abdnor's candidacy. In fact, NCPAC, acting both on its own and through an affiliated committee organized in South Dakota, People for An Alternative to McGovern, made a sustained and ultimately successful effort, which included direct contacts with Mr. Abdnor, to induce him to actually become a candidate. Since NCPAC effectively stands behind the Abdnor candidacy, it can hardly assume a position of "independence" from that candidacy, and therefore all sums expended by NCPAC against Mr. Abdnor's likely opponent, Senator McGovern, should be treated not as independent expenditures, but as contributions in-kind subject to the normal limits applicable to all other political committees under §441a.

While NCPAC's expenditures for the benefit of Mr. Abdnor lie at the heart of this complaint, other violations associated with its activities in South Dakota are also raised herein, and should be investigated by the Commission. Specifically, these violations are as follows:

1. NCPAC's failure to report the full amount of contributions in-kind made to the U.S. Senate candidacy of Congressman Abdnor.

2. NCPAC's failure to report transfers of funds to the People for An Alternative to McGovern, an affiliated committee organized by NCPAC to accomplish its purposes in South Dakota.

3. Failure by NCPAC's affiliate, People for An Alternative to McGovern, to register and report pursuant to the Act.

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B. Summary of the South Dakota Party's Request for Relief.

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The allegations raised in this complaint are of the most serious nature, for NCPAC has, to date, expended considerable sums under the false claim that it was operating "independently" of any candidacy and therefore able to make expenditures without limit. These unlimited expenditures have represented an extraordinary advantage to the Abdnor candidacy, have represented a serious circumvention of the limits imposed by the Act, and have adversely affected the interests of the South Dakota Democratic Party, which will support the Democratic nominee. The Commission must act now, and without delay, to enforce the Act's requirements against NCPAC, by 1) preventing further NCPAC expenditures in the U.S. Senate race in South Dakota in this election year; 2) requiring NCPAC to pay a civil penalty in the amount of the sums unlawfully expended on Congressman Abdnor's behalf in excess of the limits; and 3) requiring correction of all violations by NCPAC and People for An Alternative to McGovern of the registration and reporting provisions of the Act, and imposing, where appropriate, civil penalties for these violations. Unless the Commission acts in a thorough and expeditious fashion, NCPAC's activities would make a mockery of the Act's provisions and the interests of the South Dakota Democratic Party will be seriously and irrevocably impaired.

II. NCPAC Undertook, Through Direct Consultations With Mr. Abdnor And Otherwise, To Persuade Him to Enter The Race For The Republican U.S. Senate Nomination in South Dakota, and Cannot, Therefore, Claim "Independence" From His Candidacy.

NCPAC purports to have spent funds in South Dakota "independently" of Congressman Abdnor's or any other U.S. Senate Candidacy. On the basis of this claim of "independence", NCPAC waged a negative media campaign against Senator McGovern in 1979 and this year which cost well in excess of \$100,000. Yet it is a matter of public record, including statements by Congressman Abdnor himself, that NCPAC worked systematically to bring Mr. Abdnor into the race for the South Dakota Republican U.S. Senate nomination. Moreover, as Congressman Abdnor has admitted publicly, NCPAC was successful in bringing about the Abdnor candidacy that it desired.

A. Background of NCPAC's Attempts to Persuade Mr. Abdnor to Become a Candidate for the U.S. Senate.

For the purposes of bringing NCPAC's activities in South Dakota into proper perspective, a brief history is in order here. In October 1979, Lieutenant Governor Lowell

Hanson, a prominently mentioned prospect for the Republican Senate nomination, announced that he would not be a candidate. Other strong, potential candidates, like Governor William Janklow, also refused to enter the Republican primary contest. As press comments over this period indicate, considerable concern was expressed in Republican Party circles about the absence of a "strong" announced Republican candidate able to compete successfully with Senator George McGovern in the general election. (See attached Exhibits A, B, C.)

The question of who might run well against Senator McGovern was one of concern not only to the Republican Party, but also to NCPAC, which had announced in 1979 that it would mount an ambitious campaign to unseat Senator McGovern. The NCPAC campaign against Senator McGovern was to be conducted through negative "independent expenditures" i.e., without regard to the dollar limits that would apply to contributions within the meaning of the Act, and \$50,000 was budgeted initially for this purpose. In addition, to assist it in this negative independent expenditure campaign, NCPAC organized and funded an affiliated committee located in South Dakota, People for An Alternative to McGovern, which was headed by state representative Hal Wick. It was the function of this affiliated committee to raise additional funds for the anti-McGovern campaign, and to develop local organization and volunteer strength to be used by the Republican Senate nominee eventually selected. (See Exhibit D.)

It also appears from the record, however, that NCPAC's interests ranged beyond expenditures directed against Senator McGovern. NCPAC sought to maximize the effectiveness of its negative expenditures by encouraging and supporting a viable Republican alternative who enjoyed a genuine prospect of defeating the Senator in the general election head-to-head contest. Yet with the withdrawal of Lieutenant Governor Lowell Hanson from the race in October, 1979, NCPAC found itself without a candidate that, in its view, had a realistic chance of success against Senator McGovern. NCPAC was publicly unenthusiastic about the earliest announced candidate in the Republican field, Dale Bell of Spearfish, South Dakota. Thus, for example, Hal Wicks of NCPAC's South Dakota affiliate, People For An Alternative to McGovern, disclosed at that committee's inaugural press conference that, while he might support Bell "personally", he saw no likelihood that he could succeed. (See, Exhibit E.) Later, NCPAC's rejection of the Bell candidacy was expressed more forcefully by Mr. Wicks, who stated that NCPAC could not "support" Bell, and that he, Wicks, was not even "sure what he's [Bell] trying to do." (See Exhibit F.)

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B. NCPAC's Interest in an Abdnor Candidacy

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NCPAC was not, however, similarly discouraged by the prospect of an Abdnor candidacy, for in the same press conference in which Wicks spoke so disparagingly of Bell, he mentioned Abdnor as possibly the "best" prospect within the party. (See Exhibit E) Yet NCPAC could not count on Mr. Abdnor to quickly decide to enter the race. Press accounts over the period between early October, 1979, when Lieutenant Governor Hansen withdrew from the race, through the middle of December, 1980, when Abdnor first indicated a serious interest in the Republican nomination, show clearly that Abdnor was originally very undecided, if not leaning against, a U.S. Senate Candidacy. (See Exhibits G & H, which are press accounts of such Abdnor statements as "They're going to have to convince me," "Right now I'm gearing up for my Congressional race," and "Personally, I think he's (Gov. Janklow) the guy to run.") Abdnor's indecision stemmed, in large part, from his concern with the level of financial support he could expect in the Senate race. In a number of comments to the press, he pointed to Senator McGovern's well financed campaigns in the past and to the expectation that the Senator would run another well funded campaign this year, and he stated that he would only become a candidate if he could raise funds in sums comparable to those raised by the McGovern campaign. (See Exhibit I).

C. NCPAC's Contacts with Abdnor to Persuade Him to Enter the Republican Primary Contest.

By December, 1979, it became clear that NCPAC had begun working to bring about an Abdnor candidacy. Press accounts have established that, in November, 1979, NCPAC commissioned a poll to determine the relative strengths of the various possible U.S. Senate Republican candidates, and made the results of this poll available to Congressman Abdnor before its public release. Congressman Abdnor has conceded 1) that the poll results were made available to him before they became public; 2) that he discussed those results with the NCPAC pollster, Arthur Finkelstein, with NCPAC national Director, Terry Dolan, and with the Chairman of NCPAC's local affiliate, Hal Wick; and 3) that on the basis of these poll results and his discussions with NCPAC officials, Abdnor decided that he would run. (Exhibit J & K). According to a report filed by Friends for Jim Abdnor, which shows the NCPAC poll as a "contribution in-kind", the poll was presented to the Congressman on December 6, 1979. (See, Exhibit N).

Abdnor made no secret about his contacts with NCPAC, nor about the encouragement that those contacts, including the poll results, had given him. Following his discussions with NCPAC personnel, Abdnor, for the first time, suggested a strong interest in the race. (See Exhibit L, a press account

of Abdnor's statement that "One can't help but be impressed by a poll like that, so yes, I guess you can say that I'm looking a lot closer at the possibility now.") According to press reports, Republican National Committeeman Bill Lenker declared that [the] NCPAC poll "will encourage Abdnor supporters to press for the Congressman to make the race." (See Exhibit M) The Congressman at no time denied that NCPAC intended to encourage him to make the race. Indeed, in an amendment to his FEC reports for this period, filed belatedly March 10, 1980, Abdnor's principal campaign committee, Friends for Jim Abdnor, reported the NCPAC poll as a "contribution in-kind" and referred to it specifically as "... survey information relating to his (Abdnor's) decision to seek re-election to the United States House of Representatives." (emphasis supplied) (See Exhibit N) It was this decision, whether to seek the House or the Senate seat, that NCPAC indeed sought to influence with its poll and contacts with Abdnor.

Moreover, recent press accounts establish that, apart from the poll commissioned by NCPAC and its related discussions with Abdnor, NCPAC actively urged others to bring pressure on Abdnor to run. In one memorandum forwarded to two Republican U.S. Senators and a politically active member of the business community, NCPAC asked that calls be made to Abdnor to encourage him to seek the Republican nomination. (See Exhibit O) This memorandum constitutes additional evidence of NCPAC's vigorous sponsorship of the Abdnor candidacy.

D. NCPAC Support to Abdnor After the Declaration of His Candidacy.

The support given to the Abdnor candidacy appears to have ranged beyond the period when NCPAC was working to persuade Abdnor to become a candidate. In early March, 1980, NCPAC's South Dakota affiliate, People For An Alternative to McGovern, announced that it would run a "media blitz" against Senator McGovern over the week March 17 to 24. It was precisely over this week of March 17 to 24 -- and, in the South Dakota Party's view, not coincidentally -- that Congressman Abdnor was to formally announce his candidacy. The Abdnor candidacy came on March 19. (See Exhibits P & O).

III. The Activities of NCPAC in Encouraging Congressman Abdnor to Become a Candidate, and in Supporting His Candidacy Beyond the Date of his Formal Announcement, Make It Clear That NCPAC's Expenditures Were Not "Independent" Within the Meaning of the Act.

A. NCPAC's Activities Clearly Included "Consultation" and "Coordination" With the Abdnor Campaign.

The FEC regulations define as "independent expenditure" as follows:

"...An expenditure by a person for a communication expressly advocating the election or defeat of a clearly identifiable candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." (emphasis supplied) 11 CFR §109.1(a).

The underlined portions ("Made with the cooperation, etc.") is further defined by the regulations as "any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display or broadcast of the communication." (emphasis supplied) §109.1(b)(4). Only expenditures made without any such coordination or cooperation with a candidate can be truly "independent" and thus unlimited. Yet NCPAC, by all press accounts, and by the plain admission of Congressman Abdnor, has engaged in consultations with Congressman Abdnor that rob its South Dakota campaign activities of any true vestige of "independence". As stated in Section II, NCPAC sought actively -- and successfully -- to induce Congressman Abdnor to abandon his earlier reluctance and to enter the contest for the Republican Senate nomination in South Dakota. NCPAC's efforts in this regard included:

- ° Commissioning a poll to support its case for Abdnor's candidacy, and presenting the results to Abdnor, prior to their public release, as part of its effort to persuade him to be a candidate.
- ° Contacts and consultations with Abdnor by key NCPAC officials, namely, Terry Dolan, NCPAC's National Director; Arthur Finkelstein, NCPAC's pollster; and Hal Wick, chairman of NCPAC's South Dakota affiliate, People for An Alternative to McGovern.

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- Contacts with Republican Party allies to enlist them in the effort to encourage Abdnor's candidacy.
- As part of the foregoing activities, publicly disparaging the candidacy of Dale Bell, another candidate for the Republican nomination, and blessing the candidacy of Abdnor.
- Conducting a media blitz against McGovern designed to coincide with, and bolster the effect of, Abdnors' actual announcement of his candidacy in the middle of March of this year.

In effect, NCPAC has embraced "independence" for some purposes, but sought to abandon it for others. "Independence" within the meaning of the Act is welcomed by NCPAC to the degree that it confers upon that committee authority to make expenditures in unlimited amounts to influence the outcome of the United States Senate contest in South Dakota. "Independence" is rejected by NCPAC, however, to the degree that it precludes that Committee from participating actively in the selection, shaping and promotion of the particular U.S. Senate candidacy which it favors in the State of South Dakota. In short, NCPAC seeks all the benefits of independence, but none of its disadvantages.

Nor, in seeking to have independence for some purposes, but not for others, may NCPAC rely on the fact that Abdnor was not technically "a candidate" when the contacts and consultations occurred. Such an argument presents the classic "distinction without a difference," and ignores entirely the clear constitutional and policy demarcation between a "contribution" and an "independent expenditure". A committee may not claim "independence" when it has actively sponsored a candidacy, consulted directly with the person it favors, shared polling and possibly other strategically valuable information, and ultimately led him to enter the race formally. If this were possible, a massive loophole would be torn into the Act, through which, no doubt, many committees would gladly walk. Such a committee would simply 1) engage in all cooperation, coordination and pre-arrangement prior to the date of formal "candidacy" within the meaning of the Act, and then 2) terminate, abruptly, its association with the candidate, with the parallel tracks of its activities and those of its candidate already perfectly well laid. This would surely be a result at odds with the true nature of "independent" expenditures. In any event, in this case, there is evidence that coordination and cooperation extended beyond the pre-candidacy period, since Abdnor's candidacy and a highly publicized NCPAC anti-McGovern media blitz were timed for the very same week.

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B. NCPAC's Conduct Cannot be Reconciled with the True Nature and Purpose of "Independent" Expenditures as Established by the Supreme Court in Buckley v. Valeo

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This highly selective approach to "independence" cannot be sustained upon a fair reading of the Act, and particularly upon a fair reading of the Supreme Court's landmark decision on this issue, Buckley v. Valeo, 424 US 1 (1976). As the Commission knows, the Court held that the "governmental" interest preventing corruption and the appearance of corruption justified Federal limits on political contributions, but could not similarly support a ceiling on truly "independent" expenditures. The Court based its conclusion i.e., that Federal limits could not be imposed on independent expenditures, on the following assumptions about such expenditures -- assumptions which shed considerable light on the reasons why NCPAC's South Dakota spending cannot properly be classed as truly "independent". The Court assumed that since truly "independent" expenditures were made without consultation or cooperation with a candidate, they did not, unlike contributions, pose a real or apparent threat of corruption. As the Court stated this point,

"...Unlike contributions, such independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counterproductive. The absence of pre-arrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as quid pro quo for improper commitments from the candidate." 424 US at 47.

Thus, the Court concluded, independent expenditures carried a "substantially diminished potential for abuse," a potential sufficiently insignificant that it could not outweigh First Amendment free speech protections. It was central to the Court's holding, therefore, that expenditures exempt from any Federal limitation be "... made totally independently of the candidate and his campaign." (emphasis added). 424 US at 47.

It is apparent from a review of the Court's reasoning in Buckley that NCPAC expenditures against Senator

McGovern in South Dakota cannot qualify for the total "independence" necessary to take it outside the dollar limits otherwise imposed by the Act. None of the characteristics associated by the Supreme Court with true "independence" are present in the case of NCPAC's South Dakota activities. NCPAC brought itself into the closest association with Congress Abdnor by successfully encouraging him, through direct contacts and otherwise, to run for the Republican US Senate nomination. Where a committee encourages, if it does not, in fact, launch, a candidacy in this fashion, it can hardly withdraw from association with the candidate at a later date and claim genuine "independence". Through these prior contacts with Congressman Abdnor, NCPAC placed itself in the same position as a large contributor, with the same opportunity to consult effectively with the candidate over the proper conduct of the campaign, and with the same intimacy with the candidate that presents, in the Supreme Court's words, the "danger that expenditures will be given as quid pro quo for improper commitments from the candidate." In short, NCPAC's activities deprived its spending against Senator McGovern of the character of an "independent" expenditure, and brought it into the category of "contributions" subject to limits. As stated previously, NCPAC cannot have "independence" for one purpose, i.e., to make unlimited expenditures, but not for another, i.e., such that it would not be able to directly support and encourage the candidate of its choice.

C. The Commission's Own Treatment of the "Independent Expenditure" Area Also Mandates A Conclusion that NCPAC Has Not Achieved True Independence in South Dakota.

While the Commission has not addressed precisely this question, it has suggested the answer in response to an Advisory Opinion Request submitted by NCPAC itself. In AO 1979-80, NCPAC sought guidance on a variety of questions about the scope of its "independence" in making unlimited expenditures in Federal elections. Of particular interest to this matter, NCPAC posed the following question (cited in the AO as "Situation 9"):

"NCPAC is making independent expenditures in opposition to the election of a candidate for his party nomination for election to the Senate. May NCPAC encourage another individual to seek the nomination of the same party for election to the Senate?" (emphasis supplied)

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The Commission responded that, as presented, the NCPAC question was "vague", and it could not therefore give a definitive response. The Commission did observe, however, that the "encouragement" of a candidacy could "impact on NCPAC's ability to make independent expenditures in opposition to the present candidate." While the NCPAC question does not correspond precisely with the facts of this matter (since NCPAC is not making independent expenditures against one of Abdnor's primary opponents, but instead against his likely Democratic opponent in the general election), the Commission's response applies no less to NCPAC's South Dakota activities. As the Commission appears to recognize, the "encouragement" of a candidacy "impacts" on an organization's ability to make independent expenditures, for the simple reason that such close association with a candidacy, through direct contacts and otherwise, effectively deprives the committee of any true claim of independence if and when the person encouraged becomes a candidate.*/

It would not be sufficient to argue, in response, that so long as Abdnor is not the Republican party nominee, and is not formally Senator McGovern's opponent, NCPAC's expenditures against McGovern cannot be treated as a "contribution" to Abdnor. This argument misses the mark entirely on two grounds. First, once NCPAC has closely associated itself with one candidacy, and indeed can claim a large measure of the responsibility for its creation, its actions cannot be analyzed independently of that candidacy. In South Dakota, by virtue of its prior consultations with and promotion of Abdnor, NCPAC has made itself into an arm of Abdnor's campaign in attacking Senator McGovern, and all of its activities must be analyzed in that light. Second, NCPAC's own polls, as well as expert opinion around the state, show that Congressman Abdnor is the prohibitive favorite for his party's nomination to the Senate. Under these circumstances, in the most practicable terms, Abdnor is running now not against his weak primary opponents, but against his probable opponent in the fall election, Senator McGovern. All of NCPAC's activities, and most, if not all of, Abdnor's current activities, are clearly

*/ In this AO, the Commission made it clear that, if a committee has contacts with one of a number of primary candidates, and if this candidate emerges from the primary contest as the nominee, the Committee cannot make independent expenditures against that nominee's opponent in the general election. Thus, the South Dakota Party assumes that, whatever the outcome of this matter, NCPAC's contacts with Abdnor preclude it from making expenditures against Senator McGovern as soon as Representative Abdnor becomes his party's nominee. (See Answer 8 in AO 1979-80.)

directed not to the primary, but to the preparation and pursuit of this fall campaign. (See Exhibit R) No comfort can be drawn by NCPAC, therefore, from the fact that the primary contest has not been held and that Abdnor has not yet been formally declared the Republican nominee from South Dakota.

IV. Violations by NCPAC and its Affiliate, People for an Alternative to McGovern, of the Registration and Reporting Requirements of the Act.

Additional violations have resulted from NCPAC's activities in South Dakota, which appeared to have been undertaken without regard to the reporting requirements of the Act. At the outset, it should be noted that NCPAC's expenditures against McGovern are not, in fact, expenditures at all, but instead are contributions in-kind which should have been reported as such. To date, however, only the value of the poll commissioned by NCPAC, and presented to Abdnor in an effort to induce his candidacy, has been reported. All expenditures following that poll (or following any earlier evidence of direct NCPAC contact as established by the Commission), including those expenditures made during the week that Abnor announced his candidacy, have not been reported by NCPAC as a "contribution in-kind" in violation of the provisions of Part 104.

Second, press reports have established that People for an Alternative to McGovern sought to raise its own funds, in addition to funds donated by NCPAC, in conducting its negative campaign against McGovern in South Dakota. This campaign has featured radio, television advertisements and newspaper advertisements. The level of activity maintained by this NCPAC affiliate appears to have well exceeded the \$1,000 threshold established by the registration provisions of the Act. § 100.5(a) of the FEC Regulations. Yet, having exceeded this threshold, People for An Alternative to McGovern has not filed a Statement of Organization with the Federal Election Commission, nor have its activities been reported through NCPAC's own FEC filings. Accordingly, NCPAC and its affiliate appear to have violated the registration and reporting provisions of the Act.

Third, NCPAC is currently "affiliated" with People for an Alternative to McGovern within the meaning of the Act, for, through the financial support and general direction it has given to this committee, it has effectively "established, financed, [and] maintained" People for an Alternative to McGovern within the meaning of §100.5(g)(2) of the Commission regulations.

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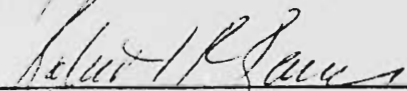
Once again, however, NCPAC's reports do not reflect any transfers of funds to its affiliated committee, and the absence of such reporting indicates a further violation by NCPAC of the reporting provisions of the Act.

V. Relief Requested by the Party

In light of the foregoing, which describe in detail serious violations of the Federal Election Campaign Act by NCPAC acting on its own and through its South Dakota affiliate, the South Dakota Party requests that the Commission commence enforcement proceedings against NCPAC, and that the actions taken against NCPAC include the following:

1. Requirement that NCPAC agree, as part of a conciliation agreement, that it will make no further independent expenditures against Senator McGovern in this election year.
2. Payment by NCPAC of a civil penalty in the amount of the expenditures involved in the violations alleged here, namely, all negative expenditures made against McGovern from the date that NCPAC first undertook to directly encourage Mr. Abdnor to become a candidate (on or about December 6, 1979 or earlier as the Commission will establish), through the present. See § 437g(a)(1)(5)(A).
3. Immediate correction of all registration and reporting violations by NCPAC and its affiliate, People for an Alternative to McGovern, including, if the Commission deems it appropriate, the imposition of civil penalties.

Respectfully Submitted,

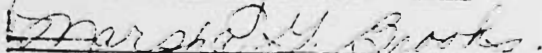


Robert F. Bauer
Attorney for the South
Dakota Democratic Party

DISTRICT OF COLUMBIA

Subscribed and sworn to before me this

2nd day of May, 1980



Notary Public

My Commission Expires March 31, 1984

Address of Complainant:
South Dakota Democratic Party
Box 668
Pierre, South Dakota 57501

Opinion

Mitchell - 10-13-79

GOP frustration: candidates bail out, negative politics flows

There are five anti-George McGovern committees afloat in the state designed to tell what is wrong with the state's senior senator, but only one alternative to McGovern has surfaced thus far.

There are five anti-George McGovern committees afloat in the state but only one committee on the books that offers an alternative for a particular candidate who professes they would be a better representative in the United States senate.

To this point, only Spearfish restaurant owner Dale Bell has filed for the office. Meanwhile Republicans who might be deemed popular and hold stronger chances of derailing McGovern than Bell are sitting on the sidelines.

It is unfortunate that anti committees surface and positive campaigns become antiquies in the historical files of state politics. It is the negative route again as usual.

Seems not too long ago we heard established Republicans saying something about how they are always going about running against George McGovern all wrong. Backward. Too negative.

But this time, it could be that — despite all of the anti groups surfacing — there are few if any people who are willing to tackle the record of George McGovern in a state ballot after weighing his 21-year impact for the benefit of South Dakotans.

Long ago, there should have been a game plan established by Republicans and a viable candidate offered who professed the positive reasons for running for the U.S. Senate if Republicans really thought they could win.

The last GOP hope for that type of candidate went out the door when Lt. Gov. Lowell Hansen slammed the door shut on a possible bid.

Hansen, who possesses the political and philosophical characteristics that are favorable to both Republicans and Democrats probably stood the best chances of running the race against McGovern. That includes Gov. Janklow, Rep. Abdnor, David Volk and Dale Bell among others.

It is no secret that Janklow has antagonized many of the electorate who checked his name in

the voting booth last November. He has not faltered at his position, but when people from his own party begin grumbling this early about his performance, it is a bad sign of things to come.

Rep. Abdnor still has aftershock from his inability to come through for hundreds of Republicans who put their faith in him to challenge Larry Pressler for the senate nomination. Now, a good number of those hundreds, are apprehensive and a good many who checked Pressler's name are wondering what they bought last November.

Abdnor may find it hard to convince these supporters once again that he will indeed do it this time.

McHas — with the exception of the lieutenant governor's race, never had a statewide race, and we doubt that he is enthusiastic about running one at this stage of a congressional career where he is finally getting an ounce of seniority.

Abdnor is getting pressure again from some corners, presumably from those who want the pressure off Gov. Janklow and placed somewhere else. It might be the clear indicator that Janklow is sincere about wanting to stay out, and wants to convince people that that is the case. To do this, he needs a name candidate surfacing. As a result, Abdnor is feeling that political heat.

Joe Barnett has never closed the door on it and is still a very likely candidate too. But he has similar frustrations. He doesn't want to look too positive now and then bow out after building up confidence of supporters as Abdnor did in 1977. So his low profile is understandable.

But what rank and file Republicans are beginning to worry about are time and negativism. As in the past, they are waiting until the two minute warning and they are going for the ultimate: digging up the sins of George McGovern.

You can bet McGovern loves every minute of it. He knows how to run against negative and emotional campaigns and as you well know, he thrives on it. It is general knowledge that people in this state don't like negative politics.

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editorial opinion

10-10-79. W.H. J. L.

GOP continues search for strong candidate

LI. Gov. Lowell Hanson's announcement that he will not be a Republican candidate for Democrat George McGovern's U.S. Senate seat leaves the score little changed in the sense that the state's GOP still is hunting for someone widely-enough known and likely to stand a chance against the incumbent. Hanson's decision not to run had been increasingly expected as time wore on since last summer when he became established as a "possible."

At the moment, only Dale Bell of Spearfish has formally announced for the Republican nomination. But party leaders have been seeking someone who can bring more acquaintance and name-identification into the fray and it is at this point that such names as Abdnor, Janklow, Volk, Barnett, Mickelson and others turn up in the conversation.

Abdnor says he "has no designs" but will not give a flat "no." Gov. Janklow has said repeatedly that he will not seek the Senate job...this time around, anyway. Speaker of the S.D. House George Mickelson also denies any interest and so does House Majority Leader Joe Barnett of Aberdeen. State Treasurer David Volk, a political veteran, says only that if both Hanson and

Abdnor decide against a Senate campaign, "then I've got to consider it."

Meanwhile, Hanson's "no run" announcement — originally set, incidentally, for Tuesday but released generally Monday after someone "jumped" the release — contained this paragraph:

"During the Senatorial campaign next year, I intend to support the Republican who wins our party's nomination. I firmly believe that Senator McGovern's positions and record do not reflect the philosophy of the majority of South Dakotans...and that he can be beaten in 1980."

This came while Abdnor and Dan Parish, state GOP party chairman, directed their attention to Gov. Janklow, Abdnor asserting, "Personally, I think he's the guy to run" and Parish remarking, "I've had a lot of input from people who are politically astute urging Bill to run. He would have an excellent chance."

Given someone with such a chance, the next Republican tasks will be 1. to get all Republicans to vote Republican, and 2. bring some Democrats into the GOP camp. It shouldn't be forgotten that registered Democrats outnumbered Republicans last time around and presumably nothing has changed much since then.

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Republicans feel McGovern vulnerable, have no opponents

The Associated Press *Republcity*

Republican National Committee officials are convinced that George McGovern is ripe for defeat in next year's U.S. Senate race, but they admit their inability to come up with a candidate to oppose him. 12-3-76

Norman Turnette, head of the Republican's search committee, said Saturday that five or six South Dakotans could beat McGovern in 1980, but none are ready to emerge.

"I think we can win it. I am encouraged about that," Turnette said. "But it's not the easiest state we've got right now."

However, Turnette said the Republicans believe they will come up with a "viable and electable candidate."

Among names mentioned was Gov. Bill Janklow, who has repeatedly discounted any McGovern-Janklow contest.

"I do all my communicating through him, but in no way is it conversation urging him to run. He says he is out of it and I take him at his word. He will not be a candidate," Turnette said.

Turnette did not volunteer names of potential candidates, but he admitted that Attorney General Mark Meierhenry and Congressman James Abdnor are possibilities.

He said he is pleased the committee has come up with candidates to oppose "targeted" senators in Indiana, Iowa and Idaho.

The possibility of a late entry doesn't disturb Turnette.

"We can win with someone who gets in sometime next year. That isn't impossible," he said, adding that now Republican Orrin Hatch defeated former Sen. Frank Moss in Utah even though he didn't announce his candidacy until April.

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5th anti-McGovern group born

By TIM HINKLEY
Argus-Leader Staff Writer

While Republicans lost a contender for the 1980 Senate race Monday, state party officials watched the birth of the fifth committee opposing Democrat Sen. George McGovern's re-election.

Lt. Gov. Lowell Hansen, considered to be a potentially strong GOP candidate to oppose McGovern, said family considerations postponed any bid for higher office at this time.

"My family has encouraged me to run, but as a father and a husband, I believe it to be in the best interest of my family not to seek the Senate seat," Hansen said Monday.

Later that day, state Rep. Hal Wick, R-Sioux Falls, announced the formation of the "People for an Alternative to McGovern" committee, which is affiliated with the Washington D.C.-based National Conservative Political Action Committee (NCPAC).

Wick announced the beginning of a \$50,000

program that will advertise and use direct mail to "rally conservative and moderate opposition to McGovern."

Under Federal Election Commission law, the group cannot support any candidate, but Wick mentioned U.S. Rep. James Abdnor, R-S.D., as the type of conservative candidate they would prefer.

"We are not a stalking horse for any candidate or any political party," Wick said. "We are an organization for an alternative to Sen. McGovern."

Wick described the group as an independent-educational committee to inform South Dakotans about McGovern's record in Washington.

People for an Alternative has about 12 members.

Wick said he was contacted by NCPAC to run the committee "aimed at replacing one of the nation's foremost liberals. We will try to coordinate individuals by counties and offer

our results to the person nominated to oppose Sen. McGovern."

"This will give McGovern's opponent a base from which to find the local campaign support and volunteers," Wick said.

"By undertaking this project, we expect to generate some heat in South Dakota politically. We believe Sen. McGovern's 1974 opponent (Leo Thorsness) lost that election because of the negative image he conveyed.

"If we are successful, perhaps McGovern's 1980 opponent will not have to convey such a negative image and can run in the nice guy tradition of a candidate like Larry Pressler."

NCPAC organizations are opposing the re-election of Democratic senators in five states.

Democrats labeled the committee's formation as negative political maneuvers.

"The style of politics that promotes no candidate but rather seeks to attack incumbents has gained credence since the Nixon years," said Judy Harrington, a McGovern aide.

Minnehaha Democratic County chairman Dennis McFarland said the committees "do the hatchet work and make their candidate look positive and actually they work hand-in-hand."

Other committees formed to oppose McGovern's re-election include the Target McGovern committee (organized by Republican candidate Dale Bell), People Who Want a New Senator (another Bell committee), S.D. Senatorial Research Committee (chaired by Sen. Don Peterson, R-Yankton) and McGovern Accountability Committee (sponsored by the Republican State Central committee).

Exhibit D

G. V. 4
- 10-9-79

Argus

Questions & Answers, Hal Wick Press Conference, 10/8/79

Q: Who would you like to see oppose McGovern?

A: Best candidate at this time is probably Jim Abner, but it is too early to tell.

Q: Would you support Dale Bell?

A: I could support Bell personally, but I don't think he has enough visibility to win.

Q: In light of the fact that you have no candidate to support, aren't you putting the cart before the horse with organizing & educating now?

A: Through our organization & education, we hope that the candidate who does oppose McGovern will not have to say anything negative.

Q: With the election a year away, aren't you perhaps too early?

A: Jimmy Carter started at least one year ahead of the election, also we've seen studies that indicate that most voters have their minds made up in January of an election year.

Q: In your statement you say that South Dakotans feel this and that, how were these statements arrived at, through a poll?

A: Yes, we took a poll before we started.

Q: Are you going to release the results of the poll?

A: No, not at this time.

Q: In taking a stand of anyone but McGovern, aren't you leaving yourselves open to someone who may not be as conservative as you would like?

A: We will make decisions on that possibility when it happens.

Q: You claim that McGovern is being influenced by out of state money and contacts. What about your connection w/ NCPAC?

A: (LONG pause) I don't know if you could call that out of state involvement...Conservatives are doing now what the liberals did in the 1960's. We'll make all the decisions here in SD, we'll have total autonomy.

Q: How many members in your group?

A: We've received 1/2 dozen to a dozen letters of support to date.

Q: Will you seek out a candidate?

A: No, all we will be doing is organization at the county and state levels and education of the public.

Q: Are you going to seek contributions from out of state?

A: Yes, but we will stop when McGovern stops taking contributions from out of state. We would probably disband at that point.

Q: Don't you think that you will be stepping all over the other anti-McGovern groups? Also, won't it be possible for McGovern to portray himself as some one under siege?

A: I don't know if we will be overlapping with the other groups or not. We are forbidden by law from cooperating with them. As for the second, McGovern will probably try to portray our purely educa-

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Plans laid to oust McGovern

8/20/79

By JUDY ALLEN
Daily Republic
Washington Bureau

WASHINGTON — South Dakota Sen. George McGovern, considered by a national conservative organization the most vulnerable liberal senator, will be the target of a state blitz designed to draw attention to his "distasteful" voting record.

The National Conservative Political Action Committee last week named McGovern, Frank Church of Idaho, John Culver of Iowa, Birch Bayh of Indiana and Alan Cranston of California its targets for 1980, when they all face reelection.

NCPAC announced that it will spend \$700,000 in the five states this year for television, radio and newspaper ads focused on the liberal voting records of the target senators.

According to Terry Dolan, NCPAC chairman, \$70,000 has been allocated to South Dakota, where state Rep. Hal Wick of Sioux Falls will coordinate the campaign.

"We picked them because they are the most distasteful, the most liberal, the most radical, and the most vulnerable," Dolan explained.

Wick, a Republican currently serving his second term representing the 11th District in the South Dakota state legislature, said that although NCPAC cannot support any particular opponents to the targeted senators because they make larger contributions than the Federal Election Commission permits for committed political committees, several unannounced McGovern foes could unseat the popular three-term senator.

Wick said that NCPAC forces in the state are not supporting the candidacy of Dale Bell, adding, "I'm not sure what he's trying to do."

However, he suggested that former governor Richard Kneip could defeat McGovern in a Democratic primary, and said, "In the general election, the governor could beat him, and so could (Rep.) James

Abdnor."

Wick, who was approached by NCPAC about eight weeks ago and asked to head the South Dakota anti-McGovern effort, will be the narrator in television commercials to be filmed for airing in the state. They will focus on McGovern's taxpayer-funded "junkets" and on the fact that he owns no property in the state.

The commercials will begin airing about Sept. 1, Wick said.

Sample advertisements distributed at the press conference here included a script for a television spot featuring a basketball-dribbling black man with a background of the familiar Harlem Globetrotters' theme.

"Globetrotter is a great name for a basketball team," the voice-over says. "But it's a terrible name for a senator. Only one senator did more globetrotting last year than George McGovern. No wonder he's lost touch with South Dakota."

An ad slated to appear in a

Sioux Falls paper features a caricature of McGovern handing a map of America to a Chinese. "McGovern Sells Out Taiwan and the U.S.," the headline reads.

Wick said future attacks on McGovern may focus on his inattention to senior citizens' concerns (the state's population is made up of 20 percent elderly), and on his record on farm issues.

The Republican legislator termed McGovern's defeat in 1980 "not just possible, but probable," and said the state Democratic leadership may even convince him not to run.

If that occurs, Wick said, a Sen. Edward Kennedy-McGovern Democratic presidential ticket is conceivable. "They would be very formidable," he said.

Wick will appear in NCPAC ads, help with media decisions, and assist in fundraising efforts, he said.

McGovern is also on the hit lists of other national conservative groups, including the Conservative Caucus and the Committee for the Survival of a Free Congress.

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Abdnor would run if drafted

WASHINGTON (AP) — If South Dakota Republicans want Second District Rep. James Abdnor to run for the U.S. Senate, they'll have to mount a "draft Abdnor" effort, he said today.

Abdnor, who is serving his fourth term in the House, told the Mitchell Daily Republic's Washington bureau that the only thing that could convince him to oppose Democrat Sen. George McGovern is "a public demand so great I couldn't turn it down."

Because of his "stature and seniority" in the House, Abdnor said he is reluctant to consider what would be a hard-fought contest against McGovern.

In recent days, particularly since Lt.

Gov. Lowell Hansen announced he will not seek the nomination, Abdnor's name has most often been mentioned among South Dakotans looking for a Republican challenger with a statewide reputation.

"A week ago I would have said it was impossible," Abdnor said. "It was the last thing on my mind until recently."

Abdnor's choice for the role as McGovern's opponent is Gov. William Janklow, who has said he will not be a candidate. If a draft Janklow movement were initiated, Abdnor said perhaps the governor could be convinced to run.

While his Republican philosophies differ substantially with those of McGovern,

Abdnor said he doesn't have a personal vendetta against the senator nor would he become a figurehead for any "dump McGovern" movement.

"The door is open," Abdnor said, and "U.S. senator is a nice title."

"They're going to have to convince me. Right now I'm gearing up for my congressional race."

Arm-twisting has been coming from Abdnor's friends and constituents rather than from the state's Republican party hierarchy, he said.

"I haven't been taking these people seriously until just recently. They've been coming to me, which is nice," Abdnor said.

R.C. Journal
**Abdnor mulling
run for Senate 10-8-74**

SIoux FALLS (AP) — The GOP nomination for a U.S. Senate seat still remains up in the air but 2nd District Congressman James Abdnor says he hasn't ruled out the possibility yet.

Only one person, Dale Bell of Spearfish, has announced his desire for the seat now held by Democratic Sen. George McGovern. McGovern hasn't announced formally but is expected to try for re-election.

"At this time, I don't have any designs," said Abdnor. "But I will not say flatly to you that I don't."

Don Parrish, state GOP party chairman, has labeled Abdnor as a "very viable candidate."

At Gov. Lowell Hansen will announce Tuesday a decision to seek the seat.

But if both Hansen and Abdnor decide against the campaign, state Treasurer David Volk will be waiting in the wings.

"If both of them get out, then I've got to consider it," said Volk.

Another frequently mentioned name for the post is Gov. Bill Janklow.

"Personally, I think he's the guy to run. I'd love to see the guy go," said Abdnor.

Parrish, Bell and Volk agreed but Janklow has said repeatedly that he won't seek the Senate seat.

"I've had a lot of input from people who are politically astute urging Bill to run," said Parrish. "He would have an excellent chance."

"But, he has been closing the door awfully tight," the state Republican chairman added.

Another politician who has expressed interest in the nomination and has received at least some party support is South Dakota House Majority Leader Joe Barnett of Aberdeen.

However, Barnett declined comment about a possible campaign.

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Mitchell DAILY REPUBLIC 1/19/80

Abdnor still expected to seek U.S. senate seat

By VINCE STRICHERZ
Daily Republic
City Editor

PIERRE — Who will be the Republican candidate challenging George McGovern for his U.S. Senate seat?

Though Dale Bell of Sturgis, an American Agriculture Movement leader, and Wayne Peterson, Holabird, have already announced their intentions, most of the frequently mentioned candidates are looking to Congressman Jim Abdnor as a shoo-in for the nomination.

Abdnor himself, is sounding more convinced than ever that he has the support to run.

"I'm all but there right now," Abdnor said at a Republican legislative press reception here Thursday night. "I'm not totally convinced. They have to show me a little bit more (support)."

If Abdnor isn't totally convinced, others mentioned as prospective candidates seem to be.

"I don't think it's any secret, Jim Abdnor is going to run and that will be the end of the announcement," said House Majority Leader Joe Barnett, Aberdeen. "That's just conjecture — my opinion," he added.

Attorney General Mark Meierhenry shares Barnett's opinion. "Isn't it set that he

(Abdnor) is going to run?"

Put Meierhenry didn't completely eliminate himself from a bid for McGovern's seat. "I haven't earned my spurs yet. I've only been here a year, some of the elders of the party have earned the right to run. If no one else declares, and it gets down to brass tacks, I'll have to look at it again."

State Assistant Majority Leader George Shanard, considered by some as a strong possibility to seek McGovern's seat, said, "I can't see any stronger than I have before. I am not a candidate, as much as I'd like to be. I'm just not ready yet." Shanard didn't speculate on who the nominee of the party might be.

Gov. William Janklow also reiterated his position that he has absolutely no desire to run for the Senate.

In speaking of his potential candidacy, Abdnor said, "I still got a couple of obstacles to overcome. Right now let's say I'm just extremely interested."

"Gee, when you're talking about running against George McGovern, I have nothing but the highest respect for him. He ran for president — he's in a league by himself." In assessing his possibility of running he said, "Nobody has shoved any money at me yet (as offered to run), but it'll take an awful lot of it to run."

80041202947

McGovern 'anti-campaign' draws fire from candidates

By RICK HAUFFE

Public Opinion Staff Writer

ASSOCIATION with a certain political action committee working on an "anti-campaign" against Sen. George McGovern, D-S.D., appears to be something South Dakota senate primary candidates want to avoid.

However, in one case, suggesting an opponent is involved with that group's efforts is in order.

The group in question is called NCPAC (pronounced "nickpack") which stands for the National Conservative Political Action Committee, a right-winged group based in Arlington, Va., that is waging an "anti-campaign" against five U.S. senators whose voting records are viewed by the group as too liberal.

The senators other than McGovern are Birch Bayh of Indiana, John C. Culver of Iowa, Frank Church of Idaho and Alan Cranston of California.

IN SOUTH DAKOTA, NCPAC is allied with and to some degree orchestrates the Alternative to the McGovern group which is headed by Hal Wick of Sioux Falls. The Sioux Falls group has been responsible for placing advertisements in the media or mail making charges against the senator using his voting record against him.

NCPAC Director Terry Dolan said his group plans to spend \$100,000 in South Dakota in 1980 on advertisements against the senator and other activities. Other groups working against McGovern have their own budgets to wage political war with. Dolan said 66 percent of his allotment for South Dakota would be spent prior to the June 3 primary in an effort to soften up McGovern for his Republican challenger — who ever it is.

Dolan rationalized the "anti-campaign," noting that incumbents have always had an advantage to challengers who, when they enter the race and attack the incumbent, gain a more negative image. NCPAC's function is to knock down the incumbent's esteem for the challenger but without making any endorsements for the challenger.

NCPAC IS allowed to operate its present campaign within the limits of the "independent expenditure" law. The law says

a group like NCPAC may make "expenditures for communications made expressly to advocate the election or defeat of a clearly identified candidate which is not made with the cooperation or the consent of or in consultation with or at the request or suggestion of any candidate or any of his agents or authorized committees."

The one who is making the suggestion about his opponent is Dale Bell of Spearfish who is battling Rep. Jim Abdnor for the Republican senate nomination. In an interview recently with the Public Opinion, Bell charged he has "good reason to believe" that there is some "collusion" between the Abdnor campaign and NCPAC.

Abdnor said that since he announced his candidacy for the senate, "I have absolutely nothing to do with them (NCPAC). I haven't been in conversation with them on anything. I have no part of it. I have nothing to do with Hal Wick."

HOWEVER, Abdnor said that before he announced his candidacy, he was contacted by the NCPAC pollster Arthur Finkelstein about a poll which showed Abdnor could beat McGovern "50 to 33 percent." He said Dolan also consulted him before announcing about the poll and it was because of the poll's results that Abdnor said he was influenced to run against McGovern.

Bell said he has had indications Abdnor will get consultation from NCPAC.

"I would encourage the Federal Election Commission to look closely into the collusion that may well be taking place between Congressman Abdnor's efforts and NCPAC's efforts," Bell said.

Terry Dolan and Arthur Finkelstein, who is their pollster, met with Abdnor and encouraged him to run. I don't know how much collusion there still is between the two (Abdnor and NCPAC), but if you want to draw NCPAC to a candidacy, the NCPAC candidacy is Jim Abdnor. That's the anti-campaign."

Bell said he "wouldn't touch NCPAC" although his campaign staffer in Spearfish, Mark Young, said Bell once applied to NCPAC in 1978 for assistance in a run for the Second Congressional District

Republican primary race. However, NCPAC was one of many right-winged groups the Bell campaign was appealing to for help and the Bell campaign eventually folded when Abdnor announced his candidacy for the seat that year.

These days, however, Bell doesn't want any part of the NCPAC group and says it can be the kiss of death to a campaign against Sen. McGovern.

"I DON'T BELIEVE that it's proper for the NCPAC people in Washington to enter this state's politics with negative campaigning," he said. "I don't think it's any of those guys' business. I think they ought to keep their nose in Arlington, Va."

Abdnor said he's disappointed with Bell's statement. "He had no right making a statement like that. That's a terrible thing for him to do and I hope he cleans up his campaign."

However, he views the NCPAC "anti-campaign" as a matter between just Sen. McGovern and NCPAC.

"I don't have anything to do with their fight. That's between McGovern and that group. What am I supposed to do about it? Someone asked me the same thing about (Gov. William) Janklow. What am I supposed to do about Bill? I can't tell him he can't talk and make speeches. This is a free country."

JANKLOW AND McGovern have had a dialogue of remarks about each other since they debated last summer in Rapid City over the four aid issue.

On political action committees (PACs) in general, Abdnor remarked:

"If they see (PACs) something in me they like in my voting record, then that's fine. Welcome to my neighborhood. The support's fine. It doesn't mean I'm going to take their money but I can't stop them from supporting me and I like all the votes I can get."

Abdnor added that he's never been "bought out" by special interest groups and that his voting record has been around longer than the group's interest in his senate campaign.

80040202918

Abdnor uses a tip-off on Senate campaign charge

Exhibit 1

PIERRE, S.D. (AP) — Rep. James Abdnor became flustered Wednesday when reporters questioned him about charges that his U.S. Senate campaign was improperly connected with a national conservative group.

The charges came this week from Sen. George McGovern, from Abdnor's Republican primary opponent Dale Bell and from a lawyer for the South Dakota Democratic Party.

They accused Abdnor of coordinating his campaign with the National Conservative Political Action Committee in violation of Federal Election Commission rules.

Contacted by a Washington reporter Tuesday

natics, either. That doesn't sound like Jim Abdnor," he said.

"I've got no problem with them (NCPAC)," Abdnor said.

"NCPAC's got a lot of great people in it. I just don't want to be tied to their negative campaign."

The Washington reporter, Judy Allen of Thomson Newspapers Ltd., stood by her story. And before the morning was up, Abdnor had called her to admit that he did make the statements.

In general, Abdnor's response to the allegations was that he had no illegal connections with NCPAC.

"I have nothing to hide," Abdnor said Tuesday night. "My first direct contact with NCPAC was last August during State Fair week when shown a NCPAC poll. I was flattered by the high rankings but not impressed by their poll."

Abdnor said Wednesday that he was shown the NCPAC poll by Hal Wick, a state legislator who chairs the People for an Alternative to McGovern, an anti-McGovern group.

Abdnor said he later did his own telephone poll.

"They interested me enough to do my own checking," he said.

In February, Abdnor amended his FEC financial reports to show the NCPAC poll as a \$500 in-kind contribution to his campaign.

While Abdnor admitted talking to NCPAC officials about his chances in the U.S. Senate race, he says he has no connection with the group.

Abdnor said he received a computer-written letter from NCPAC in January thanking him for a recent \$75 contribution. That started a series of letters between him and NCPAC as he tried to remove his name from their list.

"I was perturbed," Abdnor said. "I wouldn't give them a nickel."

"If anything has been done wrong, I am ignorant of the law or I am not aware of it," he said. "I am trying to beat McGovern but NCPAC's involvement in it"

night, Abdnor denied the allegations and said: "I'm glad George (McGovern) is finally coming out in the open. He usually operates under cover."

And the 2nd District Congressman called the members of NCPAC fanatics.

But Wednesday morning Abdnor denied he had made those statements.

"I'm sure I never made those statements," Abdnor said. "I think she (the Washington reporter) was talking to my girl here in the office."

"I swear I didn't say anything about McGovern coming out from under cover. I didn't call them fa-

*ABDNOR

Continued on page 2A

SIOUX FALLS, SD,
Argus Leader, 5/1/80

McGovern: Changes would shaft farmers

WASHINGTON (AP) — Sen. George McGovern charged Wednesday that possible changes in Energy Department policy on alcohol fuel production would hurt farmers in favor of major energy companies.

McGovern, D-S.D., said a report by a study group of the Energy Research Advisory Board recommends reliance on alcohol produced from forestry residues and from coal and would deprive farmers of their chance to achieve energy self-sufficiency.

The result, McGovern said, "will confine most of the nation's alcohol fuel production to a comparatively few plants and corporations in what is essentially a duplication of our centralized oil industry."

If the recommendations are accepted, "We may well find that

most of the available supply as well as the price of alcohol fuels will be lock-stepped behind the supply and escalating price of foreign oil," he said.

The report seriously erred in its findings that farm-produced alcohol must be confined to grain surpluses in order to avoid food shortages, he said.

The study group completely overlooked the use of alternative and high carbon content crops and new technology which will expand available land, prevent soil erosion and reduce fuel tillage requirements," McGovern said.

He also said the study group lacked representatives of small-scale alcohol production "while persons who advocate large-scale methanol production were prominent in its activities."

Robinson

Mitchell 12-14-79

Daily Republic Managing Editor

Abdnor told the Daily Republic, "One can't help but be impressed by a poll like that, so yes, I guess you might say I am looking a lot closer at the possibility now."

"I'll tell you one thing, I am not going to be pushed into this thing. It's my decision and I will not let one organization or another decide for me. It will be me and maybe a handful of friends that talk it over."

"But I will tell you one thing, if I decide to go, I will not run as a sacrificial lamb for anybody. I know it would be a tough race with McGovern, but I look ahead two years and see a statewide race with Daschle and that would be a tough race, so anyway you look at it, it isn't going to be easy."

"Good heavens. A campaign like that would be much more costly than anything I've ever been involved in, so it would require a great deal of money raising. But if I am sure that there is that kind of backing it would be another positive factor."

"Don't make me a candidate yet. There is a lot to be done yet. With this coming right at Christmas time, it makes it difficult. But I know I can't keep people hanging on forever. So I've got to decide as soon as possible."

"Very seldom have I ever seen the people of this party so optimistic about their overall chances this year. There is a good feeling that the Republican Party is going to do well in the next election. That gives me a bit more incentive."

Pierre Times

IF HE WILL RUN!!

12/14/79

GOP official says Abdnor can win

Exhibit M

A South Dakota GOP official says he thinks Republican Congressman James Abdnor could unseat Democratic Sen. George McGovern.

"He's certainly one of the top contenders, and I think he could win," says Republican National Committeeman Bill Lenker, Sioux Falls. "Running for the senate, however, takes a large commitment. It's not an easy decision."

A key question that Republicans have asked is whether Abdnor, who represents the second congressional district, could win in vote-rich Sioux Falls and other cities in the first congressional district.

"Abdnor has a lot of friends over in this part of the state," says Lenker. "The second congressional extends to Mitchell -- only 60 miles from Sioux Falls -- and he's pretty well known."

Vern Loen, administrative assistant to Abdnor, says the congressman has made no decision about entering the 1980 Republican primary for the senate. "He's assessing the situa-

tion, so there's no change," Loen says.

Lenker says he thinks a poll

'The congressman had heard McGovern was in trouble. What will need to be determined is whether this unhappiness translates into votes for Jim Abdnor.'

financed by a Washington-based conservative group showing Abdnor has a 50 to 33 percent lead over McGovern will encourage Abdnor supporters to press for congressman to make the race.

The poll by Arthur Finkelstein and Associates of New York for

the National Conservative Political Action Committee of Washington, Loen said, shows about the same thing as Abdnor's private polls.

"The congressman had heard McGovern was in trouble," Loen added. "What will need to be determined is whether this unhappiness translates into votes for Jim Abdnor."

Does Abdnor have a target date for deciding if he'll enter the GOP senate primary in June?

"No, he doesn't," Loen said. "It will require a great deal of consultation with friends and supporters in South Dakota. The question of availability of (campaign) money will be a big factor. McGovern spent \$1.2 million last time -- the second highest in the country -- in 1974."

What Abdnor must weigh is that South Dakota is expected to lose one of its two congressional seats after the 1980 census. Abdnor's counterpart, first district Congressman Tom Daschle, D-S.D., has been making appearances statewide, apparently preparing for the 1982 election.

Loen puts it this way about Abdnor's options:

"There's one thing about it. Congressman Abdnor must run statewide in 1982 regardless, assuming he'll be returned to congress next year."

"The question really is timing -- timing is everything in politics. Should he run for the Senate for a six-year term in what appears at this point to be a good Republican year or should he wait two years and run for a two-year term in what may or may not be a year of more adverse conditions?"

The June GOP primary so far includes conservative Dave Bell, a Spearfish restaurant owner. The Finkelstein poll shows McGovern with a 45-26 percent margin over Bell.

Two possible Republican candidates, Atty. Gen. Mark Meierhenry and State Treasurer Dave Volk, weren't included in the Finkelstein poll.

If Abdnor vacates the Congressional seat he has held for seven years, the next question will be who will run for the vacancy?

Exhibit N

FRIENDS FOR

^{SP}
**JIM
Abdnor**

MAR 19 1980

REGULAR MAIL

(605) 224-~~XXXX~~

P.O. BOX 806

PIERRE, SOUTH DAKOTA

CO-CHAIRMAN
Dale Ferguson, Philip
CO-CHAIRWOMAN
Gertrude Brunk, Wagner
TREASURER
Cleo Urban, Pierre

OFFICE OF THE CLERK
U. S. HOUSE OF REPRESENTATIVES
FINANCE COMMITTEE
CO-CHAIRMAN
Frank Smith, Pierre
Ed Brink, Pierre
Phil Haggis, Pierre
PH 3:28
REGISTERED

March 10, 1980

Mr. Edmund Henshaw, Clerk
U. S. House of Representatives
Office of Records and Registration
1026 Longworth House Office Building
Washington, D.C. 20515

Re: Amendment to FEC January 31, 1980
Report Friends for Jim Abdnor
#033383

Dear Mr. Henshaw:

On February 12, 1980, we were notified by the National Conservative Political Action Committee, 1500 Wilson Boulevard Suite 513, Arlington, Virginia 22209 of an in-kind contribution to Friends for Jim Abdnor in the amount of \$500.

This amount represents the value of survey information presented to Mr. Abdnor on December 1, 1979, relating to his decision to seek re-election to the U. S. House of Representatives.

As such, it should have been included in the January 31, 1980 report, but late notification prevented this. Please consider this letter an amendment to the January 31 report.

Sincerely,

Cleo Urban

Friends for Jim Abdnor
Cleo Urban, Treasurer

cc: South Dakota Secretary of State
National Conservative Political Action Committee



Abdnor, action group accused of conspiring

Exhibit O

By JAKE HENSHAW
Gannett News Service

WASHINGTON — The South Dakota Senate race heated up Tuesday as Rep. James Abdnor, R-S.D., and a national conservative group were accused of improperly working together to unseat Sen. George McGovern, D-S.D.

A lawyer for the state Democratic Party, McGovern campaign sources and Dale Bell, who is opposing Abdnor for the Republican nomination in the Senate race, charged that Abdnor and the National Conservative Political Action Committee (NCPAC) have coordinated their efforts in violation of the federal election rules.

Abdnor and NCPAC spokesman John T. Dolan readily admitted that they were in contact with each other prior to Abdnor's decision to run for the Senate but not since then.

And Dolan said NCPAC has a opinion from the

Federal Election Commission approving of their activities.

"This (the charges) are like most of the antics of the Democratic Party ... It is nothing more than an effort to hide the real issue in the campaign and that is the record of George McGovern," Dolan said.

An issue for NCPAC is its ability to continue to spend an unlimited amount of money in the Senate race opposing McGovern. The conservative group, which is trying to defeat five moderate to liberal incumbent senators up for re-election this year, has already spent about \$120,000 in South Dakota opposing McGovern through television, radio and newspaper advertisements, Dolan said.

The legal implications of the charges for Abdnor are less clear, but Bell said that his opponent has been less than candid with the state's voters in

ELECTION

Continued on page 2A

discussing his relations with NCPAC.

Bell accused Abdnor of using NCPAC as the "hate group to knock down George McGovern," a charge that Abdnor strongly denies.

"I'm not a part of it (NCPAC)," Abdnor said.

The state Democratic Party Friday is expected to file a complaint with the FEC, alleging that NCPAC has violated its status as an independent committee by encouraging Abdnor to run for the Senate and coordinating election activities with him since.

Robert Bauer, a Washington attorney representing the South Dakota Democratic Party, said he will ask the FEC to prohibit NCPAC from spending any more money in South Dakota and to make some kind of refund of most of its South Dakota expenditures.

Essentially, the FEC defines an independent committee as one that spends money for or against a candidate totally independent of any coordination with him or his opponent.

The case for Abdnor and NCPAC coordination was made this way Tuesday.

Bell released an undated NCPAC memorandum in which Dolan encouraged conservative Sen. Orrin Hatch, R-Utah, and Gordon Humphrey, R-N.H., and Kansas City, Mo. businessman Miller Nichols to tell Abdnor and urge him to run for the Senate on the basis of promising freedom of a November 1975 poll.

Bell also released a Jan. 14, 1980, letter from Nichols to a Bell fund-raiser, declining to contribute because Nichols was raising \$100,000 for NCPAC in Kansas City to be used against McGovern. Nichols said Tuesday that he has raised more than \$100,000 of the \$100,000.

In the letter, Nichols said the money would be earmarked exclusively for use in South Dakota to publicize McGovern's voting record and "to support whatever candidate they (NCPAC) decide has the best chance of beating him."

Acting independent of Bell, sources in the McGovern campaign also said that Dolan and pollster Arthur Finkelstein met with Abdnor to show him the results of a favorable poll Finkelstein conducted and to encourage Abdnor to run.

McGovern campaign sources also charged that NCPAC, through its South Dakota affiliate People for an Alternative to McGovern coordinated an anti-McGovern television campaign with the March 1980 formal announcement of his Senate candidacy.

A McGovern campaign source charged that NCPAC is overstepping its authority by actively recruiting a candidate for the South Dakota Senate race.

"The NCPAC relationship with Abdnor is sufficiently intimate to bring their independence into question," Bauer said.

Abdnor, Finkelstein and Dolan admit they met last year to discuss Finkelstein's poll. Abdnor said the poll was a factor in his decision

Sibux Falls, SD, ARGUS
LEADER, April 30, 1980

When Abdnor became a candidate, both an Abdnor aide and Dolan said the poll was reported to the FEC as a \$500 campaign contribution to Abdnor. But the two men insisted they have had no contact since Abdnor announced his candidacy.

NCPAC attorney Curtis Herge said these activities are in line with an FEC advisory opinion which, among other things, approved NCPAC's contact with Abdnor prior to his decision to run.

By not contacting Abdnor after his decision to run or during the primary, Herge said NCPAC can continue to spend money against McGovern through the general election.

PFAAM

Exhibit P
PEOPLE FOR AN ALTERNATIVE TO MCGOVERN

P.O. Box 1865
Sioux Falls, South Dakota 57101

FOR IMMEDIATE RELEASE

MARCH 14, 1980

CONTACT: STATE REP. HAL WICK (605) 528-3260

ANTI-MCGOVERN GROUP SCHEDULES TELEVISION ADS

The People for an Alternative to McGovern Committee Friday announced plans for a television advertising blitz to inform South Dakotans of Sen. George McGovern's record on tax and energy matters and of his many taxpayer-financed travels.

State Rep. Hal Wick, PFAAM chairman, said the ads will be aired in the Rapid City and Sioux Falls areas March 17-24.

"The ads are designed to show that on energy and tax matters, George McGovern doesn't represent South Dakota," Wick said. "We also believe many South Dakotans will object to the senator's frequent foreign junkets at taxpayers' expense."

The ads will air on stations KXON, channel 5, KELO, channel 11, and KSFY, channel 13 in Sioux Falls. In Rapid City, the ads will be shown on stations KOTA, channel 3, and KEVN, channel 7.

"This advertising effort represents an unprecedented campaign to publicize Sen. McGovern's liberal Senate record," Wick said. "While Sen. McGovern is extremely liberal on all issues, we have chosen to discuss these three issues that show he's out of touch with South Dakota."

-more-

80040202934

In the tax advertisement, Wick charges McGovern "voted himself a 29 percent pay raise, and he consistently votes against tax cuts while supporting increased federal spending."

In the energy advertisement, Wick charges McGovern's energy record is "one of the worst in Congress." Wick also discusses McGovern's proposed 50 cents-a-gallon gasoline tax, his support for creation of the Department of Energy, and his opposition to energy tax incentives.

A third advertisement discusses McGovern's many foreign travels, including a visit to Fidel Castro in Cuba. "In 1978, except for one other senator, George McGovern went on more junkets than any other senator," the ad charges.

"We believe these advertisements will better inform the people of South Dakota about George McGovern's liberal Senate record, and will show the voters how he's not been representing us in Washington," Wick said.

Rapid City Journal 3-11-1980

Abdnor says he'll challenge McGovern

Bob Imrie
Staff Writer

Saying either he or Sen. George McGovern has voted "very, very wrong" in the past, Congressman Jim Abdnor formally joined the crowd of Republicans Wednesday who want McGovern's Senate chair.

A huge audience of what Abdnor called "very wonderful friends" filled the Lincoln Room at the Alex Johnson Hotel in Rapid City for the announcement.

Abdnor did not mention the June 3 GOP primary contest against Dale Bell and Wayne Peterson and focused his prepared comments on McGovern.

"Frankly, over the years it seems to me that George has been voting in the Senate to wipe out much of what I have been working for in the Congress. Clearly one of us is wrong, one of us is

not really voting for the people of South Dakota. It's very important that which ever one of us is wrong steps aside for the good of our state. That's the major reason I offer myself as a candidate."

Abdnor, perspiring freely in front of the TV lights, charged that McGovern's votes on taxation, inflation regulation, national security and protecting South Dakota's interests are often exactly opposite of his.

"One of us has got to be very, very wrong. In November your votes will decide which of us is speaking with the voice of South Dakota."

Abdnor believes he represents the thinking of the South Dakota voters.

After his speech, the 2nd District Congressman said he will not debate Bell or Peterson because of "very limited time." He will spend his time meeting people.

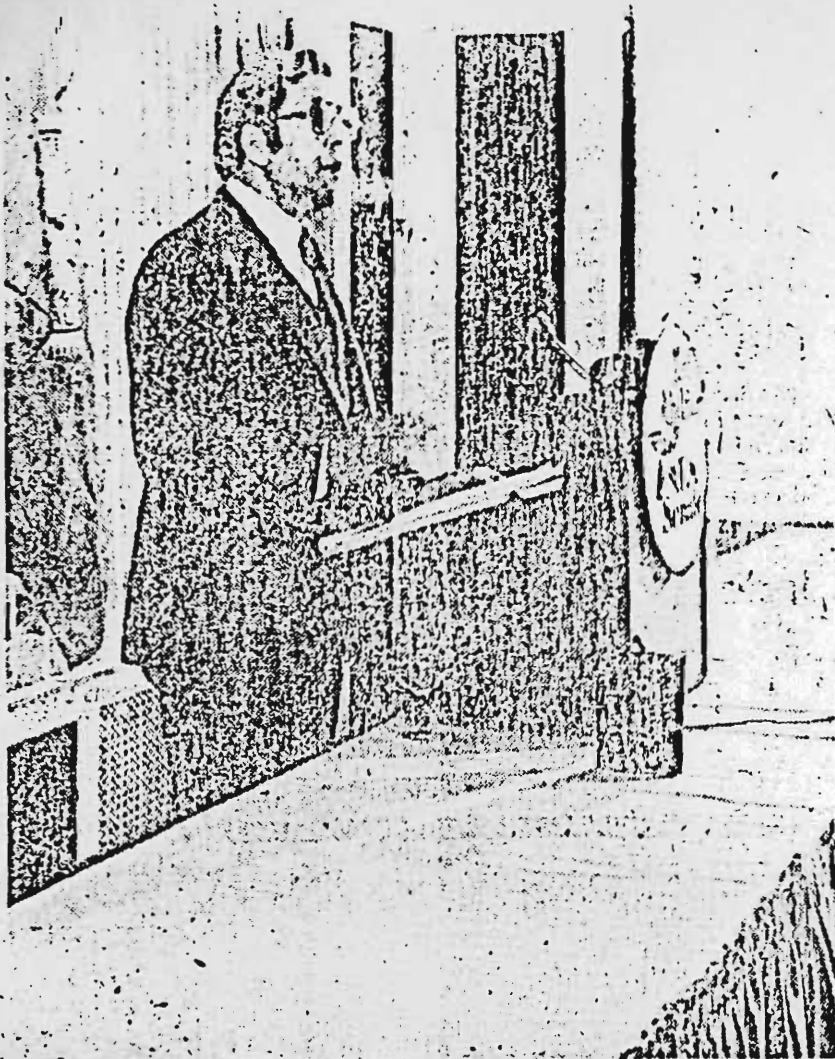
Abdnor disagreed with claims that McGovern's seniority is an issue in the campaign. "If I've been voting right and he is wrong, then his seniority is working against the state."

McGovern is seeking his fourth consecutive Senate term and faces his first challenge for the Democratic nomination from Pritton native Larry Schumacker. Abdnor was elected to four terms in the U.S. House after serving in state government for several years.

Abdnor said for Congress to balance the fiscal year 1981 federal budget as President Carter has proposed will take sacrifices by every American. He said 77 percent of the budget is locked in by laws and predicted the balanced budget effort will be "tough."

Abdnor has two days of news conferences planned to announce his candidacy. Others are in Pierre, Sioux Falls, Huron, Watertown, Brookings, Mitchell and Yankton.

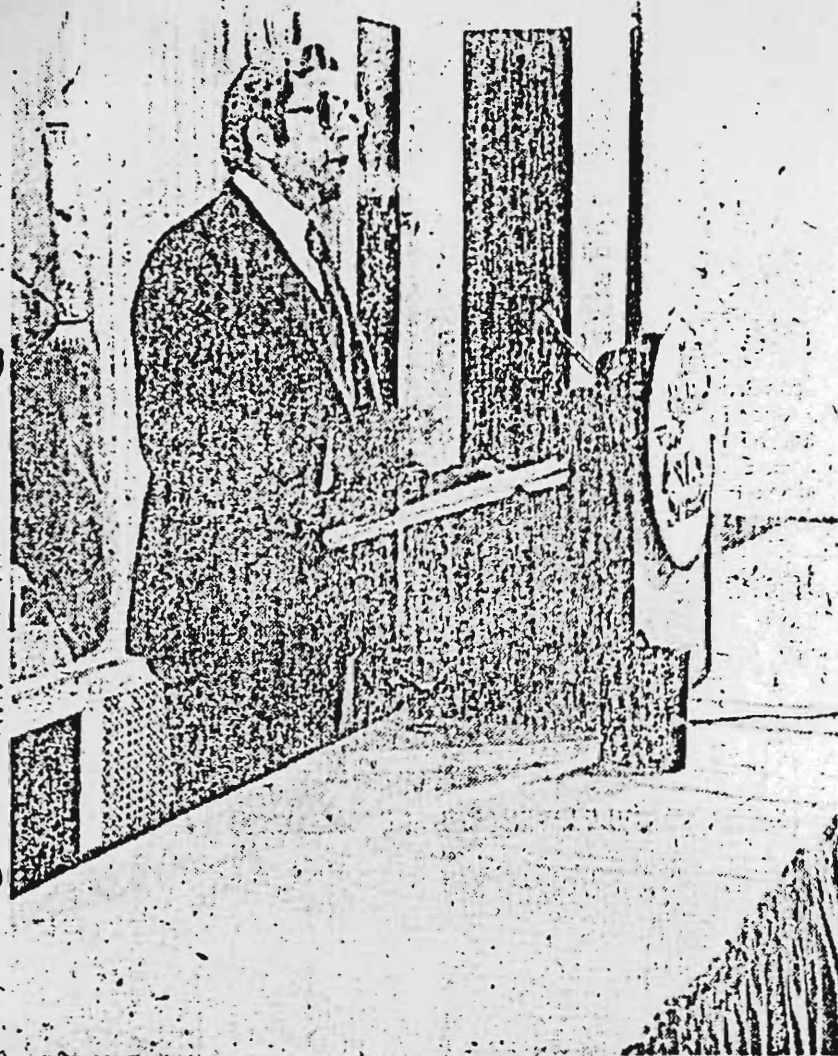
Exhibit Q



Abdnor formally announces Senate campaign (Staff photo by Ray Miller)

Rapid City Journal 3-11-1980

Exhibit B



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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 7, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Becki C. Burlingame
Treasurer
National Conservative Political
Action Committee
1500 Wilson Blvd., #513
Arlington, Virginia 22209

Re: MUR 1231

Dear Ms. Burlingame:

This letter is to notify you that on May 2, 1980, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1231. 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 connection with this matter. Your response 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.

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.

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 sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

Attachment B

If you have any questions, please contact Scott Thomas, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

Enclosure

1. Complaint
2. Procedures

PS Form 3811, Aug. 1978

1. SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered.
☐ Show to whom, date, and address of delivery.
☐ RESTRICTED DELIVERY
Show to whom and date delivered.
☐ RESTRICTED DELIVERY.
Show to whom, date, and address of delivery.
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Becki Burlingame, Treasurer
NCPAC
1500 Wilson Blvd. #513
Arlington, VA 22209

3. ARTICLE DESCRIPTION:
REGISTERED NO. 944727 CERTIFIED NO. INSURED NO.

4. I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
DATE OF DELIVERY

5. ADDRESS: Complete only if requested.

6. UNABLE TO DELIVER BECAUSE:

ARLINGTON, VA POST OFFICE
MAY 9 1980
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V.V. GREGG'S INITIALS

1231

Thomas

GPO: 1978-72-302



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 7, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hal Wick, Chairman
People for an Alternative to McGovern
P.O. Box 1865
Sioux Falls, South Dakota 57101

Re: MUR 1231

Dear Mr. Wick:

This letter is to notify you that on May 2, 1980, the Federal Election Commission received a complaint which alleges that your Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1231. 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 your Committee in connection with this matter. Your response 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.

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.

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 sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.



If you have any questions, please contact Scott Thomas, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely

Charles N. Steele
Charles N. Steele
General Counsel

Enclosure

1. Complaint
2. Procedures

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
☐ RESTRICTED DELIVERY
Show to whom and date delivered
☐ RESTRICTED DELIVERY.
Show to whom, date, and address of delivery \$
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
*Hal Wick Counsel
People for an Alternative to
P.D. 8746000
Spring Falls 865 SD 57101*

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
944726

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Hal Wick

4. DATE OF DELIVERY
5-24-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK
MAY 24 1980

CLERK'S INITIALS
Thomas

1231



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 7, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
Deckert, Price & Rhoads
888 17th Street, N.W.
Washington D.C. 20006

Dear Mr. Bauer:

This letter is to acknowledge receipt of your complaint of May 2, 1980, against the National Conservative Political Action Committee and People for an Alternative to McGovern which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within 5 days and a recommendation to the Federal Election Commission as to how this matter should be initially handled will be made 15 days after the respondents' notification. You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,


Charles N. Steele
General Counsel

Enclosure

30040202952

300402953

PS Form 3871, Aug 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse

1. The following service is requested (check one):
☐ Show to whom and date delivered _____
☐ Show to whom, date, and address of delivery _____
☐ RESTRICTED DELIVERY
Show to whom and date delivered _____
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery S. _____
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
*Robert F. Bauer
Decker, Price & Rhoads
884 17th St. NW
Wash., D.C. 20006*

3. ARTICLE DESCRIPTION:
REGISTERED NO. _____ CERTIFIED NO. *944728* INSURED NO. _____
(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☒ Addressee ☐ Authorized agent
W. R. Rhoads

4. DATE OF DELIVERY *7/5/80* POSTMARK _____

5. ADDRESS (Complete only if requested): _____

6. UNABLE TO DELIVER BECAUSE _____ CLERK'S INITIALS _____

1231

Thomson

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7800 OLD SPRINGHOUSE ROAD

MCLEAN, VIRGINIA 22102

(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE

BARBARA L. ABERNETHY
A. MARK CHRISTOPHER
MICHAEL D. HUGHES
ROBERT R. SPARKS, JR.

THOMAS M. DAVIS, III
OF COUNSEL

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

(202) 821-1000

TELEX 89-8388 (AEMPOWER WHEN)
TWX 710-828-0533 (TELEREP 800)

May 19, 1980

The Honorable Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

ATTENTION: Scott Thomas, Esq.

Re: MUR 1231

Dear Mr. Steele:

This letter is written in response to your letter to National Conservative Political Action Committee, 1500 Wilson Boulevard, Arlington, Virginia 22209 (hereinafter referred to as "NCPAC"), dated May 7, 1980, with which was enclosed a copy of a complaint from the South Dakota Democratic Party, numbered MUR 1231, naming NCPAC as the respondent.

We appreciate having this opportunity, pursuant to 2 U.S.C. 437g(a)(1), to demonstrate that the Federal Election Commission should take no action against NCPAC on the basis of the complaint.

In its complaint, the South Dakota Democratic Party alleged that "NCPAC worked systematically to bring Mr. [James] Abdnor into the race for the South Dakota Republican U.S. Senate nomination" by making poll results available to Rep. Abdnor and by encouraging Rep. Abdnor to consider becoming a candidate for the Republican nomination for election to the United States Senate from South Dakota. Based upon that allegation, the South Dakota Democratic

Attachment C

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The Honorable Charles N. Steele
Page Two
May 19, 1980

Party asserts that NCPAC has compromised its ability to make independent expenditures in opposition to the election of Sen. George McGovern to the United States Senate from South Dakota; and, that all expenditures made by NCPAC in that connection should be deemed to be contributions in-kind to Rep. Abdnor's campaign for the Senate. The assertions of the South Dakota Democratic Party are without merit and should be dismissed in light of the ruling by the Federal Election Commission in Advisory Opinion 1979-80.

In response to the allegations of the South Dakota Democratic Party, NCPAC admits that it conducted a poll in connection with its program of making independent expenditures in opposition to the election of Sen. McGovern, a candidate for the Democratic nomination for election to the United States Senate from South Dakota. Among other things, the poll results revealed certain data which would be relevant to individuals seeking, or considering seeking, the Republican nomination for election to the United States Senate from South Dakota. The poll results were shared with, and explained to, Rep. James Abdnor on or about December 6, 1979. At or about the same time, representatives and agents of NCPAC had discussions with Rep. Abdnor relative to the merits of his seeking the Republican nomination for election to the United States Senate from South Dakota. The foregoing described activity took place prior to the time that Rep. Abdnor became a "candidate," under 2 U.S.C. 431(2), for the Republican nomination for the election to the United States Senate from South Dakota. Under 11 CFR 100.7(b)(1), the poll results did not become a contribution to Rep. Abdnor until he subsequently became a candidate, at which time they were valued in accordance with 11 CFR 106.4(b) and reported.

It is respectfully submitted that the activities described in the foregoing paragraph do not compromise the ability of NCPAC to make, or to continue to make, independent expenditures in opposition to Sen. McGovern's campaign for the Democratic nomination for election to the United States Senate from South Dakota. For example, in Answer 1 in AO 1979-80, the Federal Election Commission determined that a campaign for the Democratic nomination for election to a

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The Honorable Charles N. Steele
Page Three
May 19, 1980

Federal office and a campaign for the Republican nomination for election to the same Federal office are two separate, distinct races, thus enabling one to make independent expenditures relative to one of the two races regardless of the relationship the expeditor has with the other race. Furthermore, in Answer 8 in AO 1979-80, the Commission determined that NCPAC could communicate with, and contribute poll results to (if done in accordance with 11 CFR 106.4(b)), a candidate for the Republican nomination for election to the Senate and continue to make independent expenditures in opposition to a candidate for the Democratic nomination for election to the Senate from the same state. Therefore, as a consequence of AO 1979-80 and the facts under review herein, NCPAC's activities in relation to Rep. Abdnor did not compromise the nature of the expenditures made by it in relation to Sen. McGovern.

It is also submitted for the record that, after exhaustive analysis, NCPAC can assert that the only communication had by its representatives or agents with Rep. Abdnor, his campaign committee or agents, subsequent to the date upon which Rep. Abdnor became a candidate for the Republican nomination for election to the Senate, has been the exchange of correspondence relative to the value of the poll results to be reported in accordance with 11 CFR 106.4(b). As a result, Answer 8 in AO 1979-80 should be read in a context even more favorable to NCPAC, which is that the contribution of the poll results and the discussions with Rep. Abdnor took place prior to the time that Rep. Abdnor became a candidate for the Senate. As a result, the assumption contained in the footnote on page 11 of the complaint of the South Dakota Democratic Party is not correct.

With reference to the specific allegations contained on page 12 of the complaint of the South Dakota Democratic Party, NCPAC is not required to report its expenditures in opposition to Senator McGovern as contributions in-kind to Rep. Abdnor, because they continued to constitute independent expenditures under AO 1979-80. Second, People for an Alternative to McGovern is not a separate "political committee," but a project of NCPAC. All contributions are delivered to,

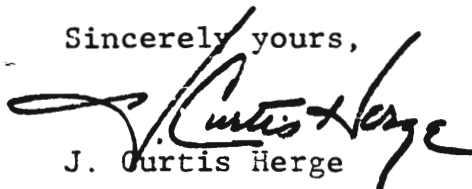
30011202957

The Honorable Charles N. Steele
Page Four
May 19, 1980

aggregated, deposited and reported by NCPAC. Communications issued by People for an Alternative to McGovern, such as that which appears as Exhibit P to the complaint, carry the disclaimer, "Paid for by People for an Alternative to McGovern, a project of National Conservative Political Action Committee and not authorized by any candidate." (Emphasis added.) People for an Alternative to McGovern is not a political committee which is affiliated with NCPAC because it is NCPAC. Therefore, People for an Alternative to McGovern has no separate registration and reporting requirement.

For the reasons stated, it is submitted that the Federal Election Commission should take no action against NCPAC on the basis of the complaint; and, the complaint should be dismissed under 11 CFR 111.7(b).

Sincerely yours,


J. Curtis Herge



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge, Esq.
Sedam & Herge
7600 Old Springhouse Road
McLean, Virginia 22102

Re: MUR 1231

Dear Mr. Herge:

On May 7, 1980, the Commission notified your clients, National Conservative Political Action Committee ("NCPAC") and People for an Alternative to McGovern ("PAM"), of a complaint alleging that they may have violated certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to your clients at that time.

Upon review of the allegations contained in the complaint and the information provided by you, the Commission, on May 7, 1980, determined that there is reason to believe NCPAC violated 2 U.S.C. § 441a(a)(2)(A) and 2 U.S.C. § 434(b)(6)(B). Specifically, it appears that NCPAC incurred expenditures opposing the nomination of Senator George McGovern to the United States Senate which were actually contributions to the United States Senate campaign of Representative James Abdnor. The expenditures made against Senator McGovern exceeded \$5,000 with respect to Representative Abdnor's primary election and were not reported as contributions to Mr. Abdnor on NCPAC's reports to the Commission.

In order to carry out its statutory duty to investigate this matter, the Commission requests that your client submit answers to the enclosed question within 10 days of your receipt of this letter. Your client may submit any additional factual or legal materials which it believes are relevant to the Commission's analysis of this matter.

In the absence of any additional information or further explanation of circumstances which demonstrate that no further action should be taken against your client, the Commission may find probable cause to believe that a violation has occurred and may proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal

Attachment D

Letter to: J. Curtis Herge, Esq.
Page 2

conciliation prior to a finding of probable cause to believe,
if you so desire.

The foregoing matter will remain confidential in accordance
with 2 U.S.C. § 437g(a)(12)(A) unless you notify the Commission
in writing that your client wishes the matter to be made public.

For your information, on , 1980, the Commission
also determined that on the basis of information contained in
the complaint and information provided by you, there is no
reason to believe that PAM violated 2 U.S.C. §§ 433 or 434 for
not registering and reporting to the Commission or that NCPAC
failed to report properly with regard to PAM's activities.

If you have any questions, please contact Scott Thomas,
the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

80040202959

QUESTION

On what occasions during the period of January 1, 1979, through the present did NCPAC or PAM officers, employees, or agents communicate with Representative Abdnor or any of his employees or agents or with Friends for Jim Abdnor or any of its officers, employees, or agents concerning the possibility or feasibility of an Abdnor Senate campaign or about possible, planned, or past expenditures by NCPAC or PAM against Senator McGovern's Senate campaign? Please set forth the dates, parties, and specific circumstances under which each communication took place. Please provide copies of any letters or other documents exchanged with Representative Abdnor or any of his employees or agents or with Friends for Jim Abdnor or any of its employees or agents and of any memoranda or other records of telephone or face-to-face conversations with any such persons concerning the foregoing matters.

80040202970

80040202971

JENKINS, NYSTROM & STERLACCI, P.C.

From

JAMES F. SCHOENER

ATTORNEY AT LAW

please call.

18000 WEST TWELVE MILE ROAD
SOUTHFIELD, MICHIGAN 48076
(313) 556-2626

2000 M STREET, N.W.
WASHINGTON, D.C. 20006
(202) 293-2505

100

- for Friends for
Committee At: 04
his contest for

) SS:

On this 25th day of July, 1980, personally appeared Keith Jensen, who being duly sworn and under penalty of perjury (18 U.S.C. 1001) did state the above was true and correct to his best knowledge, information and belief.

CAROL L. TWEDT

Carol L. Fiecht

6/22/84

Keith Jensen, being duly sworn, deposes and says:

- 1) That he is the campaign manager for Friends for Jim Abdnor, the principal campaign committee for Representative James Abdnor in his contest for the United States Senate seat from South Dakota in 1980.
- 2) That neither he, nor anyone on his behalf has had any contact with agents or representatives of NCPAC or its affiliates in the campaign.
- 3) That neither he nor anyone on his behalf has disclosed plans, projects or needs of the campaign to NCPAC or any other organization with a view toward having expenditures made.
- 4) That neither he, nor anyone on his behalf, has consulted, coordinated, consented, requested or suggested to NCPAC or its affiliates in this campaign that communications be made, in behalf of, or in opposition to, any candidate for Federal office.
- 5) That no written, graphic or other form of campaign materials of the Abdnor campaign have been conveyed or transferred to any other person or organization for the purpose of making independent expenditures.

On this 25th day of July, 1980, personally appeared Keith Jensen, who being duly sworn and under penalty of perjury (18 U.S.C. 1001) did state the above was true and correct to his best knowledge, information and belief.

Charles T. Guehl
Notary Public

80040202974

- State of South Dakota) ss:
County of Minnehaha)

CAROL L. TWEDT
 NOTARY PUBLIC 
 SOUTH DAKOTA

My Commission expires 6/22/80

800402029713

- State of South Dakota) ss:
County of Minnehaha)

CAROL L. TWEDT
 NOTARY PUBLIC 
 SOUTH DAKOTA

My Commission expires 6/22/20

6
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LAW OFFICES

JENKINS, NYSTROM & STERLACCI, P.C.

2033 M STREET, N.W.

WASHINGTON, D. C. 20036

General Counsel

Federal Election Commission

Attn. Scott Thomas

1325 K Street, N.W.

7th Floor

Washington, D.C. 20463

cc 2060

LAW OFFICES

JENKINS, NYSTROM & STERLACCI, P.C.

MERLE R. JENKINS*
DENNIS H. NYSTROM*
MICHAEL A. STERLACCI*
JOSEPH E. JANETTA
JAMES F. SCHOENER*
STEPHEN J. HITCHCOCK
CHRIS M. PARFITT
GARY J. NYSTROM
RONALD A. DENEWETH
TIMOTHY J. MULLINS
CHARLES M. LOWTHER
MICHAEL A. MURPHY*Δ
JAMES M. SCHOENER
GERARD P. PANARO*+
JANIS B. DeGENARRO
THOMAS H. KOHN*Δ

2033 M STREET, N.W.
WASHINGTON, D. C. 20036
(202) 293-2505

OF COUNSEL
JOHN B. CONLAN*
JOHN F. GOETZ

MICHIGAN OFFICE
15999 WEST TWELVE MILE ROAD
SOUTHFIELD, MICHIGAN 48076
(313) 559-2828

*ADMITTED IN D.C.
ΔADMITTED IN VA.
+ADMITTED IN MD.

July 25, 1980

Scott Thomas, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

HAND DELIVERED

Re: MUR 1231

Dear Mr. Thomas:

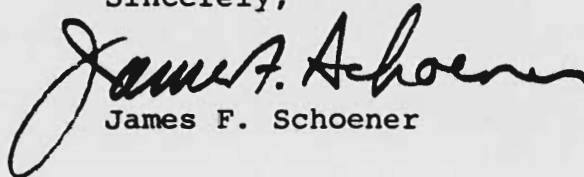
Enclosed please find the original and two copies of an affidavit of Representative James Abdnor regarding the facts involved in the above referred matter.

I have yet to receive an affidavit of the campaign director in South Dakota which will confirm the non-consultation and non-request facts. This will probably arrive in my office Monday and I will have it delivered to you.

I believe these two affidavits should justify immediate dismissal of Representative Abdnor from the matter. You must appreciate the fact that it is difficult to respond to a complaint that does not provide specific charges against my client nor relate the factual basis of asking his response.

If you have any further questions, please contact me.

Sincerely,


James F. Schoener

JFS:db

Enclosure

14 JUL 25 AM 11:41

RECEIVED
FEDERAL ELECTION COMMISSION
JUL 25 1980

8004020277

AFFIDAVIT

Submitted to: Federal Election Commission

In Re: M.U.R. 1231

James Abdnor being duly sworn deposes and says:

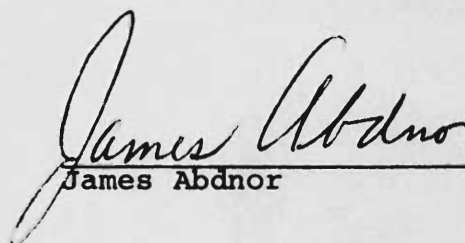
1. That he formally announced his candidacy for the office of United States Senator from the State of South Dakota on March 19, 1980. That he had decided to become a candidate on February 11, 1980 and so notified the F.E.C.
2. That prior to deciding on his candidacy numerous people from South Dakota urged him to become a candidate.
3. That among the numbers of people urging him to run for this office, on one occasion, one Hal Wick in August of 1979, discussed all potential candidates and discussed a survey that was general public knowledge; thereafter he had no other contact with Mr. Wick concerning his candidacy.
4. That on October 9, 1979, representatives of NCPAC called his Washington office to discuss general political conditions in South Dakota.
5. That on December 6, 1979, representatives of NCPAC brought in an unsolicited political poll taken some time in November of 1979, and spent a short period of time further discussing the South Dakota Senate race.
6. That in response to these NCPAC visits he declined interest in the candidacy for such office; that at this time, Governor William Janklow was still a potential candidate and that support to Governor Janklow had been pledged; nothing in the December meeting caused any change in decision. That on at least two occasions, he met with Governor Janklow

for extended periods of time to urge him to run for the Senate seat.

7. That in January of 1980 after Governor Janklow had disqualified himself (see attached clipping of January 9, 1980) after discussion with South Dakota Republican Party leaders and with Republican Senatorial leaders, he commissioned two polls that caused him to become a candidate for the office of United States Senate in South Dakota. That the first of these is for targeted telephone services of \$375.95 paid on February 4, 1980, to Betty Thoreson of Pierre, South Dakota and the second, an advance payment to DMI of Santa Ana, California, on January 28, 1980 of \$3,850.00.
8. That on February 12, 1980, NCPAC sent a letter indicating an in-kind contribution of the disclosure of the December 6, 1969 poll results with an attributed value of \$500.00; such results were recorded by amendment in the year-end 1979 FEC report; the attributed value of such "in-kind contribution" was not disputed, but he states that he would not have spent actual campaign funds for the information involved.
9. That the decision to become a candidate for United States Senate from the State of South Dakota was based upon other information; consultations, and polls, and that the NCPAC poll and conversations with NCPAC were not a major motivating factor in that decision.
10. That there have been no contracts regarding the South Dakota campaign with persons involved with, employed by, or agents of NCPAC or any of its affiliates since the time that he decided to become a candidate

for the office of United States Senator.

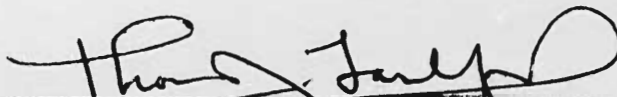
11. That he made no request, arrangement, coordination, consultation, suggestion, or prior consent nor did his principal campaign committee or its agents become in any way involved with, directly or indirectly, the expenditures made by NCPAC on behalf of, or in opposition to, any candidate for Federal Office.
12. That neither he nor his committee has furnished information of his campaign needs, plans, or projects to any person with a view toward making independent expenditures.
13. That neither he nor his committee has furnished any campaign materials to NCPAC or its agents.
14. That the only correspondence in his Congressional office dealing with NCPAC was a computer-typed solicitation letter which indicated erroneously a contribution by him which was acknowledged as corrected by the attached letter from NCPAC on February 22, 1980, and the letter concerning the "in-kind contribution" of the poll results.
15. That he has caused an examination to be made and finds there is no correspondence in any campaign records to or from NCPAC.


James Abdnor

AFFIDAVIT pg. 4

District of Columbia)
City of Washington, D.C.) ss:

On this 27 day of July 1980, personally appeared James Abdnor who being duly sworn and recognizing the penalties of perjury under 18 U.S.C. 1001 did swear that the above facts were true and correct to the best of his knowledge and belief, and were based upon information and belief obtained from the attached exhibits and the records of the Federal Election Commission.


Notary Public, District of Columbia
THOMAS J. LANGFORD, NOTARY PUBLIC
RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
My Commission Expires March 14, 1981

Prepared by:

James F. Schoener
Jenkins, Nystrom & Sterlacci, P.C.
2033 M Street, N.W.
Suite 504
Washington, D.C. 20036
(202) 293-2505

30040202932

SD CLIPPING
PA BUREAU
BROOKINGS, SD

JAN 9 - 1980

Brookings
Register
Cir. 5,112

state 74



ABDNOR

PIERRE (AP) — Gov. Bill Janklow flatly ruled out a race this year against Sen. George McGovern.

"I don't intend for any reason or under any circumstances to seek another office during my term as governor," Janklow told a joint session of the Legislature during his State of the State message.

"I wouldn't allow my name to be placed in nomination or be party to the draft," he added.

U.S. Rep. James Abdnor, state House Majority Leader Joe Barnett, R-Aberdeen, and state House Speaker George Mickelson, R-Brookings, are mentioned as strong contenders.

PIERRE (AP) — Rancher Wayne Peterson explained his candidacy for the U.S. Senate today. For details, see the story on page three.

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7800 OLD SPRINGHOUSE ROAD

MCLEAN, VIRGINIA 22102

GLENN J. SEDAM, JR.
J. CURTIS HERGE

(703) 821-1000

THOMAS M. DAVIS, III
JOHN J. FLOOD (D.C. ONLY)
MICHAEL D. HUGHES
ROBERT R. SPARKS, JR.

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 821-1000

TELEX 89-8388 (AEMPOWER WHEN)
TWX 710-828-0833 (TELEREP 800)

February 22, 1980

The Honorable James Abdnor
Room 1224
Longworth House Office Building
Washington, D. C. 20515

Re: National Conservative
Political Action Committee

Dear Rep. Abdnor:

As general counsel to National Conservative Political Action Committee, I am writing to you on behalf of Terry Dolan to acknowledge receipt of your letter to him of February 7, 1980 and to express our apologies to you for the correspondence you received, which erroneously indicated you had made a recent contribution to NCPAC.

We are at a loss to explain how this error occurred, as it appears to reflect a malfunction in the computer. Nevertheless, we have issued instructions to have the mistake corrected immediately.

Please accept our apologies.

Sincerely,



J. Curtis Herge

cc: Mr. Dave Buffkin
Richard A. Viguerie Company, Inc.

Mr. John T. Dolan
National Conservative Political
Action Committee

80040202993

AFFIDAVIT

Submitted to: Federal Election Commission

In Re: M.U.R. 1231

James Abdnor being duly sworn deposes and says:

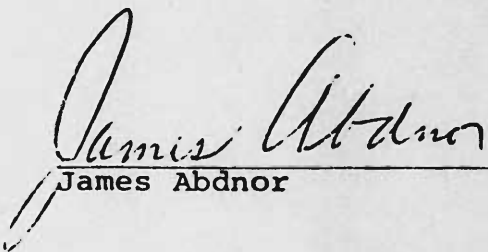
1. That he formally announced his candidacy for the office of United States Senator from the State of South Dakota on March 19, 1980. That he had decided to become a candidate on February 11, 1980 and so notified the F.E.C.
2. That prior to deciding on his candidacy numerous people from South Dakota urged him to become a candidate.
3. That among the numbers of people urging him to run for this office, on one occasion, one Hal Wick in August of 1979, discussed all potential candidates and discussed a survey that was general public knowledge; thereafter he had no other contact with Mr. Wick concerning his candidacy.
4. That on October 9, 1979, representatives of NCPAC called his Washington office to discuss general political conditions in South Dakota.
5. That on December 6, 1979, representatives of NCPAC brought in an unsolicited political poll taken some time in November of 1979, and spent a short period of time further discussing the South Dakota Senate race.
6. That in response to these NCPAC visits he declined interest in the candidacy for such office; that at this time, Governor William Janklow was still a potential candidate and that support to Governor Janklow had been pledged; nothing in the December meeting caused any change in decision. That on at least two occasions, he met with Governor Janklow

for extended periods of time to urge him to run for the Senate seat.

7. That in January of 1980 after Governor Janklow had disqualified himself (see attached clipping of January 9, 1980) after discussion with South Dakota Republican Party leaders and with Republican Senatorial leaders, he commissioned two polls that caused him to become a candidate for the office of United States Senate in South Dakota. That the first of these is for targeted telephone services of \$375.95 paid on February 4, 1980, to Betty Thoreson of Pierre, South Dakota and the second, an advance payment to DMI of Santa Ana, California, on January 28, 1980 of \$3,850.00.
8. That on February 12, 1980, NCPAC sent a letter indicating an in-kind contribution of the disclosure of the December 6, 1969 poll results with an attributed value of \$500.00; such results were recorded by amendment in the year-end 1979 FEC report; the attributed value of such "in-kind contribution" was not disputed, but he states that he would not have spent actual campaign funds for the information involved.
9. That the decision to become a candidate for United States Senate from the State of South Dakota was based upon other information; consultations, and polls, and that the NCPAC poll and conversations with NCPAC were not a major motivating factor in that decision.
10. That there have been no contracts regarding the South Dakota campaign with persons involved with, employed by, or agents of NCPAC or any of its affiliates since the time that he decided to become a candidate

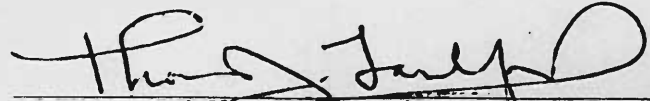
for the office of United States Senator.

11. That he made no request, arrangement, coordination, consultation, suggestion, or prior consent nor did his principal campaign committee or its agents become in any way involved with, directly or indirectly, the expenditures made by NCPAC on behalf of, or in opposition to, any candidate for Federal Office.
12. That neither he nor his committee has furnished information of his campaign needs, plans, or projects to any person with a view toward making independent expenditures.
13. That neither he nor his committee has furnished any campaign materials to NCPAC or its agents.
14. That the only correspondence in his Congressional office dealing with NCPAC was a computer-typed solicitation letter which indicated erroneously a contribution by him which was acknowledged as corrected by the attached letter from NCPAC on February 22, 1980, and the letter concerning the "in-kind contribution" of the poll results.
15. That he has caused an examination to be made and finds there is no correspondence in any campaign records to or from NCPAC.


James Abdnor

District of Columbia)
City of Washington, D.C.) ss:

On this 27 day of July 1980, personally appeared James Abdnor who being duly sworn and recognizing the penalties of perjury under 18 U.S.C. 1001 did swear that the above facts were true and correct to the best of his knowledge and belief, and were based upon information and belief obtained from the attached exhibits and the records of the Federal Election Commission.


Notary Public, District of Columbia

Prepared by:

James F. Schoener
Jenkins, Nystrom & Sterlacci, P.C.
2033 M Street, N.W.
Suite 504
Washington, D.C. 20036
(202) 293-2505

SD CLIPPING
PA BUREAU
BROOKINGS, SD

JAN 9 - 1980

Brookings
Register
Cir. 5,112

state 74



ABDNOR

PIERRE (AP) — Gov. Bill Janklow flatly ruled out a race this year against Sen. George McGovern.

"I don't intend for any reason or under any circumstances to seek another office during my term as governor," Janklow told a joint session of the Legislature during his State of the State message.

"I wouldn't allow my name to be placed in nomination or be party to the draft," he added.

U.S. Rep. James Abdnor, state House Majority Leader Joe Barnett, R-Aberdeen, and state House Speaker George Mickelson, R-Brookings, are mentioned as strong contenders.

PIERRE (AP) — Rancher Wayne Peterson explained his candidacy for the U.S. Senate today. For details, see the story on page three.

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD

MCLEAN, VIRGINIA 22102

GLENN J. SEDAM, JR.
J. CURTIS HERGE

(703) 821-1000

THOMAS M. DAVIS, III
JOHN J. FLOOD (D.C. ONLY)
MICHAEL D. HUGHES
ROBERT R. SPARKS, JR.

February 22, 1980

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 821-1000
TELEX 89-8388 (AEMPOWER WHEN)
TWX 710-828-0533 (TELEREP 800)The Honorable James Abdnor
Room 1224
Longworth House Office Building
Washington, D. C. 20515Re: National Conservative
Political Action Committee

Dear Rep. Abdnor:

As general counsel to National Conservative Political Action Committee, I am writing to you on behalf of Terry Dolan to acknowledge receipt of your letter to him of February 7, 1980 and to express our apologies to you for the correspondence you received, which erroneously indicated you had made a recent contribution to NCPAC.

We are at a loss to explain how this error occurred, as it appears to reflect a malfunction in the computer. Nevertheless, we have issued instructions to have the mistake corrected immediately.

Please accept our apologies.

Sincerely,


J. Curtis Hergecc: Mr. Dave Buifkin
Richard A. Viguerie Company, Inc.Mr. John T. Dolan
National Conservative Political
Action Committee

AFFIDAVIT

Submitted to: Federal Election Commission

In Re: M.U.R. 1231

James Abdnor being duly sworn deposes and says:

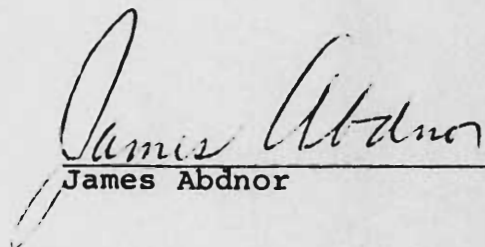
1. That he formally announced his candidacy for the office of United States Senator from the State of South Dakota on March 19, 1980. That he had decided to become a candidate on February 11, 1980 and so notified the F.E.C.
2. That prior to deciding on his candidacy numerous people from South Dakota urged him to become a candidate.
3. That among the numbers of people urging him to run for this office, on one occasion, one Hal Wick in August of 1979, discussed all potential candidates and discussed a survey that was general public knowledge; thereafter he had no other contact with Mr. Wick concerning his candidacy.
4. That on October 9, 1979, representatives of NCPAC called his Washington office to discuss general political conditions in South Dakota.
5. That on December 6, 1979, representatives of NCPAC brought in an unsolicited political poll taken some time in November of 1979, and spent a short period of time further discussing the South Dakota Senate race.
6. That in response to these NCPAC visits he declined interest in the candidacy for such office; that at this time, Governor William Janklow was still a potential candidate and that support to Governor Janklow had been pledged; nothing in the December meeting caused any change in decision. That on at least two occasions, he met with Governor Janklow

for extended periods of time to urge him to run for the Senate seat.

7. That in January of 1980 after Governor Janklow had disqualified himself (see attached clipping of January 9, 1980) after discussion with South Dakota Republican Party leaders and with Republican Senatorial leaders, he commissioned two polls that caused him to become a candidate for the office of United States Senate in South Dakota. That the first of these is for targeted telephone services of \$375.95 paid on February 4, 1980, to Betty Thoreson of Pierre, South Dakota and the second, an advance payment to DMI of Santa Ana, California, on January 28, 1980 of \$3,850.00.
8. That on February 12, 1980, NCPAC sent a letter indicating an in-kind contribution of the disclosure of the December 6, 1969 poll results with an attributed value of \$500.00; such results were recorded by amendment in the year-end 1979 FEC report; the attributed value of such "in-kind contribution" was not disputed, but he states that he would not have spent actual campaign funds for the information involved.
9. That the decision to become a candidate for United States Senate from the State of South Dakota was based upon other information; consultations, and polls, and that the NCPAC poll and conversations with NCPAC were not a major motivating factor in that decision.
10. That there have been no contracts regarding the South Dakota campaign with persons involved with, employed by, or agents of NCPAC or any of its affiliates since the time that he decided to become a candidate

for the office of United States Senator.

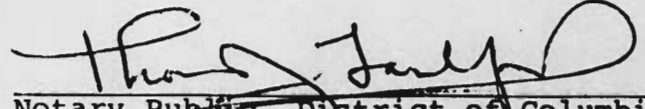
11. That he made no request, arrangement, coordination, consultation, suggestion, or prior consent nor did his principal campaign committee or its agents become in any way involved with, directly or indirectly, the expenditures made by NCPAC on behalf of, or in opposition to, any candidate for Federal Office.
12. That neither he nor his committee has furnished information of his campaign needs, plans, or projects to any person with a view toward making independent expenditures.
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James Abdnor

AFFIDAVIT pg. 4

District of Columbia)
City of Washington, D.C.)^{ss:}

On this 27 day of July 1980, personally appeared James Abdnor who being duly sworn and recognizing the penalties of perjury under 18 U.S.C. 1001 did swear that the above facts were true and correct to the best of his knowledge and belief, and were based upon information and belief obtained from the attached exhibits and the records of the Federal Election Commission.


Notary Public, District of Columbia

Prepared by:

James F. Schoener
Jenkins, Nystrom & Sterlacci, P.C.
2033 M Street, N.W.
Suite 504
Washington, D.C. 20036
(202) 293-2505

SD CLIPPING
PA BUREAU
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THOMAS M. DAVIS, III
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ROBERT R. SPARKS, JR.

February 22, 1980

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WASHINGTON, D.C. 20006
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Sincerely,


J. Curtis Hergecc: Mr. Dave Buffkin
Richard A. Viguerie Company, Inc.Mr. John T. Dolan
National Conservative Political
Action Committee

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LAW OFFICES

JENKINS, NYSTROM & STERLACCI, P.C.

2033 M STREET, N.W.

WASHINGTON, D. C. 20036

TO:

Scott Thomas, Esquire
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

HAND DELIVERED

7th Floor

622 # 1973
RECEIVED

'80 JUL 21 AM 10:02

LAW OFFICES
JENKINS, NYSTROM & STERLACCI, P.C.

2033 M STREET, N.W.
WASHINGTON, D. C. 20036

(202) 293-2805

OF COUNSEL
JOHN B. CONLAN
EDWARD A. RYDER

MICHIGAN OFFICE
18899 WEST TWELVE MILE ROAD
SOUTHFIELD, MICHIGAN 48076
(313) 559-2828

MERLE R. JENKINS
DENNIS H. NYSTROM
MICHAEL A. STERLACCI
CARL F. SCHIER
JOSEPH E. JANNETTA
JAMES F. SCHOENER
STEPHEN J. HITCHCOCK
CHRIS M. PARFITT
GARY J. NYSTROM
RONALD A. DENEWETH
TIMOTHY J. MULLINS

July 17, 1980

Honorable Charles Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1231

Dear Mr. Steele:

I believe your office has received the notice of my retainer on behalf of Representative James Abdnor in the above-entitled M.U.R. I have examined the Complaint filed by Robert F. Bauer in behalf of the South Dakota Democratic Party. I believe that the Complaint is defective for failure to comply with the Federal Election Commission regulations. In particular, I believe that the Complaint fails to state what matters are under oath, what matters are on information and belief, and it fails to be submitted under penalty of perjury under Section 1001 of Title 18 of the United States Code. Complaints must be 1) sworn to, 2) notarized, 3) made under penalty of perjury, and 4) subject to the provisions of 18 U.S.C. 1001, See 11 C.F.R. §111.4(b)(c) and (d). Mr. Bauer, in his Complaint, merely had the Complaint notarized without making further compliance with the F.E.C. complaint procedure.

I was surprised to receive this Complaint on July 7th when your letter of transmittal indicates the Complaint was received by the F.E.C. on May 2, 1980. I believe the act requires notification by the F.E.C. of any complaint within 5 days of receipt of the complaint. I would appreciate hearing why the statute was not followed originally or to be informed of matters not appearing in the Complaint that caused this belated notice to be given. I note that 111.4(d)(1) requires that a respondent be clearly identified; I can see no place where my client has been so identified.

The letter dated June 27 to Cleo Urban, co-treasurer of the Friends For Jim Abdnor (received by the Committee on July 7th) indicates that the Complaint "contains evidence that Friends For Jim Abdnor may have violated certain sections of the Federal Election Campaign Act." Since the Complaint does not allege any violation of the Act on behalf of my client, I would request you detail the possible

909155

30 JUL 21 PM 12:18

GENERAL COUNSEL

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'80 JUL 21 AM 10:02

Honorable Charles Steele

-2-

July 17, 1980

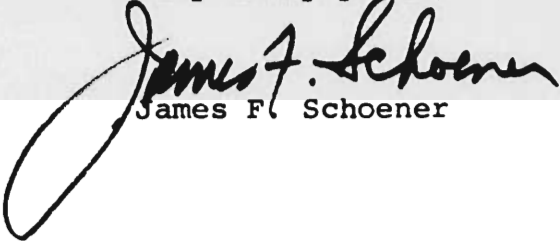
violations of the Act that refer to Friends For Jim Abdnor or Representative Abdnor.

We are prepared to submit affidavits of the following facts if they may be relevant to the matters you are investigating.

1. That the South Dakota N.C.P.A.C. poll shown to Representative Abdnor in December 1979 was not a major motivating factor in determination of candidacy for the office of United States Senator.
2. That there have been no contacts regarding the South Dakota campaign with persons involved with, employed by, or agents of, N.C.P.A.C. or any of its affiliates since the time that Representative Abdnor had decided to become a candidate for the office of United States Senator.
3. That no request, arrangement, coordination, consultation, suggestion, or prior consent of Representative Abdnor, his principal campaign committee or its agents has been in any way involved with, directly or indirectly, the expenditures made by N.C.P.A.C. on behalf of, or in opposition to, any candidate for Federal office.
4. That no information of the candidate's needs, plans, or projects has been provided to any person with a view toward making independent expenditures by Representative Abdnor, his committee or its agents.
5. That no campaign materials have been transferred to N.C.P.A.C. or its agents by Representative Abdnor or his committee or its agents

If you will please advise me of the possible violation you might allege, I would be glad to be more specific in the affidavits to be filed.

Very truly yours,


James F. Schoener

JFS:dw

30010202998

LAW OFFICES

JENKINS, NYSTROM & STERLACCI, P.C.

2033 M STREET, N.W.

WASHINGTON, D. C. 20036



ALWAYS USE
ZIP CODE



Honorable Charles Steele
General Counsel
1325 K Street, N.W.
Washington, D.C. 20463

JUL 18 PM 12:40

RECEIVED

3004020200

600#1976

RECEIVED

'80 JUL 10 PM 4:26

Jim Abdnor
U.S. Senate

July 11, 1980

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, DC 20463

Dear Mr. Steele:

With this letter, Friends for Jim Abdnor hereby designates Mr. James Schoener, 2033 "M" Street NW, Suite 504, Washington, DC 20036 as our counsel in the matter of MUR 1231, now pending before the commission.

Sincerely,



Mr. Steven Johnson
Co-Treasurer
Friends for Jim Abdnor

30 JUL 21 PM 2:15

RECEIVED
GENERAL COUNSEL

80040203001

Jim Abdnor
U.S. Senate

P.O. Box 5004, Sioux Falls, South Dakota 57117

REGISTERED
NO. 000093

Mr. Charles N. Steele
General Counsel
Federal Election Commission
Washington, DC 20463



RECEIVED

26

REPORTS ANALYSIS REFERRAL UPDATE

*ORIGIN: OGC

DATE JULY 11, 1980

ANALYST Mark Kleiman MK

TO: Office of General Counsel
ATTENTION: Scott Thomas

TEAM CHIEF Bobby Werfel RBY

THROUGH: STAFF DIRECTOR B.L.

COMPLIANCE REVIEW B

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS [Signature]

MUR No. 1231

DATE OF ORIGINAL REFERRAL 5/27/80

**PURPOSE:

INFORMATION:

NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE --
Amended Statement Organization filed 6-1-80 showing
"People For An Alternative To McGovern" as a "project"
and separate bank account. In addition, Pal Wick
is shown as an Assistant Treasurer of National Conservative
Political Action Committee.

Attachment #1

OUTCOME: (if applicable)

*Commission unit which initiated original Referral (e.g. AUDIT/RAD/OGC).

**INFORMATION, or RESULTS OF RAD ACTION, as appropriate.

80040203002

RECEIVED
JUN 6 AM 11:47

National Conservative Political Action Committee

1500 wilson blvd. suite 513 arlington, va. 22209 (703) 522-2800

June 1, 1980

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Sir:

This is to notify you that the National Conservative Political Action Committee (NCPAC) has opened several additional checking accounts, other than those listed on our Statement of Organization, which are as follows:

Bank:	Lafayette Bank & Trust 133 N. 4th Street Lafayette, Indiana 47901
Name on Account:	"Target '80" a project of the National Conservative Political Action Committee
Account Number:	00-4746-5
Bank:	National Bank of South Dakota Sunset Branch 3609 W. 41st Street Sioux Falls, South Dakota 57101
Name on Account:	People for an Alternative to McGovern a project of the National Conservative Political Action Committee
Account Number:	20-22468
Bank:	American Bank of Commerce Boise, Idaho 83702
Name on Account:	A.B.C. Project, a project of the National Conservative Political Action Committee
Account Number:	40 0100347
Bank:	Wells Fargo Bank Crestview Village Office 4712 Manzanita Avenue Carmichael, California 95608
Name on account:	"If Cranston Wins You Lose" a project of the National Conservative Political Action Committee
Account Number:	0379 407547

RECEIVED

60 JUN 6 4 11 47

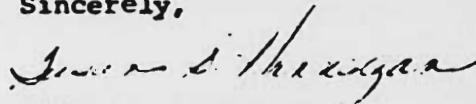
Bank: Wells Fargo Bank
Santa Monica Office
1300 Fourth Street
Santa Monica, California 90406
Name on account: "If Cranston Wins You Lose" -
Account Number: 0610 024036

At this time I would like to inform you of four new Assistant Treasurers to our organization, their names and addresses are as follows:

Hal G. Wick - R.R.4, Box 133, Sioux Falls, S.D. 57101
Jake A. Hansen - 805 Idaho Street #232, Boise, ID 83702
William D. Greer - 1010 N. Salsbury #1
W. Lafayette, IN 47906
James Phillips - 3018 Scenic Heights Way
Carmichael, CA 95608

To the best of my knowledge, all changes have now been made to NCPAC's original Statement of Organization. Please accept this as an amendment to that Statement and all amended Statements in our file.

Sincerely,



Susan S. Hannegan
Treasurer

80040203004



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 27, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Cleo Urban, Co-Treasurer
Friends For Jim Abdnor
P.O. Box 5004
Sioux Falls, South Dakota 57717

Re: MUR 1231

Dear Ms. Urban:

This letter is to notify you that on May 2, 1980, the Federal Election Commission received a complaint which contains evidence that Friends For Jim Abdnor may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of this complaint is enclosed. You were not previously notified of this complaint because Friends For Jim Abdnor was not clearly identified as a respondent. We have numbered this matter MUR 1231. 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 connection with this matter. Your response 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.

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.

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 Friends For Jim Abdnor intends to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

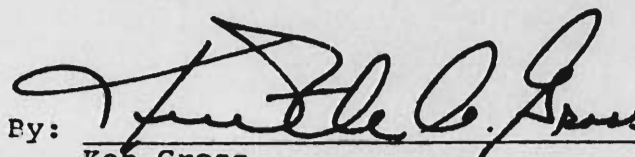
30041203005

Letter to: Cleo Urban
Page 2

If you have any questions, please contact Scott Thomas, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By: 
Ken Gross
Acting General Counsel

Enclosure

1. Complaint
2. Procedures

30040203006



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Cleo Urban, Co-Treasurer
Friends For Jim Abdnor
P.O. Box 5004
Sioux Falls, South Dakota 57717

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yellow

30041203007

Letter to: Cleo Urban
Page 2

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Sincerely,

Charles N. Steele
General Counsel

By: _____
Ken Gross
Acting General Counsel

224
6/26/80

Enclosure

1. Complaint
2. Procedures

80040203008

RECEIVED 1/88

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
JUN 10 AM 11:23

on JUN 10 - P12:45

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May 27, 1980

Mr. Charles N. Steele
General Counsel
Federal Election Commission
1325 K St. NW
Washington, DC 20463

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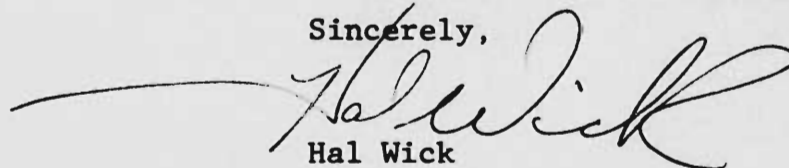
Attn: Scott Thomas, Esquire

Dear Mr. Steele:

This is to advise you that I, Hal Wick, have engaged
J. Curtis Herge, of the law firm of Sedam & Herge, P.C.
to represent me in connection with MUR 1231

He is authorized to receive all communication in
connection therewith.

Sincerely,



Hal Wick

30040203009

80040203010
Hick
RR4 Box 133
SIOUX FALLS SD 57101



Mr. Charles N. Steele
General Counsel
Federal Election Commission
1325 K St. N.W.
Washington, DC 20463

CERTIFIED
P13 6633468
MAIL

RETURN RECEIPT
REQUESTED

National Conservative Political Action Committee

1500 wilson blvd. suite 513 arlington, va. 22209 (703) 522-2800

ccc*
1421

May 21, 1980

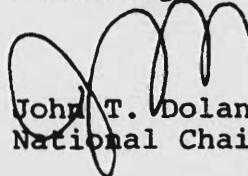
Mr. Charles N. Steele
General Counsel
Federal Election Commission
1325 K St. NW
Washington, DC 20463
Attn: Scott Thomas, Esquire

Dear Mr. Steele:

This is to advise you that the National Conservative Political Action Committee has engaged J. Curtis Herge, of the law firm of Sedam & Herge, P.C. to represent it in connection with MUR 1231.

He is authorized to receive all communication in connection therewith.

Sincerely,



John T. Dolan
National Chairman

JTD:ls

80 MAY 21 P 4:08

RECEIVED
FEDERAL ELECTION COMMISSION
MAY 21 1980

00010203011

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD

MCLEAN, VIRGINIA 22102

(703) 821-1000

1700 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006

(202) 821-1000

TELEX 88-8388 (AEMPOWER WHEN)

TWX 710-828-0633 (TELEREP 800)

GLENN J. SEDAM, JR.

J. CURTIS HERGE

BARBARA L. ABERNETHY

A. MARK CHRISTOPHER

MICHAEL D. HUGHES

ROBERT R. SPARKS, JR.

THOMAS M. DAVIS, III

OF COUNSEL

May 19, 1980

The Honorable Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

ATTENTION: Scott Thomas, Esq.

Re: MUR 1231

Dear Mr. Steele:

This letter is written in response to your letter to National Conservative Political Action Committee, 1500 Wilson Boulevard, Arlington, Virginia 22209 (hereinafter referred to as "NCPAC"), dated May 7, 1980, with which was enclosed a copy of a complaint from the South Dakota Democratic Party, numbered MUR 1231, naming NCPAC as the respondent.

We appreciate having this opportunity, pursuant to 2 U.S.C. 437g(a)(1), to demonstrate that the Federal Election Commission should take no action against NCPAC on the basis of the complaint.

In its complaint, the South Dakota Democratic Party alleged that "NCPAC worked systematically to bring Mr. [James] Abdnor into the race for the South Dakota Republican U.S. Senate nomination" by making poll results available to Rep. Abdnor and by encouraging Rep. Abdnor to consider becoming a candidate for the Republican nomination for election to the United States Senate from South Dakota. Based upon that allegation, the South Dakota Democratic

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Party asserts that NCPAC has compromised its ability to make independent expenditures in opposition to the election of Sen. George McGovern to the United States Senate from South Dakota; and, that all expenditures made by NCPAC in that connection should be deemed to be contributions in-kind to Rep. Abdnor's campaign for the Senate. The assertions of the South Dakota Democratic Party are without merit and should be dismissed in light of the ruling by the Federal Election Commission in Advisory Opinion 1979-80.

In response to the allegations of the South Dakota Democratic Party, NCPAC admits that it conducted a poll in connection with its program of making independent expenditures in opposition to the election of Sen. McGovern, a candidate for the Democratic nomination for election to the United States Senate from South Dakota. Among other things, the poll results revealed certain data which would be relevant to individuals seeking, or considering seeking, the Republican nomination for election to the United States Senate from South Dakota. The poll results were shared with, and explained to, Rep. James Abdnor on or about December 6, 1979. At or about the same time, representatives and agents of NCPAC had discussions with Rep. Abdnor relative to the merits of his seeking the Republican nomination for election to the United States Senate from South Dakota. The foregoing described activity took place prior to the time that Rep. Abdnor became a "candidate," under 2 U.S.C. 431(2), for the Republican nomination for the election to the United States Senate from South Dakota. Under 11 CFR 100.7(b)(1), the poll results did not become a contribution to Rep. Abdnor until he subsequently became a candidate, at which time they were valued in accordance with 11 CFR 106.4(b) and reported.

It is respectfully submitted that the activities described in the foregoing paragraph do not compromise the ability of NCPAC to make, or to continue to make, independent expenditures in opposition to Sen. McGovern's campaign for the Democratic nomination for election to the United States Senate from South Dakota. For example, in Answer 1 in AO 1979-80, the Federal Election Commission determined that a campaign for the Democratic nomination for election to a

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Page Three
May 19, 1980

Federal office and a campaign for the Republican nomination for election to the same Federal office are two separate, distinct races, thus enabling one to make independent expenditures relative to one of the two races regardless of the relationship the expeditor has with the other race. Furthermore, in Answer 8 in AO 1979-80, the Commission determined that NCPAC could communicate with, and contribute poll results to (if done in accordance with 11 CFR 106.4(b)), a candidate for the Republican nomination for election to the Senate and continue to make independent expenditures in opposition to a candidate for the Democratic nomination for election to the Senate from the same state. Therefore, as a consequence of AO 1979-80 and the facts under review herein, NCPAC's activities in relation to Rep. Abdnor did not compromise the nature of the expenditures made by it in relation to Sen. McGovern.

It is also submitted for the record that, after exhaustive analysis, NCPAC can assert that the only communication had by its representatives or agents with Rep. Abdnor, his campaign committee or agents, subsequent to the date upon which Rep. Abdnor became a candidate for the Republican nomination for election to the Senate, has been the exchange of correspondence relative to the value of the poll results to be reported in accordance with 11 CFR 106.4(b). As a result, Answer 8 in AO 1979-80 should be read in a context even more favorable to NCPAC, which is that the contribution of the poll results and the discussions with Rep. Abdnor took place prior to the time that Rep. Abdnor became a candidate for the Senate. As a result, the assumption contained in the footnote on page 11 of the complaint of the South Dakota Democratic Party is not correct.

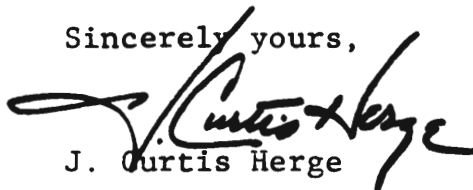
With reference to the specific allegations contained on page 12 of the complaint of the South Dakota Democratic Party, NCPAC is not required to report its expenditures in opposition to Senator McGovern as contributions in-kind to Rep. Abdnor, because they continued to constitute independent expenditures under AO 1979-80. Second, People for an Alternative to McGovern is not a separate "political committee," but a project of NCPAC. All contributions are delivered to,

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aggregated, deposited and reported by NCPAC. Communications issued by People for an Alternative to McGovern, such as that which appears as Exhibit P to the complaint, carry the disclaimer, "Paid for by People for an Alternative to McGovern, a project of National Conservative Political Action Committee and not authorized by any candidate." (Emphasis added.) People for an Alternative to McGovern is not a political committee which is affiliated with NCPAC because it is NCPAC. Therefore, People for an Alternative to McGovern has no separate registration and reporting requirement.

For the reasons stated, it is submitted that the Federal Election Commission should take no action against NCPAC on the basis of the complaint; and, the complaint should be dismissed under 11 CFR 111.7(b).

Sincerely yours,


J. Curtis Herge

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SEDAM & HERGE

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD

MCLEAN, VIRGINIA 22102



The Honorable Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

ATTENTION: Scott Thomas, Esquire



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 7, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer
Deckert, Price & Rhoads
888 17th Street, N.W.
Washington D.C. 20006

Dear Mr. Bauer:

This letter is to acknowledge receipt of your complaint of May 2, 1980, against the National Conservative Political Action Committee and People for an Alternative to McGovern which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within 5 days and a recommendation to the Federal Election Commission as to how this matter should be initially handled will be made 15 days after the respondents' notification. You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles N. Steele", is written over the typed name and title.

Charles N. Steele
General Counsel

Enclosure

80040203017

80040203018

PS Form 3817, Aug. 1970

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

SENDER Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
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2. **ARTICLE ADDRESSED TO:**
Robert F. Brown
Director, FBI
888 17th St., NW
Wash., D.C. 20006

3. **ARTICLE DESCRIPTION:**

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	944728	

 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☒ Addressee ☐ Authorized agent
Robert F. Brown

4. **DATE OF DELIVERY**
5/8/80

POSTMARK

5. **ADDRESS** (Complete only if requested)

6. **UNABLE TO DELIVER BECAUSE:**

CLERK'S INITIALS

1231

Thomas

PSN: 1070-570-001



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 7, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hal Wick, Chairman
People for an Alternative to McGovern
P.O. Box 1865
Sioux Falls, South Dakota 57101

Re: MUR 1231

Dear Mr. Wick:

This letter is to notify you that on May 2, 1980, the Federal Election Commission received a complaint which alleges that your Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1231. 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 your Committee in connection with this matter. Your response 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.

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.

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 sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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Letter to: Hal Mick
Page Two

If you have any questions, please contact Scott Thomas, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

Enclosure

1. Complaint
2. Procedures

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1. The following service is requested (check one):
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2. ARTICLE DESCRIBED BY:
[Handwritten: 100-44706]

3. ARTICLE DESCRIPTION:
REGISTERED NO. 444706 CERTIFIED NO. INSURED NO.

4. (Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE [Handwritten: X4] ADDRESS [Handwritten: 100-44706] AUTHORIZED AGENT []
DATE OF DELIVERY 5-24-80

5. ADDRESS (Complete only if required)

6. UNABLE TO DELIVER BECAUSE:

1231 Thomas



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 7, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Becki C. Burlingame
Treasurer
National Conservative Political
Action Committee
1500 Wilson Blvd., #513
Arlington, Virginia 22209

Re: MUR 1231

Dear Ms. Burlingame:

This letter is to notify you that on May 2, 1980, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1231. 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 connection with this matter. Your response 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.

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.

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 sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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Letter to: Becki C. Burlingame
Page Two

If you have any questions, please contact Scott Thomas, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

Enclosure

1. Complaint
2. Procedures

800040020030022

1. The following service is requested (check one):
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2. ARTICLE NUMBER
100-400000-1000

3. REGISTERED NO. *100-400000-1000* CERTIFIED NO. *100-400000-1000* INSURED NO. *100-400000-1000*

4. I have received the article described above.
☐ Address ☐ Authorized agent
Scott Thomas

5. DATE OF DELIVERY
100-400000-1000

6. ADDRESS (Complete only if registered)
100-400000-1000

7. UNABLE TO DELIVER BECAUSE:
100-400000-1000

1331

THOMAS

APR 19 1980
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1040 BRUSSELS, BELGIUM
(02) 811 80 40

PRINCES HOUSE
85 GRESHAM STREET
LONDON, EC2V 7NA, ENGLAND
01. 806. 8598

LAW OFFICES OF
DECHERT PRICE & RHOADS

888 17TH STREET, N. W.
WASHINGTON, D. C. 20006
TELEX 84 5324 • BARDEP

(202) 872-8600

COMPLAINT
BEFORE
THE FEDERAL ELECTION COMMISSION

3400 CENTRE SQUARE WEST
1800 MARKET STREET
PHILADELPHIA, PA. 19102
(215) 872-3400

SUITE 1780
ENERGY CENTER ONE
717 SEVENTEENTH STREET
DENVER, COLORADO 80202
(303) 883-1777

800 NORTH THIRD STREET
HARRISBURG, PA. 17102
(717) 233-7847

I. Introduction

The South Dakota Democratic Party (the "South Dakota Party") files herewith this complaint, pursuant to §437g of the Federal Election Campaign Act (the "Act"), alleging, inter alia, that the National Conservative Political Action Committee (NCPAC) violated §441a of the Act by making contributions in-kind to U.S. Representative James Abdnor, candidate for the Republican nomination to the United States Senate in South Dakota, in amounts well in excess of the lawful limits. The allegations of the South Dakota Party are presented in this complaint as follows:

I. Introduction

- A. Summary of the South Dakota Party's Complaint
- B. Summary of the South Dakota Party's Request for Relief

II. NCPAC Undertook Through Direct Consultations with Mr. Abdnor and Otherwise, To Persuade Him to Enter The Race For The Republican U.S. Senate Nomination in South Dakota, and Cannot, Therefore, Claim "Independence" From His Candidacy

- A. Background of NCPAC's Attempts to Persuade Mr. Abdnor to Become a Candidate for the U.S. Senate
- B. NCPAC's Interest in an Abdnor Candidacy
- C. NCPAC's Contacts with Abdnor to Persuade Him to Enter the Republican Primary Contest
- D. NCPAC Support to Abdnor After the Declaration of His Candidacy

III. The Activities of NCPAC in Encouraging Congressman Abdnor to Become a Candidate, and in Supporting His Candidacy Beyond the Date of his Formal Announcement, Make it Clear that NCPAC's Expenditures Were Not "Independent" Within the Meaning of the Act

- A. NCPAC's Activities Clearly Included "Consultation" and "Coordination" with the Abdnor Campaign
- B. NCPAC's Conduct Cannot be Reconciled with the True Nature and Purpose of "Independent" Expenditures as Established by the Supreme Court in Buckley v. Valeo

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- C. The Commission's Own Treatment of the "Independent Expenditure" Area Also Mandates a Conclusion that NCPAC has not Achieved True Independence in South Dakota.
- IV. Violations by NCPAC and its Affiliate, People for an Alternative to McGovern, of the Registration and Reporting Requirements of the Act
- V. Relief Requested by the Party

A. Summary of the South Dakota Party's Complaint

Specifically, in expending sums for the benefit of Mr. Abdnor's candidacy, NCPAC sought to operate as a Committee making "independent" -- and therefore unlimited -- expenditures against Mr. Abdnor's likely opponent in the general election, incumbent Democratic Senator George McGovern. As the material below will establish, NCPAC's operations were not operated in a truly "independent" manner, but instead were intimately and inextricably associated with Mr. Abdnor's candidacy. In fact, NCPAC, acting both on its own and through an affiliated committee organized in South Dakota, People for An Alternative to McGovern, made a sustained and ultimately successful effort, which included direct contacts with Mr. Abdnor, to induce him to actually become a candidate. Since NCPAC effectively stands behind the Abdnor candidacy, it can hardly assume a position of "independence" from that candidacy, and therefore all sums expended by NCPAC against Mr. Abdnor's likely opponent, Senator McGovern, should be treated not as independent expenditures, but as contributions in-kind subject to the normal limits applicable to all other political committees under §441a.

While NCPAC's expenditures for the benefit of Mr. Abdnor lie at the heart of this complaint, other violations associated with its activities in South Dakota are also raised herein, and should be investigated by the Commission. Specifically, these violations are as follows:

1. NCPAC's failure to report the full amount of contributions in-kind made to the U.S. Senate candidacy of Congressman Abdnor.

2. NCPAC's failure to report transfers of funds to the People for An Alternative to McGovern, an affiliated committee organized by NCPAC to accomplish its purposes in South Dakota.

3. Failure by NCPAC's affiliate, People for An Alternative to McGovern, to register and report pursuant to the Act.

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B. Summary of the South Dakota Party's Request for Relief.

The allegations raised in this complaint are of the most serious nature, for NCPAC has, to date, expended considerable sums under the false claim that it was operating "independently" of any candidacy and therefore able to make expenditures without limit. These unlimited expenditures have represented an extraordinary advantage to the Abdnor candidacy, have represented a serious circumvention of the limits imposed by the Act, and have adversely affected the interests of the South Dakota Democratic Party, which will support the Democratic nominee. The Commission must act now, and without delay, to enforce the Act's requirements against NCPAC, by 1) preventing further NCPAC expenditures in the U.S. Senate race in South Dakota in this election year; 2) requiring NCPAC to pay a civil penalty in the amount of the sums unlawfully expended on Congressman Abdnor's behalf in excess of the limits; and 3) requiring correction of all violations by NCPAC and People for an Alternative to McGovern of the registration and reporting provisions of the Act, and imposing, where appropriate, civil penalties for these violations. Unless the Commission acts in a thorough and expeditious fashion, NCPAC's activities would make a mockery of the Act's provisions and the interests of the South Dakota Democratic Party will be seriously and irrevocably impaired.

II. NCPAC Undertook, Through Direct Consultations With Mr. Abdnor And Otherwise, To Persuade Him to Enter The Race For The Republican U.S. Senate Nomination in South Dakota, and Cannot, Therefore, Claim "Independence" From His Candidacy.

NCPAC purports to have spent funds in South Dakota "independently" of Congressman Abdnor's or any other U.S. Senate Candidacy. On the basis of this claim of "independence", NCPAC waged a negative media campaign against Senator McGovern in 1979 and this year which cost well in excess of \$100,000. Yet it is a matter of public record, including statements by Congressman Abdnor himself, that NCPAC worked systematically to bring Mr. Abdnor into the race for the South Dakota Republican U.S. Senate nomination. Moreover, as Congressman Abdnor has admitted publicly, NCPAC was successful in bringing about the Abdnor candidacy that it desired.

A. Background of NCPAC's Attempts to Persuade Mr. Abdnor to Become a Candidate for the U.S. Senate.

For the purposes of bringing NCPAC's activities in South Dakota into proper perspective, a brief history is in order here. In October 1979, Lieutenant Governor Lowell

Hanson, a prominently mentioned prospect for the Republican Senate nomination, announced that he would not be a candidate. Other strong, potential candidates, like Governor William Janklow, also refused to enter the Republican primary contest. As press comments over this period indicate, considerable concern was expressed in Republican Party circles about the absence of a "strong" announced Republican candidate able to compete successfully with Senator George McGovern in the general election. (See attached Exhibits A, B, C.)

The question of who might run well against Senator McGovern was one of concern not only to the Republican Party, but also to NCPAC, which had announced in 1979 that it would mount an ambitious campaign to unseat Senator McGovern. The NCPAC campaign against Senator McGovern was to be conducted through negative "independent expenditures" i.e., without regard to the dollar limits that would apply to contributions within the meaning of the Act, and \$50,000 was budgeted initially for this purpose. In addition, to assist it in this negative independent expenditure campaign, NCPAC organized and funded an affiliated committee located in South Dakota, People for An Alternative to McGovern, which was headed by state representative Hal Wick. It was the function of this affiliated committee to raise additional funds for the anti-McGovern campaign, and to develop local organization and volunteer strength to be used by the Republican Senate nominee eventually selected. (See Exhibit D.)

It also appears from the record, however, that NCPAC's interests ranged beyond expenditures directed against Senator McGovern. NCPAC sought to maximize the effectiveness of its negative expenditures by encouraging and supporting a viable Republican alternative who enjoyed a genuine prospect of defeating the Senator in the general election head-to-head contest. Yet with the withdrawal of Lieutenant Governor Lowell Hanson from the race in October, 1979, NCPAC found itself without a candidate that, in its view, had a realistic chance of success against Senator McGovern. NCPAC was publicly unenthusiastic about the earliest announced candidate in the Republican field, Dale Bell of Spearfish, South Dakota. Thus, for example, Hal Wicks of NCPAC's South Dakota affiliate, People For An Alternative to McGovern, disclosed at that committee's inaugural press conference that, while he might support Bell "personally", he saw no likelihood that he could succeed. (See, Exhibit E.) Later, NCPAC's rejection of the Bell candidacy was expressed more forcefully by Mr. Wicks, who stated that NCPAC could not "support" Bell, and that he, Wicks, was not even "sure what he's [Bell] trying to do." (See Exhibit F.)

B. NCPAC's Interest in an Abdnor Candidacy

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NCPAC was not, however, similarly discouraged by the prospect of an Abdnor candidacy, for in the same press conference in which Wicks spoke so disparagingly of Bell, he mentioned Abdnor as possibly the "best" prospect within the party. (See Exhibit E) Yet NCPAC could not count on Mr. Abdnor to quickly decide to enter the race. Press accounts over the period between early October, 1979, when Lieutenant Governor Hansen withdrew from the race, through the middle of December, 1980, when Abdnor first indicated a serious interest in the Republican nomination, show clearly that Abdnor was originally very undecided, if not leaning against, a U.S. Senate Candidacy. (See Exhibits G & H, which are press accounts of such Abdnor statements as "They're going to have to convince me," "Right now I'm gearing up for my Congressional race," and "Personally, I think he's (Gov. Janklow) the guy to run.") Abdnor's indecision stemmed, in large part, from his concern with the level of financial support he could expect in the Senate race. In a number of comments to the press, he pointed to Senator McGovern's well financed campaigns in the past and to the expectation that the Senator would run another well funded campaign this year, and he stated that he would only become a candidate if he could raise funds in sums comparable to those raised by the McGovern campaign. (See Exhibit I).

C. NCPAC's Contacts with Abdnor to Persuade Him to Enter the Republican Primary Contest.

By December, 1979, it became clear that NCPAC had begun working to bring about an Abdnor candidacy. Press accounts have established that, in November, 1979, NCPAC commissioned a poll to determine the relative strengths of the various possible U.S. Senate Republican candidates, and made the results of this poll available to Congressman Abdnor before its public release. Congressman Abdnor has conceded 1) that the poll results were made available to him before they became public; 2) that he discussed those results with the NCPAC pollster, Arthur Finkelstein, with NCPAC national Director, Terry Dolan, and with the Chairman of NCPAC's local affiliate, Hal Wick; and 3) that on the basis of these poll results and his discussions with NCPAC officials, Abdnor decided that he would run. (Exhibit J & K). According to a report filed by Friends for Jim Abdnor, which shows the NCPAC poll as a "contribution in-kind", the poll was presented to the Congressman on December 6, 1979. (See, Exhibit N).

Abdnor made no secret about his contacts with NCPAC, nor about the encouragement that those contacts, including the poll results, had given him. Following his discussions with NCPAC personnel, Abdnor, for the first time, suggested a strong interest in the race. (See Exhibit L, a press account

of Abdnor's statement that "One can't help but be impressed by a poll like that, so yes, I guess you can say that I'm looking a lot closer at the possibility now.") According to press reports, Republican National Committeeman Bill Lenker declared that [the] NCPAC poll "will encourage Abdnor supporters to press for the Congressman to make the race." (See Exhibit M) The Congressman at no time denied that NCPAC intended to encourage him to make the race. Indeed, in an amendment to his FEC reports for this period, filed belatedly March 10, 1980, Abdnor's principal campaign committee, Friends for Jim Abdnor, reported the NCPAC poll as a "contribution in-kind" and referred to it specifically as "... survey information relating to his (Abdnor's) decision to seek re-election to the United States House of Representatives." (emphasis supplied) (See Exhibit N) It was this decision, whether to seek the House or the Senate seat, that NCPAC indeed sought to influence with its poll and contacts with Abdnor.

Moreover, recent press accounts establish that, apart from the poll commissioned by NCPAC and its related discussions with Abdnor, NCPAC actively urged others to bring pressure on Abdnor to run. In one memorandum forwarded to two Republican U.S. Senators and a politically active member of the business community, NCPAC asked that calls be made to Abdnor to encourage him to seek the Republican nomination. (See Exhibit O) This memorandum constitutes additional evidence of NCPAC's vigorous sponsorship of the Abdnor candidacy.

D. NCPAC Support to Abdnor After the Declaration of His Candidacy.

The support given to the Abdnor candidacy appears to have ranged beyond the period when NCPAC was working to persuade Abdnor to become a candidate. In early March, 1980, NCPAC's South Dakota affiliate, People For An Alternative to McGovern, announced that it would run a "media blitz" against Senator McGovern over the week March 17 to 24. It was precisely over this week of March 17 to 24 -- and, in the South Dakota Party's view, not coincidentally -- that Congressman Abdnor was to formally announce his candidacy. The Abdnor candidacy came on March 19. (See Exhibits P & O).

III. The Activities of NCPAC in Encouraging Congressman Abdnor to Become a Candidate, and in Supporting His Candidacy Beyond the Date of his Formal Announcement, Make It Clear That NCPAC's Expenditures Were Not "Independent" Within the Meaning of the Act.

A. NCPAC's Activities Clearly Included "Consultation" and "Coordination" With the Abdnor Campaign.

The FEC regulations define as "independent expenditure" as follows:

"...An expenditure by a person for a communication expressly advocating the election or defeat of a clearly identifiable candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." (emphasis supplied) 11 CFR §109.1(a).

The underlined portions ("Made with the cooperation, etc.") is further defined by the regulations as "any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display or broadcast of the communication." (emphasis supplied) §109.1(b)(4). Only expenditures made without any such coordination or cooperation with a candidate can be truly "independent" and thus unlimited. Yet NCPAC, by all press accounts, and by the plain admission of Congressman Abdnor, has engaged in consultations with Congressman Abdnor that rob its South Dakota campaign activities of any true vestige of "independence". As stated in Section II, NCPAC sought actively -- and successfully -- to induce Congressman Abdnor to abandon his earlier reluctance and to enter the contest for the Republican Senate nomination in South Dakota. NCPAC's efforts in this regard included:

- Commissioning a poll to support its case for Abdnor's candidacy, and presenting the results to Abdnor, prior to their public release, as part of its effort to persuade him to be a candidate.
- Contacts and consultations with Abdnor by key NCPAC officials, namely, Terry Dolan, NCPAC's National Director; Arthur Finkelstein, NCPAC's pollster; and Hal Wick, chairman of NCPAC's South Dakota affiliate, People for An Alternative to McGovern.

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- Contacts with Republican Party allies to enlist them in the effort to encourage Abdnor's candidacy.
- As part of the foregoing activities, publicly disparaging the candidacy of Dale Bell, another candidate for the Republican nomination, and blessing the candidacy of Abdnor.
- Conducting a media blitz against McGovern designed to coincide with, and bolster the effect of, Abdnors' actual announcement of his candidacy in the middle of March of this year.

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In effect, NCPAC has embraced "independence" for some purposes, but sought to abandon it for others. "Independence" within the meaning of the Act is welcomed by NCPAC to the degree that it confers upon that committee authority to make expenditures in unlimited amounts to influence the outcome of the United States Senate contest in South Dakota. "Independence" is rejected by NCPAC, however, to the degree that it precludes that Committee from participating actively in the selection, shaping and promotion of the particular U.S. Senate candidacy which it favors in the State of South Dakota. In short, NCPAC seeks all the benefits of independence, but none of its disadvantages.

Nor, in seeking to have independence for some purposes, but not for others, may NCPAC rely on the fact that Abdnor was not technically "a candidate" when the contacts and consultations occurred. Such an argument presents the classic "distinction without a difference," and ignores entirely the clear constitutional and policy demarcation between a "contribution" and an "independent expenditure". A committee may not claim "independence" when it has actively sponsored a candidacy, consulted directly with the person it favors, shared polling and possibly other strategically valuable information, and ultimately led him to enter the race formally. If this were possible, a massive loophole would be torn into the Act, through which, no doubt, many committees would gladly walk. Such a committee would simply 1) engage in all cooperation, coordination and pre-arrangement prior to the date of formal "candidacy" within the meaning of the Act, and then 2) terminate, abruptly, its association with the candidate, with the parallel tracks of its activities and those of its candidate already perfectly well laid. This would surely be a result at odds with the true nature of "independent" expenditures. In any event, in this case, there is evidence that coordination and cooperation extended beyond the pre-candidacy period, since Abdnor's candidacy and a highly publicized NCPAC anti-McGovern media blitz were timed for the very same week.

B. NCPAC's Conduct Cannot be Reconciled with the True Nature and Purpose of "Independent" Expenditures as Established by the Supreme Court in Buckley v. Valeo

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This highly selective approach to "independence" cannot be sustained upon a fair reading of the Act, and particularly upon a fair reading of the Supreme Court's landmark decision on this issue, Buckley v. Valeo, 424 US 1 (1976). As the Commission knows, the Court held that the "governmental interest preventing corruption and the appearance of corruption" justified Federal limits on political contributions, but could not similarly support a ceiling on truly "independent" expenditures. The Court based its conclusion i.e., that Federal limits could not be imposed on independent expenditures, on the following assumptions about such expenditures -- assumptions which shed considerable light on the reasons why NCPAC's South Dakota spending cannot properly be classed as truly "independent". The Court assumed that since truly "independent" expenditures were made without consultation or cooperation with a candidate, they did not, unlike contributions, pose a real or apparent threat of corruption. As the Court stated this point,

"...Unlike contributions, such independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counterproductive. The absence of pre-arrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as quid pro quo for improper commitments from the candidate." 424 US at 47.

Thus, the Court concluded, independent expenditures carried a "substantially diminished potential for abuse," a potential sufficiently insignificant that it could not outweigh First Amendment free speech protections. It was central to the Court's holding, therefore, that expenditures exempt from any Federal limitation be "... made totally independently of the candidate and his campaign." (emphasis added). 424 US at 47.

It is apparent from a review of the Court's reasoning in Buckley that NCPAC expenditures against Senator

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McGovern in South Dakota cannot qualify for the total "independence" necessary to take it outside the dollar limits otherwise imposed by the Act. None of the characteristics associated by the Supreme Court with true "independence" are present in the case of NCPAC's South Dakota activities. NCPAC brought itself into the closest association with Congress Abdnor by successfully encouraging him, through direct contacts and otherwise, to run for the Republican US Senate nomination. Where a committee encourages, if it does not, in fact, launch, a candidacy in this fashion, it can hardly withdraw from association with the candidate at a later date and claim genuine "independence". Through these prior contacts with Congressman Abdnor, NCPAC placed itself in the same position as a large contributor, with the same opportunity to consult effectively with the candidate over the proper conduct of the campaign, and with the same intimacy with the candidate that presents, in the Supreme Court's words, the "danger that expenditures will be given as quid pro quo for improper commitments from the candidate." In short, NCPAC's activities deprived its spending against Senator McGovern of the character of an "independent" expenditure, and brought it into the category of "contributions" subject to limits. As stated previously, NCPAC cannot have "independence" for one purpose, i.e., to make unlimited expenditures, but not for another, i.e., such that it would not be able to directly support and encourage the candidate of its choice.

C. The Commission's Own Treatment of the "Independent Expenditure" Area Also Mandates A Conclusion that NCPAC Has Not Achieved True Independence in South Dakota.

While the Commission has not addressed precisely this question, it has suggested the answer in response to an Advisory Opinion Request submitted by NCPAC itself. In AO 1979-80, NCPAC sought guidance on a variety of questions about the scope of its "independence" in making unlimited expenditures in Federal elections. Of particular interest to this matter, NCPAC posed the following question (cited in the AO as "Situation 9"):

"NCPAC is making independent expenditures in opposition to the election of a candidate for his party nomination for election to the Senate. May NCPAC encourage another individual to seek the nomination of the same party for election to the Senate?" (emphasis supplied)

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The Commission responded that, as presented, the NCPAC question was "vague", and it could not therefore give a definitive response. The Commission did observe, however, that the "encouragement" of a candidacy could "impact on NCPAC's ability to make independent expenditures in opposition to the present candidate." While the NCPAC question does not correspond precisely with the facts of this matter (since NCPAC is not making independent expenditures against one of Abdnor's primary opponents, but instead against his likely Democratic opponent in the general election), the Commission's response applies no less to NCPAC's South Dakota activities. As the Commission appears to recognize, the "encouragement" of a candidacy "impacts" on an organization's ability to make independent expenditures, for the simple reason that such close association with a candidacy, through direct contacts and otherwise, effectively deprives the committee of any true claim of independence if and when the person encouraged becomes a candidate.*/

It would not be sufficient to argue, in response, that so long as Abdnor is not the Republican party nominee, and is not formally Senator McGovern's opponent, NCPAC's expenditures against McGovern cannot be treated as a "contribution" to Abdnor. This argument misses the mark entirely on two grounds. First, once NCPAC has closely associated itself with one candidacy, and indeed can claim a large measure of the responsibility for its creation, its actions cannot be analyzed independently of that candidacy. In South Dakota, by virtue of its prior consultations with and promotion of Abdnor, NCPAC has made itself into an arm of Abdnor's campaign in attacking Senator McGovern, and all of its activities must be analyzed in that light. Second, NCPAC's own polls, as well as expert opinion around the state, show that Congressman Abdnor is the prohibitive favorite for his party's nomination to the Senate. Under these circumstances, in the most practicable terms, Abdnor is running now not against his weak primary opponents, but against his probable opponent in the fall election, Senator McGovern. All of NCPAC's activities, and most, if not all of, Abdnor's current activities, are clearly

*/ In this AO, the Commission made it clear that, if a committee has contacts with one of a number of primary candidates, and if this candidate emerges from the primary contest as the nominee, the Committee cannot make independent expenditures against that nominee's opponent in the general election. Thus, the South Dakota Party assumes that, whatever the outcome of this matter, NCPAC's contacts with Abdnor preclude it from making expenditures against Senator McGovern as soon as Representative Abdnor becomes his party's nominee. (See Answer 8 in AO 1979-80.)

directed not to the primary, but to the preparation and pursuit of this fall campaign. (See Exhibit R) No comfort can be drawn by NCPAC, therefore, from the fact that the primary contest has not been held and that Abdnor has not yet been formally declared the Republican nominee from South Dakota.

IV. Violations by NCPAC and its Affiliate, People for an Alternative to McGovern, of the Registration and Reporting Requirements of the Act.

Additional violations have resulted from NCPAC's activities in South Dakota, which appeared to have been undertaken without regard to the reporting requirements of the Act. At the outset, it should be noted that NCPAC's expenditures against McGovern are not, in fact, expenditures at all, but instead are contributions in-kind which should have been reported as such. To date, however, only the value of the poll commissioned by NCPAC, and presented to Abdnor in an effort to induce his candidacy, has been reported. All expenditures following that poll (or following any earlier evidence of direct NCPAC contact as established by the Commission), including those expenditures made during the week that Abnor announced his candidacy, have not been reported by NCPAC as a "contribution in-kind" in violation of the provisions of Part 104.

Second, press reports have established that People for an Alternative to McGovern sought to raise its own funds, in addition to funds donated by NCPAC, in conducting its negative campaign against McGovern in South Dakota. This campaign has featured radio, television advertisements and newspaper advertisements. The level of activity maintained by this NCPAC affiliate appears to have well exceeded the \$1,000 threshold established by the registration provisions of the Act. § 100.5(a) of the FEC Regulations. Yet, having exceeded this threshold, People for An Alternative to McGovern has not filed a Statement of Organization with the Federal Election Commission, nor have its activities been reported through NCPAC's own FEC filings. Accordingly, NCPAC and its affiliate appear to have violated the registration and reporting provisions of the Act.

Third, NCPAC is currently "affiliated" with People for an Alternative to McGovern within the meaning of the Act, for, through the financial support and general direction it has given to this committee, it has effectively "established, financed, [and] maintained" People for an Alternative to McGovern within the meaning of §100.5(g)(2) of the Commission regulations.

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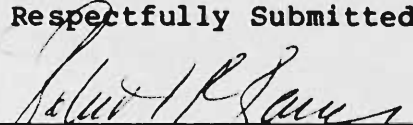
Once again, however, NCPAC's reports do not reflect any transfers of funds to its affiliated committee, and the absence of such reporting indicates a further violation by NCPAC of the reporting provisions of the Act.

V. Relief Requested by the Party

In light of the foregoing, which describe in detail serious violations of the Federal Election Campaign Act by NCPAC acting on its own and through its South Dakota affiliate, the South Dakota Party requests that the Commission commence enforcement proceedings against NCPAC, and that the actions taken against NCPAC include the following:

1. Requirement that NCPAC agree, as part of a conciliation agreement, that it will make no further independent expenditures against Senator McGovern in this election year.
2. Payment by NCPAC of a civil penalty in the amount of the expenditures involved in the violations alleged here, namely, all negative expenditures made against McGovern from the date that NCPAC first undertook to directly encourage Mr. Abdnor to become a candidate (on or about December 6, 1979 or earlier as the Commission will establish), through the present. See § 437g(a)(1)(5)(A).
3. Immediate correction of all registration and reporting violations by NCPAC and its affiliate, People for an Alternative to McGovern, including, if the Commission deems it appropriate, the imposition of civil penalties.

Respectfully Submitted,


Robert F. Bauer
Attorney for the South
Dakota Democratic Party

Address of Complainant:
South Dakota Democratic Party
Box 668
Pierre, South Dakota 57501

DISTRICT OF COLUMBIA

Subscribed and sworn to before me this

2nd day of May, 1980



Notary Public

My Commission Expires March 31, 1984

Opinion

Mitchell-10-13-79

GOP frustration: candidates bail out, negative politics flows

There are five anti-George McGovern committees afloat in the state designed to tell what is wrong with the state's senior senator, but only one alternative to McGovern has surfaced thus far.

There are five anti-George McGovern committees afloat in the state but only one committee on the books that offers an alternative for a particular candidate who professes they would be a better representative in the United States senate.

To this point, only Spearfish restaurant owner Dale Bell has filed for the office. Meanwhile Republicans who might be deemed popular and hold stronger chances of derailling McGovern than Bell are sitting on the sidelines.

It is unfortunate that anti committees surface and positive campaigns become antiques in the historical files of state politics. It is the negative route again as usual.

Seems not too long ago we heard established Republicans saying something about how they are always going about running against George McGovern all wrong. Backward. Too negative.

But this time, it could be that — despite all of the anti groups surfacing — there are few if any people who are willing to tackle the record of George McGovern in a state ballot after weighing his 21-year impact for the benefit of South Dakotans.

Long ago, there should have been a game plan established by Republicans and a viable candidate offered who professed the positive reasons for running for the U.S. Senate if Republicans really thought they could win.

The last GOP hope for that type of candidate went out the door when Lt. Gov. Lowell Hansen slammed the door shut on a possible bid.

Hansen, who possesses the political and philosophical characteristics that are favorable to both Republicans and Democrats probably stood the best chances of running the race against McGovern. That includes Gov. Janklow, Rep. Abdnor, David Volk and Dale Bell among others.

It is no secret that Janklow has antagonized many of the electorate who checked his name in

the voting booth last November. He has not failed at his position, but when people from his own party begin grumbling this early about his performance, it is a bad sign of things to come.

Rep. Abdnor still has aftershock from his inability to come through for hundreds of Republicans who put their faith in him to challenge Larry Pressler for the senate nomination. Now, a good number of these hundreds, are apprehensive and a good many who checked Pressler's name are wondering what they bought last November.

Abdnor may find it hard to convince these supporters once again that he will indeed do it this time.

McNas — with the exception of the lieutenant governor's race, never had a statewide race, and we doubt that he is enthusiastic about running one at this stage of a congressional career where he is finally getting an ounce of seniority.

Abdnor is getting pressure again from some corners, presumably from those who want the pressure off Gov. Janklow and placed somewhere else. It might be the clear indicator that Janklow is sincere about wanting to stay out, and wants to convince people that that is the case. To do this, he needs a name candidate surfacing. As a result, Abdnor is feeling that political heat.

Joe Barnett has never closed the door on it and is still a very likely candidate too. But he has similar frustrations. He doesn't want to look too positive now and then bow out after building up confidence of supporters as Abdnor did in 1977. So his low profile is understandable.

But what rank and file Republicans are beginning to worry about are time and negativism. As in the past, they are waiting until the two minute warning and they are going for the ultimate: digging up the sins of George McGovern.

You can bet McGovern loves every minute of it. He knows how to run against negative and emotional campaigns and as you well know, he thrives on it. It is general knowledge that people in this state don't like negative politics.

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editorial opinion

10-10-79. Hat. J. G.

GOP continues search for strong candidate

LI. Gov. Lowell Hanson's announcement that he will not be a Republican candidate for Democrat George McGovern's U.S. Senate seat leaves the scene little changed in the sense that the state's GOP still is hunting for someone widely enough known and likely to stand a chance against the incumbent. Hanson's decision not to run had been increasingly expected as time wore on since last summer when he became established as a "possible."

At the moment, only Dale Bell of Spearfish has formally announced for the Republican nomination. But party leaders have been seeking someone who can bring more acquaintance and name-identification into the fray and it is at this point that such names as Abdnor, Janklow, Volk, Barnett, Mickelson and others turn up in the conversation.

Abdnor says he "has no designs" but will not give a flat "no." Gov. Janklow has said repeatedly that he will not seek the Senate job...this time around, anyway. Speaker of the S.D. House George Mickelson also denies any interest and so does House Majority Leader Joe Barnett of Aberdeen. State Treasurer David Volk, a political veteran, says only that if both Hanson and

Abdnor decide against a Senate campaign, "then I've got to consider it."

Meanwhile, Hanson's "no run" announcement — originally set, incidentally, for Tuesday but released generally Monday after someone "jumped" the release — contained this paragraph:

"During the Senatorial campaign next year, I intend to support the Republican who wins our party's nomination. I firmly believe that Senator McGovern's positions and record do not reflect the philosophy of the majority of South Dakotans...and that he can be beaten in 1980."

This came while Abdnor and Sen. Parish, state GOP party chairman, directed their attention to Gov. Janklow. Abdnor asserting, "Personally, I think he's the guy to run" and Parish remarking, "I've had a lot of input from people who are politically astute urging Bill to run. He would have an excellent chance."

Given someone with such a chance, the next Republican tasks will be 1. to get all Republicans to vote Republican, and 2. bring some Democrats into the GOP camp. It shouldn't be forgotten that registered Democrats outnumbered Republicans last time around and presumably nothing has changed much since then.

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Republicans feel McGovern vulnerable, have no opponents

The Associated Press *Repub City*

Republican National Committee officials are convinced that George McGovern is ripe for defeat in next year's U.S. Senate race, but they admit their inability to come up with a candidate to oppose him. 12-3-79

Norman Turnette, head of the Republican's search committee, said Saturday that five or six South Dakotans could beat McGovern in 1980, but none are ready to emerge.

"I think we can win it. I am encouraged about that," Turnette said. "But it's not the easiest state we've got right now."

However, Turnette said the Republicans believe they will come up with a "viable and electable candidate."

Among names mentioned was Gov. Bill Janklow, who has repeatedly discounted any McGovern-Janklow contest.

"I do all my communicating through him, but in no way is it conversation urging him to run. He says he is out of it and I take him at his word. He will not be a candidate," Turnette said.

Turnette did not volunteer names of potential candidates, but he admitted that Attorney General Mark Meierhenry and Congressman James Abdnor are possibilities.

He said he is pleased the committee has come up with candidates to oppose "targeted" senators in Indiana, Iowa and Idaho.

The possibility of a late entry doesn't disturb Turnette.

"We can win with someone who gets in sometime next year. That isn't impossible," he said, adding that now Republican Orrin Hatch defeated former Sen. Frank Moss in Utah even though he didn't announce his candidacy until April.

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5th anti-McGovern group born

By TIM HINKLEY
Argus-Leader Staff Writer

While Republicans lost a contender for the 1980 Senate race Monday, state party officials watched the birth of the fifth committee opposing Democrat Sen. George McGovern's re-election.

Lt. Gov. Lowell Hansen, considered to be a potentially strong GOP candidate to oppose McGovern, said family considerations postponed any bid for higher office at this time.

"My family has encouraged me to run, but as a father and a husband, I believe it to be in the best interest of my family not to seek the Senate seat," Hansen said Monday.

Later that day, state Rep. Hal Wick, R-Sioux Falls, announced the formation of the "People for an Alternative to McGovern" committee, which is affiliated with the Washington D.C.-based National Conservative Political Action Committee (NCPAC).

Wick announced the beginning of a \$50,000

program that will advertise and use direct mail to "rally conservative and moderate opposition to McGovern."

Under Federal Election Commission law, the group cannot support any candidate, but Wick mentioned U.S. Rep. James Abdnor, R-S.D., as the type of conservative candidate they would prefer.

"We are not a stalking horse for any candidate or any political party," Wick said. "We are an organization for an alternative to Sen. McGovern."

Wick described the group as an independent-educational committee to inform South Dakotans about McGovern's record in Washington.

People for an Alternative has about 12 members.

Wick said he was contacted by NCPAC to run the committee "aimed at replacing one of the nation's foremost liberals. We will try to coordinate individuals by counties and offer

our results to the person nominated to oppose Sen. McGovern."

"This will give McGovern's opponent a base from which to find the local campaign support and volunteers," Wick said.

"By undertaking this project, we expect to generate some heat in South Dakota politically. We believe Sen. McGovern's 1974 opponent (Leo Thorsness) lost that election because of the negative image he conveyed.

"If we are successful, perhaps McGovern's 1980 opponent will not have to convey such a negative image and can run in the nice guy tradition of a candidate like Larry Pressler."

NCPAC organizations are opposing the re-election of Democratic senators in five states.

Democrats labeled the committee's formation as negative political maneuvers.

"The style of politics that promotes no candidate but rather seeks to attack incumbents has gained credence since the Nixon years," said Judy Harrington, a McGovern aide.

Minnehaha Democratic County chairman Dennis McFarland said the committees "do the hatchet work and make their candidate look positive and actually they work hand-in-hand."

Other committees formed to oppose McGovern's re-election include the Target McGovern committee (organized by Republican candidate Dale Bell), People Who Want a New Senator (another Bell committee), S.D. Senatorial Research Committee (chaired by Sen. Don Peterson, R-Yankton) and McGovern Accountability Committee (sponsored by the Republican State Central committee).

Exhibit D

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Argus

Questions & Answers, Hal Wick Press Conference, 10/8/79

Q: Who would you like to see oppose McGovern?

A: Best candidate at this time is probably Jim Abner, but it is too early to tell.

Q: Would you support Dale Bell?

A: I could support Bell personally, but I don't think he has enough visibility to win.

Q: In light of the fact that you have no candidate to support, aren't you putting the cart before the horse with organizing & educating now?

A: Through our organization & education, we hope that the candidate who does oppose McGovern will not have to say anything negative.

Q: With the election a year away, aren't you perhaps too early?

A: Jimmy Carter started at least one year ahead of the election, also we've seen studies that indicate that most voters have their minds made up in January of an election year.

Q: In your statement you say that South Dakotans feel this and that, how were these statements arrived at, through a poll?

A: Yes, we took a poll before we started.

Q: Are you going to release the results of the poll?

A: No, not at this time.

Q: In taking a stand of anyone but McGovern, aren't you leaving yourselves open to someone who may not be as conservative as you would like?

A: We will make decisions on that possibility when it happens.

Q: You claim that McGovern is being influenced by out of state money and contacts. What about your connection w/ NCPAC?

A: (LONG pause) I don't know if you could call that out of state involvement...Conservatives are doing now what the liberals did in the 1960's. We'll make all the decisions here in SD, we'll have total autonomy.

Q: How many members in your group?

A: We've received 1/2 dozen to a dozen letters of support to date.

Q: Will you seek out a candidate?

A: No, all we will be doing is organization at the county and state levels and education of the public.

Q: Are you going to seek contributions from out of state?

A: Yes, but we will stop when McGovern stops taking contributions from out of state. We would probably disband at that point.

Q: Don't you think that you will be stepping all over the other anti-McGovern groups? Also, won't it be possible for McGovern to portray himself as some one under siege?

A: I don't know if we will be overlapping with the other groups or not. We are forbidden by law from cooperating with them. As for the second, McGovern will probably try to portray our purely educa-

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Plans laid to oust McGovern

8/20/79

By JUDY ALLEN
Daily Republic
Washington Bureau

WASHINGTON — South Dakota Sen. George McGovern, considered by a national conservative organization the most vulnerable liberal senator, will be the target of a state blitz designed to draw attention to his "distasteful" voting record.

The National Conservative Political Action Committee last week named McGovern, Frank Church of Idaho, John Culver of Iowa, Birch Bayh of Indiana and Alan Cranston of California its targets for 1980, when they all face reelection.

NCPAC announced that it will spend \$700,000 in the five states this year for television, radio and newspaper ads focused on the liberal voting records of the target senators.

According to Terry Dolan, NCPAC chairman, \$50,000 has been allocated to South Dakota, where state Rep. Hal Wick of Sioux Falls will coordinate the campaign.

"We picked them because they are the most distasteful, the most liberal, the most radical, and the most vulnerable," Dolan explained.

Wick, a Republican currently serving his second term representing the 11th District in the South Dakota state legislature, said that although NCPAC cannot support any particular opponents to the targeted senators because they make larger contributions than the Federal Election Commission permits for committed political committees, several unannounced McGovern foes could unseat the popular three-term senator.

Wick said that NCPAC forces in the state are not supporting the candidacy of Dale Bell, adding, "I'm not sure what he's trying to do."

However, he suggested that former governor Richard Kneip could defeat McGovern in a Democratic primary, and said, "In the general election, the governor could beat him, and so could (Rep.) James

Abdnor."

Wick, who was approached by NCPAC about eight weeks ago and asked to head the South Dakota anti-McGovern effort, will be the narrator in television commercials to be filmed for airing in the state. They will focus on McGovern's taxpayer-funded "junkets" and on the fact that he owns no property in the state.

The commercials will begin airing about Sept. 1, Wick said.

Sample advertisements distributed at the press conference here included a script for a television spot featuring a basketball-dribbling black man with a background of the familiar Harlem Globetrotters' theme.

"Globetrotter is a great name for a basketball team," the voice-over says. "But it's a terrible name for a senator. Only one senator did more globetrotting last year than George McGovern. No wonder he's lost touch with South Dakota."

An ad slated to appear in a

Sioux Falls paper features a caricature of McGovern handing a map of America to a Chinese. "McGovern Sells Out Taiwan and the U.S.," the headline reads.

Wick said future attacks on McGovern may focus on his inattention to senior citizens' concerns (the state's population is made up of 20 percent elderly), and on his record on farm issues.

The Republican legislator termed McGovern's defeat in 1980 "not just possible, but probable," and said the state Democratic leadership may even convince him not to run.

If that occurs, Wick said, a Sen. Edward Kennedy-McGovern Democratic presidential ticket is conceivable. "They would be very formidable," he said.

Wick will appear in NCPAC ads, help with media decisions, and assist in fundraising efforts, he said.

McGovern is also on the hit lists of other national conservative groups, including the Conservative Caucus and the Committee for the Survival of a Free Congress.

Abdnor would run if drafted 10/16/77

WASHINGTON (AP) — If South Dakota Republicans want Second District Rep. James Abdnor to run for the U.S. Senate, they'll have to mount a "draft Abdnor" effort, he said today.

Abdnor, who is serving his fourth term in the House, told the Mitchell Daily Republic's Washington bureau that the only thing that could convince him to oppose Democrat Sen. George McGovern is "a public demand so great I couldn't turn it down."

Because of his "stature and seniority" in the House, Abdnor said he is reluctant to consider what would be a hard-fought contest against McGovern.

In recent days, particularly since Lt.

Gov. Lowell Hansen announced he will not seek the nomination, Abdnor's name has most often been mentioned among South Dakotans looking for a Republican challenger with a statewide reputation.

"A week ago I would have said it was impossible," Abdnor said. "It was the last thing on my mind until recently."

Abdnor's choice for the role as McGovern's opponent is Gov. William Janklow, who has said he will not be a candidate. If a draft Janklow movement were initiated, Abdnor said perhaps the governor could be convinced to run.

While his Republican philosophies differ substantially with those of McGovern,

Abdnor said he doesn't have a personal vendetta against the senator nor would he become a figurehead for any "dump McGovern" movement's.

"The door is open," Abdnor said, and "U.S. senator is a nice title."

"They're going to have to convince me. Right now I'm gearing up for my congressional race."

Arm-twisting has been coming from Abdnor's friends and constituents rather than from the state's Republican party hierarchy, he said.

"I haven't been taking these people seriously until just recently. They've been coming to me, which is nice," Abdnor said.

R.C. Journal
**Abdnor mulling
 run for Senate 10-8-74**

SIoux FALLS (AP) — The GOP nomination for a U.S. Senate seat still remains up in the air but 2nd District Congressman James Abdnor says he hasn't ruled out the possibility yet.

Only one person, Dale Bell of Spearfish, has announced his desire for the seat now held by Democratic Sen. George McGovern. McGovern hasn't announced formally but is expected to try for re-election.

"At this time, I don't have any designs," said Abdnor. "But I will not say flatly to you that I won't."

Dan Parrish, state GOP party chairman, has labeled Abdnor as a "very viable candidate."

At Gov. Lowell Hansen will announce Tuesday a decision to seek the seat.

But if both Hansen and Abdnor decide against the campaign, state Treasurer David Volk will be waiting in the wings.

"If both of them get out, then I've got to consider it," said Volk.

Another frequently mentioned name for the post is Gov. Bill Janklow.

"Personally, I think he's the guy to run. I'd love to see the guy go," said Abdnor.

Parrish, Bell and Volk agreed but Janklow has said repeatedly that he won't seek the Senate seat.

"I've had a lot of input from people who are politically astute urging Bill to run," said Parrish. "He would have an excellent chance."

"But, he has been closing the door awfully tight," the state Republican chairman added.

Another politician who has expressed interest in the nomination and has received at least some party support is South Dakota House Majority Leader Joe Barnett of Aberdeen.

However, Barnett declined comment about a possible campaign.

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Mitchell DAILY REPUBLIC 1/19/80

Abdnor still expected to seek U.S. senate seat

By VINCE STRICHERZ
Daily Republic
City Editor

PIERRE — Who will be the Republican candidate challenging George McGovern for his U.S. Senate seat?

Though Dale Bell of Sturgis, an American Agriculture Movement leader, and Wayne Peterson, Holabird, have already announced their intentions, most of the frequently mentioned candidates are looking to Congressman Jim Abdnor as a shoo-in for the nomination.

Abdnor himself, is sounding more convinced than ever that he has the support to run.

"I'm all but there right now," Abdnor said at a Republican legislative press reception here Thursday night. "I'm not totally convinced. They have to show me a little bit more (support)."

If Abdnor isn't totally convinced, others mentioned as prospective candidates seem to be.

"I don't think it's any secret, Jim Abdnor is going to run and that will be the end of the announcement," said House Majority Leader Joe Barnett, Aberdeen. "That's just conjecture — my opinion," he added.

Attorney General Mark Meierhenry shares Barnett's opinion. "Isn't it set that he

(Abdnor) is going to run?"

But Meierhenry didn't completely eliminate himself from a bid for McGovern's seat. "I haven't earned my spurs yet. I've only been here a year, some of the elders of the party have earned the right to run. If no one else declares, and it gets down to brass tacks, I'll have to look at it again."

State Assistant Majority Leader George Shanard, considered by some as a strong possibility to seek McGovern's seat, said, "I can't see any stronger than I have before. I am not a candidate, as much as I'd like to be. I'm just not ready yet." Shanard didn't speculate on who the nominee of the party might be.

Gov. William Janklow also reiterated his position that he has absolutely no desire to run for the Senate.

In speaking of his potential candidacy, Abdnor said, "I still got a couple of obstacles to overcome. Right now let's say I'm just extremely interested."

"Gee, when you're talking about running against George McGovern, I have nothing but the highest respect for him. He ran for president — he's in a league by himself." In assessing his possibility of running he said, "Nobody has shoved any money at me yet (as offered to run), but it'll take an awful lot of it to run."

80040203044

McGovern 'anti-campaign' draws fire from candidates

By RICK HAUFFE
Public Opinion Staff Writer

ASSOCIATION with a certain political action committee working on an "anti-campaign" against Sen. George McGovern, D-S.D., appears to be something South Dakota senate primary candidates want to avoid.

However, in one case, suggesting an opponent is involved with that group's efforts is in order.

The group in question is called NCPAC (pronounced "nickpack") which stands for the National Conservative Political Action Committee, a right-winged group based in Arlington, Va., that is waging an "anti-campaign" against five U.S. senators whose voting records are viewed by the group as too liberal.

The senators other than McGovern are Birch Bayh of Indiana, John C. Culver of Iowa, Frank Church of Idaho and Alan Cranston of California.

IN SOUTH DAKOTA, NCPAC is allied with and to some degree orchestrates the Alternative to the McGovern group which is headed by Hal Wick of Sioux Falls. The Sioux Falls group has been responsible for placing advertisements in the media or mail making charges against the senator using his voting record against him.

NCPAC Director Terry Dolan said his group plans to spend \$100,000 in South Dakota in 1980 on advertisements against the senator and other activities. Other groups working against McGovern have their own budgets to wage political war with. Dolan said 66 percent of his allotment for South Dakota would be spent prior to the June 3 primary in an effort to soften up McGovern for his Republican challenger — who ever it is.

Dolan rationalized the "anti-campaign," noting that incumbents have always had an advantage to challengers who, when they enter the race and attack the incumbent, gain a more negative image. NCPAC's function is to knock down the incumbent's esteem for the challenger but without making any endorsements for the challenger.

NCPAC IS allowed to operate its present campaign within the limits of the "independent expenditure" law. The law says

a group like NCPAC may make "expenditures for communications made expressly to advocate the election or defeat of a clearly identified candidate which is not made with the cooperation or the consent of or in consultation with or at the request or suggestion of any candidate or any of his agents or authorized committees."

The one who is making the suggestion about his opponent is Dale Bell of Spearfish who is battling Rep. Jim Abdnor of Kennebec for the Republican senate nomination. In an interview recently with the Public Opinion, Bell charged he has "good reason to believe" that there is some "collusion" between the Abdnor campaign and NCPAC.

Abdnor said that since he announced his candidacy for the senate, "I have absolutely nothing to do with them (NCPAC). I haven't been in conversation with them on anything. I have no part of it. I have nothing to do with Hal Wick."

HOWEVER, Abdnor said that before he announced his candidacy, he was contacted by the NCPAC pollster Arthur Finkelstein about a poll which showed Abdnor could beat McGovern "50 to 33 percent." He said Dolan also consulted him before announcing about the poll and it was because of the poll's results that Abdnor said he was influenced to run against McGovern.

Bell said he has had indications Abdnor will get consultation from NCPAC.

"I would encourage the Federal Election Commission to look closely into the collusion that may well be taking place between Congressman Abdnor's efforts and NCPAC's efforts," Bell said.

Terry Dolan and Arthur Finkelstein, who is their pollster, met with Abdnor and encouraged him to run. I don't know how much collusion there still is between the two (Abdnor and NCPAC), but if you want to draw NCPAC to a candidacy, the NCPAC candidacy is Jim Abdnor. That's the anti-campaign."

Bell said he "wouldn't touch NCPAC" although his campaign staffer in Spearfish, Mark Young, said Bell once applied to NCPAC in 1978 for assistance in a run for the Second Congressional District

Republican primary race. However, NCPAC was one of many right-winged groups the Bell campaign was appealing to for help and the Bell campaign eventually folded when Abdnor announced his candidacy for the seat that year.

These days, however, Bell doesn't want any part of the NCPAC group and says it can be the kiss of death to a campaign against Sen. McGovern.

"I DON'T BELIEVE that it's proper for the NCPAC people in Washington to enter this state's politics with negative campaigning," he said. "I don't think it's any of those guys' business. I think they ought to keep their nose in Arlington, Va."

Abdnor said he's disappointed with Bell's statement. "He had no right making a statement like that. That's a terrible thing for him to do and I hope he cleans up his campaign."

However, he views the NCPAC "anti-campaign" as a matter between just Sen. McGovern and NCPAC.

"I don't have anything to do with their fight. That's between McGovern and that group. What am I supposed to do about it? Someone asked me the same thing about (Gov. William) Janklow. What am I supposed to do about Bill? I can't tell him he can't talk and make speeches. This is a free country."

JANKLOW AND McGovern have had a dialogue of remarks about each other since they debated last summer in Rapid City over the tour aid issue.

On political action committees (PACs) in general, Abdnor remarked:

"If they see (PACs) something in me they like in my voting record, then that's fine. Welcome to my neighborhood. The support's fine. It doesn't mean I'm going to take their money but I can't stop them from supporting me and I like all the votes I can get."

Abdnor added that he's never been "bought out" by special interest groups and that his voting record has been around longer than the group's interest in his senate campaign.

30740203045

ADDITIONAL ALLEGATIONS IN TOP STORY on Senate campaign charge

Exhibit 1

PIERRE, S.D. (AP) — Sen. James Abdnor became flustered Wednesday when reporters questioned him about charges that his U.S. Senate campaign was improperly connected with a national conservative group.

The charges came this week from Sen. George McGovern, from Abdnor's Republican primary opponent Dale Bell and from a lawyer for the South Dakota Democratic Party.

They accused Abdnor of coordinating his campaign with the National Conservative Political Action Committee in violation of Federal Election Commission rules.

Contacted by a Washington reporter Tuesday

night, Abdnor denied the allegations and said: "I'm glad George (McGovern) is finally coming out in the open. He usually operates under cover."

And the 2nd District Congressman called the members of NCPAC fanatics.

But Wednesday morning Abdnor denied he had made those statements.

"I'm sure I never made those statements," Abdnor said. "I think the (the Washington reporter) was talking to my girl here in the office."

"I swear I didn't say anything about McGovern coming out from under cover. I didn't call them fa-

"ABDNOR

Continued on page 2A

noties, either. That doesn't sound like Jim Abdnor," he said.

"I've got no problem with them (NCPAC)," Abdnor said.

"NCPAC's got a lot of great people in it. I just don't want to be tied to their negative campaign."

The Washington reporter, Judy Allen of Thomson Newspapers Ltd., stood by her story. And before the morning was up, Abdnor had called her to admit that he did make the statements.

In general, Abdnor's response to the allegations was that he had no illegal connections with NCPAC.

"I have nothing to hide," Abdnor said Tuesday night. "My first direct contact with NCPAC was last August during State Fair week when shown a NCPAC poll. I was flattered by the high rankings but not impressed by their poll."

Abdnor said Wednesday that he was shown the NCPAC poll by Hal Wick, a state legislator who chairs the People for an Alternative to McGovern, an anti-McGovern group.

Abdnor said he later did his own telephone poll.

"They interested me enough to do my own checking," he said.

In February, Abdnor amended his FEC financial reports to show the NCPAC poll as a \$500 in kind contribution to his campaign.

While Abdnor admitted talking to NCPAC officials about his chances in the U.S. Senate race, he says he has no connection with the group.

Abdnor said he received a computer-written letter from NCPAC in January thanking him for a recent \$75 contribution. That started a series of letters between him and NCPAC as he tried to remove his name from their list.

"I was petrified," Abdnor said. "I wouldn't give them a nickel."

"If anything has been done wrong, I am ignorant of the law or I am not aware of it," he said. "I am trying to beat McGovern but NCPAC's involvement in it"

McGovern: Changes would shaft farmers

WASHINGTON (AP) — Sen. George McGovern charged Wednesday that possible changes in Energy Department policy on alcohol fuel production would hurt farmers in favor of major energy companies.

McGovern, D-S.D., said a report by a study group of the Energy Research Advisory Board recommends reliance on alcohol produced from forestry residues and from coal and would deprive farmers of their chance to achieve energy self-sufficiency.

The result, McGovern said, "will confine most of the nation's alcohol fuel production to a comparatively few plants and corporations in what is essentially a duplication of our centralized oil industry."

If the recommendations are accepted, "We may well find that

most of the available supply as well as the price of alcohol fuels will be lock-stopped behind the supply and escalating price of foreign oil," he said.

The report seriously erred in its findings that farm-produced alcohol must be confined to grain surpluses in order to avoid food shortages, he said.

"The study group completely overlooked the use of alternative and high carbon content crops and new technology which will expand available land, prevent soil erosion and reduce fuel tillage requirements," McGovern said.

He also said the study group lacked representation of small-scale alcohol production "while persons who advocate large-scale methanol production were prominent in its activities."

SIOUX FALLS, SD,
Argus Leader, 5/1/80

^ Robin

At Senate race Mitchell 12-14-79
Rep. Abdnor taking a closer look

By DAVID KRANZ

Daily Republic Managing Editor

WASHINGTON — Cong. Jim Abdnor has decided to take a closer look at entering the United States Senate race in 1980.

Abdnor told the Daily Republic, "One can't help but be impressed by a poll like that, so yes, I guess you might say I am looking a lot closer at the possibility now."

Abdnor said he would expect to make a total evaluation of his chances by the end of January.

"I'll tell you one thing, I am not going to be pushed into this thing. It's my decision and I will not let one organization or another decide for me. It will be me and maybe a handful of friends that talk it over."

The fact that he has potential ranking committee member opportunity on the House Aging Committee is one of the hold backs on the decision to run, but let's face it. It isn't very often you have the opportunity to run for the senate. It's a very prestigious position and a place where you can be even more effective. So there are some real hard looks I will have to take here."

"But I will tell you one thing, if I decide to go, I will not run as a sacrificial lamb for anybody. I know it would be a tough race with McGovern, but I look ahead two years and see a statewide race with Daschle and that would be a tough race, so anyway you look at it, it isn't going to be easy."

Abdnor said he planned to do some personal evaluating to see if "the strength for support of my candidacy is really there. I don't know if I will do any personal polls, but I certainly want to know where I stand. I don't want a lot of people saying 'yea Jim we're behind you all the way and then look around and try to find them when the time comes.'"

The financial aspects of the campaign are also something the second district congressman is looking at.

"Good heavens. A campaign like that would be much more costly than anything I've ever been involved in, so it would require a great deal of money raising. But if I am sure that there is that kind of backing it would be another positive factor."

But Abdnor says he doesn't want to be tied into anything at this point.

"Don't make me a candidate yet. There is a lot to be done yet. With this coming right at Christmas time, it makes it difficult. But I know I can't keep people hanging on forever. So I've got to decide as soon as possible."

The fact that Republicans on the national level are convinced that this is going to be a Republican year is also encouraging to Abdnor.

"Very seldom have I ever seen the people of this party so optimistic about their overall chances this year. There is a good feeling that the Republican Party is going to do well in the next election. That gives me a bit more incentive."

Pierre Times

IF HE WILL RUN!!

12/14/79

GOP official says Abdnor can win

EXHIBIT M

A South Dakota GOP official says he thinks Republican Congressman James Abdnor could unseat Democratic Sen. George McGovern.

"He's certainly one of the top contenders, and I think he could win," says Republican National Committeeman Bill Lenker, Sioux Falls. "Running for the senate, however, takes a large commitment. It's not an easy decision."

A key question that Republicans have asked is whether Abdnor, who represents the second congressional district, could win in vote-rich Sioux Falls and other cities in the first congressional district.

"Abdnor has a lot of friends over in this part of the state," says Lenker. "The second congressional extends to Mitchell -- only 60 miles from Sioux Falls -- and he's pretty well known."

Vern Loen, administrative assistant to Abdnor, says the congressman has made no decision about entering the 1980 Republican primary for the senate. "He's assessing the situa-

tion, so there's no change," Loen says.

Lenker says he thinks a poll

'The congressman had heard McGovern was in trouble. What will need to be determined is whether this unhappiness translates into votes for Jim Abdnor.'

financed by a Washington-based conservative group showing Abdnor has a 50 to 33 percent lead over McGovern will encourage Abdnor supporters to press for congressman to make the race.

The poll by Arthur Finkelstein and Associates of New York for

the National Conservative Political Action Committee of Washington, Loen said, shows about the same thing as Abdnor's private polls.

"The congressman had heard McGovern was in trouble," Loen added. "What will need to be determined is whether this unhappiness translates into votes for Jim Abdnor."

Does Abdnor have a target date for deciding if he'll enter the GOP senate primary in June?

"No, he doesn't," Loen said. "It will require a great deal of consultation with friends and supporters in South Dakota. The question of availability of (campaign) money will be a big factor. McGovern spent \$1.2 million last time -- the second highest in the country -- in 1974."

What Abdnor must weigh is that South Dakota is expected to lose one of its two congressional seats after the 1980 census. Abdnor's counterpart, first district Congressman Tom Daschle, D-S.D., has been making appearances statewide, apparently preparing for the 1982 election.

Loen puts it this way about Abdnor's options:

"There's one thing about it. Congressman Abdnor must run statewide in 1982 regardless, assuming he'll be returned to congress next year."

"The question really is timing -- timing is everything in politics. Should he run for the Senate for a six-year term in what appears at this point to be a good Republican year or should he wait two years and run for a two-year term in what may or may not be a year of more adverse conditions."

The June GOP primary so far includes conservative Dave Bell, a Spearfish restaurant owner. The Finkelstein poll shows McGovern with a 45-26 percent margin over Bell.

Two possible Republican candidates, Atty. Gen. Mark Meierhenry and State Treasurer Dave Volk, weren't included in the Finkelstein poll.

If Abdnor vacates the Congressional seat he has held for seven years, the next question will be who will run for the vacancy?

Exhibit N

FRIENDS FOR

SP-
JIM

Abdnor

MAR 19 1980

REGULAR MAIL

(605) 224-XXXX

P.O. BOX 806

PIERRE, SOUTH DAKOTA

CO-CHAIRMAN
Dale Ferguson, Philip
CO-CHAIRWOMAN
Gertrude Drenner, Wagner
TREASURER
Cleo Urban, Pierre

OFFICE OF THE CLERK
U. S. HOUSE OF REPRESENTATIVES
FINANCE COMMITTEE
CO-CHAIRMAN
PH 3:28
VED
REGISTRATION

March 10, 1980

Mr. Edmund Henshaw, Clerk
U. S. House of Representatives
Office of Records and Registration
1026 Longworth House Office Building
Washington, D.C. 20515

Re: Amendment to FEC January 31, 1980
Report, Friends for Jim Abdnor
#033383

Dear Mr. Henshaw:

On February 12, 1980, we were notified by the National Conservative Political Action Committee, 1500 Wilson Boulevard Suite 513, Arlington, Virginia 22209 of an in-kind contribution to Friends for Jim Abdnor in the amount of \$500.

This amount represents the value of survey information presented to Mr. Abdnor on December 1, 1979, relating to his decision to seek re-election to the U. S. House of Representatives.

As such, it should have been included in the January 31, 1980 report, but late notification prevented this. Please consider this letter an amendment to the January 31 report.

Sincerely,

Cleo Urban

Friends for Jim Abdnor
Cleo Urban, Treasurer

cc: South Dakota Secretary of State
National Conservative Political Action Committee



Abdnor, action group accused of conspiring

Exhibit O

By JAKE HENSHAW
Gannett News Service

WASHINGTON — The South Dakota Senate race heated up Tuesday as Rep. James Abdnor, R-S.D., and a national conservative group were accused of improperly working together to unseat Sen. George McGovern, D-S.D.

A lawyer for the state Democratic Party, McGovern campaign sources and Dale Bell, who is opposing Abdnor for the Republican nomination in the Senate race, charged that Abdnor and the National Conservative Political Action Committee (NCPAC) have coordinated their efforts in violation of the federal election rules.

Abdnor and NCPAC spokesman John T. Dolan readily admitted that they were in contact with each other prior to Abdnor's decision to run for the Senate but not since then.

And Dolan said NCPAC has a opinion from the

Federal Election Commission approving of their activities.

"This (the charges) are like most of the antics of the Democratic Party ... It is nothing more than an effort to hide the real issue in the campaign and that is the record of George McGovern," Dolan said.

An issue for NCPAC is its ability to continue to spend an unlimited amount of money in the Senate race opposing McGovern. The conservative group, which is trying to defeat five moderate to liberal incumbent senators up for re-election this year, has already spent about \$135,000 in South Dakota opposing McGovern through television, radio and newspaper advertisements, Dolan said.

The legal implications of the charges for Abdnor are less clear, but Bell said that his opponent has been less than candid with the state's voters in

ELECTION

Continued on page 2A

discussing his relations with NCPAC.

Bell accused Abdnor of using NCPAC as the "hate group to knock down George McGovern," a charge that Abdnor strongly denies.

"I'm not a part of it (NCPAC)," Abdnor said.

The state Democratic Party Friday is expected to file a complaint with the FEC, alleging that NCPAC has violated its status as an independent committee by encouraging Abdnor to run for the Senate and coordinating election activities with him since.

Robert Bauer, a Washington attorney representing the South Dakota Democratic Party, said he will ask the FEC to prohibit NCPAC from spending any more money in South Dakota and to make some kind of refund of most of its South Dakota expenditures.

Essentially, the FEC defines an independent committee as one that spends money for or against a candidate totally independent of any coordination with him or his opponent.

The case for Abdnor and NCPAC coordination was made this way Tuesday:

• Bell released an undated NCPAC memorandum in which Dolan encouraged conservative Sens. Orrin Hatch, R-Utah, and Gordon Humphrey, R-N.H., and Kansas City, Mo., businessman Miller Nichols to tell Abdnor and urge him to run for the Senate on the basis of promising freedom of a November 1979 poll.

• Bell also released a Jan. 14, 1980, letter from Nichols to a Bell fund-raiser, declining to contribute because Nichols was raising \$100,000 for NCPAC in Kansas City to be used against McGovern. Nichols said Tuesday that he has raised more than \$100,000 of the \$100,000.

• In the letter, Nichols said the money would be earmarked exclusively for use in South Dakota to publicize McGovern's voting record and "to support whatever candidate they (NCPAC) decide has the best chance of beating him."

• Acting independent of Bell, sources in the McGovern campaign also said that Dolan and pollster Arthur Finkelstein met with Abdnor to show him the results of a favorable poll Finkelstein conducted and to encourage Abdnor to run.

• McGovern campaign sources also charged that NCPAC, through its South Dakota affiliate People for an Alternative to McGovern, coordinated an anti-McGovern advertising campaign with the March 18-20 formal announcement of his Senate candidacy.

A McGovern campaign source charged that NCPAC is overstepping its authority by actively recruiting a candidate for the South Dakota Senate race.

"The NCPAC relationship with Abdnor is sufficiently intimate to bring their independence into question," Bauer said.

Abdnor, Finkelstein and Dolan admit they met last year to discuss Finkelstein's poll. Abdnor said the poll was a factor in his decision

Sibux Falls, SD, ARGUS
LEADER, April 30, 1980

When Abdnor became a candidate, both an Abdnor aide and Dolan said the poll was reported to the FEC as a \$500 campaign contribution to Abdnor. But the two men insisted they have had no contact since Abdnor announced his candidacy.

NCPAC attorney Curtis Herge said these activities are in line with an FEC advisory opinion which, among other things, approved NCPAC's contact with Abdnor prior to his decision to run.

By not contacting Abdnor after his decision to run or during the primary, Herge said NCPAC can continue to spend money against McGovern through the general election.

PFAAM

Exhibit P
PEOPLE FOR AN ALTERNATIVE TO MCGOVERN

P.O. Box 1865
Sioux Falls, South Dakota 57101

FOR IMMEDIATE RELEASE

MARCH 14, 1980

CONTACT: STATE REP. HAL WICK (605) 528-3260

ANTI-MCGOVERN GROUP SCHEDULES TELEVISION ADS

The People for an Alternative to McGovern Committee Friday announced plans for a television advertising blitz to inform South Dakotans of Sen. George McGovern's record on tax and energy matters and of his many taxpayer-financed travels.

State Rep. Hal Wick, PFAAM chairman, said the ads will be aired in the Rapid City and Sioux Falls areas March 17-24.

"The ads are designed to show that on energy and tax matters, George McGovern doesn't represent South Dakota," Wick said. "We also believe many South Dakotans will object to the senator's frequent foreign junkets at taxpayers' expense."

The ads will air on stations KXON, channel 5, KELO, channel 11, and KSFY, channel 13 in Sioux Falls. In Rapid City, the ads will be shown on stations KOTA, channel 3, and KEVN, channel 7.

"This advertising effort represents an unprecedented campaign to publicize Sen. McGovern's liberal Senate record," Wick said. "While Sen. McGovern is extremely liberal on all issues, we have chosen to discuss these three issues that show he's out of touch with South Dakota."

-MORE-

In the tax advertisement, Wick charges McGovern "voted himself a 29 percent pay raise, and he consistently votes against tax cuts while supporting increased federal spending."

In the energy advertisement, Wick charges McGovern's energy record is "one of the worst in Congress." Wick also discusses McGovern's proposed 50 cents-a-gallon gasoline tax, his support for creation of the Department of Energy, and his opposition to energy tax incentives.

A third advertisement discusses McGovern's many foreign travels, including a visit to Fidel Castro in Cuba. "In 1978, except for one other senator, George McGovern went on more junkets than any other senator," the ad charges.

"We believe these advertisements will better inform the people of South Dakota about George McGovern's liberal Senate record, and will show the voters how he's not been representing us in Washington," Wick said.



Abdnor formally announces Senate campaign (Staff photo by Ray Miller)

Abdnor says he'll challenge McGovern

Bob Imrie
Staff Writer

Saying either he or Sen. George McGovern has voted "very, very wrong" in the past, Congressman Jim Abdnor formally joined the crowd of Republicans Wednesday who want McGovern's Senate chair.

A huge audience of what Abdnor called "very wonderful friends" filled the Lincoln Room at the Alex Johnson Hotel in Rapid City for the announcement.

Abdnor did not mention the June 3 GOP primary contest against Dale Bell and Wayne Peterson and focused his prepared comments on McGovern.

"Frankly, over the years it seems to me that George has been voting in the Senate to wipe out much of what I have been working for in the Congress. Clearly one of us is wrong, one of us is

not really voting for the people of South Dakota. It's very important that which ever one of us is wrong steps aside for the good of our state. That's the major reason I offer myself as a candidate."

Abdnor, perspiring freely in front of the TV lights, charged that McGovern's votes on taxation, inflation regulation, national security and protecting South Dakota's interests are often exactly opposite of his.

"One of us has got to be very, very wrong. In November your votes will decide which of us is speaking with the voice of South Dakota."

Abdnor believes he represents the thinking of the South Dakota voters.

After his speech, the 2nd District Congressman said he will not debate Bell or Peterson because of "very limited time." He will spend his time meeting people.

Abdnor disagreed with claims that McGovern's seniority is an issue in the campaign. "If I've been voting right and he is wrong, then his seniority is working against the state."

McGovern is seeking his fourth consecutive Senate term and faces his first challenge for the Democratic nomination from Britton native Larry Schumacker. Abdnor was elected to four terms in the U.S. House after serving in state government for several years.

Abdnor said for Congress to balance the fiscal year 1981 federal budget as President Carter has proposed will take sacrifices by every American. He said 77 percent of the budget is locked in by laws and predicted the balanced budget effort will be "tough."

Abdnor has two days of news conferences planned to announce his candidacy. Others are in Pierre, Sioux Falls, Huron, Watertown, Brookings, Mitchell and Yankton.

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Abdnor formally announces Senate campaign (Staff photo by Ray Miller)

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DECHERT PRICE & RHOADS

888 17th STREET, N. W.
WASHINGTON, D. C. 20006

Charles Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20006



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1231

Date Filmed 8/20/80 Camera No. --- 2

Cameraman gpc

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