

3 AUG 1976

Honorable Morris K. Udall
U.S. House of Representatives
Washington, D.C. 20515

Re: MUR 158 (76)

Dear Mr. Udall:

This letter is to inform you that, after reviewing your response to its inquiry, the Federal Election Commission has voted to close its file in the above captioned matter, which involved one of your campaign telecasts.

Sincerely yours,

Signed: John G. Murphy, Jr.

John G. Murphy, Jr.
General Counsel

DWeinberg:amh:7/20/76

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

7704020723

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Morris K. Udall)

MUR 158 (76)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on July 30, 1976, the Commission determined by a vote of 5-0 to close the file in the above-captioned matter. Accordingly, the file in this matter has now been closed.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

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770400:0721

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 158 (76)

Morris K. Udall

GENERAL COUNSEL'S REPORT

I. Summary

770400:072

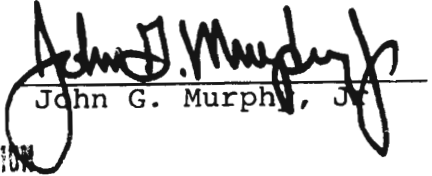
This matter was initiated on the basis of an internally generated complaint which charges that the 2 U.S.C. Section 435b statement of sponsorship and availability of reports from the Commission had been omitted from one of the respondent's broadcasts. The Commission's inquiry was answered by respondent in a letter received by the Commission on July 13, 1976, admitting the error and explaining that the problems involved in coordinating with strict network procedures were probably the cause of the error.

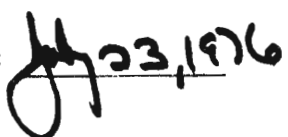
II. Analysis

The response indicates that the error was inadvertent, and not part of any attempt to evade the requirements of the Federal Election Campaign Act of 1971, as amended.

Recommendations:

Close file: send attached letter.


John G. Murphy, Jr.

Date:  7/23/76

FEDERAL ELECTION COMMISSION
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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 14, 1976

Honorable Morris K. Udall
U. S. House of Representatives
Washington, D. C. 20515

Re: MUR 158 (76)

Dear Mr. Udall:

On July 2, 1976, we sent you a letter inquiring about one of your telecasts, which may have failed to include the statement of availability of your reports from the Commission as required by 2 U.S.C. §435(b). That letter requested that you respond in writing within ten days of your receipt of that letter.

As I have not yet received your response, I would appreciate your giving immediate attention to this matter. If you have already mailed such a response please ignore this letter.

Sincerely yours,

David R. Spiegel
Deputy Assistant
General Counsel

DRSpiegel:mpc:7/14/76

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77040020725

PS Form 3811, Jan. 1976

● 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..... 15¢
☒ Show to whom, date, & address of delivery.. 35¢
☐ RESTRICTED DELIVERY.
Show to whom and date delivered..... 65¢
☐ RESTRICTED DELIVERY.
Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
Morris Ullall

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
438359

(Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE ☐ Address ☐ Authorized agent
Black

4. DATE OF DELIVERY
JUL 2 1976

ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO : 1975-O-568-047

PS Form 3811, Mar. 1976

● 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..... 15¢
☒ Show to whom, date, & address of delivery.. 35¢
☐ RESTRICTED DELIVERY.
Show to whom and date delivered..... 65¢
☐ RESTRICTED DELIVERY.
Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:
Morris Ullall

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
438044

(Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE ☐ Address ☐ Authorized agent
Mary D. Homan

4. DATE OF DELIVERY
JUL 2 1976

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO : 1976-O-203-456

ON
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Thirty Rockefeller Plaza
New York, N.Y. 10020 212 247-8300

Benjamin D. Raub
Law Department
Vice President and
Assistant General Attorney

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Additional Comment # 189
COMMENTS ON REGS Pub. May 26, 76

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

Attention: General Counsel,
John G. Murphy, Jr.

By letter of July 14, 1976, I submitted comments with respect to proposed regulations §109.4 (Non-authorization notice) and §110.11 (Communications; advertising) relating to §323 added by the 1976 amendments to the Federal Election Campaign Act of 1971.

Subsequently, I have noted that part (c) of proposed §110.11 would require each political committee to include on the face or front page of all printed literature and advertisements soliciting contributions and at the beginning or end of any broadcast solicitation the following notice: "A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D. C."

This is respectfully to request that the requirement of subdivision (c) above referred to not be applied to broadcast solicitations for the reason that the provisions of the Federal Election Campaign Act do not require such a notice in the case of a broadcast and further that it was not the intention of Congress that this notice requirement be applied to broadcast solicitations.

The 1974 amendments to the Federal Election Campaign Act of 1971 added §305. Part (a) of that section related solely to the sale of space in a newspaper or

-2-

magazine and part (b) of that section provided that

"Each political committee shall include on the face or front page of all literature and advertisements soliciting contributions the following notice: 'A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D. C.'"

Thus, it is clear that §305 related solely to solicitations in print media, not broadcast media.

Furthermore, the legislative history establishes that there was no legislative intent to apply the notice requirement to broadcast solicitations. The original Federal Election Campaign Act of 1971 included §103(a)(1), which set forth requirements with respect to charges for broadcasts on behalf of candidates, and §103(b) which set forth the requirement that sale of space in any newspaper or magazine to a legally qualified candidate for Federal office be made on a non-discriminatory basis for comparable use of such space for all purposes. No notice requirement was included in the 1971 Act. The 1974 amendments included §305(a) which replaced §103(b). §305(a) set forth the notice requirement to be placed on "the face or front page of all literature and advertisements soliciting contributions.....". No similar section was added with respect to the requirement with respect to charges for broadcasts on behalf of candidates. It thus seems clear that the legislative intent was to apply the notice requirement only to print media and not to broadcasts soliciting contributions.

Accordingly, when the Federal Election Commission (FEC) applied §305(a) to broadcast solicitations, it was in error. The notice requirement applied only to print media and not to broadcast media.

Respectfully,
Sincerely,
[Signature]

cc: [Name]

770400:072

NBC

National Broadcasting Company, Inc.

Thirty Rockefeller Plaza
New York, N.Y. 10020 212-247-8300

Benjamin D. Raub
Law Department
Vice President and
Assistant General Attorney

July 14, 1976

RECEIVED
FEDERAL ELECTION COMMISSION
CONTROL # 76-1145

COMMENT # 189

REGS PUB. F.R. MAY 26, 1976

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

Attention: General Counsel,
John G. Murphy, Jr.

Gentlemen:

NBC's Washington office has forwarded to me a copy of pages 5, 6, 33 and 34 of the regulations proposed by the Commission concerning the 1976 amendments of the Federal Election Campaign Act of 1971. Our interest is, of course, in those regulations dealing with new Section 323, which I believe is codified as 2 USC 441 d. The specific regulations which I believe applicable are §109.4 (Non-authorization notice) and §110.11 (Communications; advertising).

I note that §109.4 would require that a broadcast state at the beginning or end that (1) the communication is not authorized by any candidate, authorized committee or agency thereof, and (2) the name and address of the person who is financing the communication and the name of any affiliated or connected organization required to be disclosed under §102(a)(2).

§110.11 would require that a broadcast expressly advocating the election or defeat of a clearly identified candidate must state at the beginning or end (1) that it has been authorized on behalf of the candidate, if that is the case, or (2) if not, that it is not authorized by any candidate and state the name of the person who made or financed the expenditure for the broadcast, including

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any affiliated or connected committee required to be listed under §102(a)(2) and (3) that in either case the name of the committee and the committee's treasurer are to be included.

The purpose of this letter is respectfully to request that these two sections be either merged or conformed; that §109.4 be changed to require a notice that the communication is not authorized on behalf of any candidate (as in §110.11) and to require the name (but not the address) of the person financing the communication (as in §110.11); and that §110.11 be changed to eliminate the requirement that the name of the committee treasurer be included.

The reasons for NBC's request are as follows.

1. Combining §109.4 and §110.11 will be the best means of avoiding ambiguity; in any event, the two sections should be conformed so that the requirements of both are consistent.
2. The changes requested conform to the statutory language. 2 USC §411 d (§323 of the amended Federal Election Campaign Act) provides that where the communication is not authorized by a candidate, his authorized political committees, or their agents, the notice shall state that the communication is not authorized by any candidate. Nothing in the section requires that the notice state the address or the committee treasurer of the person financing the communication.
3. The Rules of the Federal Communications Commission (§73.1212) have for many years required announcement of the name of the person sponsoring, paying for, or furnishing any political broadcast, in accordance with the requirements of §317 of the Federal Communications Act (47 USC §317). Neither the Federal Communications Act nor the rules of the FCC require announcement of the address or the committee treasurer of the sponsoring person.

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4. For many years, NBC and other broadcasters have been requiring sponsor identification of political broadcasts in accordance with the FCC rules summarized in paragraph 3 above. The requested changes in the proposed §§109.4 and 110.11 will enable NBC and other broadcasters to meet the requirements of 2 USC §411 d and the Federal Election Commission's rules with a minimum of disruption. A political broadcast authorized by a candidate, his authorized political committees, or their agents will need to add to the sponsor identification announcement only the word "Authorized." A political broadcast not so authorized will need to add to the sponsor identification announcement only the words "Not authorized on behalf of any candidate."

5. The proposal to require notice of the address of the sponsor and the name of the committee treasurer will be burdensome to the broadcaster and the political sponsor, especially in the case of short broadcasts of one minute or less. Particularly is this true in the case of a radio broadcast, where the information must be given orally and therefore, will consume a substantial part of the time purchased for the message. In this respect, a broadcast may be analogized to a small item as to which the disclaimer cannot be conveniently printed. The same considerations which led to the exclusion of small items from the disclaimer requirements of §110.11 apply to the requested reduction of the disclaimer information required for broadcasts.

Respectfully submitted,



Benjamin D. Raub

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OFFICE OF GENERAL COUNSEL

Congress of the United States

House of Representatives

Washington, D.C. 20515

6 JUL 13 P12:23

MUR 158

July 9, 1976

Mr. John G. Murphy, Jr.
General Counsel
Federal Election Commission
1325 K Street, NW
Washington DC 20463

FEC CORRESPONDENCE
CONTROL 76-1008

Dear Mr. Murphy:

This is in response to your letter of June 29 inquiring about the possible absence of the appropriate disclaimer on my May 26 speech on CBS.

It is true that the disclaimer as worded in the new law did not appear. The reasons seem to be these:

1. In dealing with CBS or any network, my production people found they were required to follow strict standards, including the exact wording of disclaimers, at the penalty of being summarily removed from the air. People working in the standards divisions of the networks wrote specific disclaimers, and demanded their use.
2. In the case of the CBS speech and all others, we were working on a tight timetable -- sometimes as little as 24 hours -- and my production people counted entirely on the networks on details including the length and wording of disclaimers.

While the appropriate words did not appear, there was no attempt on the part of my campaign to evade the law. "Paid for" disclaimers were set full screen, in some cases for as long as ten seconds.

I am holding copies of the tapes in case the Commission wants to review them.

Sincerely,


Morris K. Udall

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

29 JUN 1976

Honorable Morris K. Udall
U. S. House of Representatives
Washington, D. C. 20515

Re: MUR 158 (76)

Dear Mr. Udall:

This letter regarding your campaign fundraising solicitations is prompted by our interest in assisting candidates and committees who wish to comply with the Federal Election Campaign Act.

It has come to the attention of the Commission that a CBS telecast which began at 10:55 p.m. EDT, May 26, 1976, during which you solicited contributions to your campaign, may have failed to include the statement of availability of your reports from the Commission as required by 2 U.S.C. §435(b).

The Commission is presently conducting a preliminary inquiry into this matter to determine what action, if any, it should take. Accordingly, I would appreciate it if you would review the telecast in question and advise the Commission in writing within 10 days of receipt of this letter of your position in this matter.

This matter has been assigned the number MUR 158 (76). If you have any questions, please do not hesitate to call.

Sincerely yours,

Signed: John G. Murphy, Jr.

John G. Murphy, Jr.
General Counsel

DWeinberg:mpc:6/14/76

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

77040020731

May 27, 1976

MEMORANDUM TO: Bill Oldaker
FROM: Dan Swillinger *BS*
RE: Complaint on Udall Telecast

Morris Udall ran a 5 minute ad on CBS at 10:55 p.m. on Wednesday, May 26. The ad included a specific solicitation of campaign funds--complete with P. O. Box number and 800 phone number for responses--but the ad did not contain the disclaimer required in 2 U.S.C. §435(b) which must appear on all solicitations. If you need this complaint to be in a more formal style, let me know.

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Congress of the United States

House of Representatives

Washington, D.C. 20515

OFFICIAL BUSINESS

76 JUL 13 PM 12:09

Mr. John G. Murphy, Jr.
General Counsel
Federal Election Commission
1325 K Street, NW
Washington DC 20463

WASHINGTON, D.C. 20515
PM
JUL 13 1976
M.C.



FEDERAL ELECTION COMMISSION
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MISSION COPY

a Notary Public, State of California, duly commissioned and sworn, personally appeared.....

known to me to be the person

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the
County of.....PLACER.....the day and year in this certificate
 first above written.

Notary Public, State of California.


OFFICIAL SEAL
MAPILYN C. CARTER
 NOTARY PUBLIC - CALIFORNIA
 LOS ANGELES COUNTY
 My Commission Expires Feb. 14, 1977