



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1607

Date Filmed 3/12/84 Camera No. --- 2

Cameraman JRL

FEDERAL ELECTION COMMISSION

Robert J. Allen

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
|--|---|
| ☐ (1) Classified Information | ☐ (6) Personal privacy |
| ☐ (2) Internal rules and practices | ☐ (7) Investigatory files |
| ☐ (3) Exempted by other statute | ☐ (8) Banking Information |
| ☐ (4) Trade secrets and commercial or financial information | ☐ (9) Well Information (geographic or geophysical) |
| ☒ (5) Internal Documents | |

Signed

Robert J. Allen

date

2/29/84

FEDERAL ELECTION COMMISSION

Comments re: objection

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
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| ☐ (1) Classified Information | ☐ (6) Personal privacy |
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| ☐ (4) Trade secrets and commercial or financial information | ☐ (9) Well Information (geographic or geophysical) |
| ☒ (5) Internal Documents | |

Signed

Rose B. Whisenand

date

2/29/84

FEDERAL ELECTION COMMISSION

12-Day Report and Comment Sheets

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
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| ☐ (1) Classified Information | ☐ (6) Personal privacy |
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| ☒ (5) Internal Documents | |

Signed

Rose H. Werschen

date

2/29/84

FEDERAL ELECTION COMMISSION

Exempted pursuant to 2 U.S.C.

§ 437g (a)(12)(A)

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

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- | | |
|--|---|
| ☐ (1) Classified Information | ☐ (6) Personal privacy |
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| ☐ (5) Internal Documents | |

Signed James H. Wersanborn

Date 2/29/84

FEDERAL ELECTION COMMISSION

Comments re: objection

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| ☒ (5) Internal Documents | |

Signed Arne C. Weisenborn
date 2/29/84

FEDERAL ELECTION COMMISSION

Exempted pursuant to 2 U.S.C. 5437g(a)(12)(A)

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
|--|---|
| ☐ (1) Classified Information | ☐ (6) Personal privacy |
| ☐ (2) Internal rules and practices | ☐ (7) Investigatory files |
| ☒ (3) Exempted by other statute | ☐ (8) Banking Information |
| ☐ (4) Trade secrets and commercial or financial information | ☐ (9) Well Information (geographic or geophysical) |
| ☐ (5) Internal Documents | |

Signed

Ernest R. Wersan

Date

2/29/84

FEDERAL ELECTION COMMISSION

Exempted pursuant to 2 U.S.C.

§ 437g(a)(12)(A)

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

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| ☐ (2) Internal rules and practices | ☐ (7) Investigatory files |
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| ☐ (4) Trade secrets and commercial or financial information | ☐ (9) Well Information (geographic or geophysical) |
| ☐ (5) Internal Documents | |

Signed

Lyne A. Wersendon

date

2/29/84

FEDERAL ELECTION COMMISSION

Exempted pursuant to 2 U.S.C.

§ 437g (a)(12)(A)

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| ☐ (2) Internal rules and practices | ☐ (7) Investigatory files |
| ☐ (3) Exempted by other statute | ☐ (8) Banking Information |
| ☐ (4) Trade secrets and commercial or financial information | ☐ (9) Well Information (geographic or geophysical) |
| ☐ (5) Internal Documents | |

Signed John R. Wersan
date 2/29/84



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 16, 1984

Mayer Morganroth, Esquire
24901 Northwestern Highway
Southfield, Michigan 48075

RE: MUR 1607

Dear Mr. Morganroth:

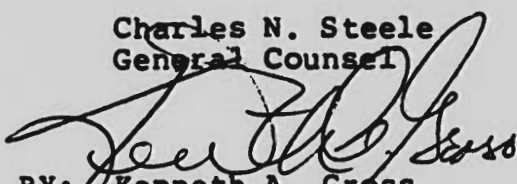
The Federal Election Commission has reviewed the allegations of the complaint filed by your client, Belinda Haight, dated December 5, 1983, and determined that on the basis of the information provided in the complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: Belinda Haight

8404044409

SENSITIVE

RECEIVED

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

FEB 2 P2: 01

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC
TO THE COMMISSION 2/2/84-1:30

MUR NO. 1607
STAFF MEMBER
Suzanne Callahan

SOURCE OF MUR: Debra Freeman and Citizens for Freeman

RESPONDENTS' NAMES: Mark Arax, Fred Eiland, Barbara Mikulski,
Baltimore Sun, Certain Members of Mikulski's
Staff, Certain Employees of the FEC

RELEVANT STATUTE: 2 U.S.C. § 437g(a)(12)(A)

INTERNAL REPORTS

CHECKED: Closed MUR Files 60, 804, 1161, 1244,
1251, 1266, 1275

FEDERAL AGENCIES

CHECKED: None

SUMMARY OF ALLEGATIONS

This matter was generated by a complaint filed by Debra
Freeman and Citizens for Freeman against Mark Arax, Fred Eiland,
Barbara Mikulski, the Baltimore Sun and certain "John Does" who
are members of the staff of Barbara Mikulski or who are employed
by the Federal Election Commission.

The
complainants allege that one of the sources used by Mr. Arax for
his article was Fred Eiland, Press Officer for the FEC, as well
as a staff aide of Barbara Mikulski, in violation of 2 U.S.C.

8404044500

§ 437g(a)(12)(A). The complainants further allege that a knowing and willful violation has been committed.

FACTUAL AND LEGAL ANALYSIS

34040444501
The respondents in this matter have submitted their written positions concerning the allegations made against them by Debra Freeman. The named respondents do not contest the allegations made by Ms. Freeman; that is, that Congresswoman Mikulski's staff gave a copy of the subject complaint to a newspaper reporter who then had the existence of the complaint confirmed by the FEC Press Office.

The Commission has recently addressed the issue of the publication of complaints by complainants in MURs 1244, 1266, and 1275. The Commission, in those instances, determined that the confidentiality provision of the statute does not prevent a complainant from making public the fact that it has filed a complaint and the complaint's substance. The statute only prohibits persons from making public a Commission notification or investigation.

In the present instance, the release of the complaint and subsequent confirmation did not mention any notification or investigation by the Commission. Thus, this Office finds no basis for finding a violation of the statute or the regulations.

RECOMMENDATIONS

1. Find no reason to believe that Mark Arax violated 2 U.S.C. § 437g(a)(12)(A).
2. Find no reason to believe that Fred Eiland violated 2 U.S.C. § 437g(a)(12)(A).

3. Find no reason to believe that Barbara Mikulski violated 2 U.S.C. § 437g(a) (12) (A).
4. Find no reason to believe that the Baltimore Sun violated 2 U.S.C. § 437g(a) (12) (A).
5. Send the attached notifications.
6. Close the file.

Charles N. Steele
General Counsel

February 7, 1984
Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments

Reply of Mark Arax/Baltimore Sun (7 pages)
Reply of Congresswoman Mikulski (2 pages)
Reply of Fred Eiland (2 pages)
Notification letters (5 pages)
(15 total pages attached)

84040444502



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 16, 1984

James F. Schoener, Esquire
Miller, Canfield, Paddock
and Stone
2555 M Street, N.W.
Suite 300
Washington, D.C. 20037

RE: MUR 1607

Dear Mr. Schoener:

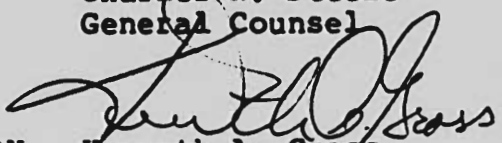
The Federal Election Commission has reviewed the allegations of the complaint filed by your client, Debra Freeman, dated December 5, 1983, and determined that on the basis of the information provided in the complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: Debra Freeman

8404044503

SENSITIVE

RECEIVED

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

FEB 2 P2:01

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC
TO THE COMMISSION 2/2/84-1:30

MUR NO. 1607
STAFF MEMBER
Suzanne Callahan

SOURCE OF MUR: Debra Freeman and Citizens for Freeman

RESPONDENTS' NAMES: Mark Arax, Fred Eiland, Barbara Mikulski,
Baltimore Sun, Certain Members of Mikulski's
Staff, Certain Employees of the FEC

RELEVANT STATUTE: 2 U.S.C. § 437g(a)(12)(A)

INTERNAL REPORTS

CHECKED: Closed MUR Files 60, 804, 1161, 1244,
1251, 1266, 1275 :

FEDERAL AGENCIES

CHECKED: None

SUMMARY OF ALLEGATIONS

This matter was generated by a complaint filed by Debra
Freeman and Citizens for Freeman against Mark Arax, Fred Eiland,
Barbara Mikulski, the Baltimore Sun and certain "John Does" who
are members of the staff of Barbara Mikulski or who are employed
by the Federal Election Commission.

The
complainants allege that one of the sources used by Mr. Arax for
his article was Fred Eiland, Press Officer for the FEC, as well
as a staff aide of Barbara Mikulski, in violation of 2 U.S.C.

§ 437g(a)(12)(A). The complainants further allege that a knowing and willful violation has been committed.

FACTUAL AND LEGAL ANALYSIS

84040444503
The respondents in this matter have submitted their written positions concerning the allegations made against them by Debra Freeman. The named respondents do not contest the allegations made by Ms. Freeman; that is, that Congresswoman Mikulski's staff gave a copy of the subject complaint to a newspaper reporter who then had the existence of the complaint confirmed by the FEC Press Office.

The Commission has recently addressed the issue of the publication of complaints by complainants in MURs 1244, 1266, and 1275. The Commission, in those instances, determined that the confidentiality provision of the statute does not prevent a complainant from making public the fact that it has filed a complaint and the complaint's substance. The statute only prohibits persons from making public a Commission notification or investigation.

In the present instance, the release of the complaint and subsequent confirmation did not mention any notification or investigation by the Commission. Thus, this Office finds no basis for finding a violation of the statute or the regulations.

RECOMMENDATIONS

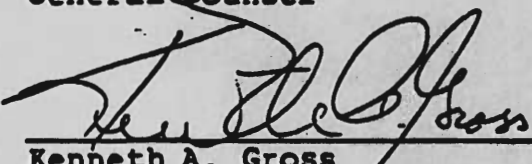
1. Find no reason to believe that Mark Arax violated 2 U.S.C. § 437g(a)(12)(A).
2. Find no reason to believe that Fred Eiland violated 2 U.S.C. § 437g(a)(12)(A).

3. Find no reason to believe that Barbara Mikulski violated 2 U.S.C. § 437g(a) (12) (A).
4. Find no reason to believe that the Baltimore Sun violated 2 U.S.C. § 437g(a) (12) (A).
5. Send the attached notifications.
6. Close the file.

Charles N. Steele
General Counsel

February 2, 1984
Date

BY:


Kenneth A. Gross
Associate General Counsel

Attachments

Reply of Mark Arax/Baltimore Sun (7 pages)
Reply of Congresswoman Mikulski (2 pages)
Reply of Fred Eiland (2 pages)
Notification letters (5 pages)
(15 total pages attached)

84040444506



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 16, 1984

The Honorable Barbara A. Mikulski
407 Cannon House Office Building
Washington, D.C. 20515

RE: MUR 1607

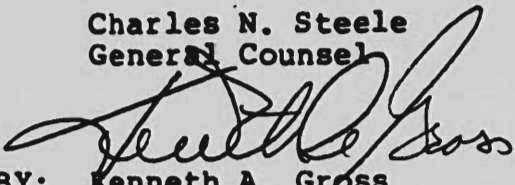
Dear Congresswoman Mikulski:

On December 8, 1983, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on February 13, 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

cc: Thomas B. Lewis, Esquire

8404044457

SENSITIVE

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

RECEIVED

FEB 2 P2:01

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC
TO THE COMMISSION 2/2/84-1:30

MUR NO. 1607
STAFF MEMBER
Suzanne Callahan

SOURCE OF MUR: Debra Freeman and Citizens for Freeman

RESPONDENTS' NAMES: Mark Arax, Fred Eiland, Barbara Mikulski,
Baltimore Sun, Certain Members of Mikulski's
Staff, Certain Employees of the FEC

RELEVANT STATUTE: 2 U.S.C. § 437g(a)(12)(A)

INTERNAL REPORTS

CHECKED: Closed MUR Files 60, 804, 1161, 1244,
1251, 1266, 1275

FEDERAL AGENCIES

CHECKED: None

SUMMARY OF ALLEGATIONS

This matter was generated by a complaint filed by Debra Freeman and Citizens for Freeman against Mark Arax, Fred Eiland, Barbara Mikulski, the Baltimore Sun and certain "John Does" who are members of the staff of Barbara Mikulski or who are employed by the Federal Election Commission.

The complainants allege that one of the sources used by Mr. Arax for his article was Fred Eiland, Press Officer for the FEC, as well as a staff aide of Barbara Mikulski, in violation of 2 U.S.C.

84040444508

§ 437g(a)(12)(A). The complainants further allege that a knowing and willful violation has been committed.

FACTUAL AND LEGAL ANALYSIS

8404044303
The respondents in this matter have submitted their written positions concerning the allegations made against them by Debra Freeman. The named respondents do not contest the allegations made by Ms. Freeman; that is, that Congresswoman Mikulski's staff gave a copy of the subject complaint to a newspaper reporter who then had the existence of the complaint confirmed by the FEC Press Office.

The Commission has recently addressed the issue of the publication of complaints by complainants in MURs 1244, 1266, and 1275. The Commission, in those instances, determined that the confidentiality provision of the statute does not prevent a complainant from making public the fact that it has filed a complaint and the complaint's substance. The statute only prohibits persons from making public a Commission notification or investigation.

In the present instance, the release of the complaint and subsequent confirmation did not mention any notification or investigation by the Commission. Thus, this Office finds no basis for finding a violation of the statute or the regulations.

RECOMMENDATIONS

1. Find no reason to believe that Mark Arax violated 2 U.S.C. § 437g(a)(12)(A).
2. Find no reason to believe that Fred Eiland violated 2 U.S.C. § 437g(a)(12)(A).

3. Find no reason to believe that Barbara Mikulski violated 2 U.S.C. § 437g(a) (12) (A).
4. Find no reason to believe that the Baltimore Sun violated 2 U.S.C. § 437g(a) (12) (A).
5. Send the attached notifications.
6. Close the file.

Charles N. Steele
General Counsel

February 7, 1984
Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments

Reply of Mark Arax/Baltimore Sun (7 pages)
Reply of Congresswoman Mikulski (2 pages)
Reply of Fred Eiland (2 pages)
Notification letters (5 pages)
(15 total pages attached)

84040444510



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 16, 1984

Mr. Fred Eiland
Press Officer
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1607

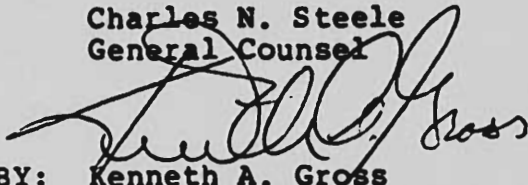
Dear Mr. Eiland:

On December 8, 1983, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on February 13, 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

84040444311

SENSITIVE

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

RECEIVED

FEB 2 P2:01

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC
TO THE COMMISSION 2/2/84-1:30

MUR NO. 1607
STAFF MEMBER
Suzanne Callahan

SOURCE OF MUR: Debra Freeman and Citizens for Freeman

RESPONDENTS' NAMES: Mark Arax, Fred Eiland, Barbara Mikulski,
Baltimore Sun, Certain Members of Mikulski's
Staff, Certain Employees of the FEC

RELEVANT STATUTE: 2 U.S.C. § 437g(a)(12)(A)

INTERNAL REPORTS

CHECKED: Closed MUR Files 60, 804, 1161, 1244,
1251, 1266, 1275

FEDERAL AGENCIES

CHECKED: None

SUMMARY OF ALLEGATIONS

This matter was generated by a complaint filed by Debra
Freeman and Citizens for Freeman against Mark Arax, Fred Eiland,
Barbara Mikulski, the Baltimore Sun and certain "John Does" who
are members of the staff of Barbara Mikulski or who are employed
by the Federal Election Commission.

The

complainants allege that one of the sources used by Mr. Arax for
his article was Fred Eiland, Press Officer for the FEC, as well
as a staff aide of Barbara Mikulski, in violation of 2 U.S.C.

§ 437g(a)(12)(A). The complainants further allege that a knowing and willful violation has been committed.

FACTUAL AND LEGAL ANALYSIS

The respondents in this matter have submitted their written positions concerning the allegations made against them by Debra Freeman. The named respondents do not contest the allegations made by Ms. Freeman; that is, that Congresswoman Mikulski's staff gave a copy of the subject complaint to a newspaper reporter who then had the existence of the complaint confirmed by the FEC Press Office.

The Commission has recently addressed the issue of the publication of complaints by complainants in MURs 1244, 1266, and 1275. The Commission, in those instances, determined that the confidentiality provision of the statute does not prevent a complainant from making public the fact that it has filed a complaint and the complaint's substance. The statute only prohibits persons from making public a Commission notification or investigation.

In the present instance, the release of the complaint and subsequent confirmation did not mention any notification or investigation by the Commission. Thus, this Office finds no basis for finding a violation of the statute or the regulations.

RECOMMENDATIONS

1. Find no reason to believe that Mark Arax violated 2 U.S.C. § 437g(a)(12)(A).
2. Find no reason to believe that Fred Eiland violated 2 U.S.C. § 437g(a)(12)(A).

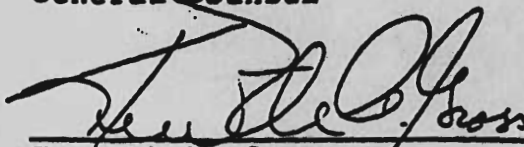
3. Find no reason to believe that Barbara Mikulski violated 2 U.S.C. § 437g(a) (12) (A).
4. Find no reason to believe that the Baltimore Sun violated 2 U.S.C. § 437g(a) (12) (A).
5. Send the attached notifications.
6. Close the file.

Charles N. Steele
General Counsel

8 4 0 4 0 4 4 4 3 1 4
Date

February 2, 1984

BY:


Kenneth A. Gross
Associate General Counsel

Attachments

- Reply of Mark Arax/Baltimore Sun (7 pages)
- Reply of Congresswoman Mikulski (2 pages)
- Reply of Fred Eiland (2 pages)
- Notification letters (5 pages)
- (15 total pages attached)



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 16, 1984

Douglas D. Connah, Jr., Esquire
Elizabeth C. Honeywell, Esquire
Venable, Baetjer and Howard
1800 Mercantile Bank and Trust
Building
2 Hopkins Plaza
Baltimore, Maryland 21201

RE: MUR 1607

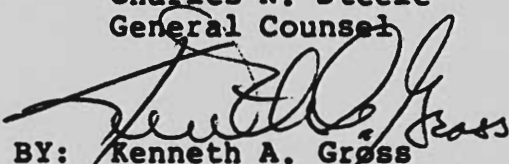
Dear Mr. Connah and Ms. Honeywell:

On December 8, 1983, the Commission notified you of a complaint alleging that your clients, Mark Arax and the Baltimore Sun, had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on February 13, 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

84040444313

SENSITIVE

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

RECEIVED

FEB 2 P2:01

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC
TO THE COMMISSION 2/2/84-1:30

MUR NO. 1607
STAFF MEMBER
Suzanne Callahan

SOURCE OF MUR: Debra Freeman and Citizens for Freeman

RESPONDENTS' NAMES: Mark Arax, Fred Eiland, Barbara Mikulski,
Baltimore Sun, Certain Members of Mikulski's
Staff, Certain Employees of the FEC

RELEVANT STATUTE: 2 U.S.C. § 437g(a)(12)(A)

INTERNAL REPORTS

CHECKED: Closed MUR Files 60, 804, 1161, 1244,
1251, 1266, 1275

FEDERAL AGENCIES

CHECKED: None

SUMMARY OF ALLEGATIONS

This matter was generated by a complaint filed by Debra Freeman and Citizens for Freeman against Mark Arax, Fred Eiland, Barbara Mikulski, the Baltimore Sun and certain "John Does" who are members of the staff of Barbara Mikulski or who are employed by the Federal Election Commission.

The complainants allege that one of the sources used by Mr. Arax for his article was Fred Eiland, Press Officer for the FEC, as well as a staff aide of Barbara Mikulski, in violation of 2 U.S.C.

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§ 437g(a)(12)(A). The complainants further allege that a knowing and willful violation has been committed.

FACTUAL AND LEGAL ANALYSIS

The respondents in this matter have submitted their written positions concerning the allegations made against them by Debra Freeman. The named respondents do not contest the allegations made by Ms. Freeman; that is, that Congresswoman Mikulski's staff gave a copy of the subject complaint to a newspaper reporter who then had the existence of the complaint confirmed by the FEC Press Office.

The Commission has recently addressed the issue of the publication of complaints by complainants in MURs 1244, 1266, and 1275. The Commission, in those instances, determined that the confidentiality provision of the statute does not prevent a complainant from making public the fact that it has filed a complaint and the complaint's substance. The statute only prohibits persons from making public a Commission notification or investigation.

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RECOMMENDATIONS

1. Find no reason to believe that Mark Arax violated 2 U.S.C. § 437g(a)(12)(A).
2. Find no reason to believe that Fred Eiland violated 2 U.S.C. § 437g(a)(12)(A).

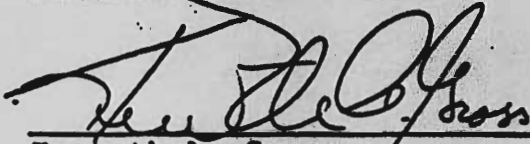
84040444517

3. Find no reason to believe that Barbara Mikulski violated 2 U.S.C. § 437g(a) (12) (A).
4. Find no reason to believe that the Baltimore Sun violated 2 U.S.C. § 437g(a) (12) (A).
5. Send the attached notifications.
6. Close the file.

Charles N. Steele
General Counsel

84040444513
February 2, 1984
Date

BY:


Kenneth A. Gross
Associate General Counsel

Attachments

Reply of Mark Arax/Baltimore Sun (7 pages)
Reply of Congresswoman Mikulski (2 pages)
Reply of Fred Eiland (2 pages)
Notification letters (5 pages)
(15 total pages attached)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1607
Mark Arax)
Fred Eiland)
Barbara Mikulski)
Baltimore Sun)
Certain Members of)
Mikulski's Staff)
Certain Employees of the)
FEC)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 13, 1984, the Commission decided by a vote of 5-1 to take the following actions in MUR 1607:

1. Find no reason to believe that Mark Arax violated 2 U.S.C. § 437g(a)(12)(A).
2. Find no reason to believe that Fred Eiland violated 2 U.S.C. § 437g(a)(12)(A).
3. Find no reason to believe that Barbara Mikulski violated 2 U.S.C. § 437g(a)(12)(A).
4. Find no reason to believe that the Baltimore Sun violated 2 U.S.C. § 437g(a)(12)(A).

(Continued)

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5. Send the notifications
as attached to the First
General Counsel's Report
dated February 2, 1984.
6. Close the file.

Commissioners Aikens, Elliott, Harris, McDonald and
McGarry voted affirmatively in this matter; Commissioner
Reiche dissented.

Attest:

2-13-84

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

2-2-84, 2:01
2-3-84, 2:00

84040444530



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM *JCR*

DATE: FEBRUARY 13, 1984

SUBJECT: MUR 1607 - First General Counsel's Report
dated February 2, 1984

You were previously notified of an objection to the
above-captioned matter by Commissioner Reiche.

By memorandum this date, Commissioner Reiche withdrew
his objection and cast an objection, for record purposes
only.

A copy of his memorandum is attached as well as the
certification in this matter.

84040444521



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Mayer Morganroth, Esquire
24901 Northwestern Highway
Southfield, Michigan 48075

RE: MUR 1607

Dear Mr. Morganroth:

The Federal Election Commission has reviewed the allegations of the complaint filed by your client, Belinda Haight, dated December 5, 1983, and determined that on the basis of the information provided in the complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Belinda Haight

Come
2/14

84040444322



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

James F. Schoener, Esquire
Miller, Canfield, Paddock
and Stone
2555 M Street, N.W.
Suite 300
Washington, D.C. 20037

RE: MUR 1607

Dear Mr. Schoener:

The Federal Election Commission has reviewed the allegations of the complaint filed by your client, Debra Freeman, dated December 5, 1983, and determined that on the basis of the information provided in the complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

Some
2/14

BY: Kenneth A. Gross
Associate General Counsel

cc: Debra Freeman



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

The Honorable Barbara A. Mikulski
407 Cannon House Office Building
Washington, D.C. 20515

RE: MUR 1607

Dear Congresswoman Mikulski:

On December 8, 1983, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

*Enc
2/14*

BY: Kenneth A. Gross
Associate General Counsel

cc: Thomas B. Lewis, Esquire

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Mr. Fred Biland
Press Officer
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1607

Dear Mr. Biland:

On December 8, 1983, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

SMC
2/14

BY: Kenneth A. Gross
Associate General Counsel

840404433



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Douglas D. Connah, Jr., Esquire
Elizabeth C. Honeywell, Esquire
Venable, Baetjer and Howard
1800 Mercantile Bank and Trust
Building
2 Hopkins Plaza
Baltimore, Maryland 21201

RE: MUR 1607

Dear Mr. Connah and Ms. Honeywell:

On December 8, 1983, the Commission notified you of a complaint alleging that your clients, Mark Arax and the Baltimore Sun, had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

Some
2/14

BY: Kenneth A. Gross
Associate General Counsel

84040444526



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO:

CHARLES N. STEELE
GENERAL COUNSEL

FROM:

MARJORIE W. EMMONS/JODY C. RANSOM *JCR*

DATE:

FEBRUARY 6, 1984

SUBJECT:

OBJECTION - MUR 1607 First General
Counsel's Report dated February 2,
1984

The above-named document was circulated to the
Commission on Friday, February 3, 1984 at 2:00.

Objections have been received from the Commissioners
as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Reiche	<u>X (comments attached)</u>

This matter will be placed on the Executive Session
agenda for Tuesday, February 14, 1984.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cut*
DATE: February 2, 1984
SUBJECT: MUR 1607 - First General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS

48 Hour Tally Vote ☒
Sensitive ☒
Non-Sensitive ☐

24 Hour No Objection ☐
Sensitive ☐
Non-Sensitive ☐

Information ☐
Sensitive ☐
Non-Sensitive ☐

Other ☐

DISTRIBUTION

Compliance ☒
Audit Matters ☐

Litigation ☐

Closed MUR Letters ☐

Status Sheets ☐

Advisory Opinions ☐

Other (see distribution
below) ☐

8404044438

SENSITIVE

RECEIVED

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

FEB 2 P2: 01

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC
TO THE COMMISSION 2/2/84-1:30

MUR NO. 1607
STAFF MEMBER
Suzanne Callahan

SOURCE OF MUR: Debra Freeman and Citizens for Freeman

RESPONDENTS' NAMES: Mark Arax, Fred Eiland, Barbara Mikulski,
Baltimore Sun, Certain Members of Mikulski's
Staff, Certain Employees of the FEC

RELEVANT STATUTE: 2 U.S.C. § 437g(a)(12)(A)

INTERNAL REPORTS

CHECKED: Closed MUR Files 60, 804, 1161, 1244,
1251, 1266, 1275 :

FEDERAL AGENCIES

CHECKED: None

SUMMARY OF ALLEGATIONS

This matter was generated by a complaint filed by Debra
Freeman and Citizens for Freeman against Mark Arax, Fred Eiland,
Barbara Mikulski, the Baltimore Sun and certain "John Does" who
are members of the staff of Barbara Mikulski or who are employed
by the Federal Election Commission.

The

complainants allege that one of the sources used by Mr. Arax for
his article was Fred Eiland, Press Officer for the FEC, as well
as a staff aide of Barbara Mikulski, in violation of 2 U.S.C.

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§ 437g(a)(12)(A). The complainants further allege that a knowing and willful violation has been committed.

FACTUAL AND LEGAL ANALYSIS

The respondents in this matter have submitted their written positions concerning the allegations made against them by Debra Freeman. The named respondents do not contest the allegations made by Ms. Freeman; that is, that Congresswoman Mikulski's staff gave a copy of the subject complaint to a newspaper reporter who then had the existence of the complaint confirmed by the FEC Press Office.

The Commission has recently addressed the issue of the publication of complaints by complainants in MURs 1244, 1266, and 1275. The Commission, in those instances, determined that the confidentiality provision of the statute does not prevent a complainant from making public the fact that it has filed a complaint and the complaint's substance. The statute only prohibits persons from making public a Commission notification or investigation.

In the present instance, the release of the complaint and subsequent confirmation did not mention any notification or investigation by the Commission. Thus, this Office finds no basis for finding a violation of the statute or the regulations.

RECOMMENDATIONS

1. Find no reason to believe that Mark Arax violated 2 U.S.C. § 437g(a)(12)(A).
2. Find no reason to believe that Fred Eiland violated 2 U.S.C. § 437g(a)(12)(A).

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3. Find no reason to believe that Barbara Mikulski violated 2 U.S.C. § 437g(a) (12) (A).
4. Find no reason to believe that the Baltimore Sun violated 2 U.S.C. § 437g(a) (12) (A).
5. Send the attached notifications.
6. Close the file.

Charles N. Steele
General Counsel

February 2, 1984
Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments

Reply of Mark Arax/Baltimore Sun (7 pages)
Reply of Congresswoman Mikulski (2 pages)
Reply of Fred Eiland (2 pages)
Notification letters (5 pages)
(15 total pages attached)

84040444531

VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1800 MERCANTILE BANK & TRUST BUILDING

2 HOPKINS PLAZA

BALTIMORE, MARYLAND 21201

(301) 244-7400

WRITER'S STREET NUMBER IS

244-7666

RICHARD M. VENABLE (1898-1946)
EDWIN S. BAETJER (1888-1948)
CHARLES N. HOWARD (1878-1942)

DOUGLAS D. CONNAN, JR.

RECEIVED AT THE FEC

Oct 13/2

83 DEC 27 P2:12

MUR 1607

Callahan

WASHINGTON, D.C. OFFICE

VENABLE, BAETJER, HOWARD & CIVILETTI

SUITE 704

1301 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20004

(202) 783-4300

ALL: 30

GENERAL COUNSEL

December 22, 1983

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

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington, DC 20463

Re: MUR 1607

Gentlemen:

On behalf of The A. S. Abell Publishing Company ("Abell") publisher of The Baltimore Evening Sun, and Mark Arax, a reporter for The Evening Sun, this will respond to your letters of December 8, 1983, to Mr. Arax and to Reg Murphy, president of Abell, regarding the complaint filed by Debra Freeman and Citizens for Freeman alleging violations of the confidentiality provision of the Federal Election Campaign Act, 2 U.S.C. § 437g(a)(12)(A). Enclosed are statements of designation of counsel designating this firm and the undersigned attorneys to represent Abell and Mr. Arax in this matter and to receive communications about it from the Commission. As we will show, Abell and Mr. Arax have not violated the Act, and no action should be taken against them in response to the complaint.

For purposes of your investigation of this complaint, Abell and Mr. Arax do not dispute or contest the material facts about them that are contained in the December 5, 1983 affidavit of John Ascher, attached as Exhibit A to the Freeman complaint. That is, Mr. Arax did speak to Mr. Ascher by telephone on or about July 12, 1983, the account of the phone conversation reported in paragraphs 7, 8, 9, and 10 of Mr. Ascher's affidavit is substantially accurate, Mr. Arax did write the

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Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Two

article attached as Exhibit B to the Freeman complaint, and the article was published in The Evening Sun on July 14, 1983. However, for the following reasons, these facts do not give rise to a violation of the statute on the part of Abell or Mr. Arax:

1. Neither Mark Arax nor The Evening Sun "made public" any confidential information. Even assuming that complaints are statutorily confidential, which we show below is not so, Mr. Arax and his publisher were not the persons who made public the fact that a complaint had been filed about the Freeman campaign. They were recipients of the information, not originators of it. If it was "made public" at all, in the statutory sense, it was made public to them, not by them.

It is axiomatic that for facts to be "made public," they must be private or confidential at the time they are revealed. The prohibited action at issue here is the "making public" of certain private information. The parties who had private knowledge of the information reported by Mr. Arax were (a) the persons who participated in filing the complaint, (b) the Commission and its employees, and (c) after receipt of the complaint, Debra Freeman and her associates. Once facts concerning the complaint were communicated beyond that limited group of individuals, they were no longer private, they automatically became public.

Mark Arax and The Evening Sun were themselves "the public" in their relationship to the information that was disclosed to Mr. Arax. It is impossible for them to have "made public" information that became public when they themselves learned of it. If they can be held liable for repeating facts that were made public through disclosure to them, then anyone in all the country who repeats the same facts is also in violation of the Act. This interpretation of the statute would be absurd. The Act was clearly meant to prohibit a violation of confidentiality by someone with confidential knowledge. There is no language in the statute that extends to the repetition of facts already "made public" through disclosure to individuals not involved in the protected proceedings.^{1/}

^{1/} The same logic dictates that the words "any person" used in the confidentiality provision must necessarily mean "any person with non-public knowledge" of the notification or investigation.

Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Three

2. Complaints filed with the Federal Election Commission are not within the scope of the confidentiality provision of the Act. The portion of the Commission statute at issue here provides:

Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made. 2/

2 U.S.C. § 437g(a) (12) (A) (emphasis supplied). It is clear that the language of the statute does not encompass the information published in The Evening Sun, which did not concern a "notification" or an "investigation." The article merely reported the existence of a complaint and briefly described a portion of its contents.

The word "complaint" was deliberately excluded from the Act's confidentiality provision. When the 1979 amendments to the statute were enacted, Congress deleted language from the bill then before it that would have included complaints within the confidentiality provision. On September 10, 1979, the House of Representatives passed a bill (H.R. 5010) to amend the Act. 125 Cong. Rec. 23804-23815 (1979). The confidentiality provision of this bill was as follows:

Any complaint filed under this section, or any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent

2/ The Freeman complaint quotes a Commission regulation, 11 C.F.R. 112.21(a), which purports to prohibit the making public of a "complaint." The part of the regulation referring to "complaint" is a nullity because a regulation must be consistent with the statute under which it is promulgated. Pacific Gas & Electric Co. v. United States, 664 F.2d 1133 (9th Cir. 1981). The Act does not include the making public of complaints within the scope of its prohibition, and, therefore, the "complaint" portion of the regulation is inconsistent with the statute and void.

Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Four

of the person who is the subject of such complaint, the person receiving such notification or the person under investigation.

125 Cong. Rec. 23811 (1979) (emphasis supplied). Later, on December 18, 1979, the Senate passed "an amendment in the nature of a substitute" (UP Amendment No. 894) in which the confidentiality language had been changed. 125 Cong. Rec. 36744-36755 (1979). This language was identical to the present statutory provision quoted above. Id. at 36751. Thus, the Senate, by its amendment, had deleted the following portions of the House bill (deletions indicated by striking):

~~Any complaint filed under this section, or any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person who is the subject of such complaint; the person receiving such notification or the person under investigation.~~

On December 20, 1979, the House considered the Senate amendment to the House bill and agreed to the changes made thereby. 125 Cong. Rec. 37196-37198 (1979). The President approved the legislation on January 8, 1980. 16 Weekly Comp. Pres. Doc., No. 2 (Jan. 8, 1980). The section of the statute quoted above has not been further amended. Thus, complaints are not within the purview of the confidentiality section of the Act. Accordingly, because the article written by Arax and published by The Evening Sun only referred to the complaint filed with the Commission it did not violate the Act.

3. A statute that prohibits or punishes the dissemination of truthful information lawfully obtained violates the First Amendment. A series of Supreme Court decisions makes it clear that Mr. Arax and The Evening Sun may not constitutionally be punished for having reported the existence and certain details of the complaint about the Freeman campaign.

In Smith v. Daily Mail Publishing Co., 443 U.S. 97 (1979), the Court held that government cannot punish the press for publishing truthful information obtained through routine newspaper reporting techniques. The statute held unconstitutional

Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Five

in Daily Mail prohibited newspapers from publishing the names of juveniles unless they secured written permission from the court. The Court summarized the applicable law as follows:

Our recent decisions demonstrate that state action to punish the publication of truthful information seldom can satisfy constitutional standards. In Landmark Communications [Landmark Communications v. Virginia, 435 U.S. 829 (1978)] we declared unconstitutional a Virginia statute making it a crime to publish information regarding confidential proceedings before a state judicial review commission that heard complaints about alleged disabilities and misconduct of state-court judges. In declaring that statute unconstitutional, we concluded:

"[T]he publication Virginia seeks to punish under its statute lies near the core of the First Amendment, and the Commonwealth's interest advanced by the imposition of criminal sanctions are insufficient to justify the actual and potential encroachments on freedom of speech and of the press which follow therefrom." 435 U.S. at 838.

Id. at 102. In an earlier decision, Oklahoma Publishing Co. v. District Court, 420 U.S. 308 (1977), the Court held that once information is publicly revealed, a restraint against its dissemination violates the First Amendment.

A Florida statute that prohibited any person from printing, publishing, or broadcasting the identity of the subject of a wiretap until after that person was either indicted or informed against was declared unconstitutional by the Supreme Court of Florida in Gardner v. Bradenton Herald, Inc., 413 S.2d 10 (1982). There, the Court held:

In our opinion, the statute, in its present format, is an unconstitutional restraint upon the freedom of the press guaranteed by the first and fourteenth amendments to the United States Constitution. The absolute terms of the statute effectively

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Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Six

result in a prior restraint on the press. Prior restraints have always been accorded the most exacting judicial scrutiny. Nebraska Press Asso. v. Stuart, 427 U.S. 539, 96 S.Ct. 2791, 49 L.Ed.2d 683 (1976); South Eastern Promotions, Ltd. v. Conrad, 420 U.S. 546, 95 S.Ct. 1239, 43 L.Ed.2d 448 (1975).

Id. at 11. In the present case, if the confidentiality provision of the Act is interpreted to apply to persons other than those with Confidential knowledge of commission proceedings, it, like the Florida statute, would be an absolute bar to publication and an unconstitutional prior restraint upon the press. Accord, Oklahoma Publishing Company v. United States, 515 F. Supp. 1255 (W.D. Okla. 1981) (The constitutionally correct interpretation of 18 U.S.C. § 5038(d), which prohibits "any medium of public information" from making public the name of a juvenile, is that it applies only to court personnel and those under the supervision of the court.)

Government can impose restraints upon dissemination of confidential information by participants in the confidential proceeding, and it can pursue sanctions against those participants if the confidence is violated. Nevertheless, once the perimeter of confidentiality is breached and the information becomes a matter of public knowledge, the First Amendment protects any person against sanctions for his further publication of the once confidential facts. Accordingly, Mark Arax and The Evening Sun, neither of whom were participants in proceedings before the Commission in the Mikulski/Freeman matter, cannot be pursued by the Commission for repeating information in a newspaper article that was discovered through routine newsgathering techniques.

4. In enacting the Federal Election Campaign Act, Congress did not intend to proscribe press activities in any way. The Commission, following the intent of Congress, should not pursue an investigation that would clearly encroach upon the First Amendment rights of Mr. Arax and The Evening Sun. The legislative history of the Act states:

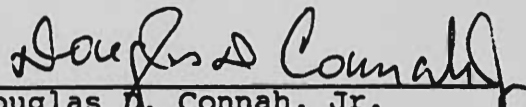
[I]t is not the intent of Congress in the present legislation to limit or burden in any way the first amendment freedoms of the press and of the association.

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Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Seven

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H.Rep. No. 93-943, 93d Cong., 2d Sess. at 4 (1974) (emphasis supplied). The law is well settled, as the cited cases explain, that a newspaper can publish information once it becomes public without fear of sanction. Reporters are "surrogates for the public", Richmond Newspapers, Inc. v. Virginia, 488 U.S. 555, 573 (1980), and facts learned by them are indisputably public by the mere act of having been learned. Any further action by the Commission on the Freeman complaint against Mark Arax and The Evening Sun, other than that leading to closure of the file, would definitely be a burden upon the First Amendment freedom of the press. Accordingly, Mark Arax and The A. S. Abell Publishing Company request that the Office of General Counsel recommend to the Commission that there is no reason to believe that they violated the confidentiality provision of the Act, and that the Commission should close the file as to them.

Very truly yours,


Douglas G. Connah, Jr.


Elizabeth C. Honeywell

DDCJr/rcg
Enclosures

00008:69686

December 19, 1983

Ms. Suzanne Callahan
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1607

Dear Ms. Callahan:

I am writing in response to the letter of Kenneth A. Gross, Associate General Counsel, dated December 8, 1983, and received by my office on December 12, 1983. Mr. Gross' letter included a copy of a complaint filed against myself and several others by Debra Freeman and Citizens for Freeman (the "Freeman complaint") which was docketed by the Federal Election Commission (F.E.C.) as M.U.R. 1607.

The Freeman complaint describes various conversations and reports which occurred last July indicating that I had filed a complaint against Debra Freeman and Citizens for Freeman alleging certain violations of federal campaign laws. Those conversations and reports are characterized as constituting a breach of 2 U.S.C. Section 437(g) (12) (A) and 11 C.F.R. Section 111.21, which prohibit the public disclosure of a complaint pending before the F.E.C.

As one of the persons named in the Freeman complaint, I am writing pursuant to 11 C.F.R. Section 111.6(a), which provides as follows:

"(a) A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within fifteen (15) days from receipt a copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action."

My own review of the circumstances described in the Freeman complaint indicates that a member of my staff who was unaware of the F.E.C. confidentiality rule did inform Mr. Mark Arax, a reporter for the Baltimore Sunpapers, that I had filed a complaint with the F.E.C., and gave Mr. Arax a copy of the complaint. To my knowledge, this was the only public disclosure which occurred with respect to the Freeman complaint. About the same time, my office had asked our counsel for an overview of the procedures governing the evaluation of complaints pending before the F.E.C. A short time later we were informed of these procedures and were notified particularly about the confidentiality rule. My entire staff was promptly advised of this rule and no further disclosures relating to my original complaint have been made, nor will any such disclosures occur in the future except as permitted by law.

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Ms. Suzanne Callahan
December 19, 1983
Page - 2 -

At no time did I or any member of my staff intend to violate a rule of the F.E.C., and we regret the single instance in which an inadvertant violation may have occurred. Under these circumstances we see no constructive purpose to be served by taking any further action with respect to M.U.R. 1607.

Accompanying this letter is a Statement of Designation of Counsel on behalf of myself and members of my staff, with respect to M.U.R. 1607 authorizing Thomas B. Lewis, Esq., to receive copies of notices and communications from the F.E.C. and staff. Notwithstanding the provisions of 11 CFR Section 111.23(b), Mr. Lewis and I request that such communications be sent to both of us concurrently.

Thank you for your consideration of this information. Please do not hesitate to contact either myself or Mr. Lewis to answer any further questions you may have or to assist you in any other way in your evaluation of this matter.

Sincerely yours,

Barbara A. Mikulski

BAM/cr

cc: Kenneth A. Gross, Esq.
Thomas B. Lewis, Esq.
Enclosure

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9



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

GCC#1297

Mr. 1607
Callahan

1607

December 23, 1983

DEC 27 1983 13:03

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

Dear Mr. Steele:

This is in response to the complaint filed by Debra Freeman and Citizens for Freeman alleging that I violated 2 U.S.C. 437(g)(12)(A) and 11 C.F.R. 111.21.

The complaint against me is in the paragraph that states:

"The July 14, 1983, Sun article quotes from Fred Eiland identified as a spokesman for the Commission: 'I can confirm that a complaint was received by this office but I can't say anymore'".

Assuming that the quote attributed is accurate, this office was following guidance provided by the Commission and Office of General Counsel prior to my appointment.

From its beginning, the Commission was faced with situations where an individual would hold a press conference at which he would state that he would file a complaint against a candidate for Federal office, giving the name of that candidate and details of the alleged violation(s).

Often, he would not file the complaint. This forced the candidate to face and attempt to respond to harmful publicity of a non-event.

Frequently, when a complaint has received prior publicity, reporters query the FEC Press Office as to whether it has, in fact, been filed.

Early on, as a result of such experiences, revisions of FEC Press Office procedures were discussed with the Office of General Counsel and Commission, and were approved by the Commission. These provide that the Press Office may respond in the affirmative or negative to a direct question whether a complaint

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Page Two
Charles Steele, General Counsel
December 23, 1983

has been received from a clearly identified complainant against a clearly identified respondent.

Dependent upon the wording of a question about receipt of a complaint, the Press Office response could be: "The Commission has (has not) received a complaint"; "A complaint has (has not) been received by the Commission"; "yes"; "no".

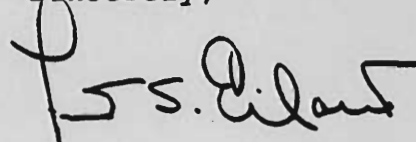
The Sun article cited by the complainant quotes me as saying: "I can confirm that a complaint was received by this office but I can't say anymore". Of course complaints are not received by the Press Office, and we would not say "was received by this office". With that exception, however, the quote would fit within guidelines relative to enforcement established prior to my appointment, and followed since then. At the same time, I cannot say the quote is inaccurate or accurate since the Press Office does not maintain nor keep logs of callers, questions, or responses provided.

Also, the complaint implies, if not alleges, that the "press officer" was the source of the reporter's information regarding the complaint. That is not so.

The Press Office is not automatically advised of complaints filed with or received by the Commission. We would inquire of that information only if a questioner fully identifies both the complainant and the respondent.

I have never, and would never, be the "source" of any information pertaining to an enforcement action, this one or any other.

Sincerely,



Fred S. Eiland
Press Officer

84040444312

11



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Douglas D. Connah, Jr., Esquire
Elizabeth C. Honeywell, Esquire
Venable, Baetjer and Howard
1800 Mercantile Bank and Trust
Building
2 Hopkins Plaza
Baltimore, Maryland 21201

RE: MUR 1607

Dear Mr. Connah and Ms. Honeywell:

On December 8, 1983, the Commission notified you of a complaint alleging that your clients, Mark Arax and the Baltimore Sun, had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

8404044513

12



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. Fred Eiland
Press Officer
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1607

Dear Mr. Eiland:

On December 8, 1983, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

84040444314

13



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

The Honorable Barbara A. Mikulski
407 Cannon House Office Building
Washington, D.C. 20515

RE: MUR 1607

Dear Congresswoman Mikulski:

On December 8, 1983, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 1984, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Thomas B. Lewis, Esquire

84040444543

14



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

James F. Schoener, Esquire
Miller, Canfield, Paddock
and Stone
2555 M Street, N.W.
Suite 300
Washington, D.C. 20037

RE: MUR 1607

Dear Mr. Schoener:

The Federal Election Commission has reviewed the allegations of the complaint filed by your client, Debra Freeman, dated December 5, 1983, and determined that on the basis of the information provided in the complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Debra Freeman

84040444545

15



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Mayer Morganroth, Esquire
24901 Northwestern Highway
Southfield, Michigan 48075

RE: MUR 1607

Dear Mr. Morganroth:

The Federal Election Commission has reviewed the allegations of the complaint filed by your client, Belinda Haight, dated December 5, 1983, and determined that on the basis of the information provided in the complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Belinda Haight

84040444517

16

RECEIVED AT THE FCC

84 JAN 12 12:00
GCA #1398

LAW OFFICES
GALLAGHER, EVELIUS & JONES

1100 ONE CHARLES CENTER
BALTIMORE, MD. 21201

TELEPHONE (301) 787-7702

FRANCIS X. GALLAGHER
1928-1972

JOHN C. EVELIUS
C. EDWARD JONES
RICHARD O. BERNDT
MARK K. JOSEPH
THOMAS N. BIDDISON, JR.
MICHAEL J. TRAVIESO
ROBERT R. KERN, JR.
CAROLE S. GOULD
SAUL E. GILSTEIN
THOMAS B. LEWIS
BONNIE A. TRAVIESO
CHRISTOPHER J. FRITZ

January 10, 1984

Ms. Suzanne Callahan
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

Re: MUR 1607

Dear Ms. Callahan:

As per your request, I am enclosing an additional copy of the letter which was mailed to you by Barbara A. Mikulski on December 19, 1983, along with a Statement of Designation of Counsel.

Yours very truly,

Thomas B. Lewis

Thomas B. Lewis

TBL/kdm
Enclosure
cc: Ms. Wendy Sherman

84 JAN 12 12:00

12 12:32

December 19, 1983

Ms. Suzanne Callahan
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1607

Dear Ms. Callahan:

I am writing in response to the letter of Kenneth A. Gross, Associate General Counsel, dated December 8, 1983, and received by my office on December 12, 1983. Mr. Gross' letter included a copy of a complaint filed against myself and several others by Debra Freeman and Citizens for Freeman (the "Freeman complaint") which was docketed by the Federal Election Commission (F.E.C.) as M.U.R. 1607.

The Freeman complaint describes various conversations and reports which occurred last July indicating that I had filed a complaint against Debra Freeman and Citizens for Freeman alleging certain violations of federal campaign laws. Those conversations and reports are characterized as constituting a breach of 2 U.S.C. Section 437(g)(12)(A) and 11 C.F.R. Section 111.21, which prohibit the public disclosure of a complaint pending before the F.E.C.

As one of the persons named in the Freeman complaint, I am writing pursuant to 11 C.F.R. Section 111.6(a), which provides as follows:

"(a) A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within fifteen (15) days from receipt a copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action."

My own review of the circumstances described in the Freeman complaint indicates that a member of my staff who was unaware of the F.E.C. confidentiality rule did inform Mr. Mark Arax, a reporter for the Baltimore Sunpapers, that I had filed a complaint with the F.E.C., and gave Mr. Arax a copy of the complaint. To my knowledge, this was the only public disclosure which occurred with respect to the Freeman complaint. About the same time, my office had asked our counsel for an overview of the procedures governing the evaluation of complaints pending before the F.E.C. A short time later we were informed of these procedures and were notified particularly about the confidentiality rule. My entire staff was promptly advised of this rule and no further disclosures relating to my original complaint have been made, nor will any such disclosures occur in the future except as permitted by law.

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Ms. Suzanne Callahan
December 19, 1983
Page - 2 -

At no time did I or any member of my staff intend to violate a rule of the F.E.C., and we regret the single instance in which an inadvertant violation may have occurred. Under these circumstances we see no constructive purpose to be served by taking any further action with respect to M.U.R. 1607.

Accompanying this letter is a Statement of Designation of Counsel on behalf of myself and members of my staff, with respect to M.U.R. 1607 authorizing Thomas B. Lewis, Esq., to receive copies of notices and communications from the F.E.C. and staff. Notwithstanding the provisions of 11 CFR Section 111.23(b), Mr. Lewis and I request that such communications be sent to both of us concurrently.

Thank you for your consideration of this information. Please do not hesitate to contact either myself or Mr. Lewis to answer any further questions you may have or to assist you in any other way in your evaluation of this matter.

Sincerely yours,

Barbara A. Mikulski

BAM/cr

cc: Kenneth A. Gross, Esq.
Thomas B. Lewis, Esq.
Enclosure

94040144550

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Thomas B. Lewis, Esq.

ADDRESS: Gallagher, Evelius & Jones
1100 One Charles Center
Baltimore, Maryland 21202

TELEPHONE: (301) 727-7702

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and
other communications from the Commission and to act on my
behalf before the Commission.

December 19, 1983

Date

Barbara A. Mikulski
Signature

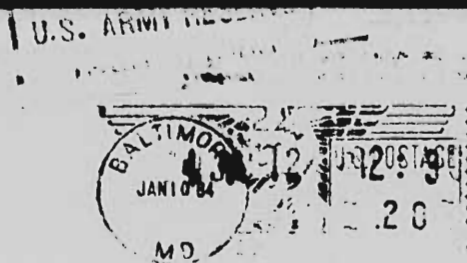
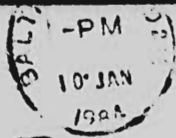
NAME: Barbara A. Mikulski
Member of Congress

ADDRESS: 407 Cannon House Office Building
Washington, D.C. 20515

HOME PHONE:

BUSINESS PHONE: (202) 225-4016

LAW OFFICES
GALLAGHER, EVELIUS & JONES
1100 ONE CHARLES CENTER
BALTIMORE, MD. 21201



Ms. Suzanne Callahan
Federal Election Commission
1325 K Street, NW
Washington, DC 20463



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

6CC#1297
Mur 1607
Callahan

December 23, 1983

DEC 27 P 3:03

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

Dear Mr. Steele:

This is in response to the complaint filed by Debra Freeman and Citizens for Freeman alleging that I violated 2 U.S.C. 437(g) (12) (A) and 11 C.F.R. 111.21.

The complaint against me is in the paragraph that states:

"The July 14, 1983, Sun article quotes from Fred Eiland identified as a spokesman for the Commission: 'I can confirm that a complaint was received by this office but I can't say anymore'".

Assuming that the quote attributed is accurate, this office was following guidance provided by the Commission and Office of General Counsel prior to my appointment.

From its beginning, the Commission was faced with situations where an individual would hold a press conference at which he would state that he would file a complaint against a candidate for Federal office, giving the name of that candidate and details of the alleged violation(s).

Often, he would not file the complaint. This forced the candidate to face and attempt to respond to harmful publicity of a non-event.

Frequently, when a complaint has received prior publicity, reporters query the FEC Press Office as to whether it has, in fact, been filed.

Early on, as a result of such experiences, revisions of FEC Press Office procedures were discussed with the Office of General Counsel and Commission, and were approved by the Commission. These provide that the Press Office may respond in the affirmative or negative to a direct question whether a complaint

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Page Two
Charles Steele, General Counsel
December 23, 1983

has been received from a clearly identified complainant against a clearly identified respondent.

Dependent upon the wording of a question about receipt of a complaint, the Press Office response could be: "The Commission has (has not) received a complaint"; "A complaint has (has not) been received by the Commission"; "yes"; "no".

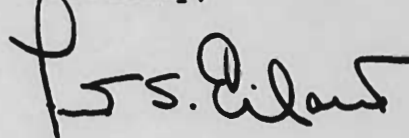
The Sun article cited by the complainant quotes me as saying: "I can confirm that a complaint was received by this office but I can't say anymore". Of course complaints are not received by the Press Office, and we would not say "was received by this office". With that exception, however, the quote would fit within guidelines relative to enforcement established prior to my appointment, and followed since then. At the same time, I cannot say the quote is inaccurate or accurate since the Press Office does not maintain nor keep logs of callers, questions, or responses provided.

Also, the complaint implies, if not alleges, that the "press officer" was the source of the reporter's information regarding the complaint. That is not so.

The Press Office is not automatically advised of complaints filed with or received by the Commission. We would inquire of that information only if a questioner fully identifies both the complainant and the respondent.

I have never, and would never, be the "source" of any information pertaining to an enforcement action, this one or any other.

Sincerely,



Fred S. Eiland
Press Officer

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Official Business

Penalty for Private Use \$300

Mr. Charles Steele
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

Attn: Suzanne Callahan



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Federal Election Commission

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Oct 13/83

DEC 27 P2:12

MUR 1607

Callahan

WASHINGTON, D.C. OFFICE

VENABLE, BAETJER, HOWARD & CIVILETTI
SUITE 704

1301 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 783-4300

ALL: 30

VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1800 MERCANTILE BANK & TRUST BUILDING

2 HOPKINS PLAZA

BALTIMORE, MARYLAND 21201

(301) 244-7400

RICHARD M. VENABLE (1898-1918)
EDWIN G. BAETJER (1888-1948)
CHARLES McH. HOWARD (1870-1948)

WRITER'S DIRECT NUMBER IS

244-7566

DOUGLAS D. CONNAN, JR.

December 22, 1983

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

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington, DC 20463

Re: MUR 1607

Gentlemen:

On behalf of The A. S. Abell Publishing Company ("Abell") publisher of The Baltimore Evening Sun, and Mark Arax, a reporter for The Evening Sun, this will respond to your letters of December 8, 1983, to Mr. Arax and to Reg Murphy, president of Abell, regarding the complaint filed by Debra Freeman and Citizens for Freeman alleging violations of the confidentiality provision of the Federal Election Campaign Act, 2 U.S.C. § 437g(a)(12)(A). Enclosed are statements of designation of counsel designating this firm and the undersigned attorneys to represent Abell and Mr. Arax in this matter and to receive communications about it from the Commission. As we will show, Abell and Mr. Arax have not violated the Act, and no action should be taken against them in response to the complaint.

For purposes of your investigation of this complaint, Abell and Mr. Arax do not dispute or contest the material facts about them that are contained in the December 5, 1983 affidavit of John Ascher, attached as Exhibit A to the Freeman complaint. That is, Mr. Arax did speak to Mr. Ascher by telephone on or about July 12, 1983, the account of the phone conversation reported in paragraphs 7, 8, 9, and 10 of Mr. Ascher's affidavit is substantially accurate, Mr. Arax did write the

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Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Two

article attached as Exhibit B to the Freeman complaint, and the article was published in The Evening Sun on July 14, 1983. However, for the following reasons, these facts do not give rise to a violation of the statute on the part of Abell or Mr. Arax:

1. Neither Mark Arax nor The Evening Sun "made public" any confidential information. Even assuming that complaints are statutorily confidential, which we show below is not so, Mr. Arax and his publisher were not the persons who made public the fact that a complaint had been filed about the Freeman campaign. They were recipients of the information, not originators of it. If it was "made public" at all, in the statutory sense, it was made public to them, not by them.

It is axiomatic that for facts to be "made public," they must be private or confidential at the time they are revealed. The prohibited action at issue here is the "making public" of certain private information. The parties who had private knowledge of the information reported by Mr. Arax were (a) the persons who participated in filing the complaint, (b) the Commission and its employees, and (c) after receipt of the complaint, Debra Freeman and her associates. Once facts concerning the complaint were communicated beyond that limited group of individuals, they were no longer private, they automatically became public.

Mark Arax and The Evening Sun were themselves "the public" in their relationship to the information that was disclosed to Mr. Arax. It is impossible for them to have "made public" information that became public when they themselves learned of it. If they can be held liable for repeating facts that were made public through disclosure to them, then anyone in all the country who repeats the same facts is also in violation of the Act. This interpretation of the statute would be absurd. The Act was clearly meant to prohibit a violation of confidentiality by someone with confidential knowledge. There is no language in the statute that extends to the repetition of facts already "made public" through disclosure to individuals not involved in the protected proceedings.1/

1/ The same logic dictates that the words "any person" used in the confidentiality provision must necessarily mean "any person with non-public knowledge" of the notification or investigation.

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Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Three

2. Complaints filed with the Federal Election Commission are not within the scope of the confidentiality provision of the Act. The portion of the Commission statute at issue here provides:

Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made. 2/

2 U.S.C. § 437g(a)(12)(A) (emphasis supplied). It is clear that the language of the statute does not encompass the information published in The Evening Sun, which did not concern a "notification" or an "investigation." The article merely reported the existence of a complaint and briefly described a portion of its contents.

The word "complaint" was deliberately excluded from the Act's confidentiality provision. When the 1979 amendments to the statute were enacted, Congress deleted language from the bill then before it that would have included complaints within the confidentiality provision. On September 10, 1979, the House of Representatives passed a bill (H.R. 5010) to amend the Act. 125 Cong. Rec. 23804-23815 (1979). The confidentiality provision of this bill was as follows:

Any complaint filed under this section, or any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent

2/ The Freeman complaint quotes a Commission regulation, 11 C.F.R. 112.21(a), which purports to prohibit the making public of a "complaint." The part of the regulation referring to "complaint" is a nullity because a regulation must be consistent with the statute under which it is promulgated. Pacific Gas & Electric Co. v. United States, 664 F.2d 1133 (9th Cir. 1981). The Act does not include the making public of complaints within the scope of its prohibition, and, therefore, the "complaint" portion of the regulation is inconsistent with the statute and void.

Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Four

of the person who is the subject of such complaint, the person receiving such notification or the person under investigation.

125 Cong. Rec. 23811 (1979) (emphasis supplied). Later, on December 18, 1979, the Senate passed "an amendment in the nature of a substitute" (UP Amendment No. 894) in which the confidentiality language had been changed. 125 Cong. Rec. 36744-36755 (1979). This language was identical to the present statutory provision quoted above. Id. at 36751. Thus, the Senate, by its amendment, had deleted the following portions of the House bill (deletions indicated by striking):

~~Any-complaint-filed-under-this-section,~~
or any notification or investigation
made under this section shall not be
made public by the Commission or by
any person without the written consent
of ~~the-person-who-is-the-subject-of-such~~
~~complaint,~~ the person receiving such
notification or the person under
investigation.

On December 20, 1979, the House considered the Senate amendment to the House bill and agreed to the changes made thereby. 125 Cong. Rec. 37196-37198 (1979). The President approved the legislation on January 8, 1980. 16 Weekly Comp. Pres. Doc., No. 2 (Jan. 8, 1980). The section of the statute quoted above has not been further amended. Thus, complaints are not within the purview of the confidentiality section of the Act. Accordingly, because the article written by Arax and published by The Evening Sun only referred to the complaint filed with the Commission it did not violate the Act.

3. A statute that prohibits or punishes the dissemination of truthful information lawfully obtained violates the First Amendment. A series of Supreme Court decisions makes it clear that Mr. Arax and The Evening Sun may not constitutionally be punished for having reported the existence and certain details of the complaint about the Freeman campaign.

In Smith v. Daily Mail Publishing Co., 443 U.S. 97 (1979), the Court held that government cannot punish the press for publishing truthful information obtained through routine newspaper reporting techniques. The statute held unconstitutional

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Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Five

in Daily Mail prohibited newspapers from publishing the names of juveniles unless they secured written permission from the court. The Court summarized the applicable law as follows:

Our recent decisions demonstrate that state action to punish the publication of truthful information seldom can satisfy constitutional standards. In Landmark Communications [Landmark Communications v. Virginia, 435 U.S. 829 (1978)] we declared unconstitutional a Virginia statute making it a crime to publish information regarding confidential proceedings before a state judicial review commission that heard complaints about alleged disabilities and misconduct of state-court judges. In declaring that statute unconstitutional, we concluded:

"[T]he publication Virginia seeks to punish under its statute lies near the core of the First Amendment, and the Commonwealth's interest advanced by the imposition of criminal sanctions are insufficient to justify the actual and potential encroachments on freedom of speech and of the press which follow therefrom." 435 U.S. at 838.

Id. at 102. In an earlier decision, Oklahoma Publishing Co. v. District Court, 420 U.S. 308 (1977), the Court held that once information is publicly revealed, a restraint against its dissemination violates the First Amendment.

A Florida statute that prohibited any person from printing, publishing, or broadcasting the identity of the subject of a wiretap until after that person was either indicted or informed against was declared unconstitutional by the Supreme Court of Florida in Gardner v. Bradenton Herald, Inc., 413 S.2d 10 (1982). There, the Court held:

In our opinion, the statute, in its present format, is an unconstitutional restraint upon the freedom of the press guaranteed by the first and fourteenth amendments to the United States Constitution. The absolute terms of the statute effectively

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Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Six

result in a prior restraint on the press. Prior restraints have always been accorded the most exacting judicial scrutiny. Nebraska Press Asso. v. Stuart, 427 U.S. 539, 96 S.Ct. 2791, 49 L.Ed.2d 683 (1976); South Eastern Promotions, Ltd. v. Conrad, 420 U.S. 546, 95 S.Ct. 1239, 43 L.Ed.2d 448 (1975).

Id. at 11. In the present case, if the confidentiality provision of the Act is interpreted to apply to persons other than those with confidential knowledge of commission proceedings, it, like the Florida statute, would be an absolute bar to publication and an unconstitutional prior restraint upon the press. Accord, Oklahoma Publishing Company v. United States, 515 F. Supp. 1255 (W.D. Okla. 1981) (The constitutionally correct interpretation of 18 U.S.C. § 5038(d), which prohibits "any medium of public information" from making public the name of a juvenile, is that it applies only to court personnel and those under the supervision of the court.)

Government can impose restraints upon dissemination of confidential information by participants in the confidential proceeding, and it can pursue sanctions against those participants if the confidence is violated. Nevertheless, once the perimeter of confidentiality is breached and the information becomes a matter of public knowledge, the First Amendment protects any person against sanctions for his further publication of the once confidential facts. Accordingly, Mark Arax and The Evening Sun, neither of whom were participants in proceedings before the Commission in the Mikulski/Freeman matter, cannot be pursued by the Commission for repeating information in a newspaper article that was discovered through routine newsgathering techniques.

4. In enacting the Federal Election Campaign Act, Congress did not intend to proscribe press activities in any way. The Commission, following the intent of Congress, should not pursue an investigation that would clearly encroach upon the First Amendment rights of Mr. Arax and The Evening Sun. The legislative history of the Act states:

[I]t is not the intent of Congress in the present legislation to limit or burden in any way the first amendment freedoms of the press and of the association.

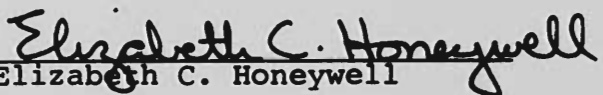
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Charles N. Steele
Kenneth A. Gross
December 22, 1983
Page Seven

H.Rep. No. 93-943, 93d Cong., 2d Sess. at 4 (1974) (emphasis supplied). The law is well settled, as the cited cases explain, that a newspaper can publish information once it becomes public without fear of sanction. Reporters are "surrogates for the public", Richmond Newspapers, Inc. v. Virginia, 488 U.S. 555, 573 (1980), and facts learned by them are indisputably public by the mere act of having been learned. Any further action by the Commission on the Freeman complaint against Mark Arax and The Evening Sun, other than that leading to closure of the file, would definitely be a burden upon the First Amendment freedom of the press. Accordingly, Mark Arax and The A. S. Abell Publishing Company request that the Office of General Counsel recommend to the Commission that there is no reason to believe that they violated the confidentiality provision of the Act, and that the Commission should close the file as to them.

Very truly yours,


Douglas G. Connah, Jr.


Elizabeth C. Honeywell

DDCJr/rcg
Enclosures

00008:69686

94040444352

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Douglas D. Connah, Jr.
Elizabeth C. Honeywell
Venable, Baetjer and Howard

ADDRESS: 1800 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

TELEPHONE: (301) 244-7400

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and
other communications from the Commission and to act on my
behalf before the Commission.

12-16-83
Date

Mark Arax
Signature

NAME: Mark Arax

ADDRESS: The Evening Sun
Calvert and Centre Streets
Baltimore, Maryland 21278

HOME PHONE:

BUSINESS PHONE: (301) 332-6472

8404044453

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Douglas D. Connah, Jr.
Elizabeth C. Honeywell
Venable, Baetjer and Howard

ADDRESS: 1800 Mercantile Bank & Trust Bldg.
2 Hopkins Plaza
Baltimore, Maryland 21201

TELEPHONE: (301) 244-7400

The above-named individual is hereby designated as my
for The A. S. Abell Publishing Company (publisher of The Evening
counsel/ and is authorized to receive any notifications and Sun)
other communications from the Commission and to act on my
behalf before the Commission.

Dec. 15, 1983
Date

John M. Lemmon
Signature

NAME: John M. Lemmon, Managing Editor

ADDRESS: The Evening Sun
Calvert and Centre Streets
Baltimore, Maryland 21278

HOME PHONE:

BUSINESS PHONE: (301) 332-6450

84040444354

1st CLASS

FIRST-CLASS

8 4 4 4 4 4

FIRST-CLASS



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VENABLE, BAETJER, AND HOWARD
ATTORNEYS-AT-LAW
1800 MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201

DDCJR

TO:

Charles N. Steele
General Counsel
Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Thomas B. Lewis, Esq.

ADDRESS: Gallagher, Evelius & Jones
1100 One Charles Center
Baltimore, Maryland 21202

TELEPHONE: (301) 727-7702

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and
other communications from the Commission and to act on my
behalf before the Commission.

December 19, 1983
Date

Barbara A. Mikulski
Signature

NAME: Barbara A. Mikulski
Member of Congress

ADDRESS: 407 Cannon House Office Building
Washington, D.C. 20515

HOME PHONE:

BUSINESS PHONE: (202) 225-4016



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 8, 1983

HAND DELIVERY

Mr. Fred Eiland
Press Office
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1607

Dear Mr. Eiland:

This letter is to notify you that on December 6, 1983, 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"). A copy of the complaint is enclosed. We have numbered this matter MUR 1607. 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 completing the enclosed form 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.

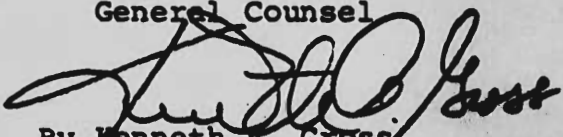
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Page -2-
Letter to Fred Eiland

If you have any questions, please contact Suzanne Callahan, the staff member assigned to this matter at (202) 523-4529. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosures

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

84040444538



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 8, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Barbara A. Mikulski
407 Cannon HOB
Washington, D.C. 20515

Re: MUR 1607

Dear Ms. Mikulski:

This letter is to notify you that on December 6, 1983, 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"). A copy of the complaint is enclosed. We have numbered this matter MUR 1607. 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 completing the enclosed form 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.

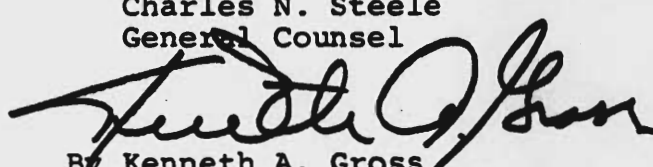
Page -2-

Letter to The Honorable Barbara A. Mikulski

If you have any questions, please contact Suzanne Callahan, the staff member assigned to this matter at (202) 523-4529. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosures

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

34040444370

1, July 1982

03661

1. The following service is requested (check one):
☒ Show to whom and date delivered
☐ Show to whom, date, and address of delivery

2. ☐ RESTRICTED DELIVERY
(The restricted delivery fee is charged in addition to the return receipt fee.)

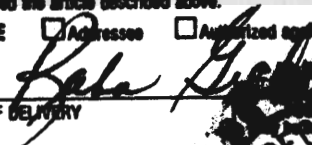
TOTAL \$

3. ARTICLE ADDRESSED TO Hon. B.A. Mikulski
407 Cannon HOB
Washington, D.C. 20515

4. TYPE OF SERVICE:
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943889

(Always obtain signature of addressee or agent)

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


5. DATE OF DELIVERY

6. ADDRESSEE'S ADDRESS (Only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. REASON FOR FAILURE TO DELIVER:
INITIALS

RETURN RECEIPT

DEC 12 1983

MUR 1607 - Callahan

• GPO: 1980-370-003
12/8/83



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 8, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Reg Murphy, Publisher
Baltimore Sun
501 N. Calvert Street
Baltimore, Maryland 21203

Re: MUR 1607

Dear Mr. Murphy: -

This letter is to notify you that on December 6, 1983, the Federal Election Commission received a complaint which alleges that The Baltimore Sun may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1607. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against The Baltimore Sun 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 The Baltimore Sun will be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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Page -2-

Letter to Mr. Reg Murphy, Publisher

If you have any questions, please contact Suzanne Callahan, the staff member assigned to this matter at (202) 523-4529. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosures

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

84040444372

PS Form 3811, July 1982

• **REMARK:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one):
☒ Show to whom and date delivered
☐ Show to whom, date, and address of delivery

2. ☐ **RESTRICTED DELIVERY**
(We restricted delivery fee is charged in addition to the basic receipt fee.)

TOTAL \$

3. **ARTICLE ADDRESSED TO:** Mr. Reg Murphy, Publisher
Baltimore Sun- 501 N. Calvert St.
Baltimore, MD 21278

4. **TYPE OF SERVICE:**
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943888

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☒ Authorized agent
Jon B. ...

5. **DATE OF DELIVERY**

6. **ADDRESSEE'S ADDRESS** (only if requested)

7. **UNABLE TO DELIVER BECAUSE:**

7a. **INITIALS**

RETURN RECEIPT

DEC 12 1983

MUR 1607 - Callahan 12/8/83



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 8, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mark Arax
Baltimore Evening Sun
501 N. Calvert Street
Baltimore, Maryland 21278

Re: MUR 1607

Dear Mr. Arax:

This letter is to notify you that on December 6, 1983, 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"). A copy of the complaint is enclosed. We have numbered this matter MUR 1607. 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 completing the enclosed form 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.

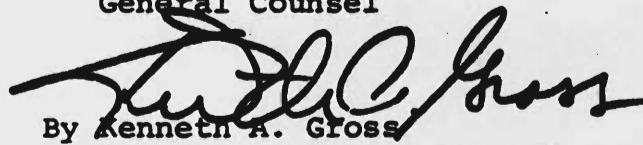
8404044573

Page -2-
Letter to Mr. Mark Arax

If you have any questions, please contact Suzanne Callahan, the staff member assigned to this matter at (202) 423-4529. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross

Associate General Counsel

Enclosures

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

PS Form 3811, July 1982

• **STANDARD** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☒ Show to whom and date delivered
☐ Show to whom, date, and address of delivery ..
2. ☐ RESTRICTED DELIVERY
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL \$

3. ARTICLE ADDRESSED TO: Mark Arax
Baltimore Evening Sun
501 N. Calvert Street
Baltimore, MD 21278

4. TYPE OF SERVICE: ☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
943887

(Always obtain signature of addressee or agent)

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


5. DATE OF DELIVERY
DEC 12 1987

6. ADDRESSEE'S ADDRESS (only if required)

7. UNABLE TO DELIVER BECAUSE:

8. EMPLOYEE'S INITIALS

RETURN RECEIPT

RECEIVED
DEC 12 1987
21
130

MJR 1607 - Callahan *GPO: 1982-378-503
(12/8/83)



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 8, 1983

Citizens for Freeman
Belinda D. Haight, Treasurer
c/o Mayer Morganroth, Esquire
24901 Northwestern Highway
Southfield, Michigan 48075

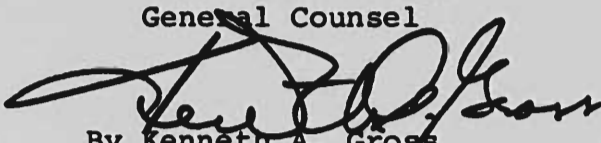
Dear Ms. Haight:

This letter is to acknowledge receipt of your complaint which we received on December 6, 1983, against Mark Arax, Fred Eiland, Barbara Mikluski, the Baltimore Sun and others, 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 five days.

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. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure

84040444373



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 8, 1983

Ms. Debra Freeman
c/o James F. Schoener, Esquire
Miller, Canfield, Paddock & Stone
2555 M Street, N.W., Suite 300
Washington, D.C. 20037

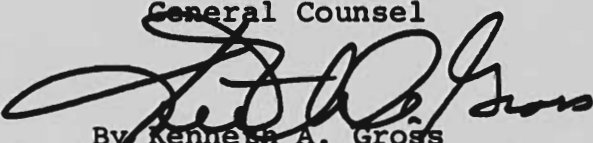
Dear Ms. Freeman:

This letter is to acknowledge receipt of your complaint which we received on December 6, 1983, against Mark Arax, Fred Eiland, Barbara Miklusk, the Baltimore Sun and others, 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 five days.

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. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure

34040144575

600-1281
Mayer Morganroth

Attorney at Law

Telephone (313) 355-3084

TTY 810-244558 Morganroth, Sept.

W. J. Morganroth
1000 1607

Suite 555 Heritage Plaza
24901 Northwestern Highway
Southfield, Michigan 48075

December 5, 1983

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

Re: _____

Dear Mr. Steele:

940545144377
Also enclosed please find a formal cross-complaint against Barbara Mikulski, Mark Arax, Fred Eiland, the Baltimore Sun and certain unknown individuals for violations of the confidentiality provisions of the Federal Election Campaign Act concerning this Matter Under Review. The complainants in the cross-complaint are Debra Freeman and Citizens for Freeman. Designations of counsel for the cross-complaint, designating the undersigned as counsel for Citizens for Freeman and James F. Schoener as counsel for Debra Freeman on the cross-complaint, are also enclosed. Since the complainants formally have designated counsel on the cross-complaint, I trust it is not necessary to list the complainants home telephone numbers and addresses.

Very truly yours,

Mayer Morganroth
MAYER MORGANROTH

MM:be

December 1, 1983

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

Re: Formal Complaint of Debra Freeman and Citizens for Freeman against Mark Arax, Fred Eiland, Barbara Mikulski, the Baltimore Sun and certain "John Does" who are members of the staff of Barbara Mikulski or who are employed by the Federal Election Commission.

Dear Mr. Steele:

This is a complaint by Citizens for Freeman and Debra Freeman against the above named parties for violations of 2 U.S.C. 437(g)(12)(A) and 11 C.F.R. 111.21, the confidentiality provisions of the Federal Election Campaign Act. The complaint is submitted pursuant to the provisions of 11 C.F.R. 111.4.

In 1982, Debra Freeman was a candidate against Representative Barbara Mikulski for the Democratic nomination for Maryland's 3rd Congressional District. Citizens for Freeman was her principal campaign committee. By letter dated July 1, 1983 and filed with the Commission on July 7, 1983, Barbara Mikulski filed a formal Complaint with the FEC alleging that Citizens for Freeman, and Debra Freeman had committed violations of certain FEC regulations during the campaign. Since both Citizens for Freeman and Debra Freeman were respondents to the complaint and have responded to the complaint, they have personal knowledge of the complaint.

The basis of the Mikulski complaint was a series of articles written by Mark Arax and published in The Baltimore Evening Sun in December 1982.

On July 12, 1983, Mr. Arax attempted to contact Debra Freeman to obtain Freeman's reaction to the filing of the Mikulski Complaint. Since Freeman did not wish to speak to Mr. Arax, Arax spoke on that date with John Ascher, a former campaign worker for the Freeman campaign. (Exhibit "A", Affidavit of John Ascher). Arax informed Mr. Ascher that the Federal Election Commission had received a complaint about alleged violations of the Federal Election Campaign Act by Freeman and stated that he wanted Freeman's comments on the

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matter. Since neither Freeman or Citizens for Freeman had been notified of any complaint on that date, Mr. Ascher told Arax he knew nothing about the putative complaint. (Exhibit "A").

Upon Mr. Ascher's further inquiry, Mr. Arax stated his source was the "press officer" at the FEC. Since Mr. Ascher was familiar with the confidentiality provisions of the FEC's regulations, he expressed surprise that the source was someone at the FEC. Mr. Ascher proceeded to instruct Mr. Arax regarding the confidentiality requirements of FEC complaints. Mr. Arax responded, "Well, let's just say that we got around it." Mr. Arax also stated to Mr. Ascher that he had other sources at the FEC and outside the FEC concerning the complaint. (Exhibit "A")

On July 14, 1983, an article appeared in the Baltimore Evening Sun under the by-line of Mark Arax entitled "Mikulski Foe Draws Election Complaint" (Exhibit "B"). This article reported that the "FEC has received a complaint regarding Debra Freeman's congressional campaign and a request to investigate contributions that Freeman may have illegally received last year from an extremist political group. The FEC has sent a copy of the complaint to Freeman, who was defeated in the September Democratic primary by Rep. Barbara A. Miklusi, D-3rd."

The July 14, 1983 Sun article quotes from Fred Eiland identified as a spokesman for the Commission: "I can confirm that a complaint was received by this office but I can't say anymore." As an additional source of information for his story, Arax states in the Sun article: "The complaint, contained in a four-page letter, cited a series of articles last December in The Evening Sun that detailed questionable contributions to Citizens for Freeman, according to a congressional source who has seen the complaint." (Emphasis supplied, Exhibit "B").

Upon information and belief, the unnamed congressional source identified by Mr. Arax in his article is associated with the office of Representative Mikulski. The disclosure of information occurred soon after the filing of the Mikulski complaint and before CFF or Debra Freeman had received a copy of the complaint as required by the regulations. As the complainant is the Congresswoman herself and she is responsible for the operation of her office, she must accordingly take responsibility for the disclosure.

11 C.F.R. 111.21(a), reads, in pertinent part, "no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be

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made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made." Similar restrictions are provided by statute at 2 U.S.C. 437g(a)(12)(A). The statute provides penalties for such disclosures.

No written consent was provided by Citizens for Freeman or Debra Freeman to any person or entity concerning the complaint of Barbara Mikulski. Upon the foregoing information, and the exhibits annexed hereto, violations of 11 C.F.R. 111.21(a) and 2 U.S.C. 437g(a)(12)(A) were committed by Mark Arax, Fred Eiland, Barbara Mikulski, the Baltimore Sun and presently unknown persons associated with the Congressional staff of Barbara Mikulski and with the Federal Election Commission.

The legislative history of the confidentiality provisions makes clear that Congress intended compliance with the literal letter of the law. As the Baltimore Sun article annexed as Exhibit "B" itself makes clear, Debra Freeman was campaigning for Baltimore City Council when the Mikulski complaint was filed. Since one of the primary objects of the confidentiality provisions was to guarantee that the FEC complaint process would not be abused for partisan purposes, it is our belief that the allegations contained herein point to the type of violation Congress specifically intended to outlaw and that the violation constitutes a knowing and willful violation.

We trust that the FEC will immediately and vigorously investigate this complaint.

Respectfully,

Debra Freeman
Debra Freeman

Citizens for Freeman

By: *Belinda D. Haight*
Belinda D. Haight
Treasurer

VERIFICATION

State of Maryland)
) ss.:
County of Baltimore)

Debra Freeman, being sworn, say: I am a complainant in this complaint. I have read the foregoing complaint and know

the contents thereof. The same is true to my own knowledge, except as to matters stated on information and belief or sworn to by other persons, and, as to those matters, I believe them to be true.

Debra Freeman
DEBRA FREEMAN

Sworn before me this day 5th of December, 1983

Joseph C. Jennings
NOTARY PUBLIC

VERIFICATION

State of Maryland)
) ss.:
County of Baltimore)

Belinda D. Haight, being sworn, say: I am the treasurer of Citizens for Freeman, a complainant in this complaint. I have read the foregoing complaint and know the contents thereof. The same is true to my own knowledge, except as to matters stated on information and belief or sworn to by other persons, and, as to those matters, I believe them to be true.

Belinda D. Haight
Belinda D. Haight
Treasurer, CFF

Sworn before me this day 5th of December, 1983

Joseph C. Jennings
NOTARY PUBLIC

STATE OF MARYLAND)
COUNTY OF BALTIMORE) ss.:

AFFIDAVIT OF JOHN ASCHER

JOHN ASCHER, being duly sworn, deposes and says:

1. I am over eighteen years of age and reside in Baltimore, Maryland.
2. I worked with the 1982 primary campaign of Mrs. Debra Freeman, a Democratic candidate for Congress from Maryland's 3rd Congressional District. Mrs. Freeman's opponent was the incumbent, Representative Barbara Mikulski.
3. On July 12, 1983, I received a message at my office that Mr. Mark Arax called and wished to speak with Debra Freeman. The message indicated Mr. Arax had information regarding a complaint having been filed at the Federal Election Commission against Debra Freeman.
4. I had previously known Mr. Arax as the author of a three-part series of articles on the Freeman campaign which appeared in the Baltimore Evening Sun during December 1982. As a result of these articles, I had occasion to speak with Mr. Arax.
5. After consulting with Mrs. Freeman, who told me that she had received no complaint from the FEC and had no desire to speak with Mr. Arax, I decided I would call Mr. Arax back on behalf of Freeman in order to make further inquiries.
6. Prior to returning Arax's phone call, I contacted the office of Mayer Morganroth who had acted as Mrs. Freeman's

attorney in the past, in order that he might verify the existence of a complaint. I was subsequently informed that Mr. Morganroth's office had reached Fred Eiland at the FEC who denied the existence of the complaint.

7. Later that same day, July 12, I succeeded in reaching Mr. Arax by telephone and asked him what his story was all about. He informed me that the FEC was in receipt of a complaint regarding Mrs. Freeman's 1982 campaign. He stated that he had attempted to contact Mrs. Freeman because, according to his calculations, Mrs. Freeman should have received a copy of the complaint as of July 12th.

8. I informed Mr. Arax that not only had Mrs. Freeman not received any complaint, but that the FEC denied the existence of any such complaint. At this point, Mr. Arax stated that he had periodically called the FEC during the previous four to five months to determine if any complaints had been filed against Mrs. Freeman. According to Arax, on all prior occasions the FEC said, "No, no complaint," but in his most recent call the FEC confirmed a complaint had been filed.

9. I expressed my surprise to Mr. Arax because I knew the filing, investigation, and disposition of complaints at the FEC was governed by strict confidentiality provisions. Arax reiterated the information came from the FEC and to further substantiate he identified the FEC "press officer" as the source of the information.

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10. Again, I told Mr. Arax the FEC had just denied the existence of the complaint. I repeated my assertion that any such disclosure to the public was a violation of FEC regulations. Mr. Arax responded, "Well, let's just say that we got around it."

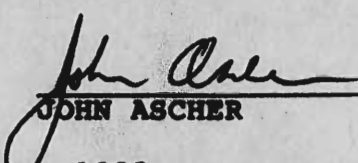
11. Mr. Arax then emphasized that he had other sources concerning the complaint against Freeman both inside and outside the FEC. I asked him if these sources had told him there was going to be a complaint filed by somebody. Mr. Arax stated that he would not disclose his sources, even to his editors.

12. At this point, I asked him directly, "Do you know who the complainant is?" He responded, "I am not going to answer any of these questions." His demeanor appeared shaken by my question and he hurriedly brought our conversation to a close.

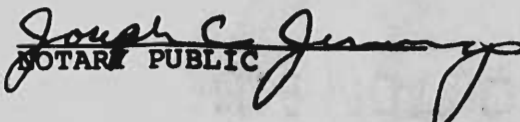
13. On July 14, 1983, I read an article in the Baltimore Evening Sun written by Mark Arax entitled "Mikulski Foe Draws Election Complaint." The article revealed that the FEC had received a formal complaint regarding Debra Freeman's Congressional campaign. The article quoted Fred Eiland as the spokesman for the Commission who confirmed the existence of the complaint.

14. Further on, the article gave a schematic description of the contents of the complaint. This description was

attributed to "a congressional source who has seen the complaint."


JOHN ASCHER

Sworn to before me this day 5th of December, 1983.


NOTARY PUBLIC

My Commission Expires July 1, 1986

84040444393

Mikulski foe draws election complaint

By Mark Arax
Evening Sun Staff

The Federal Election Commission has received a complaint regarding Debra Freeman's congressional campaign and a request to investigate contributions that Freeman may have illegally received last year from an extremist political group.

The FEC has sent a copy of the complaint to Freeman, who was defeated in the September Democratic primary by Rep. Barbara A. Mikulski, D-3rd.

Freeman has 15 days in which to answer in writing. The matter will then be forwarded to the six-member commission, which will decide whether to proceed with a formal investigation.

"I can confirm that a complaint was received by this office but I can't say anymore," Fred England, a spokesman for the commission, said yesterday. He would not disclose the source of the complaint or say when it was received by his office.

Meanwhile, the local office of the FBI is continuing its eight-month investigation into Freeman's campaign and its ties to an extremist political organization headed nationally by Lyndon LaRouche.

The Federal Bureau of Investigation is focusing on the LaRouche organization's use of interstate telephone lines to solicit campaign contributions for Freeman.

"It's still pending. It's an active investigation," Andrew Manning, a spokesman for the local FBI office, said. "We're at the point where we can't make any comment at all."

Freeman, a perennial candidate for local and congressional office, is now running for city council president as part of a national slate of candidates under the heading of the National Democratic Policy Committee, a political action group headed by LaRouche.

LaRouche, twice a presidential candidate himself, has been criticized by various civil liberties groups as promoting extremist and anti-Semitic ideologies.

A spokesman for the Baltimore office of the National Democratic Policy Committee said Freeman had not yet received a copy of the complaint filed with the FEC. "We know nothing about it," John Ascher, a candidate for city comptroller, said.

The complaint, contained in a four-page letter, cited a series of articles last December in *The Evening Sun* that detailed questionable contributions to Citizens for Freeman, according to a congressional source who has seen the complaint.

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BALTIMORE SUN: July 14, 1983

EXHIBIT "B"- BALTO. SUN
ARTICLE

bell, after winning the annual Chesapeake
Turtle Derby at the War Memorial Plaza.

idge's life

From staff and wire services

Federal judge heard testimony in New yesterday that he was the intended mu of a Baltimore hairdresser who is cha marijuana smuggling case.

mes M. Perry, 43, of Somerset, N.J., test day that Baltimorean John M. Salconi her men he wanted U.S. District Court J rt J. Stern "hit" because Stern has a re a tough jurist.

conversation allegedly took place in a the Metropolitan Correction Center in where Perry, an FBI informant, has ng sentencing by Stern on a forgery cha con, 43, of the 800 block of Park A' more, owns the Hair Garage salons and originator of unisex hair styling a d

Attorney W. Hunt Dumont asked F e use the word 'hit,' and what did that

"e used that word," Perry said. "In cri it means to be killed."

ry said Salconi "had arranged a bu ng to further carry out plans toward but the meeting was scuttled when aartner" was not allowed into the corre lity.

the witness stand yesterday, Salconi e threatening the judge's life. He s: at Perry was "crazy" and "stayed him."

See THREAT, E6, Col. 3

tong an

n years ago, John and Daphne Stegm t out on their agonizing search. T ngton couple were determined to resc een-age daughter, Lully, from the ds of schizophrenia and bring her back mahine of sanity.

the world of mental health, the norr ou live with schizophrenia, you acc you don't cure it. It is a world of bro where families weep and retreat i ng defeat.

e Stegmaiers declined to accept defe e other crushed parents, they didn't h ame. They had persistence and inte and the faith that there was an answ tale ends happily.

ends with a new discipline, that of cl ology that is only nibbling at the ed, e respectable mental health establi scorned by most professionals, snif others.

e Stegmaiers were optimistic at They believed they could quickly t ne "good psychiatrist" who could t laughter right in no time."

they traveled from Honolulu with st

Anywhere you can find it

These premature dog days have everybody, including this man

Go-ahead granted for disputed store

By Michael A. Fletcher
Evening Sun Staff

Despite opposition by a number of White Marsh residents, the Baltimore County Review Group has approved a plan to build a gas-and-go convenience store at Old Philadelphia and Middle River roads.

Yesterday's approval of the 7-Eleven store and gasoline station was opposed by a group calling itself the Stop 7-Eleven Coalition. The coalition, made up mostly of residents of the 900-unit Kings Court condominium development, had gathered more than 800 signatures on a petition in opposition to the store.

The store would be built on a half-acre lot at the northeast corner of the intersection, across Old Philadelphia Road from the condominiums.

The opponents said the store would entice children to cross the heavily traveled street.

Also, they said, lighting at the site would be a bother and existing water-runoff problems at the condominiums would be compounded.

Eugene Bober, head of current planning for Baltimore County, said that the review group—which over-looks building plans in the county—passed the site plan but stipulated that the grading at the store would have to be changed to alleviate the potential runoff problem. Also, restrictions have been set to cut down on illumination at the site.

In May, an assistant zoning commissioner approved a special exception petition allowing gasoline pumps to be built on the site. The citizens' group, however, has appealed that decision to the Board of Appeals. No hearing date has been set in the case.

The site already had the proper zoning for construction of the store, so now community leaders hope they can stop the store project at the Board of Appeals.

"The county is going to do mostly what they want when it comes to big business," said Milton Stroup, head of the Kings Court Condominium Association. "They don't care about us. . . . Now we have to wait for our appeal."

Mikulski foe draws complaint

FREEMAN, From E1

The FBI investigation was also prompted by the newspaper articles.

Several people who were listed in federal election records as contributing thousands of dollars to Freeman's campaign told the newspaper they had never heard of Freeman, or had intended the money as payment for subscriptions to magazines.

Several contributors told the Evening Sun that callers from the LaRouche organization did not mention they were raising funds for Freeman.

Contributors said that solicitors identified themselves only as representatives of one of three organizations with which the contributors had some prior dealing—the Fusion Energy Foundation, which has been given tax-exempt status by the Internal Revenue Service; Fusion, a pro-nuclear power magazine founded by LaRouche, and the Executive Intelli-

gence Review, which publishes LaRouche's economic theories.

As a tax-exempt organization, the Fusion Energy Foundation is prohibited by federal law from "participating or intervening in any political campaign on the behalf of any candidate for public office."

In addition, federal law requires that organizations soliciting more than \$1,000 in campaign funds be listed as political action committees. Neither Fusion magazine nor the Executive Intelligence Review are listed as PACs.

The FBI is looking at possible violations of federal election laws by the LaRouche organization, including fraud in soliciting campaign money via interstate telephone lines.

The FEC has jurisdiction in matters focusing on the propriety of the contributions once they have been made.

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STATEMENT OF DESIGNATION OF COUNSEL

Re: MUR _____

Not yet designated--complaint against
Barbara Mikulski, Mark Arax et al. by
Debra Freeman and Citizens for Freeman

NAME OF COUNSEL:

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MAYER MORGANROTH
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The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and
other communications from the Commission and to act on my
behalf before the Commission.

December 5, 1983

DATE

Belinda D. Haight
SIGNATURE

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Re: MUR

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The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

December 5, 1983

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BY HAND



FEDERAL ELECTION COMMISSION

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THIS IS THE BEGINNING OF MUR # 1607

Date Filmed 3/12/84 Camera No. --- 2

Cameraman JRL