

Routing Slips, Internal Reports & Comments thereto
(12 Day Report & Pre-Brief); Duplicates, Portion of GC report
from which discussion of a pending case was deleted.

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

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|-------------------------------------|---|-------------------------------------|--|
| <input type="checkbox"/> | (1) Classified Information | <input type="checkbox"/> | (6) Personal privacy |
| <input checked="" type="checkbox"/> | (2) Internal rules and practices | <input checked="" type="checkbox"/> | (7) Investigatory files |
| <input type="checkbox"/> | (3) Exempted by other statute | <input type="checkbox"/> | (8) Banking information |
| <input type="checkbox"/> | (4) Trade secrets and commercial or financial information | <input type="checkbox"/> | (9) Well information (geographic or geophysical) |
| <input checked="" type="checkbox"/> | (5) Internal Documents | | |

Signed Beverly B. Keimer
 Date October 16, 1986



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1809

Date Filmed 11/3/86 Camera No. --- 2

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Campaign Finance Research Institute)
Project for Investigative Reporting)
on Money in Politics) MUR 1809
Citizens Against PACs, Inc.)
The Stern Fund)
Philip M. Stern)
Center for Investigative Reporting)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of September 30, 1986, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 1809:

1. Find no probable cause to believe that the Citizens Against PACs violated 2 U.S.C. § 441b.
2. Find no reason to believe that the Stern Fund violated the Act.
3. Find no reason to believe that Philip M. Stern violated the Act.
4. Find no reason to believe that the Center for Investigative Reporting violated the Act.
5. Take no further action against the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics.

(continued)

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6. Close the file.
7. Approve and send the letters attached to the General Counsel's report dated September 20, 1986.

Commissioners Aikens, Elliott, Harris, Josefiak, and McGarry voted affirmatively for the decision; Commissioner McDonald was not present.

Attest:

9-30-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 1986

Walter Slocombe, Esquire
Caplin & Drysdale
One Thomas Circle, N.W.
Washington, D.C. 20005

Re: MUR 1809
Campaign Finance Research
Institute
Project for Investigative
Reporting on Money in
Politics

Dear Mr. Slocombe:

On February 20, 1985, the Commission found reason to believe your clients had violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission determined on September 30, 1986, to take no further action and close the file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

If you have any questions, please direct them to Beverly Kramer, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (RUT)

By: Lawrence M. Noble
Deputy General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 6, 1986

William C. Oldaker, Esquire
Epstein, Becker, Borsody & Green, P.C.
1140 - 19th Street, N.W.
Washington, D.C. 20036

RE: MUR 1809
Citizens Against PACs, Inc.

Dear Mr. Oldaker:

This is to advise you that after an investigation was conducted, the Commission concluded on September 30, 1986, that there is no probable cause to believe that your client, Citizens Against PACs, Inc., violated the Act. Accordingly the file in this matter, numbered MUR 1809, has been closed. This matter will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days.

If you have any questions, contact Beverly Kramer, the staff member assigned to handle this matter at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 1986

Walter Slocombe
Caplin & Drysdale
One Thomas Circle, N.W.
Washington, D.C. 20005

RE: MUR 1809
The Stern Fund

Dear Mr. Slocombe:

On October 15, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on September 30, 1986, determined that on the basis of the information in the complaint, and information provided by the respondents, 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

Lawrence M. Noble (Rv7)

BY: Lawrence M. Noble
Deputy General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 1986

William C. Oldaker, Esquire
Epstein, Becker, Borsody & Green, P.C.
1140 - 19th Street, N.W.
Washington, D.C. 20036

RE: MUR 1809
Philip M. Stern

Dear Mr. Oldaker:

On October 15, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on September 30, 1986, determined that on the basis of the information in the complaint, and information provided by the respondents, 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

Lawrence M. Noble (12/17)

By: Lawrence M. Noble
Deputy General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 1986

Stephen Hartgen, Managing Editor
The Times-News
P.O. Box 548
Twin Falls, Idaho 83301

RE: MUR 1809
The Times-News

Dear Mr. Hartgen:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within thirty days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

Should you have any questions, contact Beverly Kramer, the staff member assigned to this matter, at (202)376-5690.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (R.M.)

By: Lawrence M. Noble
Deputy General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable George V. Hansen
ID No. 09378-016
Petersburg Federal Correctional Institute
Petersburg, VA 23803-1000

Re: MUR 1809

Dear Congressman Hansen:

This is in reference to the complaint you filed with the Commission on September 28, 1984 concerning the following individuals and organizations: The Campaign Finance Research Institute, The Project for Investigative Reporting on Money in Politics, The Twin Falls Times-News, Citizens Against PACs, Inc., The Stern Fund, The Center for Investigative Reporting and Philip M. Stern.

With respect to the Twin Falls Times-News, Philip M. Stern, the Stern Fund and the Center for Investigative Reporting, the Commission determined that there was no reason to believe these respondents violated the Federal Election Campaign Act of 1971, as amended ("the Act").

As to the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics, the Commission determined that there was reason to believe that these respondents violated section 441b of the Act by financing, with corporate funds, investigative reporting activities undertaken in connection with a federal election. However, after an investigation was conducted and after considering the circumstances presented, the Commission determined to take no further action in this matter.

Finally, as to the Citizens Against PACs, Inc., the Commission determined that there was reason to believe that the respondent violated section 441b of the Act by financing, with corporate funds, advertisements in connection with federal elections. After an investigation was conducted and the brief of the General Counsel was considered, the Commission concluded that there was no probable cause to believe that the Citizens Against PACs Inc. violated the Act and closed the file.

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Accordingly, the Commission on September 30 , 1986, determined to close the file in this matter, numbered MUR 1809. 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 further information come to your attention which you believe establishes the violation of the Act, please contact Beverly Kramer, the staff member assigned to this matter at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble (RM)

By: Lawrence M. Noble
Deputy General Counsel

Enclosures

General Counsel's Brief
General Counsel's Report

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FEDERAL ELECTION COMMISSION
 WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
 FROM: Office of General Counsel *Red*
 DATE: September 19, 1986
 SUBJECT: MUR 1809 - General Counsel's Report

The attached is submitted as an Agenda document
 for the Commission Meeting of September 30, 1986

Open Session _____
 Closed Session XX

CIRCULATIONS

48 Hour Tally Vote []
 Sensitive []
 Non-Sensitive []
 24 Hour No Objection []
 Sensitive []
 Non-Sensitive []
 Information []
 Sensitive []
 Non-Sensitive []
 Other [XX]

DISTRIBUTION

Compliance [XX]
 Audit Matters []
 Litigation []
 Closed MUR Letters []
 Status Sheets []
 Advisory Opinions []
 Other (see distribution below) []

SENSITIVE - CIRCULATE ON

BLUE PAPER on agenda 9-30-86

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SEP 30 1986

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Campaign Finance Research)	
Institute)	
Project for Investigative)	
Reporting on Money in Politics)	MUR 1809
Citizens Against PACs, Inc.)	
The Stern Fund)	
Philip M. Stern)	
Center for Investigative Reporting)	

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OFFICE OF THE
COMMISSION SECRETARY

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On September 28, 1984, U.S. Representative George Hansen filed a proper complaint with the Commission alleging, inter alia, that certain actions undertaken by various tax-exempt organizations and Philip M. Stern violated the Federal Election Campaign Act of 1971, as amended ("the Act").

Acting on information supplied by the complaint, the Commission found reason to believe on February 20, 1985, that the Campaign Finance Research Institute ("the Research Institute") and its Project for Investigative Reporting on Money in Politics ("Project") violated 2 U.S.C. § 441b by financing, with corporate funds, investigative reporting activities undertaken in connection with a federal election. The Commission also found reason to believe that the Citizens Against PACs, Inc. ("CAP") violated 2 U.S.C. § 441b by financing, with corporate funds, various advertisements in connection with federal elections. In addition, the Commission voted to "take no action at this time" against Philip M. Stern, the Stern Fund and the Center for Investigative Reporting.

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An investigation was initiated. The Research Institute, the Project and CAP were notified of the Commission's actions by letters dated March 5, 1985, which included requests to provide documents and written answers to questions proffered by the Commission.

By letter dated March 26, 1985, the Research Institute and its Project asked the Commission to reconsider its reason to believe determination and to withdraw its request for written answers. On May 9, 1985, the Commission declined to reconsider the finding or withdraw its questions. The Research Institute and its Project were notified of this determination by letter dated May 24, 1985.

On April 18, 1985, the Commission received CAP's answers to questions that were issued in connection with the Commission's finding of reason to believe they violated 2 U.S.C. § 441b. After considering all of the evidence available to the Commission, the General Counsel's Office prepared a brief recommending a finding of no probable cause to believe CAP violated 2 U.S.C. § 441b. The General Counsel's Brief was mailed to CAP on May 24, 1985. CAP did not submit a reply to the General Counsel's Brief. The matter is still pending before the Commission.

On September 4, 1985, the Commission authorized the issuance of a subpoena for the production of documents and an order to submit written answers to the Research Institute and its

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Director, James Boyd ("Respondents"), requiring them to produce documents and answer written questions within 10 days of receipt. The subpoena and order was forwarded to the Respondents on September 19, 1985.

The Commission received from the Respondents' counsel a Motion to Quash the Subpoena and Order, dated September 27, 1985. The motion to quash the subpoena and order (on the grounds that it seeks to inquire into matters outside the jurisdiction of the FEC and that it is overbroad and burdensome) was denied by the Commission on December 3, 1985. The Respondents were notified of the Commission's determination by letter dated December 13, 1985, which also requested that the Respondents comply with the Commission's subpoena and order within 10 days. In late December 1985, the Respondents advised the Commission that they would not comply with the subpoena and order absent a court order.

On January 14, 1986, the Commission authorized the initiation of a civil action to enforce its subpoena and order in federal district court.

On March 20, 1986, the Office of the General Counsel filed suit for subpoena enforcement in the United States District Court for the District of Columbia. A show cause hearing was held on May 29, 1986. 1/

1/ On May 20, 1986, the Commission rejected a settlement offer received from counsel for the Respondents. The Respondents had proposed to satisfy the Commission's inquiry into their grant-making activities by producing summaries of all grants awarded by them. In exchange they sought from the Commission an agreement that the Commission accept summaries of rejected applications rather than actual copies of the grant proposals. A summary of the grants that were awarded by the Respondents was submitted with their settlement offer. Attachment 2.

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Essentially, the Respondents' position was that the corporate funds disbursed through the grant program paid for bona fide news stories, and that therefore, the Respondents qualify for protection under the Act's "media exemption." 2 U.S.C. § 431(9)(B)(i). The Commission's position was that the media exemption is available only to press entities engaged in legitimate press functions, and that the Research Institute, a non-media corporation, is not the kind of entity that can qualify for the exemption.

In an opinion issued June 26, 1986, the court granted, in part, the Commission's petition for an order enforcing the FEC subpoena issued to the Respondents. In granting the Commission's petition, the court adopted the FEC's reasoning, concluding that since the "regulations refer to costs incurred by a newspaper or other media entity... expenditures by a newspaper...[but] not expenditures by a non-media entity are exempt... (emphasis in original). FEC v. Campaign Finance Research Institute, No. 86-0085 (D.D.C. June 25, 1986) (unpublished opinion) at p.5. Nevertheless, the court refused to enforce question number 10 of the Commission's subpoena and order, which requested that the Respondents submit copies of all grant applications. The court examined grant applications in camera and concluded that the Respondents "raised a legitimate concern about the submission of the applications to the FEC, at least at this stage in the

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investigation." 2/ (emphasis added). Memorandum at p.7.

On July 16, 1986, the Respondents submitted a response to the Commission's subpoena and order (except question number 10). Attachment 3.

On August 1, 1986, the Commission determined not to appeal the district court's decision to the District of Columbia Circuit.

II. LEGAL ANALYSIS

A. CITIZENS AGAINST PACS, INC.

For legal analysis concerning violations of the Act by CAP, this Office relies on the General Counsel's Brief which was circulated to the Commission on May 24, 1985 and which is appended to this report as Attachment 1. The General Counsel's Brief recommends a finding of no probable cause to believe that CAP violated 2 U.S.C. § 441b.

B. THE RESEARCH INSTITUTE AND ITS PROJECT

This matter concerns the issue of whether the Research Institute violated 2 U.S.C. § 441b. Section 441b(a) of the Act

2/ The Respondents raised concern that they would be required to respond and furnish applications which were not accepted regarding investigations which may not have been reported or completed. Moreover, the Respondents stated that they had assured grant applicants that their applications would be held in confidence. The Respondents argued that without the assurance of confidentiality, journalists would be inhibited from applying for grants and that violating that confidentiality could injure them. They asserted that applicants need to protect information about news sources contained in the application and also need to protect the story idea from being pirated by a rival news entity.

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makes it unlawful for "any corporation whatever" to use corporate treasury funds to make "a contribution or expenditure in connection with" a federal election. For purposes of this section, the Act defines "contribution or expenditure" to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or anything of value...to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2). Neither the Act nor the Commission's regulations define the phrase "in connection with" as regards corporate expenditures. However, the United States Court of Appeals for the Third Circuit has held that in order for a contribution or expenditure to be regarded as being made in connection with a federal election, a nexus must be established between the alleged contribution or expenditure and the federal election in question. Miller v. AT&T, 507 F.2d 759, 764 (1974).

The facts supporting the Commission's determination that it had reason to believe the Respondents violated 2 U.S.C. § 441b are these: The Research Institute is organized and operates as a non-profit corporation which the Internal Revenue Service has determined to be exempt from income tax under 2 U.S.C. § 501(c)(3). To further its purposes, the Research Institute sponsors a program called the Project for Investigative Reporting on Money in Politics ("Project"). The Project is not a

separate legal entity for either tax or corporate law purposes. The sole activity of the Project is to provide monetary grants to journalists who wish to undertake investigative reporting on the subject of the role and influence of money in American politics. Through the Project's grant, the corporation disbursed \$1,750 of its treasury funds to pay an individual on the staff of a newspaper to investigate Congressman Hansen's finances and then prepare a series of articles. The articles, which reported unfavorably on Congressman Hansen's financial affairs, were published in an Idaho newspaper, the Times-News, only a few months prior to the 1984 election in which Representative Hansen was seeking re-election.

The ensuing investigation was concerned with determining whether the Research Institute's grant-making activities constituted a violation of section 441b. Resolving the question depends upon evidence that the Research Institute's grant was made in connection with a federal election. Under the particular circumstances presented in this case, evidence that the Research Institute's grant-making activities rise to expenditures "in connection with" a federal election would have to disclose a pattern of partisan selection.

In order to determine whether the Research Institute's grant-making activities involved partisan selection, this Office conducted an inquiry into such relevant factors as: 1) the rules

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and procedures for submitting grant proposals to the Project; 2) the procedures for awarding grants; 3) the criteria used in deciding which of the grant proposals would be accepted or rejected; 4) the terms and conditions of the grant program, i.e., whether grant recipients are required to surrender any editorial control or discretion in the publication or airing of their stories to the corporate sponsor of the grant program and; 5) how the applications that were rejected compared with the applications which were accepted.

Our investigation yielded information that is helpful in examining the first four factors listed above. An inquiry into the fifth factor would necessarily require an examination of all grant applications submitted to the Project. As noted, infra, the court refused, at this stage in the investigation, to enforce request number 10 of the Commission's subpoena and order which would have required the Respondents to provide copies of all grant applications. The court did, however, express a willingness to further entertain an application for request number 10 should the other information obtained under the court's order not suffice for a determination of whether there has been a violation of the Act. 3/

The available information does not support a finding that the Hansen grant was born out of a grant-making process involving partisan selection. Indeed, in its June 23, 1983 proposal to

3/ It can be interpreted that Judge Penn's intention is to entertain the application for request number 10 only in the instance that the other information obtained under the court's order provides a basis for the Commission to proceed further with this case.

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create the Project ("the founding proposal"), the Research Institute states that "[the Project's] sole purpose will be to research and expose campaign finance abuses, without regard to party affiliation or ideology and without regard to the effect on any electoral contest." (emphasis added) Attachments at 22. This statement also appears in the "flyer," a one-page description of the Project purportedly sent to thousands of journalists. Attachments at 30.

Moreover, there is nothing in the procedures for awarding grants that suggests partisan selection. Grant applications are submitted by the applicant to the Project's Executive Director, James Boyd. The executive director forwards the applications to the Project's Advisory Board for appraisal. 4/ The Advisory Board is composed of six journalists who serve as members, 5/ and Philip M. Stern, who serves as Chairman of the Project's Advisory Board.

The duty reposed in the Advisory Board is to decide, by majority vote, whether the applications for grants before it will be accepted or rejected, and if accepted, in what amount. Advisory Board members have periodically given advice to the chairman and executive director on organizational matters,

4/ The Project has no officers or directors apart from the membership of its Advisory Board.

5/ The members are: Aaron Epstein, Knight-Ridder Newspapers; Les Payne, Newsday; Jim Polk, NBC News; Myrta Pulliam, Indianapolis Star; Robert Walters, Newspapers Enterprise Association; Edward Zuckerman, Pacs & Lobbies Newsletter. Epstein, Payne, Polk and Pulliam have won Pulitzer Prizes for their investigative reporting.

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fundraising opportunities and ways to reach journalists and to publicize the Projects's activities. No payment or compensation is made to any member of the Advisory Board.

Grant applications are forwarded by the executive director to each of the Advisory Board members. Each member renders his decision either in writing or by phone call to the executive director. On rare occasions, when a meeting of the Advisory Board happens to be held when an application is awaiting decision, it will be voted on at the meeting. In all cases a "yes" vote by a majority of those voting is required for acceptance of an application. In no case has the awarding of a grant ever been subject to approval by the Project's sponsor, the Research Institute.

The considerations which guide the Advisory Board in determining whether to accept or reject a grant application are set forth in the founding proposal of June 23, 1983. According to the proposal, the criteria for judging applications include: (1) the public importance of the subject; (2) the likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications. Attachments at 26. Aside from the founding proposal, there are no other documents providing instruction to the Advisory Board. As to oral instruction, the Research Institute states that its extent was this: members of the Advisory Board were asked by Chairman Stern to exercise their professional judgment as journalists as to whether the grant proposals they would be judging meet the requirements set forth in the founding proposal. Attachments at 20.

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Once a grant is awarded, grant recipients are required to sign a prepared statement in which they agree to the terms and conditions under which the grant is awarded them. Of those conditions, the following speak to the concerns raised in this matter regarding whether the Project's grant-making activities are partisan in nature.

1. No proceeds of this grant will be used, directly or indirectly, to attempt to influence the outcome of any election of public office; to carry on any voter registration drive; to attempt to influence legislation or the outcome of any measure submitted to a vote of the electorate; or to advance the personal interests of any individual or the business interests of any person or entity.

2. I shall apply the proceeds only to nonpartisan study, research, analysis and writing of the matters described in my funding application.

3. I shall make my best efforts to assure that the work done under this grant is researched and written thoroughly and objectively and shall use my best professional judgement in determining whether these nonpartisan efforts have produced a story of public importance and, if so, to have it published in a responsible publication.

4. I am in no way employed or otherwise acting on behalf of any candidate for public office or any political committee or other individual or entity seeking to influence the outcome of an election or ballot measure, and shall use the grant proceeds only for objective factfinding and reporting without regard to who may be helped or hindered by the contents of my story or stories.

Attachments at 31.

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Significantly, the statement does not set forth as a condition the requirement that the product of the grantee's research shall be subject to the approval of the Project. The Project has repeatedly asserted that once it approves a grant, it has no further voice in deciding what is published or whether anything is published as a result of the grant. Those matters, they assert, are entirely determined by the grant recipient and the editor(s) of the publication that has expressed interest in publishing the findings of the grantee's research.

Since its inception, the Project's Advisory Board has made 13 grants, including the \$1,750 grant to Stephen Hartgen and Rick Shaughnessy, editor and reporter respectively of the Times-News of Twin Falls, Idaho. A summary of the grants and the results of the grants was prepared by the Project and provided to the Commission in the course of its investigation. The summary is presented in Attachment 2 of this report at pages 10 through 14. The only significance we can attach to the information provided in the summary is that it appears that grants have been awarded to conduct investigative research on a wide variety of subjects. There is nothing stated in the summary that would lead us to conclude the grants were awarded to serve any partisan purpose.

Moreover, although we have no information concerning applications that were rejected, there is nothing to suggest that

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the Institute rejected an equally newsworthy proposal in favor of the Hansen grant. 6/ Nor is there anything to suggest that the purpose of the grant was to influence the outcome of the election in which Congressman Hansen was seeking reelection. According to the Times-News, the stories which resulted from the grant were a further follow-up on avenues which had either come up directly or which had been alluded to in the trial of Representative Hansen who had been indicted and later convicted on four felony violations of the Ethics in Government Act.

In sum, our review of available information and documentation does not yield any evidence that the expenditure at issue was made in connection with a federal election. There remains, however, one open area of inquiry -- an examination of all grant applications considered by the Project to determine, based on a comparison of the rejected applications with those that received grant awards, whether there is evidence of partisan selection. As noted, infra at pages 4 and 5, the court refused to enforce question number 10 of the Commission's subpoena and order, which requested that the Respondents submit copies of all grant applications. The Respondents had submitted to the court,

6/ As noted infra at page 4, the court reviewed rejected proposals to determine whether the respondents raised legitimate concerns for not releasing the proposals to the Commission. Based on its in camera review, the court determined not to enforce request number 10 of the FEC's subpoena requiring that respondents submit copies of all applications, whether accepted or rejected. Apparently, the court's in camera review revealed nothing that could be interpreted as being inconsistent with the representations made by the Respondents' that the activities were conducted in a nonpartisan manner.

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in camera, copies of grant applications to illustrate their concern with maintaining confidentiality of the subject matter and the target of a proposed investigative story. After reviewing the in camera submission, the court concluded that "the respondents have raised a legitimate concern about the submission of applications to the FEC, at least at this stage in the investigation." Memorandum at 7.

Although it can be interpreted from this that the court may be willing to further entertain our request for grant applications, it is also implicit in the court's ruling that the court has already reviewed the grant application samples and made an initial determination that they are not relevant. It is, therefore, doubtful that the court would enforce request number 10 of our subpoena -- particularly in this instance where the information that has been obtained under court order does not provide a basis for proceeding further.

Thus, viewed in its entirety, the available evidence indicates that the expenditure of the Research Institute and its Project was not made in connection with a federal election and, therefore, did not violate the Act's prohibition on corporate money spent to influence an election. However, since there is an open area of inquiry but it is doubtful that the court will enforce our request for materials pertinent to that inquiry, it is the recommendation of this office that the Commission take no further action in this matter and close the file rather than find no probable cause to believe that any violation of the Act occurred.

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C. THE STERN FUND, PHILIP M. STERN, CENTER FOR INVESTIGATIVE REPORTING

The Hansen complaint alleges that the activities of the Research Institute and the Citizens Against PACs were financed by the Stern Fund, Philip M. Stern and the Center for Investigative Reporting. The complaint further alleged that these Respondents failed to file financial reports with the Commission, in violation of the Act. The complainant's assertions were not supported by any documentation or information.

Responding to notice of the complaint, counsel for the Research Institute and the Stern Fund denied that Philip Stern in his personal capacity or through the Stern Fund had ever contributed to the Research Institute. The Stern Fund also denied having ever contributed to the Citizens Against PAC's. No information was received concerning whether the Center for Investigative Reporting had ever contributed to the Research Institute or the Citizens Against PACs. 7/

During the ensuing investigation into the activities of the Research Institute and the Citizens Against PACs, the only further development was that the Office of the General Counsel received a response from the Research Institute denying that there has been any involvement between the Research Institute and the Center for Investigative Reporting. Attachments at 21.

In view of the various responses received which dispute the complainant's factual assertions, and in the absence of any

7/ Notice of the complaint sent to the Center for Investigative Reporting was returned as undeliverable and this Office was unsuccessful in its attempts to locate a proper address for the respondent.

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evidence to the contrary, this Office concludes that the Commission need not reach the issue of whether the Respondents alleged expenditures are subject to the reporting requirements of the Act. Moreover, we recommend that the Commission find no reason to believe that the Stern Fund, Philip M. Stern and the Center for Investigative Reporting violated the Act.

III. RECOMMENDATIONS

1. Find no probable cause to believe that the Citizens Against PACs violated 2 U.S.C. § 441b.
2. Find no reason to believe that the Stern Fund violated the Act.
3. Find no reason to believe that Philip M. Stern violated the Act.
4. Find no reason to believe that the Center for Investigative Reporting violated the Act.
5. Take no further action against the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics.
6. Close the file.
7. Approve and send the attached letters.

20 Sept 1986
Date



Charles N. Steele
General Counsel

Attachments

1. General Counsel's Brief re: Citizens Against PACs, Inc.
2. Summaries of grants and results
3. Response of the Research Institute to the Commission's Subpoena and Order.
4. Proposed letters.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Citizens Against PACs, Inc.) MUR 1809
)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter originates from a complaint filed by Congressman George Hansen against an organization called "Citizens Against PACs, Inc." ("CAP"). The complaint relates to various newspaper advertisements discussed in a CBS television program "60 Minutes" which aired on September 23, 1984. The program revealed that CAP may have been responsible for the advertisements which had as their subject the amount of special interest PAC money in the campaigns of certain candidates for Congress. The complaint argued that the expenditures for these advertisements were made in connection with federal elections and because CAP is a corporation, its expenditures in this regard violated 2 U.S.C. § 441b.

The "60 Minutes" transcripts upon which the complaint relied as basis for its allegations provided limited information concerning the advertisements in question. The transcripts described six advertisements, five of which had as their subject incumbent officials who were seeking reelection to federal office in 1984. The transcripts revealed that the advertisements concerning these officials were placed in local newspapers in the districts or states in which the candidates were seeking election and, that the ads were published prior to September 23, 1984, the date on which the "60 Minutes" program aired and, hence, prior to

Attachment 1

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the general election. The full content of the ads was not revealed, only the headlines which read as follows:

- Why did Representative Martin Frost help the dairy lobby milk his constituents?
- What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him?
- Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?
- What is Congressman Rostenkowski going to do with a half million dollars of leftover campaign money. Take it with him?
- Why did Ocean Spray Cranberry PAC give \$2000 to Congressman Michel?
- Why did Senator Bingman allow the doctors lobby to butter its bread on both sides?

The negative content of the ads, together with other factors, i.e., the timing of the ads, the areas in which they were distributed and the fact that they had candidates as their subjects, gave the commission reason to believe that the expenditures were made in connection with federal elections.

In determining whether a violation of 2 U.S.C. § 441b was involved, the Commission decided that such a determination would require further inquiry into such relevant factors as: (1) the sponsors of the ads; (2) the timing of the ads; (3) the distribution of the ads; (4) the electoral content of the ads; and (5) the costs attendant to the ads.

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For purposes of developing these facts, the Commission, on February 20, 1985, found reason to believe that CAP violated 2 U.S.C. § 441b. Notice of the Commission's reason to believe determination and questions in connection with its finding were mailed to the Respondent on March 5, 1985. On April 18, 1985 the Commission received the Respondent's answers to its questions.

The response admits that CAP published and paid for the six advertisements in question. The response denies however that the objective of CAP's advertisements was to influence the outcome of federal elections. Rather, the response claims that CAP's sole objective and that of its advertisements is to raise public consciousness about the defects of the current system of campaign finance and to bring about change in the existing campaign finance laws.

In support of its contention, the Respondent cites to the following statements which appears in each of its advertisements:

"We have but one purpose in publishing these ads: to make more people aware of how the existing election system works - - and doesn't work -- and to hasten the time when we finally charge our election laws."

* * * *

Each of the ads also says:

"THIS AD IS A PROTEST. But it isn't a protest against Rep. (Sen.) _____ alone. He's not the only one who takes special interest money. Too many members of Congress do it. So this ad is a protest against the existing political system. . ."

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Moreover, the Respondent states that further support for its contention is evidenced by the advertisement regarding Senator Jeff Bingaman. The Respondent calls the Commission's attention to the fact that Senator Bingaman had been elected two years earlier and does not face a re-election contest until 1988, if then.

3 6 0 4 0 5 2 0 0 3 3
Asked why particular candidates were made the target of its ads, CAP prefaced its response by stating that the ads concerned members of Congress not in their capacity as "candidates", but as officeholders, since only officeholders are in a position to change the existing campaign finance laws. According to the response, the selection of the Congressmen and Senators was without regard to party affiliation or ideology. The response notes that the six ads involved three Democrats (Rep. Martin Frost, Rep. Dan Rostenkowski, Sen. Jeff Bingaman) and three Republicans (Rep. W. Henson Moore, Rep. Robert H. Michel, Rep. Mickey Edwards).

According to its response, CAP selected Reps. Rostenkowski and Moore because, "among Representatives whose seats are comparatively safe, they are among the top Representatives with regard to the amount of cash-on-hand at the end of their 1982 campaigns." CAP argues that if its objectives were to influence the outcome of Congressmen's elections rather than affecting their stances on campaign finance reform, CAP would not have chosen Congressmen with "safe" seats in preference to Representatives in "marginal" seats.

According to its response, CAP selected Rep. Michel because he received more PAC contributions -- by a margin of \$100,000 -- than any member of the House of Representatives. The response notes that the ad concerning Rep. Michel went on to observe that "32 other House candidates accepted more than \$200,000 from PAC's in the 1982 election". According to CAP the observation was intended to reinforce the statement that the advertisement was "not a protest against Rep. Michel alone."

CAP states in its response that it selected Rep. Edwards because of the size of his August 19, 1981 contribution from the PAC of the National Automobile Dealers Association (\$2,500) combined with its proximity in time to his co-sponsorship of a resolution favored by the N.A.D.A. CAP claims that its aim was to educate the public about PAC influence and not to single out Rep. Edwards. In support of its claim, CAP calls the Commission's attention to a table appearing in the ad which reflects the statistical correlation of the amount given to Congressmen by the N.A.D.A. PAC and the votes of the recipient Congressmen on the issue of vetoing the FTC's Used Car Rule.

Similarly, CAP states that it selected Rep. Martin Frost because, among urban Representatives, he had received the highest amount of contributions from the dairy lobby (\$27,000). As with the ad pertaining to Rep. Edwards, the ad regarding Rep. Frost contains a table showing the correlation between dairy lobby campaign contributions and the positions of Congressmen throughout the House of Representatives.

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Finally, the Response states CAP selected Sen. Bingaman because "AMPAC's post-election contribution to him (\$10,000) was the largest example of an AMPAC pre/post election switch-contributions that CAP was able to find in the Federal Election Commission's records."

The response reveals that the advertisements in question were only published in local newspapers in the congressional district and State represented by the above-referenced Representatives and Senators whose photographs appeared in the ads. The response emphasizes once again that the ads addressed these Congressmen not in their capacity as candidates but as officeholders who are in a position to change the existng laws on campaign finance. In support of their contention, they point to the ad concerning Senator Bingaman who was not a candidate in the 1984 elections.

According to the response the ads were published between the dates of March 6, 1985 and May 1, 1985. Asked to state whether there has been any instance in which both major party candidates from the same district or State have been targets of its ads, CAP states that there were no such instances. The response again notes that the ads addressed the Congressmen in their capacity as officeholders, not as candidates, and cites to the ad concerning Senator Bingaman, who was not a candidate at the time. Moreover, the response notes that in the case of Reps. Edward, Rostenkowski and Michel, CAP's ads ran prior to the congressional primary date in their respective States, and their major party opponents had not been selected at the time CAP published its ads.

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According to the response, the cost of purchasing the space for the ads was \$15,983.92. The response states that CAP also expended money for production costs -- costs which the response claims are not susceptible of being broken down advertisement by advertisement.

II. LEGAL ANALYSIS

A. Legal Framework

Pursuant to 2 U.S.C. § 441b, it is unlawful for any corporation to make a contribution or expenditure in connection with any election to federal office. Neither the Act nor the Commission's regulations define the phrase "in connection with" as regards either corporate or non-corporate expenditures. However, the United States Court of Appeals has held that in order for a contribution or expenditure to be regarded as being made in connection with a federal election, a nexus must be established between the alleged contribution or expenditure and the federal election in question. Miller v. AT&T, 507 F.2d 759, 764 (1974).

Where communications are involved, the Commission has found it useful to analyze the following criteria in determining whether a nexus exists between the expenditures with regard to communications and any federal election: (1) the timing of the communications; (2) the distribution of the communications; and (3) the electoral content of the communications.

B. Application of the law to the Facts

In examining the above-referenced criteria, the facts of this case are indicative that the expenditures in question were

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not made in connection with a federal election.

Although the timing of the advertisements was proximate in time to the primary elections held in which a number of the Congressmen were seeking re-election to federal office, the content of the ads is not indicative of active electioneering. Rather, the content reflects that the objective of the ads is to raise public consciousness of the need to bring about reforms in campaign finance laws. Statements appearing in the ads decry the existing system of financing campaigns and urge readers to contact their representatives in Congress to support reform of campaign finance laws.

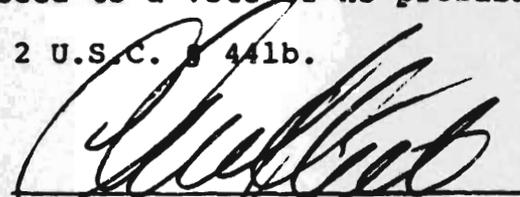
Although the advertisements were addressed to Congressmen and Senators, some of whom were seeking re-election, and were only run in the district or State represented by these officials, the Respondent contends that the advertisements addressed these individuals not as candidates but in their capacity as officeholders capable of bringing about change in the existing campaign laws. The facts of this case firmly support this contention. One ad addressed the amount of special interest PAC money received by Senator Bingaman. As the Respondent notes, Senator Bingaman, who was elected in 1982, was not a candidate at the time the ad was run and will not be until 1988, if then. Further support for the Respondent's contention rests in the following statement which appears in each of the ads:

8 5 0 4 0 5 2 0 0 3 7

"THIS AD IS A PROTEST. But is isn't a protest against Rep. (Sen.) _____ alone. He's not the only one who takes special interest money. Too many members of Congress do it. So this ad is a protest against the existing political system. . . (Emphasis added.)"

In view of the foregoing, the Office of the General Counsel recommends that the Commission proceed to a vote of no probable cause to believe that CAP violated 2 U.S.C. § 441b.

24 May 1985
Date



Charles N. Steele
General Counsel

86040520038

*project for
investigative reporting
on money in politics*

October 17, 1985

**SUMMARY OF GRANTS AND RESULTS
JULY 1983 - JULY 1985**

SUBJECT: How congressmen and senators misuse left-over campaign funds.

The public is generally unaware that when representatives and senators elected before 1980 retire from Congress, they can legally transfer to their own bank accounts any leftover campaign funds.

A \$2800 grant assisted writer Kevin Chaffee to spotlight the prevalence of congressional campaign surpluses reaching hundreds of thousands of dollars that:

- o have the effect of scaring off would-be challengers; and
- o grow even higher from interest earned in money market funds.

DIRECT RESULT: An article, "Money Under the Mattress -- What Congressmen Don't Spend", published in the September 1984 issue of Washington Monthly magazine, plus a segment about it on National Public Radio's Morning Edition.

RIPPLE EFFECT: Inspired articles from New York to Florida to California on the surpluses of local congressmen and what they are doing with them (Example, a Los Angeles Times article that was syndicated nationally).

* * * * *

SUBJECT: Abuse of free mailing privileges by congressmen.

A \$2000 grant enabled free-lancer Tim Miller to investigate the exploitation for electioneering purposes of the free mailing privilege allowed members of Congress.

RESULT: An article in the June 23, 1985 issue of The Washington Post Magazine, detailing how members are combining the free franking privilege and computer technology to target taxpayer-subsidized mailings to particular ethnic, racial or other groups. The authors estimate that the use of the franking privilege for electioneering can be the equivalent of adding as much as \$250,000 to an incumbent's campaign funds.

HONORARY AWARD: The Washington Monthly Journalism Award for May/June 1985. The Monthly Journalism Award is presented each

Attachment 2 10

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month to the best newspaper, magazine, television or radio story on our political system.

* * * * *

SUBJECT: Linking campaign contributions to city contracts in Jacksonville, FL.

A \$1,910 grant to the Florida Times-Union enabled an investigative team to develop a computerized system for tracking local campaign contributions.

DIRECT RESULT: A series tracing in detail the cause-and-effect relationship between campaign money and awarding of city contracts in such areas as bond underwriting, legal work, architectural projects, engineering projects and others.

RIPPLE EFFECT: Most of our grant went to defray the costs of leasing a computer. Now the newspaper's management, proud of this investigation, has purchased a computer for its investigative unit.

* * * * *

SUBJECT: Illegal contributions to a congressman's campaign by U.S. corporation executives in Saudi Arabia.

An \$850 grant to free-lancer Steve Emerson enabled him to probe allegations that a Saudi Arabian magnate recruited and subsidized executives of an American company to make contributions to an Illinois congressman's reelection campaign. Emerson's investigation established that:

- o Twenty executives of the Vulcan Materials Company, headquartered in Birmingham, Alabama with large operations in Saudi Arabia, contributed \$1000 each to the 1982 campaign of Representative Paul Findley (R-IL), a champion of Arab interests in the Middle East;
- o These contributions were not reported to the Federal Election Commission until eight months after the election.
- o These executives made their contributions at the behest of Al Turki, a Saudi businessman, who in some cases reimbursed the American executives for their political contributions -- in violation of Federal law.

RESULT: The expose was published in April, 1985 as a segment of Emerson's book, The American House of Saud: The Petro-Dollar Connection, (Franklin Watts).

* * * * *

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SUBJECT: Circumventions of election-law limits on PAC contributions.

Reporters Bill Hogan and Alan Green used a \$1,590 grant to disclose the maneuvers by which U.S. Senate candidates and PACs are evading the legal limits on PAC contributions through an artificial system of back-dating contributions and designating post-election gifts as "debt-retirement" donations.

RESULT: A cover article of the September 24, 1984 Washington Weekly, showing that at least seven recent Senate candidates violated the clear intent of the law. Subsequently, the Federal Elections Commission moved to block some of these abuses.

* * * * *

SUBJECT: Influence of contributions by real estate developers on decisions by the Los Angeles Board of Supervisors.

A \$1,500 grant enabled reporter Lewis MacAdams to investigate the record of Los Angeles County decisions on development applications made by the top 20 campaign contributors to the Board of Supervisors majority.

RESULT: An article has been accepted for publication by the Los Angeles Weekly, which found, among other things, that of 2400 agenda items initiated by the top twenty contributors, all but five won prompt approval. The five exceptions were resubmitted with alterations, and approved, making the final tally 2400 to 0.

* * * * *

SUBJECT: Alleged financial irregularities of Rep. George Hansen (R-ID).

A \$1,750 grant to editor Stephen Hartgen and reporter Rick Shaughnessy of the Times-News of Twin Falls, Idaho assisted a probe into alleged financial irregularities on the part of Congressman Hansen, by then already convicted for failure to report income outside his congressional salary.

RESULT: A Times-News series resulted which revealed:

- o Financial links between Rep. Hansen and the Unification Church;
- o That one of Hansen's many personal bank accounts had almost \$900,000 worth of transactions in one thirty-day period -- in a bank in the hamlet of Glens Ferry, Idaho (population 1,385).
- o A trail of unrepaid Idahoans and others who had been solicited to make loans to Rep. Hansen for vaguely stated purposes at interest rates up to 25%.

* * * * *

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SUBJECT: Developing a system to enable journalists to use their own personal computers to obtain and analyze campaign contribution data.

A \$2,500 grant to the Institute for Southern Studies enabled them to produce a data base, accessible to all journalists with personal computers, to obtain and analyze data on the 1984 statewide races in North Carolina -- including the Helms-Hunt senatorial race.

RESULT: This grant, supplemented by a grant from the Mary Reynolds Babcock Foundation, resulted in a series of articles published in the North Carolina Independent. The information was also used by a wide variety of North Carolina daily newspapers (e.g. the Charlotte Observer and the Greensboro News and Record). Among the findings:

- o That a loophole in the state law allowed several businessmen to funnel up to \$20,000 each into one state campaign -- five times the legal limit.
- o That candidates for the state legislature received \$1,500,000 in contributions, two-thirds of which came from doctors, lawyers, teachers, insurers, manufacturers, merchants, real estate brokers, contractors, and power company employees.
- o That a candidate for Lt. Governor got \$63,000 from chiropractors and \$23,000 from nursing home operators.

* * * * *

SUBJECT: PAC impact on federal regulation of food prices and health protection measures.

A grant of \$1000 to food columnist Goody L. Solomon enabled her to analyze the impact of food-industry PACs in swaying government policies on such issues as agricultural subsidies, price-boosting cartels, the banning of harmful but profitable substances, and truth-in-labeling.

RESULT: Ms. Solomon's five-part series, published in October, 1984 in five newspapers of the Washington suburbs and in several other papers around the country, linked the habitual defeat of pro-consumer measures by Congress and federal regulatory agencies to contributions by the PACs of 400 food-related companies -- especially to members of both parties on the Agriculture Committees.

* * * * *

SUBJECT: The influence of corporate pay-offs to foreign officials on nuclear contract awards.

A grant of \$300 helped finance an investigation by journalist Tim Shorrock that established that a paid consultant of the Bechtel Corporation gave bribes to South Korean officials

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in order to obtain for Bechtel two \$100 million contracts to construct nuclear power plants in South Korea.

RESULT: An article written by Shorrock and Mark Dowie that was published jointly by Multinational Monitor and Mother Jones in April, 1984.

RIPPLE EFFECT: This story was immediately picked up as a major item by CBS Evening News (two segments), the Washington Post (two page-one stories) and received prominent coverage in the New York Times, the Wall Street Journal, the Los Angeles Times, the Boston Globe, the San Francisco Chronicle and both major wire services. Official investigations are also underway by the FBI, the Justice Department, and the IRS.

* * * * *

SUBJECT: Democratic legislators who claim to be champions of the poor receive most of their campaign money from the corporate rich.

A grant of \$525 to journalists Peter Asmus and Gary Duke assisted them to examine the anomaly of Democratic legislative candidates in California raising most of their campaign money from the corporate rich while seeking votes as champions of the poor.

RESULT: An article published in the Sacramento Bee in early 1985 established that this has indeed happened, probed why, and explored what it portends for the national party, caught in the same dilemma where raising huge campaign sums from special interests is essential for electoral victory but incompatible with historic party principles.

* * * * *

SUBJECT: A mathematical formula for linking PAC aid and political influence.

A \$2,000 grant to political scientists Lee McKnight & Jean Schroedel produced a paper on banking legislation, presented at the 1984 annual meeting of the American Political Science Association. The paper pinpointed the precise levels of giving that were effective in persuading legislators of both parties to abandon previous or traditional positions in favor of a large contributor.

RIPPLE EFFECT: A follow-up study by McKnight and Schroedel of three banking bills, showing the effect of contributions, now complete and seeking a home in one of the academic journals. Abridged versions of both papers will be prepared for general audiences.

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WRITER'S DIRECT DIAL NUMBER

202/862-5071

JUL 16 9:23

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ROBERT A. BLATMAN
IRVING SALES
RALPH A. HUSSO
PETER VAN N. LOCKWOOD
WALTER S. SLOCUM
CONO E. HANCOCK
DAVID S. BROWNE
RICHARD S. THORPE
BERNARD S. BARON
ORRIN W. BUSH
OSWALD J. FINE
FRANK E. CHAFFER
SCOTT B. HICKEL
RAFFAEL E. KAPLAN
STEVEN D. ABLEN
ROBERT L. PALMER
RICHARD C. BERG
ANTONIO E. FERRERAS
DOTH SHAFER BAUFMAN
JULIA L. PORTER

DOUGLAS D. DRYSDALE
THOMAS A. TROTTER
ROBERT H. BLANCK, JR.
E. DAVID BROWNE
DONALD S. LEVINE
BERNARD H. HILLMAN
RICHARD W. HILLMAN
PATRICIA G. LEVINE
ROBERT C. FURCH
STUART L. BROWN
STAFFORD SMILEY
WENDY S. BUDOLPH
RICHARD H. LEVY
BARBARA J. COHEN
JEFFREY J. LERMAN
GLEN H. CARRINGTON
JULIE W. DAVIS
HOWELL JACKSON
THEODORE W. SWETT III
MARLEN HENNINGER, III

July 15, 1986

Michael A. Dymersky, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Federal Election Commission v. Campaign Finance
Research Institute, Inc., et al., Misc. Action
No. 86-0085 (D.D.C. filed March 20, 1985)

Dear Mr. Dymersky:

I enclose Mr. Boyd's responses to the subpoena (except item 10). I also want to use this occasion to record certain points made in our telephone conversation of July 2 concerning future stages of this case in light of the Court's June 25 opinion and order.

We discussed the possibility of further proceedings in the case. We both read the Court's order as not precluding the Commission, after considering the information ordered to be produced, from seeking additional information. Similarly, since the Court describes the subpoena and order (as limited by the Court) as being part of a "limited investigation to determine whether the news story exemption even applies" (Opn. p.5), I understand that you share my reading of the opinion as meaning that the Institute remains entirely free to advance its jurisdictional objections in resisting any future effort by the Commission to seek additional information.

Attachment 3

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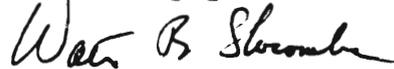
We also discussed the possibility of appeals by either side. You indicated that the FEC as a whole will have to decide whether to appeal, but may not decide for some time. In the event of such an appeal, we would likely cross-appeal. (Not having heard to the contrary, I assume no such decision has yet been made.)

However, the 20 days for compliance with the Court's order expires before the FEC is likely to have decided. Since the Court order requires us to turn over only material we have already offered, the Institute has no reason now to bear the cost and trouble of pursuing its continued view that the news story exemption applies to its grant to the Times-News.

For that reason, we are forwarding the attached answers to items 1 through 9 and 11 through 13 of the subpoena prior to learning definitively whether the Commission will appeal.

I believe that a review of these answers (coupled with the list of grants and other information already provided) will make clear to the Commission that the work of the Project does not involve "expenditures" or "contributions" within the jurisdiction or concern of the Commission.

Sincerely yours,



Walter B. Slocombe

WBS/kkg

Enclosure

86040620045

*project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Les Payne, *Newsday* • Jim Polk, *NBC News*
• Myrta Pulliam, *The Indianapolis Star* • Robert Waltem, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
Philip M. Stern, Chairman James Boyd, Executive Director

July 14 1986

Walter B. Slocombe, Esquire
Caplin & Drysdale
One Thomas Circle, N. W.
Washington, D. C. 20005

Dear Walt:

Attached are my answers to the F. E. C. questions, in
accordance with the order of Judge Penn.

Sincerely,

James P Boyd
James P. Boyd

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1. State your name, address and principal place of business.

A. James P. Boyd, S.R.#3, Box 126A, Aroda, Va., 22709. Home address is also principal place of business.

2. State your position, duties and responsibilities with the Campaign Finance Research Institute ("CFRI") and/or the Project for Investigative Reporting on Money in Politics ("the Project").

A. As Executive Director of the Project I answer queries from applicants; receive applications for grants; consult with applicants, when necessary, to assure that applications are complete; forward applications to Advisory Board members for their decisions; tabulate their votes, which are transmitted by letter or phone; and handle the administrative details of disbursing approved grants. I report at regular intervals on the status of our activities to the chairman and members. I am also engaged in propagating word of our program to prospective applicants such as editors and journalists, and I am responsible for such administrative functions as keeping files and records and making reports to donors and government agencies. From time to time to time I also talk to prospective donors about the work of the organization.

3. List the names and addresses of the individuals serving as officers and directors of CFRI during the period of January 1, 1983 through January 1, 1985, and state their position with CFRI.

A. Philip M. Stern, Suite 408, 2000 P St. NW, Washington, DC 20036 -- President and Director

Atty. Thomas R. Asher, 1232 17th St. NW, Washington, DC -- Treasurer and Director

Associate Dean John G. Murphy, Georgetown University Law School, 600 New Jersey Ave., NW, Washington, DC -- Director

Jim Polk, NBC News, 4001 Nebraska Ave., NW, Washington, DC 20016 -- Director

Robert Walters, Newspaper Enterprise Association, 1110 Vermont Ave., Washington, DC 20005 -- Director

Anne M. Plaster, Suite 408, 2000 P St. NW, Washington, DC 20036 -- Director

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4. List the names and addresses of the officers and directors of the Project during the period of January 1, 1983 through January 1, 1985, and state their position with the Project.

A. The Project has no officers and directors apart from the membership of its Advisory Board, listed below in answer to question #5 (unless I, as executive director, am considered an officer).

5. List the names and addresses of the individuals who served on the Project's Advisory Board during the period of January 1, 1983 through January 1, 1985, and state their position with the Advisory Board.

A.

Philip M. Stern, Suite 408, 2000 P St. NW, Washington, DC 20036 -- Chairman

Aaron Eptsein, Knight-Ridder Newspapers, 1319 F St. NW, Washington, DC 20004 -- Member

Les Payne, National Desk, Newsday, Long Island, NY 11747 -- Member

Jim Polk, NBC News, 4001 Nebraska Ave., NW, Washington, DC 20016 -- Member

Myrta Pulliam, Indianapolis Star, 307 N. Pennsylvania St., Indianapolis, IN 46206 -- Member

Robert Walters, Newspaper Enterprise Association, 1110 Vermont Ave., NW, Washington, DC 20005 -- Member

Edward Zuckerman, Pacts & Lobbies Newsletter, 824 National Press Building, Washington, DC -- Member

6. State the duties and responsibilities of the Project's Advisory Board and provide copies of all documents setting forth the duties and responsibilities of the Project's Advisory Board that were in effect from January 1, 1983 to January 1, 1985.

A. The duty reposed in the Advisory Board was to decide, by majority vote, whether the applications for grants before it would be accepted or rejected, and if accepted, in what amount. In addition it has periodically given advice to the chairman and executive director on organizational matters, fundraising opportunities and ways to reach journalists and to publicize the Project's activities. The only document describing the Advisory Board's duties and responsibilities is the founding proposal of June 23, 1983, pp. 5 and 6 (attached).

7. Submit copies of all documents providing instruction to the Project's Advisory Board and/or describe all oral instructions

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given to the Project's Advisory Board that are in effect from January 1, 1983 to January 1, 1985.

A. Aside from the attached document described in answer #6, which was circulated among Advisory Board members at the time of their recruitment, there is no document providing such instruction. As to oral instruction, its extent was this: the prospective members were asked by Chairman Stern to exercise their professional judgement as journalists as to whether the grant proposals they would be judging met the requirements set forth at the bottom of page 5/top of page 6 of the above mentioned document.

8. State whether the Project's Advisory Board received payment or compensation for the duties it performed during the period of January 1, 1983 through January 1, 1985. If so, identify the source of such compensation.

A. No such payment or compensation was made to any member of the Advisory Board.

9. Submit copies of all documents setting forth the rules and procedures for submitting grant proposals to the Project that were in effect from January 1, 1983 to January 1, 1985, including but not limited to, all forms or statements that were required to be filed.

A. Three such documents were in effect, and they are attached: (1) the founding proposal of June 23, 1983, pp. 5 & 6, referred to above; (2) the "flyer", a one-page description of the Project that has been mailed to thousands of journalists and which is usually mailed to new applicants; and (3) a form which grantees sign under which they agree to eschew any attempt to influence any election and to be guided only by objective professional journalistic standards in the use of grant proceeds.

10. Response not required.

11. Describe each step of the procedures for awarding grants that were in effect from January 1, 1983 to January 1, 1985. State whether the awarding of grants by the Project's Advisory Board was subject to approval by CFRI during this time period.

A. A written proposal, (not an application form but a letter guided by the considerations set forth in the documents asked for in question # 9 and similar to that which a free-lance writer would send to an editor seeking a commission to do a story) is submitted by the applicant to the executive director. The executive director, after giving the applicant a further opportunity to forward any missing data, such as a budget justification or a letter of intent from an editor, forwards the

application to each member of the Advisory Board. (Applications that are obviously outside the Project's field of "money in politics" are rejected by the executive director without Advisory Board action.) Each member renders his decision either in writing or by phone call to the executive director. On rare occasions, when a meeting of the Advisory Board happens to be held when an application is awaiting decision, it will be voted on at the meeting. In all cases a "yes" vote by a majority of those voting is required for acceptance of an application. In no case has the awarding of a grant ever been subject to approval by CFRI.

The executive director was empowered to make grants of up to \$300 on his own discretion, operating under the same considerations as those which guide the Advisory Board. The purpose of a discretionary grant is to enable the applicant to afford travel, materials, or other investigative aids to further test the validity of his or her grant proposal before submitting it to the Advisory Board. In no case has the awarding of a discretionary grant ever been subject to approval by CFRI.

12. State whether any meetings were held during the period of January 1, 1983 through January 1, 1985, between the Project's Advisory Board and the officers or directors of CFRI to discuss the awarding of grants. If so, list the dates on which the meetings were held, describe the content of the discussions and/or provide documentation of the meetings, including but not limited to, transcripts or minutes of the meetings.

A. No such meeting was held.

13. State whether the Center for Investigative Reporting was involved in any way with the Project's Grant Program during the period of January 1, 1983 through January 1, 1985. If so, please explain.

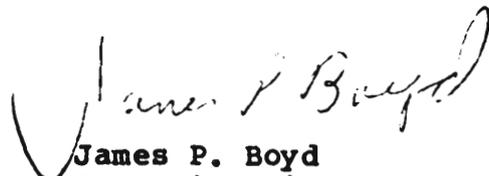
A. There was no involvement between the two organizations. However, Dan Noyes, the managing editor of the Center for Investigative Reporting and a figure widely acquainted among West Coast journalists, wrote us two letters during the relevant period endorsing proposals to us by California journalists, proposals that concerned campaign finance in that state. As it turned out, neither proposal was awarded a grant by the Project.

DISTRICT OF COLUMBIA, ss:

Subscribed and sworn to before me this 14th day of July, 1986.



Notary Public



James P. Boyd
Executive Director,
Project for Investigative
Reporting on Money in
Politics

June 23, 1983

PROPOSAL FOR
A PROJECT TO STIMULATE INVESTIGATIVE REPORTING
ON MONEY IN POLITICS

SUMMARY

This is a proposal to provide stipends to journalists who wish to undertake investigative reporting on the subject of money in politics, at all levels (national, state and local).

These stipends will be granted by a newly-created Project for Investigative Reporting on Money in Politics, which will be well publicized among journalists throughout the country, and which will receive applications and dispense grants after scrutiny and appraisal by a committee made up of experienced journalists, including four Pulitzer Prize winners.

The Project will be strictly non-partisan. Its sole purpose will be to research and expose campaign finance abuses, without regard to party affiliation or ideology and without regard to the effect on any electoral contest.

* * * * *

This proposal -- and the Project described herein -- are prompted by a mounting concern that money is corroding the American political process.

Elizabeth Drew's recent articles in The New Yorker, Mark Green's in The New Republic, a Time Magazine cover story and many others have noted the skyrocketing costs of political campaigns; candidates' growing dependence on gifts from contributors with narrow interests; the increasing role of gifts from out-of-state political action committees (PACs); and the growing influence of

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special-interest contributors.

Many are convinced that these developments do violence to the principle of one person/one vote and erode representative democracy, and there is a growing belief that changes in the existing campaign finance system are urgently needed.

* * * * *

This proposal is based on several premises:

(1) There is a wealth of important stories about the influence of money in politics waiting to be researched and written.

Discussion of campaign finance abuses abounds, and hard facts are not far below the surface. Political practitioners -- current and (especially) former officeholders, lobbyists, money-raisers -- all know and talk casually with one another about questionable campaign practices. Moreover, as the Elizabeth Drew and Mark Green articles demonstrate, they will talk about them with journalists, but usually on a no-names-mentioned basis.

Moreover, clues to a multitude of stories are to be found in the profusion of who-gave-what-to-whom data at the Federal Election Commission and at comparable reporting centers in the various states.

If this is so, why aren't more stories about campaign finance abuses unearthed and published?

Often, the missing ingredient is the time a reporter needs to track down the leads, to dig out the facts, and to flesh out the anonymous anecdotes that abound in conventional reports.

This project will provide that missing ingredient.

(2) Exposure of abuse and questionable activity is the

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quickest and surest way to achieve needed changes in the current campaign finance system.

Watergate is generally seen as the prime force behind the Federal Election Campaign Act of 1974. Just as it was the revelation of specific campaign abuses (illegal corporate donations, laundering of money, etc.) that led to the 1974 law, this Project could provide a comparable stimulus if its investigative grants produced chapter-and-verse, names-named revelations of current campaign finance abuse.

(3) Providing stipends for investigative journalists is among the most cost-effective ways of effecting disclosure of campaign finance abuse.

A stipend of a few thousand dollars is equivalent to the space rate paid by the top-paying magazines; hence it will be eagerly sought by journalists, and will enlist a considerable amount of a reporter's time. Even a stipend of a few hundred dollars may spell the difference between undertaking or passing up a promising investigative project.

Moreover, relatively small stipends can lead to momentous revelations. Example: a grant of about \$2,500 to a little-known Associated Press reporter named Seymour Hersh led to the expose of the My Lai massacre in South Vietnam.

(4) The program proposed here can, at least in its initial phase, be carried out with comparatively little administrative cost using a minimum of staff, office space, etc. (See pages 7 and 8.)

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A DISTINCTIVE FEATURE OF THIS PROJECT:

IT WILL ATTRACT TIPS AND LEADS TO INVESTIGATIVE STORIES BY BECOMING KNOWN AS A FOCAL POINT HOSPITABLE TO SUCH INFORMATION WILLING TO SEEK OUT REPORTERS INTERESTED IN PURSUING IT.

There are, in Washington, in state capitals, and in other centers of political power, people who have knowledge of questionable campaign finance activity and who are anxious to see campaign finance abuses and wrongdoing exposed if they knew where to go with their information.

This Project intends to fill that need by being more than a passive recipient of grant applications from reporters. Instead, the Project intends to make itself known as an active focal point for tips and leads on investigative stories on money in politics. When the information seems to point to a valid and important story on wrongdoing or campaign finance abuses, the Project will actively seek out reporters willing to pursue the matter.

Since many sources of leads do not know the full range of journalists and editors interested in campaign issues, that will make this Project a distinctive addition to the political and journalistic scene.

In short, as the Project becomes known as an active focal point for investigative reporting on money in politics, it will, hopefully, attract leads to important stories.

HOW THE PROGRAM WILL WORK

There will be established a Project for Investigative Reporting on Money in Politics (hereafter, "The Project"), under the aegis of a new organization, The Campaign Finance Research

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Institute, a new Section 501(c)(3) entity (application to IRS pending.)

The Project will make it known to journalists at all levels (national, state and local) throughout the country that it will welcome proposals for investigative reporting in the field of money and politics. To achieve its purpose, the Project will pay stipends (plus expenses) to journalists who submit acceptable research proposals.

The Project will be publicized among journalists through news stories and advertisements in such publications as journalism reviews, the newsletters of writers' organizations, Editor & Publisher, in-house publications, etc.

Applications will be appraised at frequent intervals by an Advisory Board made up of experienced journalists. The initial Advisory Board will be comprised of Aaron Epstein, a Washington correspondent for Knight-Ridder newspapers; Les Payne, national editor of Newsday; Jim Polk of NBC News; Myrta Pulliam, Life/Style editor and former investigative reporter for The Indianapolis Star; and Robert Walters, a Washington columnist for the Newspaper Enterprise Association.

Epstein, Payne, Polk and Pulliam have won Pulitzer Prizes for their investigative reporting.

Criteria for judging applications will include:

- * the public importance of the subject.
- * the likelihood of uncovering the information described in the application.
- * the applicant's credentials or qualifications.

As a general rule, applications for grants* will have

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to be accompanied by a statement from the edit. of a publication of general circulation of his/her interest in publishing the

* The applications will be equivalent, in form, to a "query memo" to an editor from a writer seeking approval of a reportorial or writing assignment.

results of the proposed investigative reporting, provided the story stands up and is adequately documented; is satisfactorily written; and in all other respects meets professional journalistic standards.

That requirement will serve two purposes:

(1) it will give some assurance that the results of the investigative work will be published; and

(2) it will help screen out proposals of marginal worth.

Where appropriate, the Executive Director of the Project will help applicants in enlisting the interest of an editor and in obtaining the required expression of interest in publishing the product of the proposed research.

The size of the grants will depend on the amount of work required of the applicant to complete the research, investigation and writing, as well as the size of the publication's payment to the reporter, in accordance with its normal space rates.

In addition to the grants approved by the judging committee, the Executive Director will have discretion to approve small grants of up to, say, \$250 to finance exploratory research by an applicant.

To produce the maximum amount of investigation and research

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for each dollar spent, grants will, as a general rule, be confined to producing a written report. That is, the Project will not, initially, underwrite the cost of TV or radio production. It will, however, support research that would lead to broadcast reporting.

ESTIMATED COST OF THE PROJECT

An approximate estimate of the annual cost of running the project is as follows:

Grants (1st year)	\$50,000 to \$75,000
Administrative expenses	\$15,000 to \$25,000
TOTAL	\$65,000 to \$100,000

That is based on the following estimates:

GRANTS

The budget for investigative grants is difficult to project in advance, because of uncertainties in the number of applications that can be expected and the amounts that will be requested. Based on the experience of the Fund for Investigative Journalism,* which operates in a manner closely similar to the proposed Project, a first-year grant budget of between \$50,000 and \$75,000 should fund a substantial amount of research and investigation.

* The Fund for Investigative Journalism is currently receiving roughly 10 applications per month, with an average grant request of \$1,200. In 1982, it made 30 board-approved grants totalling approximately \$27,300, plus 15 grants of \$300 or less made at the discretion of the Executive Director, for a total of \$31,848.

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ADMINISTRATIVE EXPENSES

At least during its early stages, the Project should be administrable by a part-time executive director. Accordingly, the Project has engaged, as Executive Director, Edward Zuckerman, a reporter with 20-years' experience, currently engaged in writing and publishing on lobbying and campaign finance. Mr. Zuckerman will work from his own office and telephone, obviating the need for the Project to have its own.

Accordingly, a preliminary estimate of the total yearly administrative costs (including the Executive Director's compensation) is in the range of \$15,000 to \$20,000, although in the first year, the cost of publicizing the Project might involve a one-time expenditure of up to \$5,000 over and above that amount.

FOR MORE INFORMATION ABOUT THIS PROPOSAL AND PROJECT, CONTACT

Philip M. Stern
2000 P Street, N. W., Room 408
Washington, D. C. 20036

(202) 463-0465 (office)
(202) 966-3815 (home)

Tax-deductible contributions to this project may be payable to the Campaign Finance Research Institute, and sent either to the above address, or to Edward Zuckerman, Project on Investigative Reporting on Money in Politics, #2004 National Press Building, 12th Floor, Washington, D. C. 20045. (Telephone: (202) 544-1141.

*Project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Les Payne, *Newsday* • Jim Polk, *NBC News*
• Myrta Pulliam, *The Indianapolis Star* • Robert Walters, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
Philip M. Stern, *Chairman* James Boyd, *Executive Director*

A PROGRAM OF GRANTS FOR

investigative reporting on money in politics

The Project for Investigative Reporting on Money in Politics announces a program of grants to journalists who wish to undertake investigative reporting on the role and influence of money in American politics, at all levels (national, state and local.)

Applications are invited from both print and broadcast journalists. As a general rule, however, grants will not cover the cost of radio or TV production, but only the time and expense of the research.

Applications for grants should be equivalent, in form, to a "query memo" to an editor, and should set forth the subject, purpose and nature of the research; the estimated time and expense required; the reasons for believing there is a likelihood of uncovering the pertinent information; and the applicant's background and/or journalistic experience.

Applications should also be accompanied by a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the amount to be paid the applicant in accordance with that publication's or broadcaster's customary rates.

The size of the grants will depend on the amount of work required. In addition, the Project will pay reasonable out-of-pocket expenses.

The applications will be reviewed by a committee of experienced working journalists. All materials submitted to the Project will be held in strict confidence.

Criteria for judging the applications will include the public importance of the subject; the apparent likelihood of uncovering the information described in the application; and the applicant's credentials or qualifications.

The Project will be strictly non-partisan. The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest.

HOW AND WHERE TO APPLY

Applications should include:

- a brief description of the subject, purpose and nature of the research.
- the estimated amount of time and expense required.
- the applicant's background and/or journalistic experience.
- a letter from a print or broadcast news editor expressing interest in publishing or airing the product of the research and stating the payment to be made to the applicant.

Applications should be sent to:

James Boyd, Executive Director, Project for Investigative Reporting on Money in Politics
Post Office Box 770 • Madison, Virginia 22727 • Telephone (703) 672-3166

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Mr. James P. Boyd
Project for Investigative Reporting
on Money in Politics
P.O. Box 770, Madison, VA 22727

Dear Mr. Boyd,

I recognize that the grant awarded me by the Project for Investigative Reporting on Money in Politics is made subject to the following terms and conditions arising from the Project's tax-exempt status under section 501(c)(3) of the Internal Revenue Code:

1. No proceeds of this grant will be used, directly or indirectly, to attempt to influence the outcome of any election for public office; to carry on any voter registration drive; to attempt to influence legislation or the outcome of any measure submitted to a vote of the electorate; or to advance the personal interests of any individual or the business interests of any person or entity.

2. I shall apply the proceeds only to nonpartisan study, research, analysis and writing of the matters described in my funding application.

3. I shall make my best efforts to assure that the work done under this grant is researched and written thoroughly and objectively and shall use my best professional judgement in determining whether these nonpartisan efforts have produced a story of public importance and, if so, to have it published in a responsible publication.

4. I am in no way employed or otherwise acting on behalf of any candidate for public office or any political committee or other individual or entity seeking to influence the outcome of an election or ballot measure, and shall use the grant proceeds only for objective factfinding and reporting without regard to who may be helped or hindered by the contents of my story or stories.

5. I agree to provide the grantor with a copy or copies of any story or stories that result, in whole or in part, from my expenditure of the grant proceeds, including manuscript(s) I submit for publication, if any, and published version(s) of the story or stories resulting from said manuscript(s).

Agreed to: _____ Date: _____

Social Security Number: _____

85040620060



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Walter Slocombe, Esquire
Caplin & Drysdale
One Thomas Circle, N.W.
Washington, D.C. 20005

Re: MUR 1809
Campaign Finance Research
Institute
Project for Investigative
Reporting on Money in
Politics

Dear Mr. Slocombe:

On February 20, 1985, the Commission found reason to believe your clients had violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission determined on [redacted], 1986, to take no further action and close the file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

If you have any questions, please direct them to Beverly Kramer, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General

attachment 4

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker, Esquire
Epstein, Becker, Barsody & Green, P.C.
1140 - 19th Street, N.W.
Washington, D.C. 20036

RE: MUR 1809
Citizens Against PACs, Inc.

Dear Mr. Oldaker:

This is to advise you that after an investigation was conducted, the Commission concluded on , 1986, that there is no probable cause to believe that your client, Citizens Against PACs, Inc., violated the Act. Accordingly the file in this matter, numbered MUR 1809, has been closed. This matter will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within 10 days.

If you have any questions, contact Beverly Kramer, the staff member assigned to handle this matter at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Walter Slocombe
Caplin & Drysdale
One Thomas Circle, N.W.
Washington, D.C. 20005

RE: MUR 1809
The Stern Fund

Dear Mr. Slocombe:

On October 15, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 1986, determined that on the basis of the information in the complaint, and information provided by the respondents, 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: Lawrence M. Noble
Deputy General Counsel

86040520063



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker, Esquire
Epstein, Becker, Borsody & Green, P.C.
1140 - 19th Street, N.W.
Washington, D.C. 20036

RE: MUR 1809
Philip M. Stern

Dear Mr. Oldaker:

On October 15, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 1986, determined that on the basis of the information in the complaint, and information provided by the respondents, 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: Lawrence M. Noble
Deputy General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Stephen Hartgen, Managing Editor
The Times-News
P.O. Box 548
Twin Falls, Idaho 83301

RE: MUR 1809
The Times-News

Dear Mr. Hartgen:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within thirty days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

Should you have any questions, contact Beverly Kramer, the staff member assigned to this matter, at (202)376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

The Honorable George V. Hansen
ID No. 09378-016
Petersburg Federal Correctional Institute
Petersburg, VA 23803-1000

Re: MUR 1809

Dear Congressman Hansen:

This is in reference to the complaint you filed with the Commission on September 28, 1984 concerning the following individuals and organizations: The Campaign Finance Research Institute, The Project for Investigative Reporting on Money in Politics, The Twin Falls Times-News, Citizens Against PACs, Inc., The Stern Fund, The Center for Investigative Reporting and Philip M. Stern.

With respect to the Twin Falls Times-News, Philip M. Stern, the Stern Fund and the Center for Investigative Reporting, the Commission determined that there was no reason to believe these respondents violated the Federal Election Campaign Act of 1971, as amended ("the Act").

As to the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics, the Commission determined that there was reason to believe that these respondents violated section 441b of the Act by financing, with corporate funds, investigative reporting activities undertaken in connection with a federal election. However, after an investigation was conducted and after considering the circumstances presented, the Commission determined to take no further action in this matter.

Finally, as to the Citizens Against PACs, Inc., the Commission determined that there was reason to believe that the respondent violated section 441b of the Act by financing, with corporate funds, advertisements in connection with federal elections. After an investigation was conducted and the brief of the General Counsel was considered, the Commission concluded that there was no probable cause to believe that the Citizens Against PACs Inc. violated the Act and closed the file.

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Accordingly, the Commission on _____, 1986, determined to close the file in this matter, numbered MUR 1809. 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 further information come to your attention which you believe establishes the violation of the Act, please contact Beverly Kramer, the staff member assigned to this matter at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
General Counsel's Brief
General Counsel's Report

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Campaign Finance Research Institute) MUR 1809
Project for Investigative Reporting)
on Money in Politics)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of January 14, 1986, do hereby certify that the Commission decided by a vote of 4-1 to authorize the Office of the General Counsel to file suit for subpoena enforcement in the United States District Court with respect to the above-captioned matter.

Commissioners Aikens, Elliott, Harris, and McGarry voted affirmatively for the decision; Commissioner Josefiak dissented; Commissioner McDonald was not present.

Attest:

1-14-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Red*
DATE: January 3, 1986
SUBJECT: MUR 1809 - General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of January 14, 1986
Open Session _____
Closed Session XX

CIRCULATIONS

48 Hour Tally Vote []
Sensitive []
Non-Sensitive []
24 Hour No Objection []
Sensitive []
Non-Sensitive []
Information []
Sensitive []
Non-Sensitive []
Other [XX]

DISTRIBUTION

Compliance [XX]
Audit Matters []
Litigation []
Closed MUR Letters []
Status Sheets []
Advisory Opinions []
Other (see distribution below) []

SENSITIVE -

CIRCULATE ON BLUE PAPER

On Agenda 1-14-86

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BEFORE THE FEDERAL ELECTION COMMISSION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 01-14-86 BY SP-8
JAN 14 1986
SECRETARY

In the Matter of)
)
Campaign Finance Research)
Institute)
Project for Investigative)
Reporting on Money in Politics)

MUR 1809 EXECUTIVE SESSION
JAN 9 P 3: 57
JAN 14 1986

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On September 19, 1985, the Commission mailed a subpoena to produce documents and an order to submit written answers to counsel representing the Campaign Finance Research Institute ("CFRI") and its Project for Investigative Reporting on Money in Politics ("the Project"). The subpoena ordered by the Commission seeks to ascertain facts concerning expenditures made by CFRI and the Project pertinent to the Commission's investigation of a violation of 2 U.S.C. § 441b. The subpoena/order was issued subsequent to the Commission's finding that there is reason to believe CFRI and the Project violated 2 U.S.C. § 441b by making expenditures in connection with a Federal election. The Commission's determination was made based on information contained in a complaint filed by Congressman George Hansen on September 28, 1984. The complaint challenged the legality of expenditures made by various tax-exempt corporations in sponsoring a grant to a newspaper for investigative reporting on the financial affairs of the Congressman and on campaign finance abuses in his 1984 campaign for re-election to the U.S. House of Representative's seat in the second district of Idaho.

On September 27, 1985 CFRI and the Project filed a motion to quash the Commission's subpoena/order issued to James Boyd,

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Executive Director of CFRI and the Project. On December 3, 1985, the Commission voted to deny the motion of CFRI and the Project to quash its proceedings and approved a letter to Respondents' counsel requesting that they comply with the subpoena/order within 10 days.

On December 27, 1985, the Office of the General Counsel received a letter from Respondents' counsel stating that CFRI and the Project continue to believe the subpoena is invalid and outside the authority of the Commission and that they therefore will not respond to it in the absence of a court order, under 2 U.S.C. § 437d(b), enforcing it (attachment 1).

In light of Respondent's unequivocal assertion that they will not comply with the Commission's subpoena/order, this Office recommends that the Commission authorize the Office of the General Counsel to file suit for subpoena enforcement in the United States District Court pursuant to 2 U.S.C. § 437d(b).

II. RECOMMENDATION

1. Authorize the Office of the General Counsel to file suit for subpoena enforcement in the United States District Court.

Date 1/2/86


Charles N. Steele
General Counsel

Attachment

1. Letter from Respondent's Counsel received December 27, 1985

85040520071

85 DEC 27 AM 10:40

CAPLIN & DRYSDALE

CHARTERED

ONE THOMAS CIRCLE, N.W.

WASHINGTON, D.C. 20005

(202) 862-5000

Kramer

ROBERT A. CAPLIN
STEVEN G. BARR
OF COUNSEL

NEW YORK OFFICE:
10 EAST 60TH STREET
NEW YORK, NY 10022
(212) 512-7125

TELEX 004001 CAPL UR WSH
TELECOPIER (202) 862-5000

WRITER'S DIRECT MAIL NUMBER

202/862-5071

ROBERT A. CAPLIN
THOMAS A. GROSS
ROBERT H. HANCOCK, JR.
R. DAVID HENNINGHAUGH
DONALD S. LEVIN
ROBERT H. MULLER
ROBERT W. ROSSMAN
ROBERT G. LEVIN
ROBERT C. FORD
STUART L. GIBBY
WALTER HENLEY
FRANK E. HOFFER
ROBERT A. SHAFER
ROBERT H. MULLER
SAMUEL S. RAFFAN
ROBERT D. ARON
ROBERT L. PALMER
THOMAS W. HENRY, JR.
HOWELL JACKSON
JAMES W. GIBBY, III
DAVID HENNINGHAUGH, III

ROBERT A. ELATHAN
SERVING GALEN
RALPH A. HUNTER
FRANK VAN N. LOCKWOOD
WALTER D. FLORENCE
OSCAR S. HANCOCK
RALPH S. HENNINGHAUGH
ROBERT D. THOMAS
ROBERT C. BAKER
CHARLES W. BONE
GEOFFREY JOHN VITT
RICHARD M. LEVY
WALTER S. HOFFER
SAMUEL J. GIBBY
JEFFREY S. LEVINE
GLEN S. CARPENTIER
JULIE W. BARR
RICHARD C. GIBBY
ANTHONY E. FORDMAN
DREW CLAYTON HANFMAN
JULIA L. FORTER

December 23, 1985

NOT ADMITTED IN D.C.

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1809
Campaign Finance Research Institute
Project for Investigative Reporting
on Money in Politics

Dear Mr. Gross:

In your letter of December 13, 1985, received by me on December 16, 1985, you state that the Commission has denied the motion of the Campaign Finance Research Institute to quash the subpoena and order originally issued on September 3, 1985.

The Institute believes that the subpoena seeks to inquire into matters outside the Commission's jurisdiction and is burdensome and unreasonable in its scope, and that compliance with the subpoena would violate the Institute's rights under the First Amendment. Accordingly, the Institute has instructed me to ask you to inform the Commission that it continues to believe the subpoena is invalid and outside the authority of the Commission and that it therefore will not respond to it in the absence of a court order, under 2 U.S.C. § 437(d)(b), enforcing it.

Sincerely yours,

Walter Slocumbe

Walter Slocumbe

85 DEC 27 P 3:27

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Attachment 1

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RECEIVED AT THE FEC

GCC 9293

85 DEC 27 All: 46

DOUGLAS B. CAPLIN
MYRON C. BAUM
OF COUNSEL

NEW YORK OFFICE:
10 EAST 60RD STREET
NEW YORK, NY 10022
(212) 682-7125

TELEX 904001 CAPL UR WSH
TELECOPIER (908) 290-2866

WRITER'S DIRECT DIAL NUMBER

202/862-5071

LAW OFFICES

CAPLIN & DRYSDALE
CHARTERED

ONE THOMAS CIRCLE, N.W.

WASHINGTON, D.C. 20005

(202) 862-5000

MORTIMER M. CAPLIN
THOMAS A. TROYER
ROBERT E. ELLIOTT, JR.
R. DAVID ROSENBLUM
RONALD B. LEWIS
HERBERT W. BELLER
RICHARD W. BRILLMAN
PATRICIA O. LEWIS
ROBERT C. FORDY
STUART L. BROWN
STAFFORD SMILEY
FRANK M. CHAFFER
ROBERT A. BOISTURE
SCOTT D. MICHEL
RANDALL E. RAFLAN
STEVEN D. ABREIN
ROBERT L. PALMER
THOMAS WEND AVERT, JR.
HOWELL JACKSON
TREVOR W. SWETT III
MARLYN RISINGER, III

ROBERT A. SLAYMAN
IRVING SALEN
RALPH A. HUDIG
PETER VAN N. LOCKWOOD
WALTER B. SLOCOMBE
CESO B. RAMOSATO
DANIEL B. ROSENBAUM
RICHARD E. TIMBER
BERNARD S. SAILOR
CHARLES W. BUSH
GREGORY JUDS VITT
RICHARD H. LEFT
WENDY S. RUDOLPH
BARBARON J. COHEN
JEFFREY S. LEHMAN
GLEN E. CARRINGTON*
JULIE W. DAVIS
RICHARD C. SHEA
ANTONIA E. FONDARAS
BETH SHAPIRO KAUFMAN
JULIA L. FOSTER

*NOT ADMITTED IN D.C.

December 23, 1985

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1809
Campaign Finance Research Institute
Project for Investigative Reporting
on Money in Politics

Dear Mr. Gross:

In your letter of December 13, 1985, received by me on December 16, 1985, you state that the Commission has denied the motion of the Campaign Finance Research Institute to quash the subpoena and order originally issued on September 3, 1985.

The Institute believes that the subpoena seeks to inquire into matters outside the Commission's jurisdiction and is burdensome and unreasonable in its scope, and that compliance with the subpoena would violate the Institute's rights under the First Amendment. Accordingly, the Institute has instructed me to ask you to inform the Commission that it continues to believe the subpoena is invalid and outside the authority of the Commission and that it therefore will not respond to it in the absence of a court order, under 2 U.S.C. § 437(d)(b), enforcing it.

Sincerely yours,

Walter B. Slocombe

Walter Slocombe

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Campaign Finance Research Institute) MUR 1809
Project for Investigative Reporting)
on Money in Politics)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of December 3, 1985, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1809:

1. Deny the Motion to quash the Subpoena and Order issued in MUR 1809.
2. Approve and send the letter attached to the General Counsel's report dated November 14, 1985.

Commissioners Aikens, Elliott, Harris, McGarry, and McDonald voted affirmatively for the decision; Commissioner Josefiak dissented.

Attest:

12-3-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 13, 1985

Certified Mail
Return Receipt Requested

Walter Slocombe, Esquire
Caplin & Drysdale
One Thomas Circle, N. W.
Washington, D.C. 20005

RE: MUR 1809
Campaign Finance Research
Institute
Project for Investigative
Reporting on Money in
Politics

Dear Mr. Slocombe:

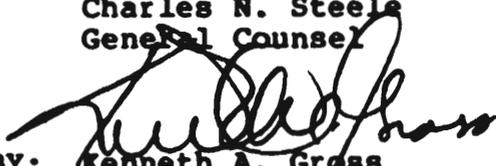
This responds to the motion submitted by you on behalf of the Campaign Finance Research Institute and its Project for Investigative Reporting on Money in Politics to quash the subpoena and order issued by the Commission in the above cited matter.

The Commission has considered the claims set forth as the basis of your motion and, on December 3, 1985, voted to deny your motion to quash the subpoena and order. The Commission considers the subpoena and order, therefore, to be in full force and effect and expects that you will comply with the requests set forth therein within ten days of receipt of this letter.

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL
FROM: MARJORIE W. EMMONS/ CHERYL A. FLEMING *CAF*
DATE: NOVEMBER 18, 1985
SUBJECT: OBJECTION - MUR 1809 - General Counsel's Report

The above-named document was circulated to the Commission on Monday, November 18, 1985, 11:00.

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

- Commissioner Aikens _____
- Commissioner Elliott _____
- Commissioner Harris _____
- Commissioner Josefiak _____ X _____
- Commissioner McDonald _____
- Commissioner McGarry _____

This matter will be placed on the Executive Session agenda for Tuesday, December 3, 1985.

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

In the Matter of)
)
Campaign Finance Research Institute)
Project for Investigative Reporting on)
Money in Politics)

MUR 180985 NOV 15 P12: 19

**GENERAL COUNSEL'S REPORT IN OPPOSITION TO THE MOTION
OF THE CAMPAIGN FINANCE RESEARCH INSTITUTE AND ITS PROJECT FOR
INVESTIGATIVE REPORTING ON MONEY IN POLITICS TO QUASH
SUBPOENA/ORDER**

I. BACKGROUND

On September 19, 1985, the Commission mailed a subpoena to produce documents and an order to submit written answers to counsel representing the Campaign Finance Research Institute ("CFRI") and its Project for Investigative Reporting On Money in Politics ("the Project"). On September 27, 1985, the Commission received a motion to quash the subpoena/order issued to James Boyd, Executive Director of CFRI and the Project (Attachment 1).

The subpoena ordered by the Commission seeks to ascertain facts concerning expenditures made by CFRI and the Project pertinent to the Commission's investigation of a violation of 2 U.S.C. § 441b. The subpoena/order was issued subsequent to the Commission's finding that there is reason to believe CFRI and the Project violated 2 U.S.C. § 441b by making expenditures in connection with a Federal election. The Commission's determination was made based on information contained in a complaint filed by Congressman George Hansen on September 28, 1984. The complaint challenged the legality of expenditures made by various tax-exempt corporations in sponsoring a grant to a newspaper for investigative reporting on the financial affairs of the Congressman and on campaign finance abuses in his 1984

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campaign for re-election to the U.S. House of Representative's seat in the second district of Idaho.

The motion of CFRI and its Project to quash the Commission's subpoena/order asserts that the subpoena seeks to inquire into matters outside the Commission's jurisdiction. In addition, the motion asserts that the subpoena's overbreadth and burdensomeness is an independent ground of invalidity.

For the reasons set forth below, we submit that these arguments are without merit and recommend that the Respondents' motion to quash the Commission's proceedings be denied.

II. ANALYSIS

A. The Inquiry is within the FEC's Jurisdiction.

This case involves the issue of whether CFRI and its Project violated 2 U.S.C. § 441b, the section of the Federal Election Campaign Act regulating the use of money by corporations and labor organizations in connection with Federal elections. Section 441b(a) broadly prohibits contributions and expenditures in connection with a Federal election from the treasury funds of any labor organization or "any corporation whatever." CFRI is a corporation exempt from Federal income tax under 2 U.S.C. § 501(c)(3), hence CFRI is covered by this statutory provision.

In its motion to quash the Commission's subpoena/order, CFRI claims that its activities do not fall within the coverage of Section 441b. CFRI argues that its payment to a Times News journalist for investigative reporting on the financial affairs of Congressman George Hansen are expressly excluded from the definition of the "contributions" or "expenditures" over which the Commission has jurisdiction. Specifically, CFRI claims that

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its funding of the articles that Mr. Hansen objected to falls within the news story exemption of 2 U.S.C. § 431(9)(B)(i), the section of the Act which excludes from the definition of "expenditure"--

any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee or candidate...

Moreover, CFRI claims that its activities with respect to the Times News stories fall within the news story exemption as defined by the Commission's regulations at 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2). CFRI claims that those regulations expressly define the news story exception as applying to " 'any costs incurred in covering or carrying' a bone fide news story...regardless of who ultimately pays those costs". (emphasis added) See Motion at 6.

CFRI argues that if the Commission had the jurisdiction to examine the funding of news stories, the purpose of the news story exemption--i.e., to insure the right of the media to cover and comment on election campaigns--would be effectively destroyed. CFRI asserts that it would follow that every candidate dissatisfied with the media's coverage of his or her campaign could force an FEC investigation of the financial support of the local and national newspapers, television stations or other media outlets that covered the campaign.

Finally, CFRI states that the news story exception is a constitutionally mandated protection for a free press. CFRI

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argues that this protection would be meaningless if the Commission were to have the jurisdiction to supervise the relationship of every media outlet to its financial supporters. CFRI argues that the Commission has an obligation to read the news story exemption in the broad sense that Congress intended. In support of this proposition, CFRI cites to FEC v. Phillips Pub. Inc., 517 F. Supp. 1308, 1914 (D.D.C. 1981).

The question here is: does a corporation that subsidizes a newspaper's exempt activities itself qualify for the newspaper's exemption? CFRI interprets the exemption as having application to a corporation which itself does not carry on the ordinary functions of the press, but which provides funding to the press to undertake investigative reporting on election campaigns. It is the view of this Office that the Respondents' interpretation of the news story exemption is not born out by a reading of the legislative history of 2 U.S.C. § 431(9)(B)(i), § 441b and court interpretation of the prohibition on corporate contributions and expenditures.

Although the sparse legislative history of the press exemption contains nothing directly on point, it is clear that Congress intended that the exemption apply to the corporate press as opposed to an outside source of funding. The media exemption was first added to the Act in 1974 with little controversy or discussion. The House Report that accompanied the amendment as it currently reads in 2 U.S.C. § 431(9)(B)(i) stated merely that it was intended to reaffirm prior law by assuring "the unfettered

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right of the newspapers, TV networks and other media to cover and comment on Political campaigns." H.R. Rep. No. 93-943, 93rd Cong., 2d Sess. at 4 (1974). As this Report indicates, section 441b's predecessors had never been intended or construed to interfere with the ability of the press to cover political campaigns. Indeed, the line between permitted press activities and prohibited corporate expenditures had been thoroughly explicated in the 1974 amendment that first extended the statute to cover corporate and union activities.

During the Senate debates on the amendment, the role of broadcasters and newspapers was discussed. This debate indicates that the publication of articles or editorials supporting or opposing a federal candidate by "legitimate" newspapers which are operated "independently" in that they are funded through subscriptions or advertisements was not intended to be prohibited. (93 cong. Rec. 6436-6438). The debate, however, also indicates that the publication of articles or editorials supporting or opposing a federal candidate by a newspaper which is distributed to the public and which derives its operating funds from union dues was intended to be prohibited (93 Cong. Rec. 6436). Similarly, a corporation which is not in the business of operating a newspaper could not use its treasury funds to publish and distribute free of charge a pamphlet or special newspaper supporting or opposing a federal candidate (93 Cong. Rec. 6436). Finally, both corporations and labor unions were viewed as being prohibited from purchasing advertising space in a newspaper to support or oppose a candidate (93 Cong. Rec. 6439).

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In short, it was the ordinary functions of the corporate press that Congress sought to protect, the result being that the media would be free from the restrictions of § 441b to report and comment on political campaigns in the course of their normal publications. Thus, the expenditures incurred by the institutional press in covering and commenting on election campaigns were excluded from the definition of expenditures proscribed in § 441b.

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Court interpretation of the press exemption is consistent in its application of this exemption to the corporate press, as opposed to some outside source of funding. In every case that has come before the courts to challenge the jurisdiction of the Commission on grounds that the press exemption applies to their activities, the courts have first sought to determine whether the entity was acting as a press entity with respect to the conduct in question. See e.g., FEC v. Phillips Publishing, Inc., 517 F. Supp. 1308 (D.D.C. 1981); FEC v. Readers Digest Association, Inc., 509 F. Supp. 1210 (S.D.N.Y. 1981), FEC v. Massachusetts Citizens for Life, 769 F.2d 13 (1st Cir. 1985).

In Readers Digest, the court adopted a two-step procedure for dealing with allegations that a press entity has violated the Act. The procedure clearly recognizes the need to conduct an inquiry in order to determine whether the conduct falls within the press exemption. Under the Reader's Digest procedure, the initial inquiry is limited to whether the press entity is owned

or controlled by any political party or candidate and whether the press entity was acting as a press entity with respect to the conduct in question. Reader's Digest, supra, 509 F. Supp. at 1214-15. Here, the entity in question, CFRI, is not even a press entity as the term is generally understood.

In sum, the statutory language, its legislative history and relevant judicial precedent all appear to indicate that the press exemption is not applicable to the activities undertaken by CFRI. Most importantly, CFRI does not appear to publish a newspaper or carry an activity that is a normal press function. Hence, the Commission has jurisdiction over this matter at the very least for the purpose of determining whether the press exemption applies.*/

B. Scope of the Subpoena and Order

Counsel asserts that "the gross overbreadth and burdensomeness of the subpoena in an area of sensitive constitutional rights is an independent ground of invalidity." Motion at 7, note 3. The motion does not contain the basis for such claim, nor does it indicate with any specificity which requests the respondents object to. The General Counsel's Office believes that the subpoena and order has been drafted with sufficient specificity and clarity to afford the respondents the opportunity to comply with the request. The subpoena and order carefully defines its terms, is limited in time and is also limited to the discovery of relevant evidence.

*/ If during the course of investigation other facts come to light that would impact on the question of whether the press exemption applies, they will be analyzed.

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It is well-settled that the courts will enforce administrative subpoenas duly issued that seek information "not plainly incompetent or irrelevant to any lawful purpose." NLRB v. Williams, 396 F.2d 247, 249 (7th Cir. 1968), quoting Endicott Johnson Corp. v. Perkins, 317 U.S. at 509. The basis and authority for the Commission investigation has been previously discussed. The issuance of the subpoena and order has, as its very purpose, the discovery of evidence that will assist the Commission in determining whether there have been violations of the Act. See Oklahoma Press Publishing Co v. Walling, 327 U.S. 186, 201 (1945). The judicial standard that has evolved for the review of such agency action may thus be summarized: "it is sufficient if the inquiry is within the authority of the agency, the demand is not too indefinite and the information sought is reasonably relevant. The gist of the protection is in the requirement, expressed in terms, that the disclosure sought shall not be unreasonable." United States v. Morton Salt Co., 338 U.S. 632, 652-653 (1950), citing Oklahoma Press Publishing Co v. Walling, 327 U.S. at 208.

III. RECOMMENDATIONS

In light of the foregoing discussion, the Office of the General Counsel recommends that:

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1. The Commission deny the Motion to quash the Subpoena and Order issued in MUR 1809.
2. Approve and send the attached letter.

Charles N. Steele
General Counsel

November 14, 1985

Date

BY:



Kenneth A. Gross
Associate General Counsel

Attachments

1. Motion to quash subpoena and order
2. Proposed letter

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*NOT ADMIITTED IN D.C.

September 27, 1985

K. Amel

86040520087

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1809

Dear Mr. Gross:

I enclose a Motion to Quash the Subpoena issued September 17 and received September 23, a Memorandum in support of that Motion, and a statement authorizing this firm to represent the Institute and Project in this matter.

Sincerely yours,

Walter Slocombe

Walter Slocombe

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Enclosure

Motion to Quash Subpoena
Memorandum in Support of Motion to Quash
Statement

Attachment 1

①

*project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Les Payne, *Newsday* • Jim Polk, *NBC News*
• Myrta Pulliam, *The Indianapolis Star* • Robert Walters, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
Philip M. Stern, Chairman James Boyd, Executive Director

September 26, 1985

Dear Sirs:

This will authorize Walter B. Slocombe and the firm of Caplin & Drysdale, Chartered, to represent me, the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics in connection with your MUR 1809.

Sincerely,

James P. Boyd
James P. Boyd

Federal Election Commission
1325 K Street, NW
Washington, D.C. 20005

②

James Boyd, Executive Director, Project for Investigative Reporting on Money in Politics
Post Office Box 770 • Madison, Virginia 22727 • Telephone (703) 672-3166

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BEFORE THE
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
) MUR 1809
COMPLAINT OF GEORGE HANSEN)

MOTION TO QUASH SUBPOENA

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The Campaign Finance Research Institute and its Project for Investigative Reporting on Money in Profits (the "Project") hereby move, pursuant to 11 C.F.R. § 111.15, to quash the subpoena issued by the Commission to James Boyd, Executive Director of the Institute on September 17, 1985, and received on September 23, 1985. The subpoena seeks inquire into matters outside the subject matter jurisdiction of the Commission, namely payments by the Institute, through its Project, of costs incurred in covering or carrying a bona fide news story. Such payments are expressly excluded from the definition of the "contributions" or "expenditures" over which the Commissioner has jurisdiction. 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2). The factual and legal bases of this Motion are explained more fully in the attached memorandum.



Walter B. Slocombe
Caplin & Drysdale, Chartered
One Thomas Circle, N.W.
Washington, D.C. 20005
(202) 862-5071

Attorneys for the Institute

September 27, 1985

BEFORE THE
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
) MUR 1809
COMPLAINT OF GEORGE HANSEN)

MEMORANDUM IN SUPPORT OF MOTION TO QUASH

Facts. The basic facts which demonstrate that the subpoena of September 17 seeks to enquire into matters clearly outside the Commission's jurisdiction are as follows: On September 26, 1984, George Hansen, then a candidate for reelection to Congress, sent a letter to the Commission, which the Commission chose to regard as a complaint. Mr. Hansen's letter, insofar as relevant to the Institute and Project, objected to the publication by an Idaho newspaper, the Twin Falls Times-News, of certain news stories relating to Mr. Hansen's campaign financing practices, and to the Institute's grant (through its Project) to the newspaper of funds to help pay the cost of covering those stories.

On February 12, 1985, the Commission determined that there was no reason to believe that the Times-News had violated any section of the Federal Election Campaign Act in regard to the matters raised in Mr. Hansen's letter. That decision was presumably based on a conclusion that the articles that Mr. Hansen

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objected to fall within the bona fide news story provision of 2 U.S.C. § 431(9)(B)(i).¹

However, the Commission rejected staff recommendations and decided to find reason to believe that the Institute and its Project had violated the Act. On March 26, 1985, the Institute and its Project asked that the Commission reconsider that determination on the ground that the funding, as well as the publication of the stories at issue, is within the news story exception. The Commission, on May 25, 1985, rejected that motion as procedurally improper.

The present motion, which is clearly provided for under the Commission's procedures, 2 C.F.R. § 111.15, affords the Commission the procedural opportunity it found lacking last spring to reconsider its initial decision of February 12, 1985.

In its Motion of March 26, 1985, and the attached affidavit (copies attached), the Institute demonstrated the nonpartisan character of its operation and the independence of its grantees and showed why as a legal matter its action with respect to the Times-News story fell clearly with the news story exception as

1. The news story exception applies even to direct endorsement of candidates and even fundraising for them. See AO 1980-109. In fact, the Times-News stories complained of did not advocate the defeat (or reelection) of Mr. Hansen; they simply discussed an important aspect of his conduct as a public officeholder. The Commission has consistently recognized that mere comment and reporting on officials' (or candidates') activities, even though it may have a political impact is not within the reach of its jurisdiction. E.g., AO 1984-57. This is an independent reason that no action of the Institute in relation to those stories could be within the Commission's jurisdiction.

defined by the Commission regulations. Those arguments apply fully here.

In sum, the Commission's regulations exclude from the class of "contributions" and "expenditures" over which the Commission has jurisdiction "any costs incurred in covering or carrying" a bona fide news story.² The Commission has already found that the publication of the Times-News story was not a violation of the Act.

Possibly, the reason the Commission has elected to continue the proceeding against the Institute and its Project is a theory that, even if the immediate publisher of a news story is not within its jurisdiction, those who provide funds for the story are. But any such theory is clearly invalid:

-- First, treating a payment by an outsider that supports a news story as a "contribution" or "expenditure" would be squarely inconsistent with the words of the Commission's own regulations. Those regulations expressly define the news story exception as applying to "any costs incurred in covering or carrying" a bona fide news story, 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2), regardless of who ultimately pays those costs.

-- Second, the news story exception would be effectively destroyed by applying the contribution and expenditure limits of the Act to the ultimate sources of the funds used to pay the

2. There is no allegation that any candidate or committee controls either the Times-News or the Institute. Moreover, there is no question that the publication of the Times-News story is clearly within the newspaper's core functions as a newspaper.

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costs of covering and carrying stories. The purpose of the news story exception is to "assume the unfettered right of the ... media to cover and comment on political campaigns." H. Rep. No. 93-943, 93rd Cong., 2d Sess., 4 (1974). That purpose would be entirely frustrated if the Commission were required to -- or had jurisdiction to -- examine the funding of news stories beyond assuring that no candidate control existed. All news entities, large and small, must obtain their funds from somewhere. Some get funds from their owners, some from individual and corporate supporters sympathetic to their editorial perspectives and some from advertisers -- who may place their ads based in part on their approval of a media outlet's political stances.

If the Commissioner had jurisdiction to investigate the Institute in this case, it would follow that every candidate dissatisfied with the media's coverage of his or her campaign -- a class of candidates virtually coterminous with the class of all candidates -- could force an FEC investigation of the financial support of the local and national newspapers, television stations or other media outlets that covered the campaign. A requirement that dissatisfied candidates claim that the financial support for media outlets they find unfair was motivated by sympathy for the substantive political views of the outlet would be no protection at all, for such claims are easily made, and, under the statutory system, are irrelevant.

-- Finally, the news story exception is not, like some other exception provisions of the Act, a carefully crafted

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political compromise between contending partisan forces; it is a constitutionally mandated protection for a free press. The protection of news coverage would be meaningless if the Commission were to have the jurisdiction to supervise the relationship of every media outlet in the nation to its financial supporters. Congress clearly did not give the Commission that power and it should not assert it. The courts have stressed the obligation of the Commission to read the news story exception in the broad sense that Congress intended and that is constitutionally required. FEC v. Phillips Pub., Inc., 517 F. Supp. 1308, 1914 (D.D.C. 1981).

The courts have insisted that this protection of constitutionally safeguarded freedoms be afforded at the investigating stage, as well as in final decisions. Indeed, the present subpoena, which would involve a complete disclosure of every action of the Institute for a two year period,³ illustrates the dangers to a free press inherent in pursuing complaints about media funding.

For the reasons stated, and on the basis of the facts and agreements submitted earlier, the September 17 subpoena is not

3. Given that the entire subject matter complained of, insofar as it relates to the Institute and Project, is within the news story exceptions (and the absence of any allegation of candidate control of the Times-News), no further inquiry of the Institute and Project is proper. However, the gross overbreadth and burdensomeness of the subpoena in an area of sensitive constitutional rights is an independent ground of invalidity. See FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 388-89 (D.C. Cir. 1981).

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within the subject matter jurisdiction of the Commission, is invalid and unenforceable, and should be quashed in the exercise of the Commission's own obligation to insure that its inquiries are confined to matters within its jurisdiction.

Walter B. Slocombe

Walter B. Slocombe
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One Thomas Circle, N.W.
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(202) 862-5071

Attorneys for the Institute

September 27, 1985

85040520095

EPSTEIN BECKER BORSODY & GREEN, P.C.

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**1140 19TH STREET, N.W.
WASHINGTON, D.C. 20036**

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**FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111
(415) 398-8888**

March 26, 1985

***P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY**

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

**Re: Federal Election Commission -- Matter Under
Review 1809 -- Respondent, Campaign Finance
Research Institute/Project for Investigative
Reporting on Money in Politics -- Motion to
Reconsider Reason-to-Believe Determination and
to Withdraw Request for Written Answers**

Dear Mr. Steele:

This responds to your letter, received by this office on March 7, 1985, wherein we were notified of the Commission's reason-to-believe determination in the above-captioned matter and requested to answer a series of questions.

For the reasons set forth herein, we believe that the activities of the Campaign Finance Research Institute ("the Institute") and a program it sponsors, the Project for Investigative Reporting on Money in Politics ("the Project") (collectively referred to as "the Respondent") clearly are covered by the news story exemption, 2 U.S.C. § 431(9)(B)(i). Thus, we respectfully urge the Commission to reconsider its reason-to-believe determination against the Respondent and to withdraw its request for written answers.

We submit that, upon reconsideration, the Commission should dismiss the complaint against the Respondent.1/

1/

The questions proffered to Respondent by the Commission in this complaint were not accompanied by an order pursuant to 2 U.S.C. § 437(a)(1). Accordingly, the five-day time period prescribed in 11 C.F.R. § 111.15(a) for submission of a Motion to Quash a Subpoena is not applicable in this situation, and the instant Motion, filed with the Commission prior to the due date for responses to the Questions, is timely.

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Charles N. Steele, Esquire
March 26, 1985
Page Two

I. Statement of Pertinent Facts

As discussed in Respondent's initial response to the complaint, the Campaign Finance Research Institute is a non-profit corporation which the Internal Revenue Service has determined to be exempt from income tax under 26 U.S.C. § 501(c)(3). In furtherance of its purposes, the Institute began sponsorship on June 23, 1983 of a program called the Project for Investigative Report on Money in Politics. The Project is not a separate legal entity for either tax or corporate law purposes but is simply the name given to an Institute program. See Affidavit of James Boyd, Executive Director of the Project, attached hereto as Exhibit A at ¶ 2.

The sole activity of the Project - the activity which is the subject of this complaint - is to provide monetary grants to journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics. See Project's flyer, attached hereto as Exhibit B; also see Exhibit A at ¶ 3. Both print and broadcast journalists are invited to apply for these widely-publicized grants. Grant applications must include (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experience; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the payment to be made to the applicant. See Exhibit A at ¶ 4 and Exhibit B.

We emphasize that all material submitted to the Project in connection with grant applications is held in strict confidence. See Exhibits A at ¶ 5 and Exhibit B. This is done to protect journalistic leads and ideas.

The Project's Advisory Board, which is composed of prominent journalists including four Pulitzer-Prize winners, reviews the applications and, subsequently, awards grants. Criteria for judging the applications include (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications. See Exhibit A at ¶ 6 and Exhibit B.

We call particular attention to the following paragraph in the Project's flyer which states: "The sole purpose

of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest." (Emphasis added) Exhibit B; also see Exhibit A at ¶ 8. Accordingly, all Project grantees must sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and the grant will be used in a non-partisan manner. See Exhibit A at ¶ 10.

The Project has made nineteen grants since its inception in 1983, including the grant of \$1,750 to Stephen Hartgen of the Times-News which is discussed by the Complainant. Significantly, the Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees. See Exhibit A at ¶ 9. Grant recipients are neither obligated to produce stories nor obligated to publish or air their stories. Furthermore, grant recipients are not given any deadlines by the Project, and the Project does not review stories prior to their publication or broadcast. See Response of Stephen Hartgen, Managing Editor of the Times-News, attached hereto as Exhibit C.

Thus, we cannot emphasize too strongly that once the Project has approved a grant, it has absolutely no further voice in deciding what is published, or indeed whether anything is published as a result of the grant. Those matters are, as they should be, entirely determined by the grant recipient and the editor(s) of the publication that has expressed interest in publishing the findings.

With respect to its financial backing, The Institute and therefore the Project has received support from some eighteen foundations and individuals. None of its supporters are either candidates for political office or political committees. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or political committee. See Exhibit A at ¶ 11. Neither Philip Stern nor Citizens Against PACs, Inc. has ever contributed to the Institute/Project.^{2/}

2/

As set forth in its initial response to this complaint, the Stern Fund also has never contributed to the Institute/Project.

Charles N. Steele, Esquire
March 26, 1985
Page Four

The Institute and thus the Project are independent entities which are in no way controlled by any candidate for political office or any political committee. See Exhibit A at ¶ 12. Further, the Institute/Project is in no way affiliated or connected with the nonprofit corporation, Citizens Against PACs, Inc. See Exhibit A at ¶ 13.

The grant activities of the Project are carried on for one purpose - to assist journalists in researching and, if the findings meet editorial standards, publishing in established print or broadcast outlets new stories uncovering and exposing campaign finance abuses in all levels of American politics. See Exhibit A at ¶ 14.

II. Analysis

A. RESPONDENT'S ACTIVITIES ARE COVERED BY THE PRESS EXEMPTION EMBODIED IN 2 U.S.C. § 431(9)(B)(i); ACCORDINGLY, THE COMMISSION LACKS SUBJECT-MATTER JURISDICTION TO CONDUCT THIS INVESTIGATION

As discussed in Respondent's initial response, the news story exemption embodied in 2 U.S.C. § 431(9)(B)(i) would be meaningless if the Commission were required to -- or had jurisdiction to - examine the funding of news stories where no candidate or political committee control is alleged. If every candidate, such as former Congressman Hansen, who was dissatisfied with the media's coverage of his/her campaign could force an FEC investigation of the financial support of the local newspapers, television stations or other media outlets, the statutory protection provided for in the news story exception would be effectively nullified and the Commission would be in the position of a national media censor, a role which it clearly was not intended to have. Thus, if the Commission can investigate the funding of the Times-News story, it can investigate the funding of any story; and if it can investigate grants from an independent, non-partisan group, it can surely investigate a media outlet's other means of financial support: advertisers, investors and other financial supporters. Surely that would void the protection of 2 U.S.C. § 431(9)(B)(i).

In the instant complaint, neither Complainant nor the Commission has in any way alleged that Respondent is owned or controlled by a candidate or political committee. On the contrary, James Boyd, Executive Director of the Project, has submitted a sworn affidavit to the Commission, attached hereto

Charles N. Steele, Esquire
March 26, 1985
Page Five

as Exhibit A, stating that the Project "is neither owned nor controlled by any candidate for political office or any political committee." Exhibit A at ¶ 12. Further, Mr. Boyd states that "(t)he Project has not received any financial support from any candidate for political office or any political committee. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or any political committee." See Exhibit A at ¶ 11.

Accordingly, as a program which is neither owned nor controlled by any candidate or political committee but is operated exclusively to finance journalistic efforts to produce bona fide news stories, Respondent and its activities fall within the protection of the news story exception. Thus, the Commission lacks jurisdiction to pursue this investigation.

Moreover, this conclusion is supported by the Commission's decision of February 12, 1985 in MUR 1809 that there was no reason to believe that a violation of any statute within the Commission's jurisdiction had been committed by the Times-News by acceptance by one of its journalist of a grant from the Project. If the Commission, as it has indicated, lacks jurisdiction to investigate the acceptance of a grant by the Times-News pursuant to 2 U.S.C. § 431(9)(B)(i), then equally the Commission is precluded from investigating Respondent, as the source of the grant to the journalist from the Times-News, under the same exception, 2 U.S.C. § 431(9)(B)(i).

As set forth in the Commission's notification letter of March 5, 1985, the Commission's reason-to-believe determination in this matter is premised solely on its belief that the Respondent made expenditures in violation of 2 U.S.C. § 441b, the prohibition on corporate expenditures in connection with federal elections. Specifically, the Commission desires to investigate whether the monetary grants made by the Project to journalists to research and expose campaign finance abuses constitute prohibited corporate expenditures pursuant to the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. ("the Act"). It is clear, however, that pursuant to the news story exemption set forth in 2 U.S.C. § 431(a)(B)(i) -- an exception which the Commission is required to interpret broadly pursuant to the First Amendment -- Respondent's activities are not expenditures and therefore the Commission lacks subject-matter jurisdiction to conduct an investigation of the Respondent. See Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir. 1981); Federal Election Commission v. Phillips Publishing, Inc., 517 F.Supp. 1308 (D.D.C. 1981); Reader's Digest Association v. Federal Election Commission, 509 F.Supp. 1210 (S.D.N.Y. 1981).

Under the Act, an "expenditure" is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. . ." 2 U.S.C. § 431(9)(A)(i). The Act expressly exempts from classification as an expenditure, however, "any news story, commentary, or editorial distributed through the facilities of any . . . newspaper . . . unless such facilities are owned or controlled by any political party, political committee or candidate." 2 U.S.C. § 431(9)(B)(i). Further, Commission regulations specifically extend this news story exemption to "any costs incurred in covering or carrying such a story." 11 C.F.R. § 100.8(b)(2) (emphasis added).

Pursuant to the Act -- especially the emphasized provision quoted above -- and pertinent regulations, the news story exemption applies not only to the direct cost of publishing new stories, but also to the costs of gathering information and preparing the materials for publication. This reflects the reality that news stories do not spring to life fully developed, but cost money to research and prepare. Where that money comes from will vary from case to case -- advertisers, the resources of the owners and the outlet, or outside funding.

For the exception for "costs" of stories to be meaningful, the news story exemption must cover not only the media outlets themselves but also including organizations, such as the Project, operated exclusively to provide financial support for independent journalistic projects (subject, of course, to requirement that the media outlet or organization is not controlled by a candidate or political committee).

Accordingly, as a program operated exclusively to finance journalistic efforts to produce bona fide news stories which is neither owned nor controlled by any candidate or political committee, Respondent and its activities fall within the protection of the news story exception, and thus, the Commission lacks jurisdiction to pursue this investigation.

B. AS THE COMMISSION LACKS SUBJECT-MATTER JURISDICTION OVER THE ACTIVITIES OF THE RESPONDENT, THE COMMISSION'S REQUEST FOR WRITTEN ANSWERS IS BARRED

Because the Commission lacks subject-matter jurisdiction over the activities of the Respondent, the Commission is barred from investigating the subject matter of the com-

Charles N. Steele, Esquire
March 26, 1985
Page Seven

plaint, and, consequently, its request for written answers from the Respondent should be quashed. See Federal Election Commission v. Phillips Publishing, Inc., supra, at 1313.

III. Conclusion

As demonstrated herein, Respondent's activities are covered by the press exemption embodied in 2 U.S.C. § 431(9)(B)(i), and accordingly, the Commission lacks subject-matter jurisdiction to conduct this investigation. Therefore, we urge the Commission to reconsider and rescind its reason-to-believe determination and to withdraw its request for written answers.

Respectfully submitted,

William C. Oldaker
William C. Oldaker

Leslie J. Kerman
Leslie J. Kerman

Counsel for the Campaign Finance
Institute/Project for Investigative
Reporting on Money in Politics

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AFFIDAVIT OF JAMES BOYD

I, JAMES BOYD, DECLARE AS FOLLOWS:

1. I am the Executive Director of the Campaign Finance Research Institute's Project for Investigative Reporting on Money in Politics ("the Project"), P.O. Box 770, Madison, Virginia 22727.

2. The Project has no independent corporate existence; it is an activity of the Campaign Finance Research Institute.

3. The purpose of the Project is to sponsor a grant program for journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics.

4. Both print and broadcast journalists are invited to apply for the Project's widely-publicized grants. Grant applications must include (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experience; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards).

5. All material submitted to the Project in connection with grant applications is held in strict confidence.

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6. The Project's Advisory Board, which is composed of prominent journalists including four Pulitzer-Prize winners, reviews the applications and awards grants. Criteria for judging the applications include (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications.

7. In addition to the grants awarded by the Advisory Board, the Executive Director of the Project is empowered to make grants of Three Hundred Dollars (\$300.00) or less at his/her own discretion.

8. As the Project is strictly non-partisan, Advisory Board Members are instructed that all grants should be awarded without regard to the political affiliation or ideology of the subject of the proposed research and without regard to the effect on any electoral contest.

9. The Project has made nineteen grants since its inception in 1983. The Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees.

10. All Project grantees must sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and that the grant will be used in a non-partisan manner.

11. The Project has received support from approximately eighteen foundations and individuals. The Project has not

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*Project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Len Payne, *Newsday* • Jim Palk, *NBC News*
• Myra Pulliam, *The Indianapolis Star* • Robert Walters, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
Philip M. Stern, *Chairman* James Boyd, *Executive Director*

A PROGRAM OF GRANTS FOR

*investigative reporting
on money in politics*

The Project for Investigative Reporting on Money in Politics announces a program of grants to journalists who wish to undertake investigative reporting on the role and influence of money in American politics, at all levels (national, state and local.)

Applications are invited from both print and broadcast journalists. As a general rule, however, grants will not cover the cost of radio or TV production, but only the time and expense of the research.

Applications for grants should be equivalent, in form, to a "query memo" to an editor, and should set forth the subject, purpose and nature of the research; the estimated time and expense required; the reasons for believing there is a likelihood of uncovering the pertinent information; and the applicant's background and/or journalistic experience.

Applications should also be accompanied by a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the amount to be paid the applicant in accordance with that publication's or broadcaster's customary rates.

The size of the grants will depend on the amount of work required. In addition, the Project will pay reasonable out-of-pocket expenses.

The applications will be reviewed by a committee of experienced working journalists. All materials submitted to the Project will be held in strict confidence.

Criteria for judging the applications will include the public importance of the subject; the apparent likelihood of uncovering the information described in the application; and the applicant's credentials or qualifications.

The Project will be strictly non-partisan. The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest.

HOW AND WHERE TO APPLY

Applications should include:

- a brief description of the subject, purpose and nature of the research.
- the estimated amount of time and expense required.
- the applicant's background and/or journalistic experience.
- a letter from a print or broadcast news editor expressing interest in publishing or airing the product of the research and stating the payment to be made to the applicant.

Applications should be sent to:

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The Times-News

P.O. Box 548

Twin Falls, Idaho 83301

208-733-0931

October 29, 1984

Ms. Beverly Kramer
Federal Election Commission
Washington, D. C. 20463

Dear Ms. Kramer:

This letter is in response to a letter of October 15 from your office concerning an allegation raised by Rep. George Hansen of the Second Congressional District of Idaho that certain Times-News articles, and the way in which they were funded, constitute violations of the Federal Election Campaign Act.

After a careful review of both the congressman's allegations and the relevant law in this area, it is our opinion that the complaint against The Times-News lacks substance and should be dismissed. In our opinion, the congressman's letters to your office of Sept. 26 and Sept. 17 contain numerous errors of both fact and opinion. Furthermore, we believe newspaper reporting is specifically exempt from the FECA under the language of U.S. Code, Title II, Sect. 431-9bi. Additionally, the main controlling legal case in this area, Buckley vs. Valeo, 424 U.S. 1 (1975) and subsequent rules of the commission itself employing that decision's language suggest that the articles by The Times-News did not violate the "express advocacy" standard set out by the Supreme Court in that case. It is our opinion that the ongoing coverage of politics and public officials by the American press is within the affirmative intent of the First Amendment of the U. S. Constitution. Such coverage, in which The Times-News is routinely engaged, does not constitute an "in-kind" contribution to an elected official's opponent.

Let me give a bit of background. The Times-News is a 22,000-circulation, seven-day daily newspaper in Southern Idaho, in Rep. Hansen's district. It is the major daily newspaper for eight counties. In March and April 1984, The Times-News sent a reporter to Washington to cover the trial of Rep. Hansen, who had been indicted for alleged violations of the Ethics in Government Act. He was convicted of four felony violations and has been both reprimanded by the full House and sentenced to 15 months in prison. The conviction is under appeal.

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October 29, 1984

Following the conviction, The Times-News decided to further follow up on several avenues which had either come up directly or which had been alluded to in the trial. These avenues involved Hansen's financial affairs.

We were aware of the Project for Investigative Reporting on Money in Politics through its advertising in national journalism magazines and we asked the organization about the procedures for filing a grant request to help defray investigation expenses. A grant proposal was developed in June and was approved in July. There were absolutely no strings of any kind attached to the \$1,750 grant, nor any preconditions as to whether The Times-News was even obligated to produce any stories. The stories which resulted were entirely the product of the newspaper alone. The money was to fund a trip for our reporter to Washington to examine records, conduct interviews and gather information concerning reports we had obtained from various sources on alleged secret bank accounts, large loans from individuals, and financial support from various religious organizations. Our reporter examined aspect of these allegations for several weeks in June in Idaho, and then in Washington through the month of July. We published several stories based on that research, which we enclose.

We do not think that the investigative reporting by The Times-News on the financial affairs of its congressman, a convicted felon, in any way violates the FECA regulation of political speech. There are two basic arguments for this.

One, the FEC act itself exempts newspaper stories specifically in Sect. 431-9bi. That exemption covers "any news story distributed through newspapers." That language seems very clear.

Two, under the "express advocacy" test of Buckley vs. Valeo, reporting of the type The Times-News conducted is, in our view, also outside the purview of the FECA act. Consider the following questions:

- 1.) Do the news articles use any of the words of express advocacy, such as "elect, support, cast your ballot for, defeat, reject?" The answer is no.
- 2.) Is the election referred to? Only obliquely.
- 3.) Are readers urged to act on policy issues discussed? No.
- 4.) Is the candidate's opponent mentioned favorably? No.
- 5.) Is the reporting : ed foray into criticism and analysis of this ; ficial's performance? No.

The reporting on Rep. Hansen conviction has been extensi

h his indictment, trial and aps no Idaho politician has

October 29, 1984

been covered as completely throughout his career. The Times-News has endeavored to provide a balanced picture of the congressman's battles by publishing, on its editorial page and in its news columns, explanations by Hansen himself, members of his staff, family, and supporters.

In the absence of any "yes" answers to those questions, we do not see how the reporting by The Times-News in the present case can be construed to have violated the "express advocacy" standard of Buckley vs. Valeo. In Buckley, the court considered the language of the FECA and wrote that: "The key operative language of the provision limits any expenditure relative to a clearly identified candidate . . . (There) is no definition clarifying what expenditures are "relative to" a candidate. The use of so indefinite a phrase as "relative to" a candidate fails to clearly mark the boundary between permissible and impermissible speech." " . . . " to preserve the provision against invalidation on vagueness grounds, (it) must be construed to apply only to expenditures for communications that in express terms advocate the election or a defeat of a clearly identified candidate for federal office." *

We believe the reporting in this matter by The Times-News is well within the constitutional protection afforded by the First Amendment, the language of the Federal Election Act and the "express advocacy" standard and that the grant from the Project for Investigative Reporting was completely legal and appropriate. In our view, the complaint by the congressman is without merit and should not proceed beyond the "Matter Under Review" stage.

We look forward to hearing from you relative to this matter. At this time, we will not submit a designation of legal counsel, but reserve the right to do so in the future.

Sincerely,



Stephen Hartgen
Managing Editor



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Certified Mail
Return Receipt Requested

Walter Slocombe, Esquire
Caplin & Drysdale
One Thomas Circle, N. W.
Washington, D.C. 20005

RE: MUR 1809
Campaign Finance Research
Institute
Project for Investigative
Reporting on Money in
Politics

Dear Mr. Slocombe:

This responds to the motion submitted by you on behalf of the campaign Finance Research Institute and its Project for Investigative Reporting on Money in Politics to quash the subpoena and order issued by the Commission in the above cited matter.

The Commission has considered the claims set forth as the basis of your motion and, on _____, 1985, voted to deny your motion to quash the subpoena and order. The Commission considers the subpoena and order, therefore, to be in full force and effect and expects that you will comply with the requests set forth therein within ten days of receipt of this letter.

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Attachment 2

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Acc# 8640

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CAPLIN & DRYSDALE

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WASHINGTON, D.C. 20006

(202) 862-5000

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RICHARD C. BERA
CLAUDIA BROBST
TREVOR W. SWETT, III

*NOT ADMITTED IN D.C.

September 27, 1985

Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1809

Dear Mr. Gross:

I enclose a Motion to Quash the Subpoena issued September 17 and received September 23, a Memorandum in support of that Motion, and a statement authorizing this firm to represent the Institute and Project in this matter.

Sincerely yours,

Walter Slocombe

WS/kg

Enclosure

Motion to Quash Subpoena
Memorandum in Support of Motion to Quash
Statement

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RECEIVED
GENERAL COUNSEL
7 SEP 27 P 5: 06

*project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Les Payne, *Newsday* • Jim Polk, *NBC News*
• Myrta Pulliam, *The Indianapolis Star* • Robert Walters, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
Philip M. Stern, Chairman James Boyd, *Executive Director*

September 26, 1985

Dear Sirs:

This will authorize Walter B. Slocombe and the firm of Caplin & Drysdale, Chartered, to represent me, the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics in connection with your MUR 1809.

Sincerely,

James P. Boyd
James P. Boyd

Federal Election Commission
1325 K Street, NW
Washington, D.C. 20005

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BEFORE THE
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
) MUR 1809
COMPLAINT OF GEORGE HANSEN)

MOTION TO QUASH SUBPOENA

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The Campaign Finance Research Institute and its Project for Investigative Reporting on Money in Profits (the "Project") hereby move, pursuant to 11 C.F.R. § 111.15, to quash the subpoena issued by the Commission to James Boyd, Executive Director of the Institute on September 17, 1985, and received on September 23, 1985. The subpoena seeks inquire into matters outside the subject matter jurisdiction of the Commission, namely payments by the Institute, through its Project, of costs incurred in covering or carrying a bona fide news story. Such payments are expressly excluded from the definition of the "contributions" or "expenditures" over which the Commissioner has jurisdiction. 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2). The factual and legal bases of this Motion are explained more fully in the attached memorandum.



Walter B. Slocombe
Caplin & Drysdale, Chartered
One Thomas Circle, N.W.
Washington, D.C. 20005
(202) 862-5071

Attorneys for the Institute

September 27, 1985

BEFORE THE
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
) MUR 1809
COMPLAINT OF GEORGE HANSEN)

MEMORANDUM IN SUPPORT OF MOTION TO QUASH

Facts. The basic facts which demonstrate that the subpoena of September 17 seeks to enquire into matters clearly outside the Commission's jurisdiction are as follows: On September 26, 1984, George Hansen, then a candidate for reelection to Congress, sent a letter to the Commission, which the Commission chose to regard as a complaint. Mr. Hansen's letter, insofar as relevant to the Institute and Project, objected to the publication by an Idaho newspaper, the Twin Falls Times-News, of certain news stories relating to Mr. Hansen's campaign financing practices, and to the Institute's grant (through its Project) to the newspaper of funds to help pay the cost of covering those stories.

On February 12, 1985, the Commission determined that there was no reason to believe that the Times-News had violated any section of the Federal Election Campaign Act in regard to the matters raised in Mr. Hansen's letter. That decision was presumably based on a conclusion that the articles that Mr. Hansen

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objected to fall within the bona fide news story provision of 2 U.S.C. § 431(9)(B)(i).¹

However, the Commission rejected staff recommendations and decided to find reason to believe that the Institute and its Project had violated the Act. On March 26, 1985, the Institute and its Project asked that the Commission reconsider that determination on the ground that the funding, as well as the publication of the stories at issue, is within the news story exception. The Commission, on May 25, 1985, rejected that motion as procedurally improper.

The present motion, which is clearly provided for under the Commission's procedures, 2 C.F.R. § 111.15, affords the Commission the procedural opportunity it found lacking last spring to reconsider its initial decision of February 12, 1985.

In its Motion of March 26, 1985, and the attached affidavit (copies attached), the Institute demonstrated the nonpartisan character of its operation and the independence of its grantees and showed why as a legal matter its action with respect to the Times-News story fell clearly with the news story exception as

1. The news story exception applies even to direct endorsement of candidates and even fundraising for them. See AO 1980-109. In fact, the Times-News stories complained of did not advocate the defeat (or reelection) of Mr. Hansen; they simply discussed an important aspect of his conduct as a public officeholder. The Commission has consistently recognized that mere comment and reporting on officials' (or candidates') activities, even though it may have a political impact is not within the reach of its jurisdiction. E.g., AO 1984-57. This is an independent reason that no action of the Institute in relation to those stories could be within the Commission's jurisdiction.

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defined by the Commission regulations. Those arguments apply fully here.

In sum, the Commission's regulations exclude from the class of "contributions" and "expenditures" over which the Commission has jurisdiction "any costs incurred in covering or carrying" a bona fide news story.² The Commission has already found that the publication of the Times-News story was not a violation of the Act.

Possibly, the reason the Commission has elected to continue the proceeding against the Institute and its Project is a theory that, even if the immediate publisher of a news story is not within its jurisdiction, those who provide funds for the story are. But any such theory is clearly invalid:

-- First, treating a payment by an outsider that supports a news story as a "contribution" or "expenditure" would be squarely inconsistent with the words of the Commission's own regulations. Those regulations expressly define the news story exception as applying to "any costs incurred in covering or carrying" a bona fide news story, 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2), regardless of who ultimately pays those costs.

-- Second, the news story exception would be effectively destroyed by applying the contribution and expenditure limits of the Act to the ultimate sources of the funds used to pay the

2. There is no allegation that any candidate or committee controls either the Times-News or the Institute. Moreover, there is no question that the publication of the Times-News story is clearly within the newspaper's core functions as a newspaper.

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costs of covering and carrying stories. The purpose of the news story exception is to "assume the unfettered right of the ... media to cover and comment on political campaigns." H. Rep. No. 93-943, 93rd Cong., 2d Sess., 4 (1974). That purpose would be entirely frustrated if the Commission were required to -- or had jurisdiction to -- examine the funding of news stories beyond assuring that no candidate control existed. All news entities, large and small, must obtain their funds from somewhere. Some get funds from their owners, some from individual and corporate supporters sympathetic to their editorial perspectives and some from advertisers -- who may place their ads based in part on their approval of a media outlet's political stances.

If the Commissioner had jurisdiction to investigate the Institute in this case, it would follow that every candidate dissatisfied with the media's coverage of his or her campaign -- a class of candidates virtually coterminous with the class of all candidates -- could force an FEC investigation of the financial support of the local and national newspapers, television stations or other media outlets that covered the campaign. A requirement that dissatisfied candidates claim that the financial support for media outlets they find unfair was motivated by sympathy for the substantive political views of the outlet would be no protection at all, for such claims are easily made, and, under the statutory system, are irrelevant.

-- Finally, the news story exception is not, like some other exception provisions of the Act, a carefully crafted

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political compromise between contending partisan forces; it is a constitutionally mandated protection for a free press. The protection of news coverage would be meaningless if the Commission were to have the jurisdiction to supervise the relationship of every media outlet in the nation to its financial supporters. Congress clearly did not give the Commission that power and it should not assert it. The courts have stressed the obligation of the Commission to read the news story exception in the broad sense that Congress intended and that is constitutionally required. FEC v. Phillips Pub., Inc., 517 F. Supp. 1308, 1914 (D.D.C. 1981).

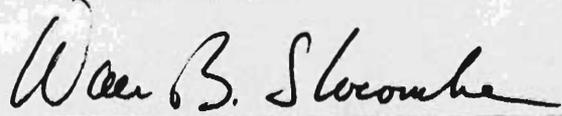
The courts have insisted that this protection of constitutionally safeguarded freedoms be afforded at the investigating stage, as well as in final decisions. Indeed, the present subpoena, which would involve a complete disclosure of every action of the Institute for a two year period,³ illustrates the dangers to a free press inherent in pursuing complaints about media funding.

For the reasons stated, and on the basis of the facts and agreements submitted earlier, the September 17 subpoena is not

3. Given that the entire subject matter complained of, insofar as it relates to the Institute and Project, is within the news story exceptions (and the absence of any allegation of candidate control of the Times-News), no further inquiry of the Institute and Project is proper. However, the gross overbreadth and burdensomeness of the subpoena in an area of sensitive constitutional rights is an independent ground of invalidity. See FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 388-89 (D.C. Cir. 1981).

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within the subject matter jurisdiction of the Commission, is invalid and unenforceable, and should be quashed in the exercise of the Commission's own obligation to insure that its inquiries are confined to matters within its jurisdiction.



Walter B. Slocombe
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One Thomas Circle, N.W.
Washington, D.C. 20005
(202) 862-5071

Attorneys for the Institute

September 27, 1985

85040520119

EPSTEIN BECKER BORSODY & GREEN, P.C.

ATTORNEYS AT LAW

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WASHINGTON, D.C. 20036

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NEW YORK, NEW YORK 10177
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FORT WORTH, TEXAS 76102
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**1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067
(213) 850-8881**

**FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111
(415) 398-5888**

March 26, 1985

**P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY**

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

**Re: Federal Election Commission -- Matter Under
Review 1809 -- Respondent, Campaign Finance
Research Institute/Project for Investigative
Reporting on Money in Politics -- Motion to
Reconsider Reason-to-Believe Determination and
to Withdraw Request for Written Answers**

Dear Mr. Steele:

**This responds to your letter, received by this office
on March 7, 1985, wherein we were notified of the Commission's
reason-to-believe determination in the above-captioned matter
and requested to answer a series of questions.**

**For the reasons set forth herein, we believe that the
activities of the Campaign Finance Research Institute ("the
Institute") and a program it sponsors, the Project for Investi-
gative Reporting on Money in Politics ("the Project") (collec-
tively referred to as "the Respondent") clearly are covered by
the news story exemption, 2 U.S.C. § 431(9)(B)(i). Thus, we
respectfully urge the Commission to reconsider its rea-
son-to-believe determination against the Respondent and to
withdraw its request for written answers.**

**We submit that, upon reconsideration, the Commission
should dismiss the complaint against the Respondent.^{1/}**

^{1/}
**The questions proffered to Respondent by the Commission in
this complaint were not accompanied by an order pursuant to
2 U.S.C. § 437(a)(1). Accordingly, the five-day time period
prescribed in 11 C.F.R. § 111.15(a) for submission of a Motion
to Quash a Subpoena is not applicable in this situation, and
the instant Motion, filed with the Commission prior to the due
date for responses to the Questions, is timely.**

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I. Statement of Pertinent Facts

As discussed in Respondent's initial response to the complaint, the Campaign Finance Research Institute is a non-profit corporation which the Internal Revenue Service has determined to be exempt from income tax under 26 U.S.C. § 501(c)(3). In furtherance of its purposes, the Institute began sponsorship on June 23, 1983 of a program called the Project for Investigative Report on Money in Politics. The Project is not a separate legal entity for either tax or corporate law purposes but is simply the name given to an Institute program. See Affidavit of James Boyd, Executive Director of the Project, attached hereto as Exhibit A at ¶ 2.

The sole activity of the Project - the activity which is the subject of this complaint - is to provide monetary grants to journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics. See Project's flyer, attached hereto as Exhibit B; also see Exhibit A at ¶ 3. Both print and broadcast journalists are invited to apply for these widely-publicized grants. Grant applications must include (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experience; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the payment to be made to the applicant. See Exhibit A at ¶ 4 and Exhibit B.

We emphasize that all material submitted to the Project in connection with grant applications is held in strict confidence. See Exhibits A at ¶ 5 and Exhibit B. This is done to protect journalistic leads and ideas.

The Project's Advisory Board, which is composed of prominent journalists including four Pulitzer-Prize winners, reviews the applications and, subsequently, awards grants. Criteria for judging the applications include (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications. See Exhibit A at ¶ 6 and Exhibit B.

We call particular attention to the following paragraph in the Project's flyer which states: "The sole purpose

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of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest." (Emphasis added) Exhibit B; also see Exhibit A at ¶ 8. Accordingly, all Project grantees must sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and the grant will be used in a non-partisan manner. See Exhibit A at ¶ 10.

The Project has made nineteen grants since its inception in 1983, including the grant of \$1,750 to Stephen Hartgen of the Times-News which is discussed by the Complainant. Significantly, the Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees. See Exhibit A at ¶ 9. Grant recipients are neither obligated to produce stories nor obligated to publish or air their stories. Furthermore, grant recipients are not given any deadlines by the Project, and the Project does not review stories prior to their publication or broadcast. See Response of Stephen Hartgen, Managing Editor of the Times-News, attached hereto as Exhibit C.

Thus, we cannot emphasize too strongly that once the Project has approved a grant, it has absolutely no further voice in deciding what is published, or indeed whether anything is published as a result of the grant. Those matters are, as they should be, entirely determined by the grant recipient and the editor(s) of the publication that has expressed interest in publishing the findings.

With respect to its financial backing, The Institute and therefore the Project has received support from some eighteen foundations and individuals. None of its supporters are either candidates for political office or political committees. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or political committee. See Exhibit A at ¶ 11. Neither Philip Stern nor Citizens Against PACs, Inc. has ever contributed to the Institute/Project.^{2/}

2/

As set forth in its initial response to this complaint, the Stern Fund also has never contributed to the Institute/Project.

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The Institute and thus the Project are independent entities which are in no way controlled by any candidate for political office or any political committee. See Exhibit A at ¶ 12. Further, the Institute/Project is in no way affiliated or connected with the nonprofit corporation, Citizens Against PACs, Inc. See Exhibit A at ¶ 13.

The grant activities of the Project are carried on for one purpose - to assist journalists in researching and, if the findings meet editorial standards, publishing in established print or broadcast outlets new stories uncovering and exposing campaign finance abuses in all levels of American politics. See Exhibit A at ¶ 14.

II. Analysis

A. RESPONDENT'S ACTIVITIES ARE COVERED BY THE PRESS EXEMPTION EMBODIED IN 2 U.S.C. § 431(9)(B)(i); ACCORDINGLY, THE COMMISSION LACKS SUBJECT-MATTER JURISDICTION TO CONDUCT THIS INVESTIGATION

As discussed in Respondent's initial response, the news story exemption embodied in 2 U.S.C. § 431(9)(B)(i) would be meaningless if the Commission were required to -- or had jurisdiction to -- examine the funding of news stories where no candidate or political committee control is alleged. If every candidate, such as former Congressman Hansen, who was dissatisfied with the media's coverage of his/her campaign could force an FEC investigation of the financial support of the local newspapers, television stations or other media outlets, the statutory protection provided for in the news story exception would be effectively nullified and the Commission would be in the position of a national media censor, a role which it clearly was not intended to have. Thus, if the Commission can investigate the funding of the Times-News story, it can investigate the funding of any story; and if it can investigate grants from an independent, non-partisan group, it can surely investigate a media outlet's other means of financial support: advertisers, investors and other financial supporters. Surely that would void the protection of 2 U.S.C. § 431(9)(B)(i).

In the instant complaint, neither Complainant nor the Commission has in any way alleged that Respondent is owned or controlled by a candidate or political committee. On the contrary, James Boyd, Executive Director of the Project, has submitted a sworn affidavit to the Commission, attached hereto

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Charles N. Steele, Esquire
March 26, 1985
Page Five

as Exhibit A, stating that the Project "is neither owned nor controlled by any candidate for political office or any political committee." Exhibit A at ¶ 12. Further, Mr. Boyd states that "(t)he Project has not received any financial support from any candidate for political office or any political committee. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or any political committee." See Exhibit A at ¶ 11.

Accordingly, as a program which is neither owned nor controlled by any candidate or political committee but is operated exclusively to finance journalistic efforts to produce bona fide news stories, Respondent and its activities fall within the protection of the news story exception. Thus, the Commission lacks jurisdiction to pursue this investigation.

Moreover, this conclusion is supported by the Commission's decision of February 12, 1985 in MUR 1809 that there was no reason to believe that a violation of any statute within the Commission's jurisdiction had been committed by the Times-News by acceptance by one of its journalist of a grant from the Project. If the Commission, as it has indicated, lacks jurisdiction to investigate the acceptance of a grant by the Times-News pursuant to 2 U.S.C. § 431(9)(B)(i), then equally the Commission is precluded from investigating Respondent, as the source of the grant to the journalist from the Times-News, under the same exception, 2 U.S.C. § 431(9)(B)(i).

As set forth in the Commission's notification letter of March 5, 1985, the Commission's reason-to-believe determination in this matter is premised solely on its belief that the Respondent made expenditures in violation of 2 U.S.C. § 441b, the prohibition on corporate expenditures in connection with federal elections. Specifically, the Commission desires to investigate whether the monetary grants made by the Project to journalists to research and expose campaign finance abuses constitute prohibited corporate expenditures pursuant to the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. ("the Act"). It is clear, however, that pursuant to the news story exemption set forth in 2 U.S.C. § 431(a)(B)(i) -- an exception which the Commission is required to interpret broadly pursuant to the First Amendment -- Respondent's activities are not expenditures and therefore the Commission lacks subject-matter jurisdiction to conduct an investigation of the Respondent. See Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir. 1981); Federal Election Commission v. Phillips Publishing, Inc., 517 F.Supp. 1308 (D.D.C. 1981); Reader's Digest Association v. Federal Election Commission, 509 F.Supp. 1210 (S.D.N.Y. 1981).

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Under the Act, an "expenditure" is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. . ." 2 U.S.C. § 431(9)(A)(i). The Act expressly exempts from classification as an expenditure, however, "any news story, commentary, or editorial distributed through the facilities of any . . . newspaper . . . unless such facilities are owned or controlled by any political party, political committee or candidate." 2 U.S.C. § 431(9)(B)(i). Further, Commission regulations specifically extend this news story exemption to "any costs incurred in covering or carrying such a story." 11 C.F.R. § 100.8(b)(2) (emphasis added).

Pursuant to the Act -- especially the emphasized provision quoted above -- and pertinent regulations, the news story exemption applies not only to the direct cost of publishing new stories, but also to the costs of gathering information and preparing the materials for publication. This reflects the reality that news stories do not spring to life fully developed, but cost money to research and prepare. Where that money comes from will vary from case to case -- advertisers, the resources of the owners and the outlet, or outside funding.

For the exception for "costs" of stories to be meaningful, the news story exemption must cover not only the media outlets themselves but also including organizations, such as the Project, operated exclusively to provide financial support for independent journalistic projects (subject, of course, to requirement that the media outlet or organization is not controlled by a candidate or political committee).

Accordingly, as a program operated exclusively to finance journalistic efforts to produce bona fide news stories which is neither owned nor controlled by any candidate or political committee, Respondent and its activities fall within the protection of the news story exception, and thus, the Commission lacks jurisdiction to pursue this investigation.

B. AS THE COMMISSION LACKS SUBJECT-MATTER JURISDICTION OVER THE ACTIVITIES OF THE RESPONDENT, THE COMMISSION'S REQUEST FOR WRITTEN ANSWERS IS BARRED

Because the Commission lacks subject-matter jurisdiction over the activities of the Respondent, the Commission is barred from investigating the subject matter of the com-

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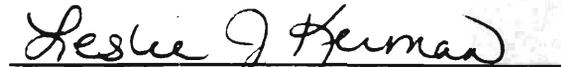
plaint, and, consequently, its request for written answers from the Respondent should be quashed. See Federal Election Commission v. Phillips Publishing, Inc., supra, at 1313.

III. Conclusion

As demonstrated herein, Respondent's activities are covered by the press exemption embodied in 2 U.S.C. § 431(9)(B)(i), and accordingly, the Commission lacks subject-matter jurisdiction to conduct this investigation. Therefore, we urge the Commission to reconsider and rescind its reason-to-believe determination and to withdraw its request for written answers.

Respectfully submitted,


William C. Oldaker


Leslie J. Kerman

Counsel for the Campaign Finance
Institute/Project for Investigative
Reporting on Money in Politics

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AFFIDAVIT OF JAMES BOYD

I, JAMES BOYD, DECLARE AS FOLLOWS:

1. I am the Executive Director of the Campaign Finance Research Institute's Project for Investigative Reporting on Money in Politics ("the Project"), P.O. Box 770, Madison, Virginia 22727.
2. The Project has no independent corporate existence; it is an activity of the Campaign Finance Research Institute.
3. The purpose of the Project is to sponsor a grant program for journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics.
4. Both print and broadcast journalists are invited to apply for the Project's widely-publicized grants. Grant applications must include (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experience; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards).
5. All material submitted to the Project in connection with grant applications is held in strict confidence.

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6. The Project's Advisory Board, which is composed of prominent journalists including four Pulitzer-Prize winners, reviews the applications and awards grants. Criteria for judging the applications include (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications.

7. In addition to the grants awarded by the Advisory Board, the Executive Director of the Project is empowered to make grants of Three Hundred Dollars (\$300.00) or less at his/her own discretion.

8. As the Project is strictly non-partisan, Advisory Board Members are instructed that all grants should be awarded without regard to the political affiliation or ideology of the subject of the proposed research and without regard to the effect on any electoral contest.

9. The Project has made nineteen grants since its inception in 1983. The Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees.

10. All Project grantees must sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and that the grant will be used in a non-partisan manner.

11. The Project has received support from approximately eighteen foundations and individuals. The Project has not

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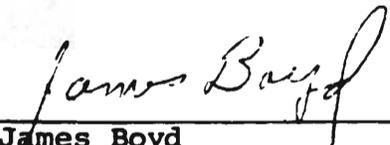
received any financial support from any candidate for political office or any political committee. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or any political committee.

12. The Project is neither owned nor controlled by any candidate for political office or any political committee.

13. The Project is in no way affiliated or connected with the nonprofit corporation, Citizens Against PACs, Inc.

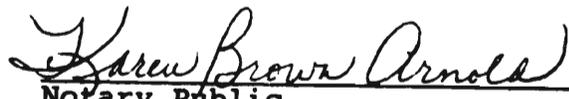
14. The grant activities of the Project are carried on for one purpose - to assist journalists in publishing in established print or broadcast outlets news stories uncovering and exposing campaign finance abuses in all levels of American politics.

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James Boyd
Executive Director
Campaign Finance Research Institute's
Project for Investigative Reporting
on Money in Politics
P.O. Box 770
Madison, Virginia 22707

City of Washington)
District of Columbia)

I, KAREN BROWN ARNOLD, a Notary Public, hereby certify that on the 19th day of MARCH, 1985, there personally appeared before me James Boyd, who acknowledged signing the foregoing document and that the statements therein contained are true.


Notary Public

*project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, Knight-Ridder Newspapers • Les Payne, Newsday • Jim Polk, NBC News
• Myrta Pulliam, The Indianapolis Star • Robert Walters, Newspaper Enterprise Ass'n • Edward Zuckerman, Fairchild Publications
Philip M. Stern, Chairman James Boyd, Executive Director

A PROGRAM OF GRANTS FOR

investigative reporting on money in politics

The Project for Investigative Reporting on Money in Politics announces a program of grants to journalists who wish to undertake investigative reporting on the role and influence of money in American politics, at all levels (national, state and local.)

Applications are invited from both print and broadcast journalists. As a general rule, however, grants will not cover the cost of radio or TV production, but only the time and expense of the research.

Applications for grants should be equivalent, in form, to a "query memo" to an editor, and should set forth the subject, purpose and nature of the research; the estimated time and expense required; the reasons for believing there is a likelihood of uncovering the pertinent information; and the applicant's background and/or journalistic experience.

Applications should also be accompanied by a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the amount to be paid the applicant in accordance with that publication's or broadcaster's customary rates.

The size of the grants will depend on the amount of work required. In addition, the Project will pay reasonable out-of-pocket expenses.

The applications will be reviewed by a committee of experienced working journalists. All materials submitted to the Project will be held in strict confidence.

Criteria for judging the applications will include the public importance of the subject; the apparent likelihood of uncovering the information described in the application; and the applicant's credentials or qualifications.

The Project will be strictly non-partisan. The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest.

HOW AND WHERE TO APPLY

Applications should include:

- a brief description of the subject, purpose and nature of the research.
- the estimated amount of time and expense required.
- the applicant's background and/or journalistic experience.
- a letter from a print or broadcast news editor expressing interest in publishing or airing the product of the research and stating the payment to be made to the applicant.

Applications should be sent to:

James Boyd, Executive Director, Project for Investigative Reporting on Money in Politics
Post Office Box 770 • Madison, Virginia 22727 • Telephone (703) 672-3166

85040520130



October 29, 1984

Ms. Beverly Kramer
Federal Election Commission
Washington, D. C. 20463

Dear Ms. Kramer:

This letter is in response to a letter of October 15 from your office concerning an allegation raised by Rep. George Hansen of the Second Congressional District of Idaho that certain Times-News articles, and the way in which they were funded, constitute violations of the Federal Election Campaign Act.

After a careful review of both the congressman's allegations and the relevant law in this area, it is our opinion that the complaint against The Times-News lacks substance and should be dismissed. In our opinion, the congressman's letters to your office of Sept. 26 and Sept. 17 contain numerous errors of both fact and opinion. Furthermore, we believe newspaper reporting is specifically exempt from the FECA under the language of U.S. Code, Title II, Sect. 431-9bi. Additionally, the main controlling legal case in this area, Buckley vs. Valeo, 424 U.S. 1 (1975) and subsequent rules of the commission itself employing that decision's language suggest that the articles by The Times-News did not violate the "express advocacy" standard set out by the Supreme Court in that case. It is our opinion that the ongoing coverage of politics and public officials by the American press is within the affirmative intent of the First Amendment of the U. S. Constitution. Such coverage, in which The Times-News is routinely engaged, does not constitute an "in-kind" contribution to an elected official's opponent.

Let me give a bit of background. The Times-News is a 22,000-circulation, seven-day daily newspaper in Southern Idaho, in Rep. Hansen's district. It is the major daily newspaper for eight counties. In March and April 1984, The Times-News sent a reporter to Washington to cover the trial of Rep. Hansen, who had been indicted for alleged violations of the Ethics in Government Act. He was convicted of four felony violations and has been both reprimanded by the full House and sentenced to 15 months in prison. The conviction is under appeal.

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October 29, 1984

Following the conviction, The Times-News decided to further follow up on several avenues which had either come up directly or which had been alluded to in the trial. These avenues involved Hansen's financial affairs.

We were aware of the Project for Investigative Reporting on Money in Politics through its advertising in national journalism magazines and we asked the organization about the procedures for filing a grant request to help defray investigation expenses. A grant proposal was developed in June and was approved in July. There were absolutely no strings of any kind attached to the \$1,750 grant, nor any preconditions as to whether The Times-News was even obligated to produce any stories. The stories which resulted were entirely the product of the newspaper alone. The money was to fund a trip for our reporter to Washington to examine records, conduct interviews and gather information concerning reports we had obtained from various sources on alleged secret bank accounts, large loans from individuals, and financial support from various religious organizations. Our reporter examined aspect of these allegations for several weeks in June in Idaho, and then in Washington through the month of July. We published several stories based on that research, which we enclose.

We do not think that the investigative reporting by The Times-News on the financial affairs of its congressman, a convicted felon, in any way violates the FECA regulation of political speech. There are two basic arguments for this.

One, the FEC act itself exempts newspaper stories specifically in Sect. 431-9bi. That exemption covers "any news story distributed through newspapers." That language seems very clear.

Two, under the "express advocacy" test of Buckley vs. Valeo, reporting of the type The Times-News conducted is, in our view, also outside the purview of the FECA act. Consider the following questions:

- 1.) Do the news articles use any of the words of express advocacy, such as "elect, support, cast your ballot for, defeat, reject?" The answer is no.
- 2.) Is the election referred to? Only obliquely.
- 3.) Are readers urged to act on policy issues discussed? No.
- 4.) Is the candidate's opponent mentioned favorably? No.
- 5.) Is the reporting an isolated foray into criticism and analysis of this public official's performance? No.

The reporting on Rep. Hansen, through his indictment, trial and conviction has been extensive. Perhaps no Idaho politician has

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October 29, 1984

been covered as completely throughout his career. The Times-News has endeavored to provide a balanced picture of the congressman's battles by publishing, on its editorial page and in its news columns, explanations by Hansen himself, members of his staff, family, and supporters.

In the absence of any "yes" answers to those questions, we do not see how the reporting by The Times-News in the present case can be construed to have violated the "express advocacy" standard of Buckley vs. Valeo. In Buckley, the court considered the language of the FECA and wrote that: "The key operative language of the provision limits any expenditure relative to a clearly identified candidate . . . (There) is no definition clarifying what expenditures are "relative to" a candidate. The use of so indefinite a phrase as "relative to" a candidate fails to clearly mark the boundary between permissible and impermissible speech." " . . . " to preserve the provision against invalidation on vagueness grounds, (it) must be construed to apply only to expenditures for communications that in express terms advocate the election or a defeat of a clearly identified candidate for federal office." *

We believe the reporting in this matter by The Times-News is well within the constitutional protection afforded by the First Amendment, the language of the Federal Election Act and the "express advocacy" standard and that the grant from the Project for Investigative Reporting was completely legal and appropriate. In our view, the complaint by the congressman is without merit and should not proceed beyond the "Matter Under Review" stage.

We look forward to hearing from you relative to this matter. At this time, we will not submit a designation of legal counsel, but reserve the right to do so in the future.

Sincerely,



Stephen Hartgen
Managing Editor

85-040-20-33

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Campaign Finance Research)
Institute, Inc.) MUR 1809
Project for Investigative)
Reporting on Money in)
Politics)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of
September 4, 1985, do hereby certify that the Commission
took the following actions in MUR 1809:

1. Failed in a vote of 3-2 to pass a motion to issue a subpoena/order to the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics, but ask only question #10 in the General Counsel's proposed subpoena, and amending question #10 to cover the period of January 1, 1983 through January 1, 1985, and eliminating the last sentence in question #10.

Commissioners Aikens, Elliott, and Josefiak voted affirmatively for the motion. Commissioners Harris and McGarry dissented. Commissioner McDonald was not present at the time of the vote.

(continued)

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2. Decided by a vote of 4-1 to authorize the subpoena/order and cover letter to the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics, as recommended in the General Counsel's August 9, 1985, report, subject to the following changes in the Subpoena/Order:

1. Eliminate questions 14, 15, and 16.
2. Change the dates throughout to cover the period January 1, 1983 through January 1, 1985.
3. Amend question #10 by making the words, amount, and grant, plural in the last sentence.

Commissioners Aikens, Elliott, Harris, and McGarry voted affirmatively for the decision. Commissioner Josefiak dissented. Commissioner McDonald was not present at the time of the vote.

Attest:

9-6-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

86040520135



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 19, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William C. Oldaker
Epstein, Becker, Borsody & Green, P.C.
1140 19th Street, N.W.
Washington, D.C. 20036-6601

RE: MUR 1809
Campaign Finance Research
Institute
Project for Investigative
Reporting on Money in
Politics

Dear Mr. Oldaker:

On March 5, 1985, you were notified that the Commission found reason to believe your client(s) violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from your clients is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena and order which requires your clients to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

It is required that you submit the information under oath and that you do so within ten days of your receipt of this subpoena and order.

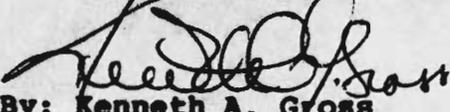
85040520136

Letter to William C. Oldaker
Page 2

If you have any questions, please direct them to Beverly
Kramer, the staff member handling this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel


By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order
Questions

86040520137

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Campaign Finance Research) MUR 1809
Institute)
Project for Investigative)
Reporting on Money in)
Politics)

**SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS**

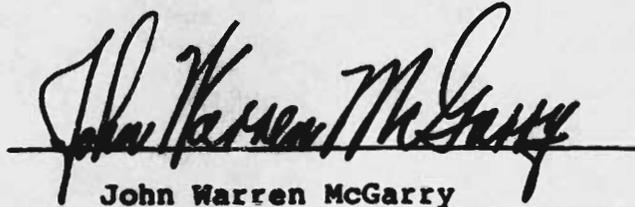
To: James Boyd, Executive Director
Campaign Finance Research Institute
Project for Investigative Reporting on
Money in Politics
c/o: William C. Oldaker
Epstein, Becker, Borsody & Green, P.C.
1140 Nineteenth Street, N.W.
Washington, D.C. 20036-6601

PURSUANT To 2 U.S.C. § 437d(a)(1) and (3) and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you, or any of your agents having knowledge of the information sought herein, to submit written answers to the questions attached to this Order and subpoenas you to produce requested documents.

Such answers must be submitted under oath and must be forwarded to the Commission within 10 days of your receipt of this Order/Subpoena.

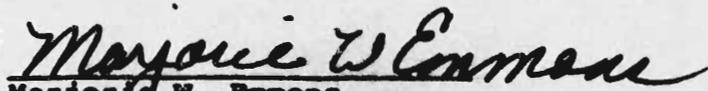
86040520138

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand on *Sept. 17, 1985.*



John Warren McGarry
Chairman

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Attachment
Subpoena/Order

86040520139

SUBPOENA AND ORDER

Please respond to the following. If you claim that you are entitled to withhold from production any of the documents requested, please identify each document, describe the subject matter of the document and state the grounds for withholding it from production.

As used in the Subpoena and Order, the terms listed below are defined as follows:

a. The term "documents" or "records" shall mean, unless otherwise indicated, writings of any kind, including, but not limited to , correspondence, memoranda, reports, transcripts, minutes, pamphlets, leaflets, notes, letters, lists, telexes, telegrams, messages (including reports, notes, memoranda, and any other documentation of telephone conversations and conferences), calendar and diary entries, contracts, data, agendas, printouts, account statements, ledgers, billing forms, receipts, checks and other negotiable paper, and compilations in the possession or control of the Campaign Finance Research Institute.

b. The term "identify" or "list" with respect to individuals shall mean to give the full name, last known residence address of such individual, the last known place of business where such individual is or was employed, the title of the job or position held.

c. The terms "and" and "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this request any documents or information which may be otherwise construed to be out of its scope.

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1. State your name, address and principal place of business.
2. State your position, duties and responsibilities with the Campaign Finance Research Institute ("CFRI") and/or the Project for Investigative Reporting on Money in Politics ("the Project").
3. List the names and addresses of the individuals serving as officers and directors of CFRI during the period of January 1, 1983 through January 1, 1985, and state their position with CFRI.
4. List the names and addresses of the officers and directors of the Project during the period of January 1, 1983 through January 1, 1985, and state their position with the Project.
5. List the names and addresses of the individuals who served on the Project's Advisory Board during the period of January 1, 1983 through January 1, 1985, and state their position with the Advisory Board.
6. State the duties and responsibilities of the Project's Advisory Board and provide copies of all documents setting forth the duties and responsibilities of the Project's Advisory Board that were in effect from January 1, 1983 to January 1, 1985.
7. Submit copies of all documents providing instruction to the Project's Advisory Board and/or describe all oral instructions given to the Project's Advisory Board that were in effect from January 1, 1983 to January 1, 1985.
8. State whether the Project's Advisory Board received payment or compensation for the duties it performed during the period of January 1, 1983 through January 1, 1985. If so, identify the source of such compensation.
9. Submit copies of all documents setting forth the rules and procedures for submitting grant proposals to the Project that were in effect from January 1, 1983 to January 1, 1985, including but not limited to, all forms or statements that were required to be filed.
10. Provide copies of all grant proposals and identify all persons and organizations that were awarded grants by either the Advisory Board or at the discretion of the Project's Executive Director during the period of January 1, 1983 through January 1, 1985. In addition, state the amounts of the grants that were awarded.

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11. Describe each step of the procedures for awarding grants that were in effect from January 1, 1983 to January 1, 1985. State whether the awarding of grants by the Project's Advisory Board was subject to approval by CFRI during this time period.
12. State whether any meetings were held during the period of January 1, 1983 through January 1, 1985, between the Project's Advisory Board and the officers or directors of CFRI to discuss the awarding of grants. If so, list the dates on which the meetings were held, describe the content of the discussions and/or provide documentation of the meetings, including but not limited to, transcripts or minutes of the meetings.
13. State whether the Center for Investigative Reporting was involved in any way with the Project's Grant Program during the period of January 1, 1983 through January 1, 1985. If so, please explain.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL
FROM: MARJORIE W. EMMONS/JODY C. RANSOM *JCR*
DATE: AUGUST 15, 1985
SUBJECT: OBJECTION - MUR 1809 General Counsel's
Report signed August 9, 1985

The above-named document was circulated to the
Commission on Wednesday, August 14, 1985 at 4:00.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	_____
Commissioner Josefiak	_____ X _____
Commissioner McDonald	_____
Commissioner McGarry	_____

This matter will be placed on the Executive Session
agenda for Wednesday, September 4, 1985.

85040520144



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *pd*
DATE: August 14, 1985
SUBJECT: MUR 1809 - 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)

85040520145

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

In the Matter of)
)
Campaign Finance Research)
Institute, Inc.)
Project for Investigative)
Reporting on Money in Politics)

MUR 1809

85 AUG 14 A 9: 12

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter originates from a complaint filed by Congressman George Hansen. The complaint challenges the legality of expenditures made by various tax-exempt corporations in sponsoring a grant to a newspaper for investigative reporting on the financial affairs of Congressman Hansen, a 1984 Republican candidate for the U.S. House of Representatives' seat in the second district of Idaho. The complaint argues that the expenditures by the corporations were in violation of 2 U.S.C. § 441b.

The Commission rejected the Respondents' argument that such expenditures fall within the news story exemption of 2 U.S.C. § 431(9)(B)(i) and on February 20, 1985, found reason to believe that the sponsors of the grant, the Campaign Finance Research Institute, Inc. and the Project for Investigative Reporting on Money in Politics, violated 2 U.S.C. § 441b.

By letter of March 5, 1985, the Commission notified the respondents of its reason to believe determination and requested the Respondents to produce certain documents and to submit written answers to questions.

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On March 25, 1985, the Office of the General Counsel received the reply of the respondents' counsel fashioned as a "Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers." On May 9, 1985, the Commission denied the Respondents motion for the reason that there is no provision in the Act or regulations allowing for the reconsideration of a reason-to-believe determination and, furthermore, absent the Commission's issuance of a subpoena, there is no formal method by which respondents may move to have the Commission's request for written answers withdrawn. Notice of the Commission's determination and the basis therefore was sent to the Respondents on May 24, 1985.

While posturing that the Respondents would not respond to the Commission's questions because "the Respondents' activities are covered by the press exemption embodied in 2 U.S.C. § 431(9)(B)(i) and accordingly, the Commission lacks subject-matter jurisdiction," counsel nevertheless responded to many of the Commission's questions.

The responses revealed that the Campaign Finance Research Institute ("CFRI") is a non-profit organization exempt from income tax under 26 U.S.C. § 501(c)(3). On June 23, 1983, CFRI began sponsorship of a program called the Project for Investigative Reporting on Money in Politics ("the Project"). According to the response, the Project is not a separate legal entity for either tax or corporate law purposes but is simply the name given to an Institute program.

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The response states that the sole activity of the Project is to provide monetary grants to journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics. Both print and broadcast journalists are invited to apply for the grants. Grant applications must include: (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experiences; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research and stating the payment to be made to the applicant.

According to the response, the applications are reviewed by the Project's Advisory Board which is composed of prominent journalists including four Pulitzer-Prize winners. The Advisory Board awards grants using the following criteria for judging the applications: (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described by the application; and (3) the applicant's credentials or qualifications. In addition to the grants awarded by the Advisory Board, the Executive Director of the Project is empowered to make grants of three hundred dollars (\$300.00) or less at his/her own discretion.

The response states that the Project has made nineteen grants since its inception in 1983, including the subject grant

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of \$1,750 to Stephen Hartgen of the Times-News. The response claims that "the Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees." According to the response, grantees are neither obligated to produce stories nor obligated to publish or air their stories. Furthermore, grant recipients are not given any deadlines by the Project, and the Project does not review stories prior to their publication or broadcast. Grant recipients are, however, required to sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and the grant will be used in a non-partisan manner.

With respect to its financial backing, the response states that the Institute and, therefore the Project, has received support from some eighteen foundations and individuals, none of whom are either candidates for political office or political committees.

The response did not include requested copies of the grant proposals. The Respondents claim that all material submitted to the Project in connection with the grant applications is held in strict confidence in order to protect journalistic leads and ideas.

Although the information provided thus far gives some insight into the Project's mode of operation, it is not conclusive on the question of whether CFRI exercised a significant degree of control over the content of the stories that are broadcast or printed as a result of the grant. The response suggests that an independent Advisory Board reviews

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the applications and subsequently awards grants. However, the independence of the Advisory Board has yet to be established based on the information available. Specifically, there is no information indicating whether the Advisory Board receives payment or compensation from CFRI for the services it performs. Nor is it clear from the response whether all decisions regarding the awarding of grants rest solely with the Advisory Board, as opposed to CFRI. We have no information with regard to the instructions given to the Advisory Board by CFRI concerning the processing of grant applications.

Additionally, there is little evidence to support the Respondents' contention that the Project neither imposes any conditions nor qualifications on the award of its grants, including the obligation to meet certain deadlines, the obligation to produce stories, and the obligation to publish or air stories. The only evidence available is a letter from the managing editor of the Times-News which repeats the Respondents' contention.

Although the Respondents claim that they do not impose any such obligations on grant recipients, it is noted that the grant applications are required to include the estimated time required to perform the research and a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research. Presumably, such information is used in the Respondents' determination of whether an applicant receives a grant. However, the extent to which such information plays a

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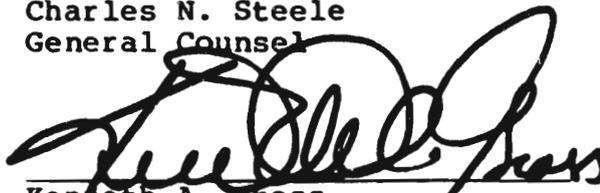
relevant part in the decision-making process has yet to be ascertained. In order to determine the relevancy of such information it will be necessary to review all of the grant proposals.

Accordingly, for purposes of developing the facts in this case, the Office of the General Counsel recommends that the Commission approve the attached subpoena and order to the Respondents. To limit the scope of the investigation and avoid unnecessary intrusion the subpoena and order cover the year (1984) that the activity in question took place.

II. RECOMMENDATIONS

Authorize the attached subpoena/order and cover letter to the Campaign Finance Research Institute and the Project for Investigative Reporting on Money in Politics.

Charles N. Steele
General Counsel


Kenneth A. Gross
Associate General Counsel


Date

Attachments

- Copy of Subpoena/Order
- Copy of Letter

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Campaign Finance Research) MUR 1809
Institute)
Project for Investigative)
Reporting on Money in)
Politics)

**SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS**

To: James Boyd, Executive Director
Campaign Finance Research Institute
Project for Investigative Reporting on
Money in Politics
c/o: William C. Oldaker
Epstein, Becker, Borsody & Green, P.C.
1140 Nineteenth Street; N.W.
Washington, D.C. 20036-6601

PURSUANT To 2 U.S.C. § 437d(a)(1) and (3) and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you, or any of your agents having knowledge of the information sought herein, to submit written answers to the questions attached to this Order and subpoenas you to produce requested documents.

Such answers must be submitted under oath and must be forwarded to the Commission within 10 days of your receipt of this Order/Subpoena.

86040520152

WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand on _____, 1985.

John Warren McGarry
Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachment
Subpoena/Order

85040520153

②

SUBPOENA AND ORDER

Please respond to the following. If you claim that you are entitled to withhold from production any of the documents requested, please identify each document, describe the subject matter of the document and state the grounds for withholding it from production.

As used in the Subpoena and Order, the terms listed below are defined as follows:

a. The term "documents" or "records" shall mean, unless otherwise indicated, writings of any kind, including, but not limited to , correspondence, memoranda, reports, transcripts, minutes, pamphlets, leaflets, notes, letters, lists, telexes, telegrams, messages (including reports, notes, memoranda, and any other documentation of telephone conversations and conferences), calendar and diary entries, contracts, data, agendas, printouts, account statements, ledgers, billing forms, receipts, checks and other negotiable paper, and compilations in the possession or control of the Campaign Finance Research Institute.

b. The term "identify" or "list" with respect to individuals shall mean to give the full name, last known residence address of such individual, the last known place of business where such individual is or was employed, the title of the job or position held.

c. The terms "and" and "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of this request any documents or information which may be otherwise construed to be out of its scope.

1. State your name, address and principal place of business.
2. State your position, duties and responsibilities with the Campaign Finance Research Institute ("CFRI") and/or the Project for Investigative Reporting on Money in Politics ("the Project").
3. List the names and addresses of the individuals serving as officers and directors of CFRI during the period of January 1, 1984 through January 1, 1985, and state their position with CFRI.
4. List the names and addresses of the officers and directors of the Project during the period of January 1, 1984 through January 1, 1985, and state their position with the Project.
5. List the names and addresses of the individuals who served on the Project's Advisory Board during the period of January 1, 1984 through January 1, 1985, and state their position with the Advisory Board.
6. State the duties and responsibilities of the Project's Advisory Board and provide copies of all documents setting forth the duties and responsibilities of the Project's Advisory Board that were in effect from January 1, 1984 to January 1, 1985.
7. Submit copies of all documents providing instruction to the Project's Advisory Board and/or describe all oral instructions given to the Project's Advisory Board that were in effect from January 1, 1984 to January 1, 1985.
8. State whether the Project's Advisory Board received payment or compensation for the duties it performed during the period of January 1, 1984 through January 1, 1985. If so, identify the source of such compensation.
9. Submit copies of all documents setting forth the rules and procedures for submitting grant proposals to the Project that were in effect from January 1, 1984 to January 1, 1985, including but not limited to, all forms or statements that were required to be filed.
10. Provide copies of all grant proposals and identify all persons and organizations that were awarded grants by either the Advisory Board or at the discretion of the Project's Executive Director during the period of January 1, 1984 through January 1, 1985. In addition, state the amount of the grant that was awarded.

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11. Describe each step of the procedures for awarding grants that were in effect from January 1, 1984 to January 1, 1985. State whether the awarding of grants by the Project's Advisory Board was subject to approval by CFRI during this time period.
12. State whether any meetings were held during the period of January 1, 1984 through January 1, 1985, between the Project's Advisory Board and the officers or directors of CFRI to discuss the awarding of grants. If so, list the dates on which the meetings were held, describe the content of the discussions and/or provide documentation of the meetings, including but not limited to, transcripts or minutes of the meetings.
13. State whether the Center for Investigative Reporting was involved in any way with the Project's Grant Program during the period of January 1, 1984 through January 1, 1985. If so, please explain.
14. Identify the applicant of the grant proposal for investigative reporting on the financial affairs of Congressman George Hansen.
15. Identify the recipient of the grant awarded for investigative reporting on the financial affairs of Congressman George Hansen. In addition provide a copy of the check awarded to this recipient.
16. Provide copies of all stories published as a result of the grants awarded during the period of January 1, 1984 through January 1, 1983. Identify all stories that were broadcast as a result of the grant awards, the networks on which they aired and the dates on which they aired.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William C. Oldaker
Epstein, Becker, Borsody & Green, P.C.
1140 19th Street, N.W.
Washington, D.C. 20036-6601

RE: MUR 1809
Campaign Finance Research
Institute
Project for Investigative
Reporting on Money in
Politics

Dear Mr. Oldaker:

On March 5, 1985, you were notified that the Commission found reason to believe your client(s) violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended. An investigation of this matter is being conducted and it has been determined that additional information from your clients is necessary.

Consequently, the Federal Election Commission has issued the attached subpoena and order which requires your clients to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

It is required that you submit the information under oath and that you do so within ten days of your receipt of this subpoena and order.

⑥

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Letter to William C. Oldaker
Page 2

If you have any questions, please direct them to Beverly
Kramer, the staff member handling this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena & Order
Questions

85040620158

7



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *GC*
DATE: May 24, 1985
SUBJECT: MUR 1809 - Memorandum and GC's Brief

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 [X]
Sensitive [X]
Non-Sensitive []
Other []

DISTRIBUTION

Compliance [X]
Audit Matters []
Litigation []
Closed MUR Letters []
Status Sheets []
Advisory Opinions []
Other (see distribution below) []

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REC'D
FEC
MAY 24 1985
MAY 24 10:06

May 24, 1985

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel *CNS*

SUBJECT: MUR #1809

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of no probable cause to believe was mailed on May 24, 1985. Following receipt of the Respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Brief
2. Letter to Respondent

85040520160

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Citizens Against PACs, Inc.) MUR 1809
)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter originates from a complaint filed by Congressman George Hansen against an organization called "Citizens Against PACs, Inc." ("CAP"). The complaint relates to various newspaper advertisements discussed in a CBS television program "60 Minutes" which aired on September 23, 1984. The program revealed that CAP may have been responsible for the advertisements which had as their subject the amount of special interest PAC money in the campaigns of certain candidates for Congress. The complaint argued that the expenditures for these advertisements were made in connection with federal elections and because CAP is a corporation, its expenditures in this regard violated 2 U.S.C. § 441b.

The "60 Minutes" transcripts upon which the complaint relied as basis for its allegations provided limited information concerning the advertisements in question. The transcripts described six advertisements, five of which had as their subject incumbent officials who were seeking reelection to federal office in 1984. The transcripts revealed that the advertisements concerning these officials were placed in local newspapers in the districts or states in which the candidates were seeking election and, that the ads were published prior to September 23, 1984, the date on which the "60 Minutes" program aired and, hence, prior to

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the general election. The full content of the ads was not revealed, only the headlines which read as follows:

- Why did Representative Martin Frost help the dairy lobby milk his constituents?
- What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him?
- Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?
- What is Congressman Rostenkowski going to do with a half million dollars of leftover campaign money. Take it with him?
- Why did Ocean Spray Cranberry PAC give \$2000 to Congressman Michel?
- Why did Senator Bingman allow the doctors lobby to butter its bread on both sides?

The negative content of the ads, together with other factors, i.e., the timing of the ads, the areas in which they were distributed and the fact that they had candidates as their subjects, gave the commission reason to believe that the expenditures were made in connection with federal elections.

In determining whether a violation of 2 U.S.C. § 441b was involved, the Commission decided that such a determination would require further inquiry into such relevant factors as: (1) the sponsors of the ads; (2) the timing of the ads; (3) the distribution of the ads; (4) the electoral content of the ads; and (5) the costs attendant to the ads.

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For purposes of developing these facts, the Commission, on February 20, 1985, found reason to believe that CAP violated 2 U.S.C. § 441b. Notice of the Commission's reason to believe determination and questions in connection with its finding were mailed to the Respondent on March 5, 1985. On April 18, 1985 the Commission received the Respondent's answers to its questions.

The response admits that CAP published and paid for the six advertisements in question. The response denies however that the objective of CAP's advertisements was to influence the outcome of federal elections. Rather, the response claims that CAP's sole objective and that of its advertisements is to raise public consciousness about the defects of the current system of campaign finance and to bring about change in the existing campaign finance laws.

In support of its contention, the Respondent cites to the following statements which appears in each of its advertisements:

"We have but one purpose in publishing these ads: to make more people aware of how the existing election system works - and doesn't work -- and to hasten the time when we finally charge our election laws."

* * * *

Each of the ads also says:

"THIS AD IS A PROTEST. But it isn't a protest against Rep. (Sen.) _____ alone. He's not the only one who takes special interest money. Too many members of Congress do it. So this ad is a protest against the existing political system. . ."

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Moreover, the Respondent states that further support for its contention is evidenced by the advertisement regarding Senator Jeff Bingaman. The Respondent calls the Commission's attention to the fact that Senator Bingaman had been elected two years earlier and does not face a re-election contest until 1988, if then.

8 5 0 4 0 5 2 0 1 5 4
Asked why particular candidates were made the target of its ads, CAP prefaced its response by stating that the ads concerned members of Congress not in their capacity as "candidates", but as officeholders, since only officeholders are in a position to change the existing campaign finance laws. According to the response, the selection of the Congressmen and Senators was without regard to party affiliation or ideology. The response notes that the six ads involved three Democrats (Rep. Martin Frost, Rep. Dan Rostenkowski, Sen. Jeff Bingaman) and three Republicans (Rep. W. Henson Moore, Rep. Robert H. Michel, Rep. Mickey Edwards).

According to its response, CAP selected Reps. Rostenkowski and Moore because, "among Representatives whose seats are comparatively safe, they are among the top Representatives with regard to the amount of cash-on-hand at the end of their 1982 campaigns." CAP argues that if its objectives were to influence the outcome of Congressmen's elections rather than affecting their stances on campaign finance reform, CAP would not have chosen Congressmen with "safe" seats in preference to Representatives in "marginal" seats.

According to its response, CAP selected Rep. Michel because he received more PAC contributions -- by a margin of \$100,000 -- than any member of the House of Representatives. The response notes that the ad concerning Rep. Michel went on to observe that "32 other House candidates accepted more than \$200,000 from PAC's in the 1982 election". According to CAP the observation was intended to reinforce the statement that the advertisement was "not a protest against Rep. Michel alone."

CAP states in its response that it selected Rep. Edwards because of the size of his August 19, 1981 contribution from the PAC of the National Automobile Dealers Association (\$2,500) combined with its proximity in time to his co-sponsorship of a resolution favored by the N.A.D.A. CAP claims that its aim was to educate the public about PAC influence and not to single out Rep. Edwards. In support of its claim, CAP calls the Commission's attention to a table appearing in the ad which reflects the statistical correlation of the amount given to Congressmen by the N.A.D.A. PAC and the votes of the recipient Congressmen on the issue of vetoing the FTC's Used Car Rule.

Similarly, CAP states that it selected Rep. Martin Frost because, among urban Representatives, he had received the highest amount of contributions from the dairy lobby (\$27,000). As with the ad pertaining to Rep. Edwards, the ad regarding Rep. Frost contains a table showing the correlation between dairy lobby campaign contributions and the positions of Congressmen throughout the House of Representatives.

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Finally, the Response states CAP selected Sen. Bingaman because "AMPAC's post-election contribution to him (\$10,000) was the largest example of an AMPAC pre/post election switch-contributions that CAP was able to find in the Federal Election Commission's records."

The response reveals that the advertisements in question were only published in local newspapers in the congressional district and State represented by the above-referenced Representatives and Senators whose photographs appeared in the ads. The response emphasizes once again that the ads addressed these Congressmen not in their capacity as candidates but as officeholders who are in a position to change the existing laws on campaign finance. In support of their contention, they point to the ad concerning Senator Bingaman who was not a candidate in the 1984 elections.

According to the response the ads were published between the dates of March 6, 1985 and May 1, 1985. Asked to state whether there has been any instance in which both major party candidates from the same district or State have been targets of its ads, CAP states that there were no such instances. The response again notes that the ads addressed the Congressmen in their capacity as officeholders, not as candidates, and cites to the ad concerning Senator Bingaman, who was not a candidate at the time. Moreover, the response notes that in the case of Reps. Edward, Rostenkowski and Michel, CAP's ads ran prior to the congressional primary date in their respective States, and their major party opponents had not been selected at the time CAP published its ads.

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According to the response, the cost of purchasing the space for the ads was \$15,983.92. The response states that CAP also expended money for producton costs -- costs which the response claims are not susceptible of being broken down advertisement by advertisement.

II. LEGAL ANALYSIS

A. Legal Framework

Pursuant to 2 U.S.C. § 441b, it is unlawful for any corporation to make a contribution or expenditure in connection with any election to federal office. Neither the Act nor the Commission's regulations define the phrase "in connection with" as regards either corporate or non-corporate expenditures. However, the United States Court of Appeals has held that in order for a contribution or expenditure to be regarded as being made in connection with a federal election, a nexus must be established between the alleged contribution or expenditure and the federal election in question. Miller v. AT&T, 507 F.2d 759, 764 (1974).

Where communications are involved, the Commission has found it useful to analyze the following criteria in determining whether a nexus exists between the expenditures with regard to communications and any federal election: (1) the timing of the communications; (2) the distribution of the communications; and (3) the electoral content of the communications.

B. Application of the law to the Facts

In examining the above-referenced criteria, the facts of this case are indicative that the expenditures in question were

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not made in connection with a federal election.

Although the timing of the advertisements was proximate in time to the primary elections held in which a number of the Congressmen were seeking re-election to federal office, the content of the ads is not indicative of active electioneering. Rather, the content reflects that the objective of the ads is to raise public consciousness of the need to bring about reforms in campaign finance laws. Statements appearing in the ads decry the existing system of financing campaigns and urge readers to contact their representatives in Congress to support reform of campaign finance laws.

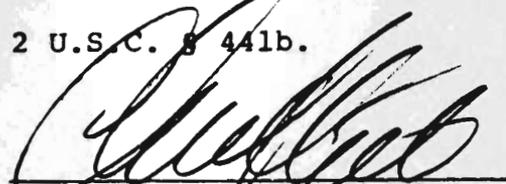
Although the advertisements were addressed to Congressmen and Senators, some of whom were seeking re-election, and were only run in the district or State represented by these officials, the Respondent contends that the advertisements addressed these individuals not as candidates but in their capacity as officeholders capable of bringing about change in the existing campaign laws. The facts of this case firmly support this contention. One ad addressed the amount of special interest PAC money received by Senator Bingaman. As the Respondent notes, Senator Bingaman, who was elected in 1982, was not a candidate at the time the ad was run and will not be until 1988, if then. Further support for the Respondent's contention rests in the following statement which appears in each of the ads:

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"THIS AD IS A PROTEST. But is isn't a protest against Rep. (Sen.) _____ alone. He's not the only one who takes special interest money. Too many members of Congress do it. So this ad is a protest against the existing political system. . . (Emphasis added.)"

In view of the foregoing, the Office of the General Counsel recommends that the Commission proceed to a vote of no probable cause to believe that CAP violated 2 U.S.C. § 441b.

24 May 1985
Date



Charles N. Steele
General Counsel

86040520169



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 24, 1985

William C. Oldaker
Epstein, Becker, Barsody & Green, P.C.
1140 Nineteenth Street, N.W.
Washington, D.C. 20036-6601

RE: MUR 1809
Citizens Against PACs, Inc.

Dear Mr. Oldaker:

Based on a complaint filed with the Commission on September 28, 1984, and information supplied by you, the Commission determined on February 20, 1985, that there was reason to believe that your client had violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred. The Commission may or may not approve the General Counsel's Recommendation.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your client's position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you submit will be considered by the Commission before proceeding to a vote of no probable cause to believe a violation has occurred.

Should you have any questions, please contact Beverly Kramer, the staff member assigned to handle this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

85040520170

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 1809
Campaign Finance Research)	
Institute, Inc.)	
Project for Investigative)	
Reporting on Money in)	
Politics)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 9, 1985, the Commission decided by a vote of 5-0 to take the following actions in MUR 1809:

1. Deny the respondents' Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers.
2. Approve and send the letter attached to the General Counsel's Report signed May 3, 1985.

Commissioners Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter; Commissioner Aikens did not cast a vote.

Attest:

5-9-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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

5-6-85, 4:03
5-7-85, 11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 24, 1985

William C. Oldaker, Esq.
Epstein, Becker, Borsody & Greens, P.C.
1140 19th Street, N.W.
Washington, D.C. 20036

RE: MUR 1809
Campaign Finance Research
Institute, Inc.
Project for Investigative
Reporting on Money in Politics

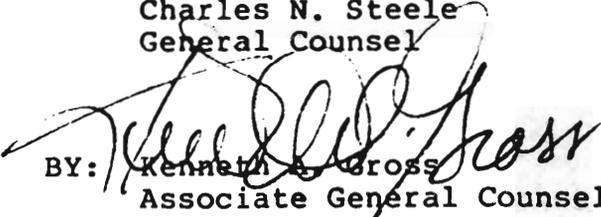
Dear Mr. Oldaker:

This is to acknowledge receipt of your "Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers" in connection with the above-referenced matter. There is no provision in the Act or regulations allowing for the reconsideration of a reason-to-believe determination. Furthermore, absent the Commission's issuance of a subpoena, there is no formal method by which respondents may move to have the Commission's request for written answers withdrawn. Consequently, on May 9, 1985, the Commission determined to deny your "Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers."

If you have any questions, please contact Beverly Kramer, the staff member handling this matter at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

85040520172



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *pd*
DATE: May 6, 1985
SUBJECT: MUR 1809 - 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 [X]
 Sensitive [X]
 Non-Sensitive []

24 Hour No Objection []
 Sensitive []
 Non-Sensitive []

Information []
 Sensitive []
 Non-Sensitive []

Other []

DISTRIBUTION

Compliance [X]
Audit Matters []

Litigation []
Closed MUR Letters []

Status Sheets []
Advisory Opinions []

Other (see distribution
 below) []

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CONFIDENTIAL

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Campaign Finance Research Institute,)
Inc.) MUR 1809
Project for Investigative Reporting on)
Money in Politics)

COMMUNICATIONS SECTION
 FEB 21 1985
 6 04:05

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter originates from a complaint filed by Congressman George Hansen. The complaint challenges the legality of expenditures made by various tax-exempt corporations in sponsoring a grant to a newspaper for investigative reporting on the financial affairs of Congressman Hansen, a 1984 Republican candidate for the U.S. House of Representatives' seat in the second district of Idaho. The complaint argues that the expenditures by the corporations were in violation of 2 U.S.C. § 441b.

The Commission rejected the respondents' argument that such expenditures fall within the news story exemption of 2 U.S.C. § 431(9)(B)(i) and on February 20, 1985, found reason to believe that the sponsors of the grant, the Campaign Finance Research Institute, Inc. and the Project for Investigative Reporting on Money in Politics, violated 2 U.S.C. § 441b.

By letter of March 5, 1985, the Commission notified the respondents of its reason to believe determination and requested the respondents to produce certain documents and to submit written answers to questions.

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On March 25, 1985, the Office of the General Counsel received the reply of the respondents' counsel fashioned as a "Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers." See Attachments 1-16. For the reasons set forth below, this Office recommends that the Commission deny counsel's self-styled "Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers."

II. LEGAL ANALYSIS

The motion to reconsider the Commission's reason to believe determination reflects counsel's misunderstanding of the procedural stages of an investigation conducted pursuant to 2 U.S.C. § 437g. There is no provision in the Act for the filing of a motion to reconsider a reason to believe determination by the Commission. The absence of such a provision reflects in part that reason to believe is a preliminary threshold for investigation.

Similarly, there is no provision in the Act for the filing of a motion to withdraw a request for written answers. As counsel has noted, the questions proffered to the respondents by the Commission were not accompanied by an order pursuant to 2 U.S.C. § 437d(a)(1). This reflects the fact that the questions have been asked informally and, therefore, the respondents cannot be compelled to respond. The Commission can compel the respondents to reply to its questions by invoking the compulsory process under 2 U.S.C. § 437d(a)(1).

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Regardless, while posturing that the respondents will not reply to the Commission's questions because "the Respondents' activities are covered by the press exemption embodied in 2 U.S.C. § 431(9)(B)(i), and accordingly, the Commission lacks subject-matter jurisdiction" counsel nevertheless responds to many of the Commission's questions and has even submitted an affidavit. See Attachments at 10-12. Certainly the respondents accept the Commission's right to ask questions in furtherance of its investigation of this matter. By the clear language of the press exemption embodied in 2 U.S.C. § 431(9)(B)(i) and 11 C.F.R. § 100.8(b)(2), the activities of the respondent corporations do not fall within this exemption. These sections only exempt from classification as "expenditures" under the Act the "costs incurred... by any broadcasting station, newspaper, magazine or periodical publication" in covering or carrying a news story, commentary or editorial. (emphasis added) This exemption was specifically carved out by Congress to insure the right of the media to cover and comment on election campaigns.

III. DISPOSITION OF THE CASE

The Office of the General Counsel has received sufficient information to conclude its investigation of the matters at issue in this case. Hence, we will proceed to the next enforcement stage.

IV. RECOMMENDATIONS.

1. Deny the respondents' Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers.
2. Approve and send the attached letter.

Charles N. Steele
General Counsel

May 3, 1985
Date

By:


Kenneth A. Gross
Associate General Counsel

Attachments

1. Respondents' Motion
2. Letter

86040520177

Kramer

EPSTEIN BECKER BORSODY & GREEN, P.C.

ATTORNEYS AT LAW

1140 19TH STREET, N.W.

WASHINGTON, D.C. 20036

(202) 861-0900

**250 PARK AVENUE
NEW YORK, NEW YORK 10177
(212) 370-9800**

**MALLICK TOWER
ONE SUMMIT AVENUE
FORT WORTH, TEXAS 76102
(817) 334-0701**

**1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067
(213) 866-8861**

**FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111
(415) 388-8865**

**P.C. IN NEW YORK AND
WASHINGTON D.C. ONLY**

March 26, 1985

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

100-201

**Re: Federal Election Commission -- Matter Under
Review 1809 -- Respondent, Campaign Finance
Research Institute/Project for Investigative
Reporting on Money in Politics -- Motion to
Reconsider Reason-to-Believe Determination and
to Withdraw Request for Written Answers**

Dear Mr. Steele:

In response to the Commission's determination, received by this office on March 7, 1985, enclosed please find Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers filed on behalf of the Respondent Campaign Finance Research Institute/Project for Investigative Reporting on Money in Politics in the above-captioned matter.

We also were notified on March 7, 1985 of the Commission's reason-to-believe determination, as well as its request for answers to questions, against Citizens Against PACs, Inc. ("CAP") in MUR 1809.

We emphasize, however, that the Campaign Finance Research Institute ("Institute") and its program, the Project for Investigative Reporting on Money in Politics ("Project") are entirely separate and distinct entities from CAP. The Institute/Project has not supported CAP or coordinated its activities with CAP, nor has CAP provided funds to the Insti-

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Charles N. Steele, Esquire
March 26, 1985
Page Two

tute/Project. See Affidavit of James Boyd, Executive Director of the Project, attached to the Motion as Exhibit A.

Accordingly, we will respond to the Commission's reason-to-believe determination against CAP under separate cover within the time prescribed.

Very truly yours,

William C. Oldaker

William C. Oldaker
Counsel for the Campaign Finance
Research and the Project for
Investigative Reporting on
Money in Politics

Enclosure

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EPSTEIN BECKER BORSODY & GREEN, P.C.

ATTORNEYS AT LAW

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LOS ANGELES, CALIFORNIA 90067
(213) 550-8861

FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111
(415) 398-8868

March 26, 1985

P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY

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

Re: Federal Election Commission -- Matter Under
Review 1809 -- Respondent, Campaign Finance
Research Institute/Project for Investigative
Reporting on Money in Politics -- Motion to
Reconsider Reason-to-Believe Determination and
to Withdraw Request for Written Answers

Dear Mr. Steele:

This responds to your letter, received by this office
on March 7, 1985, wherein we were notified of the Commission's
reason-to-believe determination in the above-captioned matter
and requested to answer a series of questions.

For the reasons set forth herein, we believe that the
activities of the Campaign Finance Research Institute ("the
Institute") and a program it sponsors, the Project for Investi-
gative Reporting on Money in Politics ("the Project") (collec-
tively referred to as "the Respondent") clearly are covered by
the news story exemption, 2 U.S.C. § 431(9)(B)(i). Thus, we
respectfully urge the Commission to reconsider its rea-
son-to-believe determination against the Respondent and to
withdraw its request for written answers.

We submit that, upon reconsideration, the Commission
should dismiss the complaint against the Respondent.^{1/}

1/

The questions proffered to Respondent by the Commission in
this complaint were not accompanied by an order pursuant to
2 U.S.C. § 437(a)(1). Accordingly, the five-day time period
prescribed in 11 C.F.R. § 111.15(a) for submission of a Motion
to Quash a Subpoena is not applicable in this situation, and
the instant Motion, filed with the Commission prior to the due
date for responses to the Questions, is timely.

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I. Statement of Pertinent Facts

As discussed in Respondent's initial response to the complaint, the Campaign Finance Research Institute is a non-profit corporation which the Internal Revenue Service has determined to be exempt from income tax under 26 U.S.C. § 501(c)(3). In furtherance of its purposes, the Institute began sponsorship on June 23, 1983 of a program called the Project for Investigative Report on Money in Politics. The Project is not a separate legal entity for either tax or corporate law purposes but is simply the name given to an Institute program. See Affidavit of James Boyd, Executive Director of the Project, attached hereto as Exhibit A at ¶ 2.

The sole activity of the Project - the activity which is the subject of this complaint - is to provide monetary grants to journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics. See Project's flyer, attached hereto as Exhibit B; also see Exhibit A at ¶ 3. Both print and broadcast journalists are invited to apply for these widely-publicized grants. Grant applications must include (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experience; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the payment to be made to the applicant. See Exhibit A at ¶ 4 and Exhibit B.

We emphasize that all material submitted to the Project in connection with grant applications is held in strict confidence. See Exhibits A at ¶ 5 and Exhibit B. This is done to protect journalistic leads and ideas.

The Project's Advisory Board, which is composed of prominent journalists including four Pulitzer-Prize winners, reviews the applications and, subsequently, awards grants. Criteria for judging the applications include (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications. See Exhibit A at ¶ 6 and Exhibit B.

We call particular attention to the following paragraph in the Project's flyer which states: "The sole purpose

of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest." (Emphasis added) Exhibit B; also see Exhibit A at ¶ 8. Accordingly, all Project grantees must sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and the grant will be used in a non-partisan manner. See Exhibit A at ¶ 10.

The Project has made nineteen grants since its inception in 1983, including the grant of \$1,750 to Stephen Hartgen of the Times-News which is discussed by the Complainant. Significantly, the Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees. See Exhibit A at ¶ 9. Grant recipients are neither obligated to produce stories nor obligated to publish or air their stories. Furthermore, grant recipients are not given any deadlines by the Project, and the Project does not review stories prior to their publication or broadcast. See Response of Stephen Hartgen, Managing Editor of the Times-News, attached hereto as Exhibit C.

Thus, we cannot emphasize too strongly that once the Project has approved a grant, it has absolutely no further voice in deciding what is published, or indeed whether anything is published as a result of the grant. Those matters are, as they should be, entirely determined by the grant recipient and the editor(s) of the publication that has expressed interest in publishing the findings.

With respect to its financial backing, The Institute and therefore the Project has received support from some eighteen foundations and individuals. None of its supporters are either candidates for political office or political committees. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or political committee. See Exhibit A at ¶ 11. Neither Philip Stern nor Citizens Against PACs, Inc. has ever contributed to the Institute/Project.^{2/}

^{2/}

As set forth in its initial response to this complaint, the Stern Fund also has never contributed to the Institute/Project.

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The Institute and thus the Project are independent entities which are in no way controlled by any candidate for political office or any political committee. See Exhibit A at ¶ 12. Further, the Institute/Project is in no way affiliated or connected with the nonprofit corporation, Citizens Against PACs, Inc. See Exhibit A at ¶ 13.

The grant activities of the Project are carried on for one purpose - to assist journalists in researching and, if the findings meet editorial standards, publishing in established print or broadcast outlets new stories uncovering and exposing campaign finance abuses in all levels of American politics. See Exhibit A at ¶ 14.

II. Analysis

A. RESPONDENT'S ACTIVITIES ARE COVERED BY THE PRESS EXEMPTION EMBODIED IN 2 U.S.C. § 431(9)(B)(i); ACCORDINGLY, THE COMMISSION LACKS SUBJECT-MATTER JURISDICTION TO CONDUCT THIS INVESTIGATION

As discussed in Respondent's initial response, the news story exemption embodied in 2 U.S.C. § 431(9)(B)(i) would be meaningless if the Commission were required to -- or had jurisdiction to - examine the funding of news stories where no candidate or political committee control is alleged. If every candidate, such as former Congressman Hansen, who was dissatisfied with the media's coverage of his/her campaign could force an FEC investigation of the financial support of the local newspapers, television stations or other media outlets, the statutory protection provided for in the news story exception would be effectively nullified and the Commission would be in the position of a national media censor, a role which it clearly was not intended to have. Thus, if the Commission can investigate the funding of the Times-News story, it can investigate the funding of any story; and if it can investigate grants from an independent, non-partisan group, it can surely investigate a media outlet's other means of financial support: advertisers, investors and other financial supporters. Surely that would void the protection of 2 U.S.C. § 431(9)(B)(i).

In the instant complaint, neither Complainant nor the Commission has in any way alleged that Respondent is owned or controlled by a candidate or political committee. On the contrary, James Boyd, Executive Director of the Project, has submitted a sworn affidavit to the Commission, attached hereto

as Exhibit A, stating that the Project "is neither owned nor controlled by any candidate for political office or any political committee." Exhibit A at ¶ 12. Further, Mr. Boyd states that "(t)he Project has not received any financial support from any candidate for political office or any political committee. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or any political committee." See Exhibit A at ¶ 11.

Accordingly, as a program which is neither owned nor controlled by any candidate or political committee but is operated exclusively to finance journalistic efforts to produce bona fide news stories, Respondent and its activities fall within the protection of the news story exception. Thus, the Commission lacks jurisdiction to pursue this investigation.

Moreover, this conclusion is supported by the Commission's decision of February 12, 1985 in MUR 1809 that there was no reason to believe that a violation of any statute within the Commission's jurisdiction had been committed by the Times-News by acceptance by one of its journalist of a grant from the Project. If the Commission, as it has indicated, lacks jurisdiction to investigate the acceptance of a grant by the Times-News pursuant to 2 U.S.C. § 431(9)(B)(i), then equally the Commission is precluded from investigating Respondent, as the source of the grant to the journalist from the Times-News, under the same exception, 2 U.S.C. § 431(9)(B)(i).

As set forth in the Commission's notification letter of March 5, 1985, the Commission's reason-to-believe determination in this matter is premised solely on its belief that the Respondent made expenditures in violation of 2 U.S.C. § 441b, the prohibition on corporate expenditures in connection with federal elections. Specifically, the Commission desires to investigate whether the monetary grants made by the Project to journalists to research and expose campaign finance abuses constitute prohibited corporate expenditures pursuant to the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. ("the Act"). It is clear, however, that pursuant to the news story exemption set forth in 2 U.S.C. § 431(a)(B)(i) -- an exception which the Commission is required to interpret broadly pursuant to the First Amendment -- Respondent's activities are not expenditures and therefore the Commission lacks subject-matter jurisdiction to conduct an investigation of the Respondent. See Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir. 1981); Federal Election Commission v. Phillips Publishing, Inc., 517 F.Supp. 1308 (D.D.C. 1981); Reader's Digest Association v. Federal Election Commission, 509 F.Supp. 1210 (S.D.N.Y. 1981).

Under the Act, an "expenditure" is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. . ." 2 U.S.C. § 431(9)(A)(i). The Act expressly exempts from classification as an expenditure, however, "any news story, commentary, or editorial distributed through the facilities of any . . . newspaper . . . unless such facilities are owned or controlled by any political party, political committee or candidate." 2 U.S.C. § 431(9)(B)(i). Further, Commission regulations specifically extend this news story exemption to "any costs incurred in covering or carrying such a story." 11 C.F.R. § 100.8(b)(2) (emphasis added).

Pursuant to the Act -- especially the emphasized provision quoted above -- and pertinent regulations, the news story exemption applies not only to the direct cost of publishing new stories, but also to the costs of gathering information and preparing the materials for publication. This reflects the reality that news stories do not spring to life fully developed, but cost money to research and prepare. Where that money comes from will vary from case to case -- advertisers, the resources of the owners and the outlet, or outside funding.

For the exception for "costs" of stories to be meaningful, the news story exemption must cover not only the media outlets themselves but also including organizations, such as the Project, operated exclusively to provide financial support for independent journalistic projects (subject, of course, to requirement that the media outlet or organization is not controlled by a candidate or political committee).

Accordingly, as a program operated exclusively to finance journalistic efforts to produce bona fide news stories which is neither owned nor controlled by any candidate or political committee, Respondent and its activities fall within the protection of the news story exception, and thus, the Commission lacks jurisdiction to pursue this investigation.

B. AS THE COMMISSION LACKS SUBJECT-MATTER JURISDICTION OVER THE ACTIVITIES OF THE RESPONDENT, THE COMMISSION'S REQUEST FOR WRITTEN ANSWERS IS BARRED

Because the Commission lacks subject-matter jurisdiction over the activities of the Respondent, the Commission is barred from investigating the subject matter of the com-

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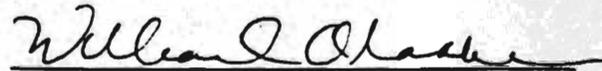
Charles N. Steele, Esquire
March 26, 1985
Page Seven

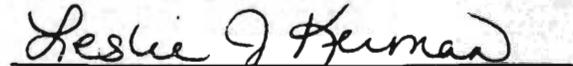
plaint, and, consequently, its request for written answers from the Respondent should be quashed. See Federal Election Commission v. Phillips Publishing, Inc., supra, at 1313.

III. Conclusion

As demonstrated herein, Respondent's activities are covered by the press exemption embodied in 2 U.S.C. § 431(9)(B)(i), and accordingly, the Commission lacks subject-matter jurisdiction to conduct this investigation. Therefore, we urge the Commission to reconsider and rescind its reason-to-believe determination and to withdraw its request for written answers.

Respectfully submitted,


William C. Oldaker


Leslie J. Kerman

Counsel for the Campaign Finance
Institute/Project for Investigative
Reporting on Money in Politics

AFFIDAVIT OF JAMES BOYD

I, JAMES BOYD, DECLARE AS FOLLOWS:

1. I am the Executive Director of the Campaign Finance Research Institute's Project for Investigative Reporting on Money in Politics ("the Project"), P.O. Box 770, Madison, Virginia 22727.

2. The Project has no independent corporate existence; it is an activity of the Campaign Finance Research Institute.

3. The purpose of the Project is to sponsor a grant program for journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics.

4. Both print and broadcast journalists are invited to apply for the Project's widely-publicized grants. Grant applications must include (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experience; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards).

5. All material submitted to the Project in connection with grant applications is held in strict confidence.

6. The Project's Advisory Board, which is composed of prominent journalists including four Pulitzer-Prize winners, reviews the applications and awards grants. Criteria for judging the applications include (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications.

7. In addition to the grants awarded by the Advisory Board, the Executive Director of the Project is empowered to make grants of Three Hundred Dollars (\$300.00) or less at his/her own discretion.

8. As the Project is strictly non-partisan, Advisory Board Members are instructed that all grants should be awarded without regard to the political affiliation or ideology of the subject of the proposed research and without regard to the effect on any electoral contest.

9. The Project has made nineteen grants since its inception in 1983. The Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees.

10. All Project grantees must sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and that the grant will be used in a non-partisan manner.

11. The Project has received support from approximately eighteen foundations and individuals. The Project has not

(11)

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received any financial support from any candidate for political office or any political committee. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or any political committee.

12. The Project is neither owned nor controlled by any candidate for political office or any political committee.

13. The Project is in no way affiliated or connected with the nonprofit corporation, Citizens Against PACs, Inc.

14. The grant activities of the Project are carried on for one purpose - to assist journalists in publishing in established print or broadcast outlets news stories uncovering and exposing campaign finance abuses in all levels of American politics.

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James Boyd
James Boyd
Executive Director
Campaign Finance Research Institute's
Project for Investigative Reporting
on Money in Politics
P.O. Box 770
Madison, Virginia 22707

City of Washington)
District of Columbia)

I, KAREN BROWN ARNOLD, a Notary Public, hereby certify that on the 19th day of MARCH, 1985, there personally appeared before me James Boyd, who acknowledged signing the foregoing document and that the statements therein contained are true.

12

Karen Brown Arnold
Notary Public

*project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Les Payne, *Newsday* • Jim Polk, *NBC News*
• Myrta Pulliam, *The Indianapolis Star* • Robert Walters, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
Philip M. Stern, *Chairman* James Boyd, *Executive Director*

A PROGRAM OF GRANTS FOR

*investigative reporting
on money in politics*

The Project for Investigative Reporting on Money in Politics announces a program of grants to journalists who wish to undertake investigative reporting on the role and influence of money in American politics, at all levels (national, state and local.)

Applications are invited from both print and broadcast journalists. As a general rule, however, grants will not cover the cost of radio or TV production, but only the time and expense of the research.

Applications for grants should be equivalent, in form, to a "query memo" to an editor, and should set forth the subject, purpose and nature of the research; the estimated time and expense required; the reasons for believing there is a likelihood of uncovering the pertinent information; and the applicant's background and/or journalistic experience.

Applications should also be accompanied by a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the amount to be paid the applicant in accordance with that publication's or broadcaster's customary rates.

The size of the grants will depend on the amount of work required. In addition, the Project will pay reasonable out-of-pocket expenses.

The applications will be reviewed by a committee of experienced working journalists. All materials submitted to the Project will be held in strict confidence.

Criteria for judging the applications will include the public importance of the subject; the apparent likelihood of uncovering the information described in the application; and the applicant's credentials or qualifications.

The Project will be strictly non-partisan. The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest.

HOW AND WHERE TO APPLY

Applications should include:

- a brief description of the subject, purpose and nature of the research.
- the estimated amount of time and expense required.
- the applicant's background and/or journalistic experience.
- a letter from a print or broadcast news editor expressing interest in publishing or airing the product of the research and stating the payment to be made to the applicant.

Applications should be sent to:

James Boyd, Executive Director, Project for Investigative Reporting on Money in Politics
Post Office Box 770 • Madison, Virginia 22727 • Telephone (703) 672-3166



P.O. Box 548

Twin Falls, Idaho 83301

208-733-0931

October 29, 1984

Ms. Beverly Kramer
 Federal Election Commission
 Washington, D. C. 20463

Dear Ms. Kramer:

This letter is in response to a letter of October 15 from your office concerning an allegation raised by Rep. George Hansen of the Second Congressional District of Idaho that certain Times-News articles, and the way in which they were funded, constitute violations of the Federal Election Campaign Act.

After a careful review of both the congressman's allegations and the relevant law in this area, it is our opinion that the complaint against The Times-News lacks substance and should be dismissed. In our opinion, the congressman's letters to your office of Sept. 26 and Sept. 17 contain numerous errors of both fact and opinion. Furthermore, we believe newspaper reporting is specifically exempt from the FECA under the language of U.S. Code, Title II, Sect. 431-9bi. Additionally, the main controlling legal case in this area, Buckley vs. Valeo, 424 U.S. 1 (1975) and subsequent rules of the commission itself employing that decision's language suggest that the articles by The Times-News did not violate the "express advocacy" standard set out by the Supreme Court in that case. It is our opinion that the ongoing coverage of politics and public officials by the American press is within the affirmative intent of the First Amendment of the U. S. Constitution. Such coverage, in which The Times-News is routinely engaged, does not constitute an "in-kind" contribution to an elected official's opponent.

Let me give a bit of background. The Times-News is a 22,000-circulation, seven-day daily newspaper in Southern Idaho, in Rep. Hansen's district. It is the major daily newspaper for eight counties. In March and April 1984, The Times-News sent a reporter to Washington to cover the trial of Rep. Hansen, who had been indicted for alleged violations of the Ethics in Government Act. He was convicted of four felony violations and has been both reprimanded by the full House and sentenced to 15 months in prison. The conviction is under appeal.

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October 29, 1984

Following the conviction, The Times-News decided to further follow up on several avenues which had either come up directly or which had been alluded to in the trial. These avenues involved Hansen's financial affairs.

We were aware of the Project for Investigative Reporting on Money in Politics through its advertising in national journalism magazines and we asked the organization about the procedures for filing a grant request to help defray investigation expenses. A grant proposal was developed in June and was approved in July. There were absolutely no strings of any kind attached to the \$1,750 grant, nor any preconditions as to whether The Times-News was even obligated to produce any stories. The stories which resulted were entirely the product of the newspaper alone. The money was to fund a trip for our reporter to Washington to examine records, conduct interviews and gather information concerning reports we had obtained from various sources on alleged secret bank accounts, large loans from individuals, and financial support from various religious organizations. Our reporter examined aspect of these allegations for several weeks in June in Idaho, and then in Washington through the month of July. We published several stories based on that research, which we enclose.

We do not think that the investigative reporting by The Times-News on the financial affairs of its congressman, a convicted felon, in any way violates the FECA regulation of political speech. There are two basic arguments for this.

One, the FEC act itself exempts newspaper stories specifically in Sect. 431-9bi. That exemption covers "any news story distributed through newspapers." That language seems very clear.

Two, under the "express advocacy" test of Buckley vs. Valeo, reports of the type The Times-News conducted is, in our view, also outside the purview of the FECA act. Consider the following questions:

- 1.) Do the news articles use any of the words of express advocacy, such as "elect, support, cast your ballot for, defeat, reject?" The answer is no.
- 2.) Is the election referred to? Only obliquely.
- 3.) Are readers urged to act on policy issues discussed? No.
- 4.) Is the candidate's opponent mentioned favorably? No.
- 5.) Is the reporting an isolated foray into criticism and analysis of this public official's performance? No.

The reporting on Rep. Hansen, through his indictment, trial and conviction has been extensive. Perhaps no Idaho politician has

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October 29, 1984

been covered as completely throughout his career. The Times-News has endeavored to provide a balanced picture of the congressman's battles by publishing, on its editorial page and in its news columns, explanations by Hansen himself, members of his staff, family, and supporters.

In the absence of any "yes" answers to those questions, we do not see how the reporting by The Times-News in the present case can be construed to have violated the "express advocacy" standard of Buckley vs. Valeo. In Buckley, the court considered the language of the FECA and wrote that: "The key operative language of the provision limits any expenditure relative to a clearly identified candidate . . . (There) is no definition clarifying what expenditures are "relative to" a candidate. The use of so indefinite a phrase as "relative to" a candidate fails to clearly mark the boundary between permissible and impermissible speech." " . . . " to preserve the provision against invalidation on vagueness grounds, (it) must be construed to apply only to expenditures for communications that in express terms advocate the election or a defeat of a clearly identified candidate for federal office." *

We believe the reporting in this matter by The Times-News is well within the constitutional protection afforded by the First Amendment, the language of the Federal Election Act and the "express advocacy" standard and that the grant from the Project for Investigative Reporting was completely legal and appropriate. In our view, the complaint by the congressman is without merit and should not proceed beyond the "Matter Under Review" stage.

We look forward to hearing from you relative to this matter. At this time, we will not submit a designation of legal counsel, but reserve the right to do so in the future.

Sincerely,



Stephen Hartgen
Managing Editor

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker, Esq.
Epstein, Becker, Borsody & Greens, P.C.
1140 19th Street, N.W.
Washington, D.C. 20036

RE: MUR 1809
Campaign Finance Research
Institute, Inc.
Project for Investigative
Reporting on Money in Politics

Dear Mr. Oldaker:

This is to acknowledge receipt of your "Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers" in connection with the above-referenced matter. There is no provision in the Act or regulations allowing for the reconsideration of a reason-to-believe determination. Furthermore, absent the Commission's issuance of a subpoena, there is no formal method by which respondents may move to have the Commission's request for written answers withdrawn. Consequently, on _____, 1985, the Commission determined to deny your "Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers."

If you have any questions, please contact Beverly Kramer, the staff member handling this matter at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 8, 1985

William C. Oldaker, Esq.
Epstein, Becker, Borsody & Green, P.C.
1140 Nineteenth Street, N.W.
Washington, D.C. 20036-6601

RE: MUR 1809
Citizens Against PACs, Inc.

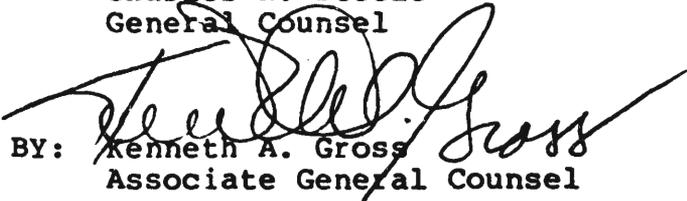
Dear Mr. Oldaker:

This is to acknowledge receipt of your response to the Commission's Questions and Request for Documents in connection with its reason to believe finding in the above-referenced matter. Your response and the Commission's subpoena to produce documents and order to submit written answers was received beyond the due date and after the Commission authorized subpoenas. However, now that we have received your response, we believe that it satisfies the information called for in the subpoena. Thus, the need to respond to the pending subpoena is obviated.

If you have any questions, please direct them to Beverly Kramer, the staff member assigned to this matter at 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

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Gce #7231
Kramer

FEDERAL ELECTION COMMISSION
MATTER UNDER REVIEW 1809
RESPONDENT, CITIZENS AGAINST PACs, INC.

Response to Commission's Questions and
Request for Documents

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
APR 18 1984
P 2:40

Question One: State whether these advertisements were paid for, in whole or part, by Citizens Against PACs, Inc.

Answer: Citizens Against PACs, Inc. ("CAP") paid for the publication of these advertisements.

Question Two: Provide copies of each of the advertisements.

Answer: Copies of the advertisements are attached hereto as Exhibits A-F.

Question Three: State the date(s) on which each of the advertisements ran and the names of the newspapers, magazines, and or other periodical publications in which each advertisement was placed.

Answer:

a. The advertisement marked Exhibit A was published on April 17, 1984 in the Dallas Morning News.

b. The advertisement marked Exhibit B was published on May 1, 1984 in the Baton Rouge Times-Advocate.

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c. The advertisement marked Exhibit C was published on March 6, 1984 in the Edmond Sun, the Ponca City News, and the Bartlesville Examiner Enterprise.

d. The advertisement marked Exhibit D was published on March 7, 1984 in the Franklin Park Times, the River Grove Times, the Elmwood Park Times, the Proviso Times, the Northwest Times, the Logan Square Times, the Potage Park Times, the Lincoln Belmont Booster and the North Center Irving Park Booster.

e. The advertisement marked Exhibit E was published on March 6, 1984 in the Peoria Journal Star and the Pekin Times.

f. The advertisement marked Exhibit F was published on March 6, 1984 in the Farmington Times, the Las Cruces Sun News and the Albuquerque Journal.

Question Four: State whether the advertisements were run only in the district or State in which the referenced candidate was seeking re-election.

Answer: Inasmuch as the end goal of these advertisements is to achieve campaign finance reform (viz. the final question posed in the coupon in each ad: "Are you in favor of a law to curb the power of political action committees (PACs)?"), the CAP advertisements were addressed to the subject Congressmen

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or Senator not in their capacity as political candidates -- which they may or may not have been at the time the ads ran -- but in their capacity as officeholders, since only officeholders are in a position to change the existing campaign finance laws.

The advertisement about Senator Bingaman (Exhibit F) makes this crystal clear. Senator Bingaman, who was elected in 1982, was not a "candidate seeking re-election" (the phrase used in the Commission's Question Four), and will not be until 1988, if then.

Accordingly, the advertisements were run in the congressional district and State represented by the Representatives and Senators whose photograph appears on the advertisement.

Question Five: Explain why these particular candidates were made the target of your advertisements.

Answer: First, as stated in our answer to Question Four, these advertisements concerned the Members of Congress in their capacity as officeholders, not as "candidates" (the word used in the Commission's Question Five).

Second, as stated in our answer to Question Four, the sole objective of Citizens Against PACs, Inc. and of its advertisements is to bring about a change in the existing campaign finance laws.

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That is made unmistakably clear in the following statement which appears in each of the CAP advertisements:

"We have but one purpose in publishing these ads: to make more people aware of how the existing election system works - - and doesn't work -- and to hasten the time when we finally change our election laws."

Each of the ads also says:

"THIS AD IS A PROTEST. But it isn't a protest against Rep. (Sen.) _____ alone. He's not the only one who takes special interest money. Too many members of Congress do it. So this ad is a protest against the existing political system. . ." (Emphasis added.)

The ads urge readers to contact their representatives in Congress to support reform of campaign laws -- the most basic and most effective form of citizen influence in the legislative process.

Third, CAP's view of the need for campaign finance reform is not solely its own, and is certainly not an issue on which views divide on party lines. Each of the advertisements contain statements by present or former Members of Congress from both political parties which are critical of the existing system of financing campaigns.

Fourth, the selection of the Congressmen and Senator named in CAP's advertisements was without regard to party affiliation. The Commission will note that the six ads in question involve three Democrats and three Republicans.

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Fifth, the selection of the Members of Congress was without regard to the ideology of the Representative or Senator in question. The highlighted Federal officeholders included, for example, Reps. Henson Moore (R-LA); and Dan Rostenkowski (D-IL), who, according to Politics in America, received the following ratings in 1982 from a liberal group (Americans for Democratic Action -- or ADA), a conservative group (Americans for Constitutional Action -- or ACA); and the AFL-CIO;

	<u>ADA</u>	<u>ACA</u>	<u>AFL-CIO</u>
Rep. Moore (R-LA)	0	87	0
Rep. Rostenkowski (D-IL)	85	13	85

Sixth, as noted in our answer to Question Four, the absence of any intention on CAP's part to influence the outcome of a Federal election is particularly evidenced by the advertisement regarding Senator Jeff Bingaman (D-MN) -- who had just been elected two years earlier, and does not face a re-election contest until 1988, if then. CAP selected Senator Bingaman because AMPAC's post-election contribution to him (\$10,000) was the largest example of an AMPAC pre/post-election switch-contribution that CAP was able to find in the Federal Election Commission's records.

Seventh, CAP selected Reps. Rostenkowski and Moore because, among Representatives whose seats are comparatively "safe," they are among the top Representatives with regard to the amount of cash-on-hand at the end of their 1982 campaigns

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according to the records of the Federal Election Commission. If CAP's objectives were to influence the outcome of Congressmen's elections rather than affecting their stance on campaign finance reform, CAP would not have chosen Congressmen with "safe" seats in preference to Representatives in "marginal" districts.

Eighth, CAP selected Rep. Michel because, as stated in the advertisement about him, he "received more PAC contributions -- by a margin of \$100,000 -- than any other member of the House of Representatives."

Moreover, the advertisement also went on to observe that "32 other House candidates accepted more than \$200,000 from PACs in the 1982 election," thus reinforcing CAP's statement that the advertisement was "not a protest against Rep. Michel alone." Note that similar statements appear in most of CAP's other advertisements.

Ninth, CAP selected Rep. Edwards (R-OK) because of the size of his August 19, 1981 contribution from the PAC of the National Automobile Dealers Association (\$2,500) combined with its promixity in time to his co-sponsorship of a resolution favored by the N.A.D.A. (approximately one month).

The advertisement also stated that "54 other Congressmen received campaign contributions from the auto dealers' PAC within 90 days of co-sponsoring the resolution favored

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by the dealers," and that "294 other Congressmen received campaign contributions from N.A.D.A.," thus reinforcing CAP's statement that the advertisement was "not a protest against Rep. Edwards' alone."

As further evidence of CAP's aim of educating the public about PAC influence and of the absence of any intent to single out Rep. Edwards alone, we request that the Commission pay particular attention to the table under Rep. Edwards' photograph in the advertisement; a table which reflects the statistical correlation of the amount given to Congressmen by the N.A.D.A. PAC and the votes of the recipient Congressmen on the issue of vetoing the FTC's Used Car Rule.

Tenth, CAP selected Rep. Martin Frost (D-TX) because, among urban Representatives, he had received the highest amount of contributions from the dairy lobby (\$27,200).

As with the advertisement about Rep. Edwards, the advertisement about Rep. Frost contains a table showing the correlation between dairy lobby campaign contributions and the positions of Congressmen throughout the House of Representatives.

In sum, these ads were intended to illustrate the need for carrying out CAP's objectives -- reform of the campaign finance laws.

Question Six: State whether there has been any instance in which both major party candidates from the same district

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have been targets of your advertisements. If so, please provide copies of each advertisement.

Answer: There were no such instances because, as stated in our answers to Questions Four and Five above, CAP's advertisements were addressed to the subject Congressmen and Senator in their capacity as officeholders, not in their capacity as candidates.

As noted above, this is most clearly evidenced by the advertisement about Senator Bingaman, who was not a candidate for re-election in 1984 and will not be a candidate until 1988, if then.

Moreover, in the case of Reps. Edwards, Roostenkowski and Michel, CAP's advertisements ran prior to the Congressional primary date in their respective States, and, therefore, their major party opponent had not been selected at the time CAP published its advertisement. This further reinforces CAP's purpose of bringing about campaign finance reform, and not of influencing the outcome of a federal election.

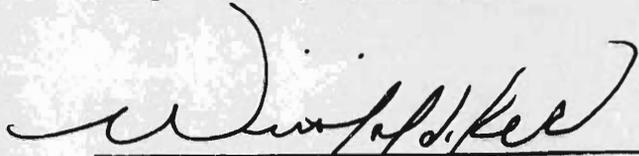
Question Seven: State the total amount of expenditures made in connection with your advertisements.

Answer: The cost of purchasing the space for the advertisements mentioned by the Commission was \$15,983.92. CAP also

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expended money for production costs, but such expenditures are not susceptible of being broken down advertisement by advertisement.

Respectfully submitted,



William C. Oldaker
Counsel for Citizens Against
PACs, Inc.

Date: 4/18/85

86040520204

THERE are just three dairy farmers in Rep. Martin Frost's Dallas Congressional district.

But there are about 527,000 people—135,000 families—who buy milk, butter and other dairy products. Those families also pay taxes.

Three dairy farmers. 527,000 consumers and taxpayers.

About 210,000 of his constituents live below the poverty line. For them, every penny at the checkout counter counts.

Why, then, did Rep. Frost vote for a dairy price support program that will require every family in his district to pay—

- up to 9 cents more for a gallon of milk.
- up to 12 cents more for a pound of butter, up to 10 cents more for a pound of cheese.
- their share of a billion dollars in taxes (the estimated added cost of that price-boosting program)?

If you wonder why Rep. Frost voted that way, here's a fact you should know: since 1979, Rep. Frost has received \$27,200 in campaign contributions from the dairy lobby.

That makes him one of the dairy lobby's favorite Congressmen. Only eight members of the U.S. House of Representatives got more dairy money.

Yet only three dairy farmers in his district.

And 527,000 consumers and taxpayers.

If you are one of those consumers or taxpayers, here are some questions you may want to ask Rep. Frost:

- Why does he think the dairy lobby gave to his campaigns?
- Having taken their money, is Rep. Frost as free to vote against the



Representative Martin Frost

How much they got—	and how they voted:
Of those who received this amount from the dairy lobby...	... this percent voted with the dairy lobby on price supports.
More than \$20,000	95%
\$10,000 to \$20,000	75%
\$100 to \$10,000	30%
zero	42%

dairy lobby's wishes as if he had taken none of their money?

- Does Rep. Frost favor a law to curb the influence of political action committees (PACs) such as the dairy lobby's, and reduce candidates' dependence on PAC money?

Write and ask him.

Why did Rep. Martin Frost help the dairy lobby milk his constituents?

Rep. Martin Frost
U.S. House of Representatives, 1238 Longworth Building
Washington, D.C. 20515

Dear Congressman Frost:

I read the ad about the campaign money you took from the dairy lobby PACs and how you voted for a dairy price support program that makes me pay higher dairy prices and more taxes.

Why do you think the dairy lobby gave to your campaigns? Why did you take the money?

And do you favor a law to curb the power of political action committees (PACs) such as the dairy lobby's?

Please answer.

Name _____

Address _____

City/State/Zip _____

This ad is a protest.

But it's not a protest against Rep. Frost alone. He's not the only one who takes special interest money. Too many members of Congress do it.

Instead, this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This ad, like similar ads appearing in other parts of the country, was paid for by Citizens Against PACs, a bipartisan group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is drowning out the voice of the average voter who cannot afford large political contributions.

We are not alone in believing that the present way of financing Congressional campaigns is a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said:

"These contributions have become—let's not disguise them by their names—a huge, masked bribe."
—Former Sen. S.L. Hayakawa (R-Cal.)

"You can't buy a congressman for \$5,000. But you can buy his vote. It's done all the time."
—Rep. Thomas J. Downey (D-N.Y.)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."
—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the elections laws to curb the influence of the PACs.

If you agree, here are two things you can do:

- 1) Write Congressman Frost (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to act to change the law to end campaign finance abuse. But let him hear from you. If enough of you write him, he'll listen. One thing is certain: if no one writes, the special

interests, with their PACs and their big contributions, will continue to make first claim on Rep. Frost's ear. So don't wait. Send in the coupon, or write Rep. Frost—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
7000 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways.

- (1) to eliminate or curb political action committees (PACs);
- (2) to lower the skyrocketing costs of modern political campaigns; and thereby
- (3) to end candidates' dependence on special interest contributors.

We can do this by cutting campaign costs (e.g. for broadcast time and mailing), and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.



2000 P Street, N.W., Rm. 408 - Washington, DC 20036

Phillip H. Stern, Whiteley North Baymead, Jr., Co-Chairman
Charles Binstan, business executive - Kenneth B. Clark, psychologist and educator - John Coleman, former Chairman, Philadelphia Federal Reserve Bank - Harry Steele Comisar, historian - Norman Cousins, author

Mary Dale Craig, former Co-chair Republican National Committee - Stanley Marcus, businessman and consultant - The Very Rev. James Parks Marian, Dean, The Cathedral of St. John the Divine, New York

Robert Poller, attorney - Arthur Schlesinger, Jr., historian - Robert Schwartz, Vice-president, Shearson-American Express - Lee B. Thomas, President, Vermont-American Corporation - Mortimer Zuckerman

Paid for by Citizens Against PACs - Anne A. Plaster, Treasurer

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FOR all practical purposes, your Congressman, Henson Moore, has no political opposition. (Since 1978, he has not received less than 91 percent of the vote.)

Although he began his 1982 campaign with nearly \$200,000 in unused campaign funds, he raised nearly \$367,000 more that year.

More than \$110,000 of that came from special interest PACs (political action committees) outside your district.

He emerged with over \$331,000 in leftover campaign money—which he can legally transfer to his own bank account when he leaves Congress.

Even that \$331,000 wasn't enough. In 1983—a non-election year—Rep. Moore raised an added \$213,750 (\$75,000 from special interest PACs) and ended up with surplus campaign funds of \$466,671.

Do you believe that a Congressman should accept big gifts from outside PACs, especially when he starts with lots of money on hand, and needs little more to campaign?

If not, here are some questions you may want to ask Rep. Moore:

- What does he intend to do with any leftover money when he leaves Congress?



Representative Henson Moore

- Why has he raised more than \$580,000 since 1980 when he is in a "safe" district?
- Why does he think the outside special interest PACs gave to his campaign?
- Why did he take their money?
- Does Rep. Moore favor a law to curb the influence of political action committees (PACs) and reduce candidates' dependence on PAC money?

Write and ask him.

What is Rep. Henson Moore going to do with \$467,000 in leftover campaign money—take it with him?

Rep. Henson Moore
U.S. House of Representatives, 2404 Rayburn Building
Washington, D.C. 20515

Dear Congressman Moore:

I read the ad about the \$467,000 in leftover campaign funds, which you can take with you when you leave Congress.

What do you intend to do with that leftover money?

Since you're in a "safe" district, why did you raise so much campaign money?

Why did you take \$185,000 in gifts from special interest PACs outside our district?

Are you in favor of a law to curb the power of the political action committees (PACs)?

Please answer.

Name _____

Address _____

City/State/Zip _____

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This ad is a protest.

But it's not a protest against Rep. Moore alone. He's not the only one who takes special interest money. Too many members of Congress do it.

Instead, this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This ad, like similar ads appearing in other parts of the country, was paid for by Citizens Against PACs, a bipartisan group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is drowning out the voice of the average voter who cannot afford large political contributions.

We are not alone in believing that the present way of financing Congressional campaigns is a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said:

"These contributions have become—let's not disguise them by their names—a huge, masked bribe."

—Former Sen. S.I. Hayakawa (R-Cal.)

"You can't buy a congressman for \$5,000. But you can buy his vote. It's done all the time."

—Rep. Thomas J. Downey (D-N.Y.)

"When these political action committees give money, they expect something in return other than good government."

—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."

—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. *The only way your voice will be heard is if we change the elections laws to curb the influence of the PACs.*

If you agree, here are two things you can do:

- 1) Write Congressman Moore (or send him the coupon above). Ask him blunt questions, like those raised in this ad. **Most important, ask him whether he's prepared to act to change the law to end campaign finance abuse.**

But let him hear from you.

If enough of you write him, he'll listen.

One thing is certain: if no one writes, the special interests,

with their PACs and their big contributions, will continue to make first claim on Rep. Moore's ear.

So don't wait. Send in the coupon, or write Rep. Moore—today.

- 2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways:

- (1) to eliminate or curb political action committees (PACs);
- (2) to lower the skyrocketing costs of modern political campaigns; and thereby
- (3) to end candidates' dependence on special interest contributions.

We can do this by cutting campaign costs (e.g. for broadcast time and mailing), and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.



2000 P Street, N.W., Rm. 408 - Washington, DC 20036

Philip M. Stern, Whitney North Seymour, Jr., Co-Chairman

Charles Benton, business executive - Kenneth B. Clark, psychologist and educator - John Coleman, former Chairman, Philadelphia Federal Reserve Bank - Henry Steele Commager, historian - Norman Cousins, author - Mary Dore Craig, former Co-chair, Republican National Committee - Stanley Marcus, businessman and consultant - The Very Rev. James Parks Morton, Dean, The Cathedral of St. John the Divine, New York - Robert Pollak, attorney - Arthur Schlesinger, Jr., historian - Robert Schwartz, Vice-president, Shearson-American Express - Lee B. Thomas, President, Vermont-American Corporation - Mortimer Zuckerman

(Organizational affiliation for purposes of identification only)

Paid for by Citizens Against PACs - Anne A. Pastor, Treasurer

COULD you afford to give \$8,100 to the election campaigns of your Congressman, Mickey Edwards? Well, the auto dealers could—and did. Not just the auto dealers of this district. Auto dealers all over the country. They formed a political action committee—a PAC. It's not located here in Oklahoma, but in McLean, Va. And in the four years prior to Rep. Edwards' last re-election, that PAC gave him \$8,100 in campaign contributions.

When the auto dealers' lobby wanted Congress to kill a rule requiring used-car dealers to disclose major defects in the cars they sell, Rep. Edwards sided with the dealers.

Ask yourself: who does Rep. Edwards care more about? You and your vote? Or the auto dealers and their money? Here are the facts.

What Rep. Edwards got:
Aug. 19, 1981: Rep. Edwards got a \$2,500 campaign gift—during a non-election year—from the political action committee (PAC) of the National Auto Dealers Association (N.A.D.A.)

What Rep. Edwards did:
Sept. 22, 1981: One month after receiving the N.A.D.A. gift, Rep. Edwards co-sponsored a resolution, strongly favored by the auto dealers, to kill a new federal requirement that used car dealers disclose to buyers major defects in the cars they sell.*

What Rep. Edwards got:
Oct. 19, 1981: Rep. Edwards received an additional \$200 from the auto dealers' PAC.

What Rep. Edwards did:
May 26, 1982: Rep. Edwards voted to kill the used car rule (as desired by the auto dealers).**

What Rep. Edwards got:
Sept. 30, 1982: Rep. Edwards got an added \$2,000 from the auto dealers' PAC. That brought the total of auto dealer gifts to Rep. Edwards since 1979 to \$8,100.

*44 other Congressmen received campaign contributions from the auto dealers' PAC within 90 days of co-sponsoring the resolution favored by the dealers. Names available on request.

**At the time of the vote, 294 other Congressmen received campaign contributions from N.A.D.A. Of them, 248 (85%) voted to kill the used-car rule, as favored by the auto dealers. Names available on request.



Representative Mickey Edwards

How much they got— Of those who received this amount from the auto dealers' PAC	and how they voted: ...the percent voted with the dealers on the used-car rule
\$4000 or more	88.2%
\$1000 to \$3000	88.3%
\$50 to \$1000 zero	34.2%

If you feel Rep. Edwards acted against your interest by helping to kill a rule requiring used car dealers to tell you about major defects in the cars they sell you, here are some questions you may want to ask him:

- Why did Rep. Edwards think the auto dealers gave to his campaign?
- After accepting their money, was he as free to vote against their wishes on the used-car bill as if he had taken no auto-dealer money?
- Does Rep. Edwards favor a new law to curb the influence of political action committees (PACs) and reduce candidates' dependence on PAC money?

Write and ask him.

Rep. Mickey Edwards
U.S. House of Representatives, 2434 Rayburn Building, Washington, D.C. 20515

Dear Congressman Edwards:
I read the ad about the campaign money you took from the auto dealers' PAC and how, just a month later, you helped them kill the "used-car rule" that could have helped me.

Why do you think the auto dealers gave to your campaign? Why did you take their money?

And do you favor a law to curb the power of political action committees (PACs) such as the auto dealers'?

Please answer

Name _____

Address _____

City/State/Zip _____

This ad is a protest.

But it's not a protest against Rep. Edwards alone. He's not the only one who takes special interest money. Too many members of Congress do it.

Instead, this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This ad, like similar ads appearing today in other parts of the country, was paid for by Citizens Against PACs, a bipartisan group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is undermining the integrity and independence of candidates and officeholders and corroding our system of representative government.

We have but one purpose: to make more people aware of how the existing election system works—and doesn't work—and to hasten the time when we finally change our election laws.

We are not alone in believing that the present way of financing Congressional campaigns is a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said:

"These contributions have become—let's not disguise them by their names—a huge, masked bribe."
—Former Sen. S.I. Hayakawa (R-Cal)

"If the system virtually forces members of Congress to go hat in hand, begging for money from special interests whose sole purpose for existing is to seek a *quid pro quo*."
—Sen. Thomas Eagleton (D-Mo)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."
—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the election laws to curb the influence of the PACs.

If you agree, here are two things you can do:
1) Write Congressman Edwards (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to go to the end to change the law to end campaign finance abuse.

2) Let him hear from you. If enough of you write him, he'll listen. One thing is certain: if no one writes, the special interests,

their PACs and their big contributions will continue to have first claim on Rep. Edwards' ear.

We have a choice: to call for change, or to keep on selling Congress and the future of the country to the highest bidder. So don't wait! Send in the coupon, or write Rep. Edwards—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways:

(1) to eliminate or curb political action committees (PACs).

(2) to lower the skyrocketing costs of modern political campaigns, and thereby

(3) to end candidates' dependence on special interest contributors.

We can do this by cutting campaign costs (e.g. for broadcast time and mailing) and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.



2000 P Street, N.W., Rm. 408 • Washington, DC 20036

Philip H. Stern, William Keith Symons, Jr., Co-Chairmen

Charles Barkin, business executive • Kenneth B. Clark, psychologist and educator • John Coleman, former Chairman, Philadelphia Federal Reserve Bank • Harry Stone, former Chairman, National • Herman Casper, author • May Day Camp, former Co-chair, Republican National Committee • Stanley Marcus, businessman and consultant • The Very Rev. James Paris Morton, Dean, The Cathedral of St. John the Divine, New York • Robert Potts, attorney • Arthur Schatzman, Jr., historian • Robert Schwartz, Vice-president, Sherman-American Express • Las B. Thomas, President, Vermont-American Corporation • Morton Zuckerman, Publisher, Atlantic Monthly

Paid for by Citizens Against PACs • Arne A. Plaster, Treasurer

(Operational expenses for purposes of distribution only)

85040520207

YOUR Congressman, Dan Rostenkowski, ended his 1980 re-election with leftover campaign funds of more than \$224,000.

Even so, he raised an additional \$519,000 for his 1982 campaign.

He spent less than half that amount (understandable, since he has received more than 80 percent of the vote in every election since 1974).

So he emerged from his 1982 re-election campaign with a campaign surplus of \$494,894.*

The law permits Rep. Rostenkowski to do anything he chooses with the campaign surpluses when he leaves Congress—including transferring them to his own bank account.

More than half his 1982 campaign contributions (\$293,175) came from special-interest groups with political action committees (PACs) located outside your Congressional District.

Do you believe that a Congressman should accept large campaign contributions from outside special-interest PACs, especially when he starts with a large surplus and doesn't need the money for his campaign? If not, here are some ques-

*17 Congressmen had leftover campaign funds of more than \$200,000 at the end of the 1982 election. Names available on request.



Representative Dan Rostenkowski

tions you may want to ask Rep. Rostenkowski:

- Since his campaign started out with almost a quarter million dollars in the bank, and since he never has a close race, why did he raise half a million more?
- What does he intend to do with any leftover campaign money when he leaves Congress?
- Does Rep. Rostenkowski favor a law to curb the influence of political action committees (PACs) and reduce candidates' dependence on PAC money?

Write and ask him.

What is Rep. Dan Rostenkowski going to do with half a million dollars in leftover campaign money? Take it with him?

Rep. Dan Rostenkowski
U.S. House of Representatives
2111 Rayburn Building, Washington, D.C. 20515

Dear Congressman Rostenkowski:

I read the ad about the \$500,000 in leftover campaign funds, which you can take with you when you leave Congress.

What do you intend to do with that leftover money? And since you're in a "safe" district, why did you raise \$519,000 for your 1982 campaign? Why did you take over \$200,000 from special-interest PACs outside our District?

And are you in favor of a law to curb the power of the political action committees (PACs)?

Please answer.

Name _____

Address _____

City/State/Zip _____

This ad is a protest.

But it's not a protest against Rep. Rostenkowski alone. He's not the only one who takes special interest money. Too many members of Congress do it.

So this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This advertisement, like similar ads appearing today in other parts of the country, was paid for by Citizens Against PACs, started by a group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is undermining integrity in government, weakening the independence of candidates and officeholders, and corroding our system of representative democracy.

We have but one purpose in publishing these ads: to make more people aware of how the existing election system works—and doesn't work—and to hasten the time when we finally change our election laws.

We are not alone in believing that the election laws as they now stand are a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said:

"These contributions have become—let's not disguise them by their names—a huge, masked bribe."

—Former Sen. S.I. Hayakawa (R-Cal.)

"It (the system) virtually forces members of Congress to go hat in hand, begging for money from special interests whose sole purpose for existing is to seek a quid pro quo."

—Sen. Thomas Eagleton (D-Mo.)

"When these political action committees give money, they expect something in return other than good government."

—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."

—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the election laws to curb the influence of the PACs.

If you agree, here are two things you can do:

- 1) Write Congressman Rostenkowski, (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to act to change the law to end campaign finance abuse.

But let him hear from you.

If enough of you write him, he'll listen.

One thing is certain: if no one writes, the special interests, their PACs and their big contributions will continue to have first claim on Rep. Rostenkowski's ear.

We have a choice: to call for change, or to keep on selling Congress and the future of the country to the highest bidder.

So don't wait. Send in the coupon, or write Rep. Rostenkowski—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways:

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We can do this by cutting campaign costs (e.g. for broadcast time and mailing), and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.



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Philip H. Glass, Whitney North Seymour, Jr., Co-Chairmen

Charles Benton, business executive - Kenneth B. Clark, psychologist and educator - John Coleman, former Chairman, Philadelphia Federal Reserve Bank - Henry State Commager, historian - Norman Cousins, author

Mary Don Chig, former Co-chair, Republican National Committee - Stanley Marcus, businessman and consultant - The Very Rev. James Paris Marton, Dean, The Cathedral of St. John the Divine, New York

Robert Pollak, attorney - Arthur Schlesinger, Jr., historian - Robert Schwartz, Vice-president, Shearson-American Express - Lee B. Thomas, President, Vermont-American Corporation - Martin Zimmerman, Publisher, Atlantic Monthly

(Organizational affiliation for purposes of attribution only.)

Paid for by Citizens Against PACs - Anne A. Ruster, Treasurer

95040520208

of public service ads about
campaign finance abuses

In his 1982 re-election campaign, your Congressman, Bob Michel, received most of his campaign funds from sources outside your district. More than two-thirds of his campaign money—\$477,037*—came from special-interest groups (political action committees, or PACs) located outside your district.

Here are a few of the PAC contributors to Rep. Michel's campaign:

NAME AND LOCATION OF PAC	AMOUNT
Antelope Valley PAC Palmdale, California	\$1,000
American Sugar Cane League PAC New Orleans, Louisiana	\$1,250
Southern California Edison Co PAC Rosemead, California	\$1,500
Ocean Spray Cranberry PAC Plymouth, Massachusetts	\$2,000
Ashland Oil PAC Ashland, Kentucky	\$3,250
United Refining Co. PAC Warren, Pennsylvania	\$4,000
Marine Engineers Beneficial Ass'n Washington, DC	\$5,000
Louisiana Energy National PAC Metairie, Louisiana	\$5,000
Long Island Aerospace PAC Baldwin, New York	\$5,000



Representative Robert H. Michel

should get more than two-thirds of his campaign funds from special-interest groups that have no particular interest in your district? If not, here are some questions you may want to ask Rep. Michel:

- Why did he accept large campaign contributions from outside special-interest groups?
- Why does he think they gave to his campaign?
- And, having accepted their money, will he be as free to vote against their wishes as if he had taken NO money from them?
- Does Rep. Michel favor a law to curb the influence of political action committees (PACs) and reduce candidates' dependence on PAC money?

Why did the Ocean Spray Cranberry PAC give \$2,000 to Representative Michel's 1982 campaign?

Rep. Robert H. Michel
U.S. House of Representatives
2112 Rayburn Building
Washington, D.C. 20515

Dear Congressman Michel:
I read the ad about your raising more than two-thirds of your 1982 campaign money from special-interest PACs outside our district. Why did you think those groups gave to your campaign? Why do you take their money?
Are you in favor of a law to curb the power of the political action committees (PACs)?
Please answer:

Name _____
Address _____
City/State/Zip _____

Write and ask him.

This ad is a protest.

But it's not a protest against Rep. Michel alone. He's not the only one who takes special interest money. Too many members of Congress do it.

So this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This advertisement, like similar ads appearing today in other parts of the country, was paid for by Citizens Against PACs, started by a group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is undermining integrity in government, weakening the independence of candidates and officeholders, and corroding our system of representative democracy.

We have but one purpose in publishing these ads: to make more people aware of how the existing election system works—and doesn't work—and to hasten the time when we finally change our election laws.

We are not alone in believing that the election laws as they now stand are a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said.

"These contributions have become—let's not disguise them by their names—a huge, masked bribe."
—Former Sen. S.I. Hayakawa (R-Cal.)

"It [the system] virtually forces members of Congress to go hat in hand, begging for money from special interests whose sole purpose for existing is to seek a quid pro quo."
—Sen. Thomas Eagleton (D-Mo.)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."
—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the election laws to curb the influence of the PACs.

If you agree, here are two things you can do:
1) Write Congressman Michel (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to act to change the law to end campaign finance abuse. But let him hear from you. If enough of you write him, he'll listen.

One thing is certain: if no one writes, the special interests, their PACs and their big contributions will continue to have first claim on Rep. Michel's ear.

We have a choice: to call for change, or to keep on selling Congress and the future of the country to the highest bidder. So don't wait. Send in the coupon, or write Rep. Michel—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

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2000 P Street, N.W., Room 408
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Philip M. Stutz, Whitney North Seymour, Jr., Co-Chairman

Charles Benton, business executive; Kenneth B. Clark, psychologist and educator; John Coleman, former Chairman, Philadelphia Federal Reserve Bank; Henry Stealy, Congressman; Jonathan; Norman Cousins, author; Mary Davie Craig, former Co-chair, Republican National Committee; Stanley Marcus, businessman and consultant; The Very Rev. James Paris Morton, Dean, The Cathedral of St. John the Divine, New York; Robert Poller, attorney; Arthur Schlesinger, Jr., historian; Robert Schwartz, Vice-president, Shearson-American Express; Lee B. Thomas, President, Vermont-American Corporation; Martin Zuckerman, Publisher, Atlantic Monthly

(Organizational affiliation for purposes of identification only.)

85040320209

DURING the 1982 election campaign, the political action committee (PAC) of the American Medical Association gave \$7,500 to the campaign of Senator Harrison Schmitt. But soon after the election, when Schmitt lost to Jeff Bingaman, the A.M.A. gave \$10,000 to Sen.-elect Bingaman. And he accepted the money.*

Why does he think the A.M.A. gave him the money? Why did he take it?

Does Sen. Bingaman favor a law to curb the influence of political action committees (PACs) such as the A.M.A.'s, and reduce candidates' dependence on PAC money?

*At least one of Senator Bingaman's colleagues—Senator Howard Mankinbaum (D-Ore.)—refuses to accept any post-election campaign contributions from political action committees (PACs).



Senator Jeff Bingaman

The doctors' PAC—the biggest spending PAC of them all

Over the years, the American Medical Association's political action committee, AMPAC, has given nearly \$10 million to the campaigns of Congressmen and Senators. That's half again as much as any other PAC has given.

The A.M.A. gave the money to gain support for its stands on issues affecting what you pay for medical care—stands such as:

- Opposing a hospital cost containment bill that the Congressional Budget Office said would save the public \$40 billion over five years.
- Backing a special exemption for doctors and other professionals, protecting them from prosecution by the Federal Trade Commission for price-fixing, deceptive advertising and other illegal practices.

Why did Senator Bingaman allow the doctors' lobby to butter its bread on both sides?

Senator Jeff Bingaman
United States Senate, Room 502 Hart Office Building,
Washington, D.C. 20515

Dear Senator Bingaman:

I read the ad about your taking \$10,000 from the American Medical Association after the A.M.A. had supported and given money to your opponent during the election.

Why did you think the A.M.A. gave that money?

Why did you take it?

Are you in favor of a law to curb the power of political action committees (PACs) such as the A.M.A.'s?

Please answer.

Name _____

Address _____

City/State/Zip _____

Write and ask him.

This ad is a protest.

But it's not a protest against Senator Bingaman alone. He's not the only one who takes special interest money. Too many members of Congress do it.

So this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This advertisement, like similar ads appearing today in other parts of the country, was paid for by Citizens Against PACs, started by a group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is undermining integrity in government, weakening the independence of candidates and officeholders, and corroding our system of representative democracy.

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—Former Sen. S.I. Hayakawa (R-Cal.)

"It [the system] virtually forces members of Congress to go hat in hand, begging for money from special interests whose sole purpose for existing is to seek a quid pro quo."
—Sen. Thomas Eagleton (D-Mo.)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."
—Rep. Barber Conable (R-N.Y.)

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If you agree, here are two things you can do.

- 1) Write Sen. Bingaman (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to act to change the law to end campaign finance abuse. **But let him hear from you.** If enough of you write him, he'll listen.

One thing is certain: if no one writes, the special interests, their PACs and their big contributions will continue to have first claim on Sen. Bingaman's ear.

We have a choice: to call for change, or to keep on selling Congress and the future of the country to the highest bidder.

So don't wait. Send in the coupon, or write Sen. Bingaman—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

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Paid for by Citizens Against PACs • Anne A. Paster, Treasurer



2000 P Street, N.W., Box 408 • Washington, DC 20036

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Charles Barton, business executive • Kenneth B. Clark, psychologist and educator • John Coleman, former Chairman, Philadelphia Federal Reserve Bank • Harry Shale, Campaign Institute • Norman Cousins, author

Mary Dell Chase, former Co-chair, Republican National Committee • Stanley Marcus, businessman and consultant • The Very Rev. James Pats Morton, Dean, The Cathedral of St. John the Evangelist, New York

Robert Potter, attorney • Arthur Schlesinger, Jr., historian • Robert Schwartz, Vice-president, Shearson-American Express • Lee B. Thomas, President, Vermont-American Corporation • Morton Zuckerman, Publisher, Atlantic Monthly

Organizational affiliation for purposes of distribution only.

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FEDERAL ELECTION COMMISSION
MATTER UNDER REVIEW 1809
RESPONDENT, CITIZENS AGAINST PACs, INC.

Response to Commission's Questions and
Request for Documents

Question One: State whether these advertisements were paid for, in whole or part, by Citizens Against PACs, Inc.

Answer: Citizens Against PACs, Inc. ("CAP") paid for the publication of these advertisements.

Question Two: Provide copies of each of the advertisements.

Answer: Copies of the advertisements are attached hereto as Exhibits A-F.

Question Three: State the date(s) on which each of the advertisements ran and the names of the newspapers, magazines, and or other periodical publications in which each advertisement was placed.

Answer:

- a. The advertisement marked Exhibit A was published on April 17, 1984 in the Dallas Morning News.
- b. The advertisement marked Exhibit B was published on May 1, 1984 in the Baton Rouge Times-Advocate.

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
APR 18
P 2:40

85040520211

c. The advertisement marked Exhibit C was published on March 6, 1984 in the Edmond Sun, the Ponca City News, and the Bartlesville Examiner Enterprise.

d. The advertisement marked Exhibit D was published on March 7, 1984 in the Franklin Park Times, the River Grove Times, the Elmwood Park Times, the Proviso Times, the Northwest Times, the Logan Square Times, the Potage Park Times, the Lincoln Belmont Booster and the North Center Irving Park Booster.

e. The advertisement marked Exhibit E was published on March 6, 1984 in the Peoria Journal Star and the Pekin Times.

f. The advertisement marked Exhibit F was published on March 6, 1984 in the Farmington Times, the Las Cruces Sun News and the Albuquerque Journal.

Question Four: State whether the advertisements were run only in the district or State in which the referenced candidate was seeking re-election.

Answer: Inasmuch as the end goal of these advertisements is to achieve campaign finance reform (viz. the final question posed in the coupon in each ad: "Are you in favor of a law to curb the power of political action committees (PACs)?"), the CAP advertisements were addressed to the subject Congressmen

86040520212

or Senator not in their capacity as political candidates -- which they may or may not have been at the time the ads ran -- but in their capacity as officeholders, since only officeholders are in a position to change the existing campaign finance laws.

The advertisement about Senator Bingaman (Exhibit F) makes this crystal clear. Senator Bingaman, who was elected in 1982, was not a "candidate seeking re-election" (the phrase used in the Commission's Question Four), and will not be until 1988, if then.

Accordingly, the advertisements were run in the congressional district and State represented by the Representatives and Senators whose photograph appears on the advertisement.

Question Five: Explain why these particular candidates were made the target of your advertisements.

Answer: First, as stated in our answer to Question Four, these advertisements concerned the Members of Congress in their capacity as officeholders, not as "candidates" (the word used in the Commission's Question Five).

Second, as stated in our answer to Question Four, the sole objective of Citizens Against PACs, Inc. and of its advertisements is to bring about a change in the existing campaign finance laws.

86040520213

That is made unmistakably clear in the following statement which appears in each of the CAP advertisements:

"We have but one purpose in publishing these ads: to make more people aware of how the existing election system works - - and doesn't work -- and to hasten the time when we finally change our election laws."

Each of the ads also says:

"THIS AD IS A PROTEST. But it isn't a protest against Rep. (Sen.) _____ alone. He's not the only one who takes special interest money. Too many members of Congress do it. So this ad is a protest against the existing political system. . ." (Emphasis added.)

The ads urge readers to contact their representatives in Congress to support reform of campaign laws -- the most basic and most effective form of citizen influence in the legislative process.

Third, CAP's view of the need for campaign finance reform is not solely its own, and is certainly not an issue on which views divide on party lines. Each of the advertisements contain statements by present or former Members of Congress from both political parties which are critical of the existing system of financing campaigns.

Fourth, the selection of the Congressmen and Senator named in CAP's advertisements was without regard to party affiliation. The Commission will note that the six ads in question involve three Democrats and three Republicans.

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Fifth, the selection of the Members of Congress was without regard to the ideology of the Representative or Senator in question. The highlighted Federal officeholders included, for example, Reps. Henson Moore (R-LA); and Dan Rostenkowski (D-IL), who, according to Politics in America, received the following ratings in 1982 from a liberal group (Americans for Democratic Action -- or ADA), a conservative group (Americans for Constitutional Action -- or ACA); and the AFL-CIO;

	<u>ADA</u>	<u>ACA</u>	<u>AFL-CIO</u>
Rep. Moore (R-LA)	0	87	0
Rep. Rostenkowski (D-IL)	85	13	85

Sixth, as noted in our answer to Question Four, the absence of any intention on CAP's part to influence the outcome of a Federal election is particularly evidenced by the advertisement regarding Senator Jeff Bingaman (D-MN) -- who had just been elected two years earlier, and does not face a re-election contest until 1988, if then. CAP selected Senator Bingaman because AMPAC's post-election contribution to him (\$10,000) was the largest example of an AMPAC pre/post-election switch-contribution that CAP was able to find in the Federal Election Commission's records.

Seventh, CAP selected Reps. Rostenkowski and Moore because, among Representatives whose seats are comparatively "safe," they are among the top Representatives with regard to the amount of cash-on-hand at the end of their 1982 campaigns

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according to the records of the Federal Election Commission. If CAP's objectives were to influence the outcome of Congressmen's elections rather than affecting their stance on campaign finance reform, CAP would not have chosen Congressmen with "safe" seats in preference to Representatives in "marginal" districts.

Eighth, CAP selected Rep. Michel because, as stated in the advertisement about him, he "received more PAC contributions -- by a margin of \$100,000 -- than any other member of the House of Representatives."

Moreover, the advertisement also went on to observe that "32 other House candidates accepted more than \$200,000 from PACs in the 1982 election," thus reinforcing CAP's statement that the advertisement was "not a protest against Rep. Michel alone." Note that similar statements appear in most of CAP's other advertisements.

Ninth, CAP selected Rep. Edwards (R-OK) because of the size of his August 19, 1981 contribution from the PAC of the National Automobile Dealers Association (\$2,500) combined with its promixity in time to his co-sponsorship of a resolution favored by the N.A.D.A. (approximately one month).

The advertisement also stated that "54 other Congressmen received campaign contributions from the auto dealers' PAC within 90 days of co-sponsoring the resolution favored

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by the dealers," and that "294 other Congressmen received campaign contributions from N.A.D.A.," thus reinforcing CAP's statement that the advertisement was "not a protest against Rep. Edwards' alone."

As further evidence of CAP's aim of educating the public about PAC influence and of the absence of any intent to single out Rep. Edwards alone, we request that the Commission pay particular attention to the table under Rep. Edwards' photograph in the advertisement; a table which reflects the statistical correlation of the amount given to Congressmen by the N.A.D.A. PAC and the votes of the recipient Congressmen on the issue of vetoing the FTC's Used Car Rule.

Tenth, CAP selected Rep. Martin Frost (D-TX) because, among urban Representatives, he had received the highest amount of contributions from the dairy lobby (\$27,200).

As with the advertisement about Rep. Edwards, the advertisement about Rep. Frost contains a table showing the correlation between dairy lobby campaign contributions and the positions of Congressmen throughout the House of Representatives.

In sum, these ads were intended to illustrate the need for carrying out CAP's objectives -- reform of the campaign finance laws.

Question Six: State whether there has been any instance in which both major party candidates from the same district

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have been targets of your advertisements. If so, please provide copies of each advertisement.

Answer: There were no such instances because, as stated in our answers to Questions Four and Five above, CAP's advertisements were addressed to the subject Congressmen and Senator in their capacity as officeholders, not in their capacity as candidates.

As noted above, this is most clearly evidenced by the advertisement about Senator Bingaman, who was not a candidate for re-election in 1984 and will not be a candidate until 1988, if then.

Moreover, in the case of Reps. Edwards, Rostenkowski and Michel, CAP's advertisements ran prior to the Congressional primary date in their respective States, and, therefore, their major party opponent had not been selected at the time CAP published its advertisement. This further reinforces CAP's purpose of bringing about campaign finance reform, and not of influencing the outcome of a federal election.

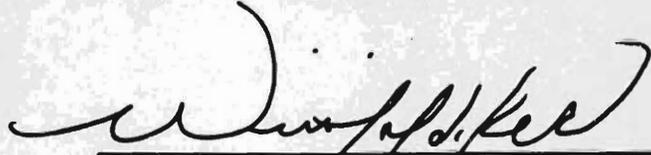
Question Seven: State the total amount of expenditures made in connection with your advertisements.

Answer: The cost of purchasing the space for the advertisements mentioned by the Commission was \$15,983.92. CAP also

86040520218

expended money for production costs, but such expenditures are not susceptible of being broken down advertisement by advertisement.

Respectfully submitted,



William C. Qidaker
Counsel for Citizens Against
PACs, Inc.

Date: 4/18/85

85040620219

THERE are just three dairy farmers in Rep. Martin Frost's Dallas Congressional district.

But there are about 527,000 people—135,000 families—who buy milk, butter and other dairy products. Those families also pay taxes.

Three dairy farmers. 527,000 consumers and taxpayers.

About 210,000 of his constituents live below the poverty line. For them, every penny at the checkout counter counts.

Why, then, did Rep. Frost vote for a dairy price support program that will require every family in his district to pay—

- up to 9 cents more for a gallon of milk.
- up to 12 cents more for a pound of butter, up to 10 cents more for a pound of cheese.
- their share of a billion dollars in taxes (the estimated added cost of that price-boosting program)?

If you wonder why Rep. Frost voted that way, here's a fact you should know: since 1979, Rep. Frost has received \$27,200 in campaign contributions from the dairy lobby.

That makes him one of the dairy lobby's favorite Congressmen. Only eight members of the U.S. House of Representatives got more dairy money.

Yet only three dairy farmers in his district.

And 527,000 consumers and taxpayers.

If you are one of those consumers or taxpayers, here are some questions you may want to ask Rep. Frost:

- Why does he think the dairy lobby gave to his campaigns?
- Having taken their money, is Rep. Frost as free to vote against the



Representative Martin Frost

How much they got—	and how they voted:
Of those who received this amount from the dairy lobby:	... this percent voted with the dairy lobby on price supports.
More than \$20,000	88%
\$10,000 to \$20,000	75%
\$1,000 to \$10,000	58%
none	42%

dairy lobby's wishes as if he had taken none of their money?

- Does Rep. Frost favor a law to curb the influence of political action committees (PACs) such as the dairy lobby's, and reduce candidates' dependence on PAC money?

Write and ask him.

Why did Rep. Martin Frost help the dairy lobby milk his constituents?

Rep. Martin Frost
U.S. House of Representatives, 1238 Longworth Building
Washington, D.C. 20515

Dear Congressman Frost:

I read the ad about the campaign money you took from the dairy lobby PACs and how you voted for a dairy price support program that makes me pay higher dairy prices and more taxes.

Why do you think the dairy lobby gave to your campaigns? Why did you take the money?

And do you favor a law to curb the power of political action committees (PACs) such as the dairy lobby's?

Please answer.

Name _____

Address _____

City/State/Zip _____

This ad is a protest.

But it's not a protest against Rep. Frost alone. He's not the only one who takes special interest money. Too many members of Congress do it.

Instead, this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This ad, like similar ads appearing in other parts of the country, was paid for by Citizens Against PACs, a bipartisan group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is drowning out the voice of the average voter who cannot afford large political contributions.

We are not alone in believing that the present way of financing Congressional campaigns is a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said:

"These contributions have become—let's not disguise them by their names—a huge, masked bribe."

—Former Sen. S.I. Hayakawa (R-Cal.)

"You can't buy a congressman for \$5,000. But you can buy his vote. It's done all the time."

—Rep. Thomas J. Downey (D-N.Y.)

"When these political action committees give money, they expect something in return other than good government."

—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."

—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the elections laws to curb the influence of the PACs.

If you agree, here are two things you can do:

- 1) Write Congressman Frost (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to **act** to change the law to end campaign finance abuse. **But let him hear from you.**

If enough of you write him, he'll listen. One thing is certain: if no one writes, the special

interests, with their PACs and their big contributions, will continue to make first claim on Rep. Frost's ear. So don't wait. Send in the coupon, or write Rep. Frost—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways:

- (1) to eliminate or curb political action committees (PACs);
- (2) to lower the skyrocketing costs of modern political campaigns; and thereby
- (3) to end candidates' dependence on special interest contributors.

We can do this by cutting campaign costs (e.g. for broadcast time and mailing), and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.

Citizens Against PACs

2000 P Street, N.W., Rm. 408 • Washington, DC 20036

Phyllis M. Stone, Whitney North Seymour, Jr., Co-Chairman
Charles Butler, Executive Director • Kenneth B. Clark, psychologist and educator • John Coleman, former Chairman, Philadelphia Federal Reserve Bank • Henry Steele Commager, historian • Howard

Paul for by Citizens Against PACs • Anne A. Plesser, Treasurer

85040520220

FOR all practical purposes, your Congressman, Henson Moore, has no political opposition. (Since 1978, he has not received less than 91 percent of the vote.)

Although he began his 1982 campaign with nearly \$200,000 in unused campaign funds, he raised nearly \$367,000 more that year.

More than \$110,000 of that came from special interest PACs (political action committees) outside your district.

He emerged with over \$331,000 in leftover campaign money—which he can legally transfer to his own bank account when he leaves Congress.

Even that \$331,000 wasn't enough. In 1983—a non-election year—Rep. Moore raised an added \$213,750 (\$75,000 from special interest PACs), and ended up with surplus campaign funds of \$466,671.

Do you believe that a Congressman should accept big gifts from outside PACs, especially when he starts with lots of money on hand, and needs little more to campaign?

If not, here are some questions you may want to ask Rep. Moore:

• What does he intend to do with any leftover money when he leaves Congress?



Representative Henson Moore

- Why has he raised more than \$580,000 since 1980 when he is in a "safe" district?
- Why does he think the outside special interest PACs gave to his campaign?
- Why did he take their money?
- Does Rep. Moore favor a law to curb the influence of political action committees (PACs) and reduce candidates' dependence on PAC money?

Write and ask him.

What is Rep. Henson Moore going to do with \$467,000 in leftover campaign money—take it with him?

Rep. Henson Moore
U.S. House of Representatives, 2404 Rayburn Building
Washington, D.C. 20515

Dear Congressman Moore:

I read the ad about the \$467,000 in leftover campaign funds, which you can take with you when you leave Congress.

What do you intend to do with that leftover money?

Since you're in a "safe" district, why did you raise so much campaign money?

Why did you take \$185,000 in gifts from special interest PACs outside our district?

Are you in favor of a law to curb the power of the political action committees (PACs)?

Please answer:

Name _____
 Address _____
 City/State/Zip _____

85040520021

This ad is a protest.

But it's not a protest against Rep. Moore alone. He's not the only one who takes special interest money. Too many members of Congress do it.

Instead, this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This ad, like similar ads appearing in other parts of the country, was paid for by Citizens Against PACs, a bipartisan group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is drowning out the voice of the average voter who cannot afford large political contributions.

We are not alone in believing that the present way of financing Congressional campaigns is a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said:

"These contributors have become—let's not dispute them by their names—a huge, masked tribe."
—Former Sen. S.I. Hayakawa (R-Cal.)

"You can't buy a congressman for \$5,000. But you can buy his vote. It's done all the time."
—Rep. Thomas J. Downey (D-N.Y.)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dale (R-Kansas)

"These new PACs not only buy incumbents but effect legislation."
—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the election laws to curb the influence of the PACs.

If you agree, here are two things you can do:

- 1) Write Congressman Moore (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to **act** to change the law to end campaign finance abuse.

But let him hear from you. If enough of you write him, he'll listen.

One thing is certain: if no one writes, the special interests,

with their PACs and their big contributions, will continue to make first claim on Rep. Moore's ear. So don't wait. Send in the coupon, or write Rep. Moore—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2800 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways:

- (1) to eliminate or curb political action committees (PACs);
- (2) to lower the skyrocketing costs of modern political campaigns, and thereby
- (3) to end candidates' dependence on special interest contributors.

We can do this by cutting campaign costs (e.g. for broadcast time and mailing), and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.



2800 P Street, N.W., Rm. 408 • Washington, DC 20036

Philip H. Stone, Whitney North Seymour, Jr., Co-Chairman
Charles Benton, Business Executive • Kenneth B. Clark, psychologist and educator • John Coleman, former Chairman, Philadelphia Federal Reserve Bank • Harry Stone Cummings, historian • Norman Cousins, author
Mary Dand Cochrane, former Co-Chair, Republican National Committee • Stanley Marcus, businessman and consultant • The Very Rev. James Paris Martin, Dean, The Cathedral of St. John the Divine, New York
Robert Schwartz, Vice-President, Sherrill-American Express • Leo B. Thomas, President, Vermont-American Corporation • Mortimer Zuckerman, publisher

Paid for by Citizens Against PACs • Anne A. Paster, Treasurer

COULD you afford to give \$8,100 to the election campaign of your Congressman, Mickey Edwards? Well, the auto dealers could—and did. Not just the auto dealers of this district. Auto dealers all over the country. They formed a political action committee—a PAC. It's not located here in Oklahoma, but in McLean, Va. And in the four years prior to Rep. Edwards' last re-election, that PAC gave him \$8,100 in campaign contributions.

When the auto dealers' lobby wanted Congress to kill a rule requiring used-car dealers to disclose major defects in the cars they sell, Rep. Edwards sided with the dealers.

Ask yourself: who does Rep. Edwards care more about? You and your vote? Or the auto dealers and their money? Here are the facts:

What Rep. Edwards got:
Aug. 19, 1981: Rep. Edwards got a \$2,500 campaign gift—during a non-election year—from the political action committee (PAC) of the National Auto Dealers Association (N.A.D.A.)

What Rep. Edwards did:
Sept. 22, 1981: One month after receiving the N.A.D.A. gift, Rep. Edwards co-sponsored a resolution, strongly favored by the auto dealers, to kill a new federal requirement that used car dealers disclose to buyers major defects in the cars they sell.*

What Rep. Edwards got:
Oct. 19, 1981: Rep. Edwards received an additional \$300 from the auto dealers' PAC.

What Rep. Edwards did:
May 26, 1982: Rep. Edwards voted to kill the used car rule (as desired by the auto dealers).**

What Rep. Edwards got:
Sept. 30, 1982: Rep. Edwards got an added \$2,800 from the auto dealers' PAC. That brought the total of auto dealer gifts to Rep. Edwards since 1979 to \$8,100.

*In other Congressional sessions campaign contributions from the auto dealers' PAC within 90 days of co-sponsoring the resolution favored by the dealers have exceeded an amount.

**At the time of the vote, 294 other Congressmen opposed campaign contributions from N.A.D.A. Of them, 249 (85%) voted to kill the used-car rule, as favored by the auto dealers. Names available on request.



Representative Mickey Edwards

How much they got—	and how they voted:
Of those who received the amount from the auto dealers' PAC:	... the percent voted with the dealers on the used-car rule:
\$4000 or more	88.2%
\$1000 to \$3999	88.3%
\$50 to \$999	88.6%
none	34.2%

If you feel Rep. Edwards acted against your interest by helping to bring a rule requiring used car dealers to tell you about major defects in the cars they sell you, here are some questions you may want to ask him:

- Why did Rep. Edwards think the auto dealers gave to his campaign?
- After accepting their money, was he as free to vote against their wishes on the used-car bill as if he had taken no auto-dealer money?
- Does Rep. Edwards favor a new law to curb the influence of political action committees (PACs) and reduce candidates' dependence on PAC money?

Write and ask him.

Who does Rep. Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?

Rep. Mickey Edwards
U.S. House of Representatives, 2434 Rayburn Building, Washington, D.C. 20515

Dear Congressman Edwards:

I read the ad about the campaign money you took from the auto dealers' PAC and how, just a month later, you helped them kill the "used-car rule" that could have helped me.

Why do you think the auto dealers gave to your campaign? Why did you take their money?

And do you favor a law to curb the power of political action committees (PACs) such as the auto dealers'?

Please answer:

Name _____
Address _____
City/State/Zip _____

This ad is a protest.

But it's not a protest against Rep. Edwards alone. He's not the only one who takes special interest money. Too many members of Congress do it.

Instead, this ad is a protest against the existing political system—a system that evades candidates to accept special interest campaign money—and then to pay special attention to those who give it.

This ad-like similar ads appearing today in other parts of the country, was paid for by Citizens Against PACs, a bipartisan group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is undermining the integrity and independence of candidates and officeholders and crowding our system of representative government.

We have but one purpose: to make more people aware of how the existing election system works—and doesn't work—and to hasten the time when we finally change our election laws.

We are not alone in believing that the present way of financing Congressional campaigns is a disgrace. Here's what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said:

"These contributors have become...it's not disgrace them by their names—a huge, masked tribe."
—Former Sen. S.J. Hayakawa (R-Cal)

"The system virtually forces members of Congress to go hat in hand, begging for money from special interests whose sole purpose for donating is to seek a *quid pro quo*."
—Sen. Thomas Eagleton (D-Mo)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."
—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the election laws to curb the influence of the PACs.

If you agree, here are two things you can do:
1) Write Congressman Edwards (or send him the coupon above). Ask him blunt questions. Use those raised in this ad. Most important, ask him whether he's prepared to **GO TO CHANGE THE LAW TO END CAMPAIGN FINANCE ABUSE**.
2) **LET HIM HEAR FROM YOU**. If enough of you write him, he'll listen. One thing is certain: if no one writes, the special interests,

their PACs and their big contributors will continue to have first claim on Rep. Edwards' ear.

We have a choice: to call for change, or to keep on selling Congress and the future of the country to the highest bidder. So don't wait. Send in the coupon, or write Rep. Edwards—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways:

- (1) to eliminate or curb political action committees (PACs);
- (2) to lower the skyrocketing costs of modern political campaigns; and thereby
- (3) to end candidates' dependence on special interest contributors.

We can do this by cutting campaign costs (e.g. for broadcast time and mailing), and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.

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...s of public service ads about
...nce abuses

YOUR Congressman, Dan Rostenkowski, ended his 1980 re-election with leftover campaign funds of more than \$224,000.

Even so, he raised an additional \$519,000 for his 1982 campaign.

He spent less than half that amount (understandable, since he has received more than 80 percent of the vote in every election since 1974).

So he emerged from his 1982 re-election campaign with a campaign surplus of \$494,894.*

The law permits Rep. Rostenkowski to do anything he chooses with the campaign surpluses when he leaves Congress—including transferring them to his own bank account.

More than half his 1982 campaign contributions (\$293,175) came from special-interest groups with political action committees (PACs) located outside your Congressional District.

Do you believe that a Congressman should accept large campaign contributions from outside special-interest PACs, especially when he starts with a large surplus and doesn't need the money for his campaign? If not, here are some ques-

*17 Congressmen had leftover campaign funds of more than \$200,000 at the end of the 1982 election. Names available on request.



Representative Dan Rostenkowski

tions you may want to ask Rep. Rostenkowski:

- Since his campaign started out with almost a quarter million dollars in the bank, and since he never has a close race, why did he raise half a million more?
- What does he intend to do with any leftover campaign money when he leaves Congress?
- Does Rep. Rostenkowski favor a law to curb the influence of political action committees (PACs) and reduce candidates' dependence on PAC money?

**Write
and ask
him.**

What is Rep. Dan Rostenkowski going to do with half a million dollars in leftover campaign money? Take it with him?

Rep. Dan Rostenkowski
U.S. House of Representatives
2111 Rayburn Building, Washington, D.C. 20515

Dear Congressman Rostenkowski:
I read the ad about the \$500,000 in leftover campaign funds, which you can take with you when you leave Congress.
What do you intend to do with that leftover money?
And since you're in a "safe" district, why did you raise \$519,000 for your 1982 campaign? Why did you take over \$200,000 from special-interest PACs outside our District?
And are you in favor of a law to curb the power of the political action committees (PACs)?
Please answer

Name _____

Address _____

City/State/Zip _____

**This ad
is a protest.**

But it's not a protest against Rep. Rostenkowski alone. He's not the only one who takes special interest money. Too many members of Congress do it.

So this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This advertisement, like similar ads appearing today in other parts of the country, was paid for by Citizens Against PACs, started by a group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is undermining integrity in government, weakening the independence of candidates and officeholders, and corroding our system of representative democracy.

We have but one purpose in publishing these ads: to make more people aware of how the existing election system works—and doesn't work—and to hasten the time when we finally change our election laws.

We are not alone in believing that the election laws as they now stand are a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said:

"These contributions have become—let's not disguise them by their names—a huge, masked bribe."
—Former Sen. S.I. Hayakawa (R-Cal)

"It (the system) virtually forces members of Congress to go hat in hand, begging for money from special interests whose sole purpose for existing is to seek a *quid pro quo*."
—Sen. Thomas Eagleton (D-Mo)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."
—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the election laws to curb the influence of the PACs.

If you agree, here are two things you can do:
1) Write Congressman Rostenkowski, (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to act to change the law to end campaign finance abuse.

But let him hear from you.

If enough of you write him, he'll listen. One thing is certain: if no one writes, the special interests, their PACs and their big contributors will continue to have first claim on Rep. Rostenkowski's ear.

We have a choice to call for change, or to keep on selling Congress and the future of the country to the highest bidder.

So don't wait. Send in the coupon, or write Rep. Rostenkowski—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways:

(1) to eliminate or curb political action committees (PACs);

(2) to lower the skyrocketing costs of modern political campaigns, and thereby

(3) to end candidates' dependence on special interest contributors.

We can do this by cutting campaign costs (e.g. for broadcast time and mailing), and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.



2000 P Street, N.W., Rm. 408 • Washington, DC 20036

Philip H. Stern, Wilburly North Soyars, Jr., Co-Chairmen

Charles Benton, business executive • Kenneth B. Clark, psychologist and educator • John Coleman, former Chairman, Philadelphia Federal Reserve Bank • Henry Steele Commager, historian • Norman Cousins, author
Mary East O'Leary, former Co-Chair, Republican National Committee • Stanley Marcus, businessman and consultant • The Very Rev. James Paris Morton, Dean, The Cathedral of St. John the Divine, New York
Robert Peter, attorney • Arthur Schlesinger, Jr., historian • Robert Schwartz, Vice-president, Starzwan-American Express • Lee B. Thomas, President, National-American Corporation • Martin Zimmerman, Publisher, Atlantic Monthly

Paid for by Citizens Against PACs • Anne A. Rastar, Treasurer

85010620033

of public service ads about campaign finance abuses

In his 1982 re-election campaign, your Congressman, Bob Michel, received most of his campaign funds from sources outside your district. More than two-thirds of his campaign money—\$477,037*—came from special-interest groups (political action committees, or PACs) located outside your district.

Here are a few of the PAC contributors to Rep. Michel's campaign:

NAME AND LOCATION OF PAC	AMOUNT
Antelope Valley PAC Palmdale, California	\$1,000
American Sugar Cane League PAC New Orleans, Louisiana	\$1,250
Southern California Edison Co PAC Rosemead, California	\$1,500
Ocean Spray Cranberry PAC Plymouth, Massachusetts	\$2,000
Ashland Oil PAC Ashland, Kentucky	\$3,250
United Refining Co PAC Warren, Pennsylvania	\$4,000
Marine Engineers Beneficial Ass'n Washington, DC	\$5,000
Louisiana Energy National PAC Metairie, Louisiana	\$5,000
Long Island Aerospace PAC Bethwyn, New York	\$5,000

Who do you think stands a better chance of getting Rep. Michel's ear? The tens of thousands of voters in his district who couldn't afford to give several hundred dollars to his campaign? Or the few outside PACs who could afford to—and did?

Do you feel your Congressman

*Rep. Michel received more PAC contributions—by a margin of \$100,000—than any other member of the House of Representatives. But 32 other House candidates accepted more than \$200,000 from PACs in the 1982 elections. Names available on request.



Representative Robert H. Michel

should get more than two-thirds of his campaign funds from special-interest groups that have no particular interest in your district?

If not, here are some questions you may want to ask Rep. Michel:

- Why did he accept large campaign contributions from outside special-interest groups?
 - Why does he think they gave to his campaign?
- And, having accepted their money, will he be as free to vote against their wishes as if he had taken NO money from them?
- Does Rep. Michel favor a law to curb the influence of political action committees (PACs) and reduce candidates' dependence on PAC money?

Write and ask him.

Why did the Ocean Spray Cranberry PAC give \$2,000 to Representative Michel's 1982 campaign?

Rep. Robert H. Michel
U.S. House of Representatives
2112 Rayburn Building
Washington, D.C. 20515

Dear Congressman Michel:

I read the ad about your raising more than two-thirds of your 1982 campaign money from special-interest PACs outside our district. Why did you think those groups gave to your campaign? Why do you take their money? Are you in favor of a law to curb the power of the political action committees (PACs)? Please answer

Name _____
Address _____
City/State/Zip _____

This ad is a protest.

But it's not a protest against Rep. Michel alone. He's not the only one who takes special interest money. Too many members of Congress do it.

So this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This advertisement, like similar ads appearing today in other parts of the country, was paid for by Citizens Against PACs, started by a group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is undermining integrity in government, weakening the independence of candidates and officeholders, and corrupting our system of representative democracy.

We have but one purpose in publishing these ads: to make more people aware of how the existing election system works—and doesn't work—and to hasten the time when we finally change our election laws.

We are not alone in believing that the election laws as they now stand are a disgrace. Here is what Congressmen and ex-Congressmen—people who have seen the system operate from the inside—have said.

"These contributions have become... not disguise them by their names—a huge, muddled bribe."
—Former Sen. S. J. Hayakawa (R-Cal.)

"In the system virtually forces members of Congress to go out in hand, begging for money from special interests whose sole purpose for existing is to seek a quid pro quo."
—Sen. Thomas Eagleton (D-Mo.)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but affect legislation."
—Rep. Barber Conable (R-N.Y.)

Join us.

Because if you can't afford to make a large contribution to your Congressman or Senator, the special-interest groups and their PACs are drowning out your voice. The only way your voice will be heard is if we change the election laws to curb the influence of the PACs.

If you agree, here are two things you can do:
1) Write Congressman Michel (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to change the law to end campaign finance abuse. But let him hear from you.
2) If enough of you write him, he'll listen.

One thing is certain: if no one writes, the special interests, their PACs and their big contributions will continue to exert first claim on Rep. Michel's ear.

We have a choice: to call for change, or to keep on selling Congress and the future of the country to the highest bidder. So don't wait. Send in the coupon, or write Rep. Michel—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

What needs to be done

We believe that the existing law urgently needs to be changed, in three principal ways:

- (1) to eliminate or curb political action committees (PACs);
- (2) to lower the skyrocketing costs of modern political campaigns, and thereby
- (3) to end candidates' dependence on special interest contributors.

We can do this by cutting campaign costs to e.g. for broadcast time and mailing, and by some form of public financing of Congressional elections (as is now in effect for Presidential elections). That will assure candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.

Paid for by Citizens Against PACs • Anne A. Paster, Treasurer

2000 P Street, N.W. • Box 408 • Washington, DC 20036

Philip H. Stans, 1980-81, Chairman
Charles Brown, Business Executive
Steven B. Clark, Psychologist and Educator
John Coleman, Former Chairman
Phyllis F. Kline, Former Federal Reserve Bank
Henry Shuler, Former Congressman
James H. Thompson, Former Congressman
William J. Watkins, Former Congressman
William J. Watkins, Former Congressman
William J. Watkins, Former Congressman



series of public service ads about
finance abuses

DURING the 1982 election campaign, the political action committee (PAC) of the American Medical Association gave \$7,500 to the campaign of Senator Harrison Schmitt.

But soon after the election, when Schmitt lost to Jeff Bingaman, the A.M.A. gave \$10,000 to Sen.-elect Bingaman. And he accepted the money.*

Why does he think the A.M.A. gave him the money? Why did he take it?

Does Sen. Bingaman favor a law to curb the influence of political action committees (PACs) such as the A.M.A.'s, and reduce candidates' dependence on PAC money?

*At least one of Senator Bingaman's colleagues—Senator Howard Bakerbaum (D-Ore.)—refuses to accept any post-election campaign contributions from political action committees (PACs)



Senator Jeff Bingaman

The doctors' PAC—the biggest spending PAC of them all

Over the years, the American Medical Association's political action committee, AMPAC, has given nearly \$10 million to the campaigns of Congressmen and Senators. That's half again as much as any other PAC has given.

The A.M.A. gave the money to gain support for its stands on issues affecting what you pay for medical care—stands such as:

- Opposing a hospital cost containment bill that the Congressional Budget Office said would save the public \$40 billion over five years.
- Backing a special exemption for doctors and other professionals, protecting them from prosecution by the Federal Trade Commission for price-fixing, deceptive advertising and other illegal practices.

Why did Senator Bingaman allow the doctors' lobby to butter its bread on both sides?

Write and ask him.

Senator Jeff Bingaman
United States Senate, Room 502 Hart Office Building,
Washington, D.C. 20515

Dear Senator Bingaman:

I read the ad about your taking \$10,000 from the American Medical Association after the A.M.A. had supported and given money to your opponent during the election.

Why did you think the A.M.A. gave that money?

Why did you take it?

Are you in favor of a law to curb the power of political action committees (PACs) such as the A.M.A.'s?

Please answer:

Name _____

Address _____

City/State/Zip _____

This ad is a protest.

But it's not a protest against Senator Bingaman alone. He's not the only one who takes special interest money. Too many members of Congress do it.

So this ad is a protest against the existing political system—a system that entices candidates to accept special-interest campaign money—and then to pay special attention to those who give it.

This advertisement, like similar ads appearing today in other parts of the country, was paid for by Citizens Against PACs, started by a group of citizens from all sections of America who are deeply troubled about the ways in which special interest money is undermining integrity in government, weakening the independence of candidates and officials, and corroding our system of representative democracy.

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"These contributors have become—let's not dispute them by their names—a huge, mottled tribe."
—Former Sen. S. I. Hayakawa (R-Cal.)

"It [the system] virtually forces members of Congress to go hat in hand, begging for money from special interests whose sole purpose for existing is to seek a quid pro quo."
—Sen. Thomas Eagleton (D-Mo.)

"When these political action committees give money, they expect something in return other than good government."
—Sen. Robert Dole (R-Kansas)

"These new PACs not only buy incumbents but effect legislation."
—Rep. Barber Conable (R-N.Y.)

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If you agree, here are two things you can do:
1) Write Sen. Bingaman (or send him the coupon above). Ask him blunt questions, like those raised in this ad. Most important, ask him whether he's prepared to act to change the law to end campaign finance abuse. Let him hear from you.
If enough of you write him, he'll listen.

One thing is certain: if no one writes, the special interests, their PACs and their big contributions will continue to have first claim on Sen. Bingaman's ear.

We have a choice: to call for change, or to keep on selling Congress and the future of the country to the highest bidder.

So don't wait. Send in the coupon, or write Sen. Bingaman—today.

2) If you share our concern, send us a contribution so we can continue to run ads like this and alert others. Send your contribution to:

Citizens Against PACs
2000 P Street, N.W., Room 408
Washington, D.C. 20036

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(2) to lower the skyrocketing costs of modern political campaigns; and thereby

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We can do this by cutting campaign costs (e.g. for broadcast time and mailing), and by some form of public financing of Congressional elections (as a new public financing of Presidential elections). That will produce in effect for Presidential elections) That will produce candidates a source of impartial money sufficient to mount an effective campaign without having to accept special-interest gifts.



2000 P Street, N.W., Rm. 408 - Washington, DC 20036

Phyllis M. Stone, Whitney North Seymour, A., Co-Chairman

Charles Berlin, business executive - Kenneth B. Clark, psychologist and educator - John Coleman, former Chairman Philadelphia Federal Reserve Bank - Henry Stone, Campaign historian - William Citizens, author

Mary Beth Cook, former Co-Chair Republican National Committee - Doris Minkin, businesswoman and consultant - The Very Rev. James Parks Morison, Dean, The Cathedral of St. John the Baptist, New York

Robert Peter, attorney - Arthur Schlesinger, Jr., historian - Robert Schwartz, Vice-president, Shoppers-American Express - Lee B. Thomas, President, Vermont American Corporation - Martin Anderson, Publisher, Atlantic Monthly

(Reproduction allowed for purposes of distribution only)

Paid for by Citizens Against PACs - Anne A. Packer, Treasurer

85040320225



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

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

DATE: APRIL 23, 1985

SUBJECT: MUR 1809 - Subpoena and Order

The attached subpoena and order, which was Commission approved on April 16, 1985, by a vote of 6-0, has been signed and sealed this date.

86040620226

Attachment

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1809
Citizens Against PACs, Inc.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 16, 1985, the Commission decided by a vote of 6-0 to take the following actions in MUR 1809:

1. Deny the request of Citizens Against PACs, Inc. for an additional eleven day extension to respond to the Commission's questions and request for documents in connection with its notice of March 5, 1985, that it has reason to believe Citizens Against PACs, Inc., violated the Act.
2. Approve the subpoena to produce documents and order to submit written answers and cover letter to the Citizens Against PACs, Inc. as submitted with the General Counsel's Report signed April 9, 1985.

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

Attest:

4-16-85
Date

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

Received in Office of Commission Secretary: 4-11-85, 11:40
Circulated on 48 hour tally basis: 4-11-85, 4:00

86040520227



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 24, 1985

William C. Oldaker
Leslie Kerman
Epstein, Becker, Borsody & Green, P.C.
1140 19th Street, NW
Washington, DC 20036-6601

Re: MUR 1809
Citizens Against PACs, Inc.

Dear Mr. Oldaker and Ms. Kerman:

This is in reference to your letter dated April 2, 1985, requesting an additional extension to respond to the Commission's questions and request for documents in connection with its notice that it has reason to believe your client, Citizens Against PACs, Inc. has violated the Act.

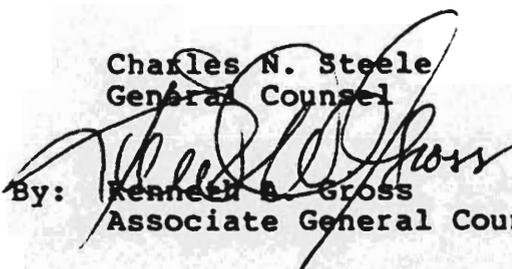
Considering the Commission's responsibilities under 2 U.S.C. § 437g(a)(8)(A) to act expeditiously on complaints and the circumstances of this matter, the Commission on April 16, 1985, determined to deny your requested extension.

Consequently, the Commission has issued the attached subpoena and order which requires your client to produce documents and submit written answers to questions which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended. It is required that you submit the information under oath and that you do so within ten days of your receipt of this subpoena and order.

If you have any questions, please direct them to Beverly Kramer, the staff member handling this matter of 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena and Order
Questions
Exhibit

86040520228



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *CA*
DATE: April 11, 1985
SUBJECT: MUR 1809 - General Counsel's Report

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

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[X]	Compliance	[X]
Sensitive	[X]	Audit Matters	[]
Non-Sensitive	[]	Litigation	[]
24 Hour No Objection	[]	Closed MUR Letters	[]
Sensitive	[]	Status Sheets	[]
Non-Sensitive	[]	Advisory Opinions	[]
Information	[]	Other (see distribution below)	[]
Sensitive	[]		
Non-Sensitive	[]		
Other	[]		
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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
FEDERAL ELECTION
COMMISSION SECRETARY

85 APR 11 AM 11:40

In the Matter of)
) MUR 1809
Citizens Against PACs, Inc.)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On February 20, 1985, the Commission found reason to believe that Citizens Against PAC's Inc., violated 2 U.S.C. § 441b by making expenditures for newspaper advertisements in connection with federal elections. In addition, the Commission approved the issuance of questions and a request for documents to the respondent in connection with this matter.

By letter of March 5, 1985, the Commission notified the respondent of its reason to believe finding and requested the respondent to submit a response to its questions and request for documents within 10 days.

On March 8, 1985, the Office of the General Counsel received a letter from the respondent's counsel requesting an extension of 30 days (or until April 19, 1985) to respond to the Commission's questions and request for documents. Counsel indicated the extension was needed so that he could compile the requested information. Citing the Commission's responsibilities under 2 U.S.C. § 437g(a)(8)(A) to act expeditiously on complaints, the General Counsel's Office notified the respondents that their request for an extension would be granted only until April 4,

86040520230

1985, thereby providing them with an extension of fifteen days to respond to the Commission's questions and request for documents.

On April 2, 1985, the Office of the General Counsel received a letter from the respondent's counsel requesting an additional eleven day extension of time, from April 4, 1985 to April 15, 1985 in which to respond to the Commission's questions and request for documents. See Attachments at 1. The letter states that "the extension is necessary to allow the respondent to compile all of the information requested by the Commission, and to adequately prepare its answer to the Commission's questions."

It is the recommendation of this Office that the Commission deny the respondent's request for an additional extension and authorize the issuance of the attached subpoena to produce documents and order to submit written answers. Respondent has already had 25 days to submit a response to the Commission's requests. Additionally, pursuant to 2 U.S.C. § 437g(a)(8)(A) the Commission has a responsibility to act expeditiously in its enforcement matters. The attached subpoena and order are identical to the questions and request for documents which accompanied the Commission's March 5, 1985, notice of its reason to believe determination.

II. RECOMMENDATION.

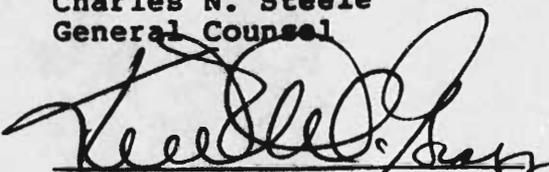
1. Deny the request of Citizen's Against PACs, Inc., for an additional eleven day extension to respond to the Commission's questions and request for documents in connection with its notice of March 5, 1985, that it has reason to believe Citizen's Against PAC's, Inc., violated the Act.

86040520231

2. Approve the attached Subpoena to Produce Documents and Order to Submit Written Answers and cover letter to the Citizen's Against PAC's, Inc.

Charles N. Steele
General Counsel

April 9, 1985
Date


By: Kenneth A. Gross
Associate General Counsel

Attachments

1. Request for an extension
2. Cover letter
3. Subpoena to Produce Documents and Order to Submit Written Answers and exhibit.

86040520232

STEIN BECKER BORSODY & GREEN, P.C.
ATTORNEYS AT LAW
1140 19TH STREET, N.W.
WASHINGTON, D.C. 20036-6601
(202) 861-0900

Kramer

250 PARK AVENUE
NEW YORK, NEW YORK 10177-0077
(212) 370-9800

108 NORTH ST ASAPH STREET
ALEXANDRIA VIRGINIA 22314
(703) 684-1204

MALICK TOWER
ONE SUMMIT AVENUE
FORT WORTH, TEXAS 76102-2666
(817) 334-0701

P.C. NEW YORK WASHINGTON, D.C.
AND VIRGINIA ONLY

FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111-5954
(415) 398-5565

1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-2501
(213) 556-8861

515 EAST PARK AVENUE
TALLAHASSEE, FLORIDA 32301-2524
(904) 881-0598

April 2, 1985

APR 2 4:53
GENERAL COUNSEL

Ms. Beverly Kramer
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: Federal Election Commission MUR 1809 -- Respondent, Citizens Against PACs, Inc.

Dear Ms. ~~Kramer~~: *Beverly*

As we discussed this afternoon, Respondent, Citizens Against PACs, Inc., hereby requests an additional eleven day extension of time, from April 4, 1985 to April 15, 1985, in which to respond to the Commission's Request for Written Answers and Documents in the above-captioned matter. This extension is necessary to allow the Respondent to compile all of the information requested by the Commission, and to adequately prepare its answer to the Commission's questions.

As always, if you have any further questions regarding this matter, please do not hesitate to contact me.

Very truly yours,

Leslie

Leslie J. Kerman

LJK:ses

86040520233

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker
Leslie Kerman
Epstein, Becker, Borsody & Green, P.C.
1140 19th Street, NW
Washington, DC 20036-6601

Re: MUR 1809
Citizens Against PACs, Inc.

Dear Mr. Oldaker and Ms. Kerman:

This is in reference to your letter dated April 2, 1985, requesting an additional extension to respond to the Commission's questions and request for documents in connection with its notice that it has reason to believe your client, Citizens Against PACs, Inc. has violated the Act.

Considering the Commission's responsibilities under 2 U.S.C. § 437g(a)(8)(A) to act expeditiously on complaints and the circumstances of this matter, the Commission on , 1985, determined to deny your requested extension.

Consequently, the Commission has issued the attached subpoena and order which requires your client to produce documents and submit written answers to questions which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended. It is required that you submit the information under oath and that you do so within ten days of your receipt of this subpoena and order.

If you have any questions, please direct them to Beverly Kramer, the staff member handling this matter of 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena and Order
Questions
Exhibit

②

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1809
Citizens Against PACs, Inc.)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

To: Citizens Against PACs, Inc.
c/o William C. Oldaker
Epstein, Becker, Borsody & Green, P.C.
1140 19th Street, N.W.
Washington, D.C. 20036

Pursuant to 2 U.S.C. § 437d(a)(1), and in furtherance of its investigation in the above-styled matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce requested documents.

Such answers must be submitted under oath and must be forwarded to the Commission within 10 days of your receipt of this Subpoena/Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. this ___ day of _____, 1985.

ATTEST:

John Warren McGarry
Chairman

Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions
Exhibit

86040520235

QUESTIONS AND REQUEST FOR DOCUMENTS

The following questions pertain to newspaper advertisements referenced in the CBS news program "60 Minutes" which aired on September 23, 1984. A transcript of the program is attached as an exhibit. The headlines of the advertisements read as follows:

- o Why did Representative Martin Frost help the dairy lobby milk his constituents? (See Exhibit at 3)
 - o What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him? (See Exhibit at 3)
 - o Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money? (See Exhibit at 3)
 - o What is Congressman Rostenkowski going to do with a half million dollars of leftover campaign money? Take it with him? (See Exhibit at 4)
 - o Why did Ocean Spray Cranberry PAC give \$2,000 to Congressman Michel? (See Exhibit at 7)
 - o Why did Senator Bingaman allow the doctors lobby to butter its bread on both sides? (See Exhibit at 8)
1. State whether these advertisements were paid for, in whole or in part, by Citizens Against PACs, Inc.
List all parties who paid for these advertisements.
 2. Provide copies of each of the advertisements.
 3. State the date(s) on which each of the advertisements ran and the names of the newspapers, magazines, and or other periodical publications in which each advertisement was placed.
 4. State whether the advertisements were run only in the district or state in which the referenced candidate was seeking re-election.
 5. Explain why these particular candidates were made the target of your advertisements.
 6. State whether there has been any instance in which both major party candidates from the same district have been targets of your advertisements. If so, please provide copies of each advertisement.
 7. State the total amount of expenditures made in connection with the advertisements.

60 MINUTES
"CONGRESSMAN FOR SALE?"

VOL. XVII, No. 2

FINAL -- 9/23/84

REASONER:

Buying a congressman's vote is illegal -- it's bribery. But giving money to a congressman in the hopes he'll vote the way you want -- or at least listen to you -- is perfectly legal. It's done every day -- and every year in a bigger way by Political Action Committees -- or PACs.

Every special interest group seems to have PAC -- there are about 4,000 of them. Among those with more than a million dollars to give away are the PACs of the realtors, the doctors, the seafarers union, the dairy farmers and conservatives.

And each PAC can give as much as \$10,000 to a congressman -- maybe yours.

86040520237

REASONER: (continued):

The Federal Election Commission keeps track of who gives what to whom; but one private citizen, at least, is going through the computerized files and getting that information out to the grassroots. And congressmen don't like it.

PHILIP STERN:

With the nearest ocean five hundred miles away, why did Congressman Hubbard get \$45,000 in campaign gifts from the maritime industry? A clue we suggest: he is a member of the House Merchant Marine Committee that handles all shipping legislation and, therefore, he is in a special position to do favors for the maritime interests.

REASONER:

The ad about Congressman Carroll Hubbard, Jr., a five-term democrat from western Kentucky, was placed in four local newspapers by Philip Stern. Stern is a

86040520238

REASONER: (continued):

writer, a liberal activist, and philanthropist, and he's heir to a Sears Roebuck fortune. So far this election year his organization, Citizens Against PACs, has taken on ten congressmen.

Why did Representative Martin Frost help the dairy lobby milk his constituents?

What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him?

Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?

One of the ads took on the powerful Chairman of the House Ways and Means Committee, Dan Rostenkowski of Chicago.

86040520239

PHILIP STERN:

And our ad said, what is Congressman Rostenkowski going to do with a half million dollars of left-over campaign money -- take it with him?

He is safely ensconced in a heavily democratic district, has not gotten less than 80% of the vote since 1974. Starts out with \$224,000 in the bank, safe district. Nonetheless, he raises another half million dollars.

REASONER:

Congressman Rostenkowski oversees the writing of tax legislation and that's of major interest to PACs. He declined to be interviewed by 60 MINUTES. But in early 1982, he told CBS News...

86040520240

CONG. ROSTENKOWSKI:

The PACs that are making those contributions are aware that, by that contribution, doesn't necessarily mean that I'm going to, I'm going to support their position. I don't discourage the rendering of a campaign contribution, but there's no commitment.

CONG. FRANK:

Those who tell you it has no effect at all are asking you to believe that somehow we've discovered a race of people who can regularly accept large amounts of money from perfect strangers for very important reasons and then be totally unaffected by it in their behavior.

REASONER:

Congressman Barney Frank, an incumbent democrat, found himself running against an incumbent republican when two congressional districts were combined in Massachusetts. In the 1982 election he raised and spent more money than anyone else in his race for congress.

86040520241

CONG. FRANK:

I raised a million and a half, my opponent raised about a million.

REASONER:

About \$225,000 of Frank's money came from PACs.

CONG. FRANK:

I don't think it's a corrupt system but it a distorted system. Some people will say well, they don't buy my vote, they buy access, but time is our scarcest commodity. If you have bought twenty minutes with a committee chairman or a powerful member, that's very valuable.

REASONER:

The more money a congressman gets from PAC the more likely he is to be a subject of of Stern's ads. House Republican leader, Robert Michel of Illinois was a target.

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PHILIP STERN:

And our headline was: Why did the Ocean Spray Cranberry PAC give \$2,000 to Congressman Michel? He got more than two-thirds of his 1982 campaign money, not from the voters of his district, from, but from groups outside his district who had only a remote interest in the welfare of Peoria, Illinois.

REASONER:

The Michel campaign contended that the list of PACs which contributed to that campaign is so large and so varied as to make charge of influence peddling laughable.

PHILIP STERN:

I think that answer is laughable. If anyone of those lobbyists comes in and says, remember me, I gave you \$2,000, Michel will remember him.

REASONER:

Michel's campaign chairman said that your ads go way too far, that there's something just short of pure political character assassination. Your response?

(//)

86040520243

PHILIP STERN:

If Congressman Michel resents the inference that is being drawn from those facts, let him change the system. Congress made these laws and they can change them.

REASONER:

Stern believes that Congress must be made uncomfortable before it will reform itself and he is relentlessly bipartisan in his targets for embarrassment. For example, liberal democrat Jeff Bingaman, freshman senator from New Mexico.

PHILIP STERN:

The headline was: Why did Senator Bingaman allow the doctors lobby to butter its bread on both sides?

REASONER:

The American Medical Association had given Bingaman's conservative republican opponent \$7,500 but the opponent lost and after the election, on December 29th, 1982...

8 5 0 4 0 5 2 0 2 4 4

PHILIP STERN:

The AMA reached into its little black bag and lo and behold, it found \$10,000 it wanted to give to Jeff Bingaman and did.

REASONER:

Senator Bingaman said in a letter to one of your board members: "The allegation that the AMA or any other organization which has contributed to my campaign has first claim on my ear is false and offensive." Now did you go too far in your assertion?

PHILIP STERN:

No sir. We said to him if you want to disabuse AMA and your voters of any such idea, send the money back. And his response: "I can't afford to." If he can afford to do without AMA money now, five years before his re-election, how is he going to fend off the blandishments of those, of AMA and other PACs, when he is in the heat of his next re-election campaign?

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PHILIP STERN:

This law...

REASONER:

Philip Stern worked for passage of the 1974 Federal Election Law that brought public financing, contribution limits, and spending ceilings to presidential elections. He'd like to see the same rules applied to congressional elections and he'd like to eliminate PACs, the loophole created by the 1974 law. Then reform was aided by the scandal of Watergate. Now he feels there is only scandal waiting to happen. Stern hopes his ads will get constituents angry enough to ask embarrassing questions of their congressmen and begin the process of campaign finance reform.

Not only outsiders, do-gooders, idealists and gadflies like Citizens Against PACs are concerned about the large amount of special interest PAC money in congressional campaigns.

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REASONER: (continued):

Widely respected members of congress, like Representative Barber Conable, the ranking republican member of the Ways and Means Committee, also see the danger.

CONG. CONABLE:

I think the public has a right to be worried about it. My impression is that even the perception that congress is being bought is dangerous.

REASONER:

Congressman Conable, who is retiring after 20 years of representing the voters of Rochester, New York has had a policy of accepting no more than fifty dollars from any source other than the party itself.

CONG. CONABLE:

It's meant something to the people I've represented because they felt that I couldn't very well be bought for fifty dollars.

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REASONER:

Sometimes congressmen seem to want to be seduced.

CONG. CONABLE:

Well it's not a matter of their being seduced so much as they feel to be safe they've got to have large sums of money to spend on media advertising to defend their incumbency.

REASONER:

It's incumbents who make the election rules and they rake in the PAC money -- three and a half times more than the challengers.

Bill Olwell knows this. He directs the PAC of the largest union in the AFL-CIO. This election, his United Food and Commercial Workers will give close to two million dollars to candidates. About 75% of it will go to incumbents.

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BILL OLWELL:

If you go back over 40 years 92% of all incumbents that run for re-election are re-elected.

REASONER:

Are you, as a man who has to live with it, satisfied with the system?

BILL OLWELL:

Absolutely not. I think it's a crazy system. I think we ought to really sit down and really think what we're doing to American politics.

REASONER:

Bill Ollwell's dissatisfaction with the influence of money in politics is shared by Ned Cabot who directs the PAC of the Equitable Life Insurance Company.

NED CABOT:

The life insurance PAC doesn't represent my interests as a father, a resident of a city somebody who's interested in the environment, lives near the water. It

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NED CABOT: (continued)

doesn't represent any of those things. It does what it's supposed to do, represent a single interest.

REASONER:

Cabot believes the general interest gets short shrift in a system where it's hard to run for congress without PAC Money.

CONG. CONABLE:

Well I'm old enough to remember the time when a young fellow, friends of mine, could get together with their friends and family and business associates and raise enough money to run for congress. In 1982, the average winner of a contested race, that is those, one in which the winner won by less than 55% of the vote, had to raise \$361,000 to get elected to the Congress of the United States.

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REASONER:

Richard Armstrong is the President of the Public Affairs Council -- the professional organization of corporate public affairs executives. The Council has defended PACs but also has sponsored meetings at which business-PAC directors have discussed ethical guidelines for corporate PAC giving

RICHARD ARMSTRONG:

The stickiest kinds of questions are things like: Should you give money to a candidate who doesn't really need it?

REASONER:

Armstrong thinks congress should reform some of its worst practices -- like the use of excess campaign funds.

RICHARD ARMSTRONG:

It's shocking the use that they're making of these, they're allowed to put it in their office account, they're supposed to declare it as income, they are not declaring it as income, and they're going ahead and using -- you know, Senator Cranston took singing

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RICHARD ARMSTRONG: (cont'd)

lessons, Dole decorated his office with some of these funds. D'Amato bought a couple of cars, that type of thing. So I think it might make some sense, I'm speaking for myself, that at the end of a campaign, if they've got some money left, that they give it to the party or give it back to the contributors, or give it to the Red Cross, something like that.

REASONER:

For the record, Senator Cranston hired a voice coach, but not for singing lessons. Senator Dole commissioned an efficiency study of his office, rather than redecorate it, though others in congress have used excess funds for redecorating. And Senator D'Amato leased cars instead of buying them, but he didn't use his own excess funds, he had his bills paid for him by the National Republican Senatorial Committee, one of the biggest PACs.

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REASONER:

All year long, at places in Washington like the Capitol Hill Club, incumbents go after PAC money by giving cocktail parties.

They're like charity fundraisers -- with tickets ranging from \$250 to \$1,000 except that the charity is the incumbent's re-election campaign.

In his district a congressman might charge \$50, \$25, or as little as \$10 for voters to attend a similar function.

If you receive a few such invitations in the mail, the head of a small PAC receives a boxfull. And not the ones for ten dollars.

Congressman and Mrs. Doug Walgren invite you to join them for a party of early risers. That's for breakfast -- 8:00 to 10:00 a.m. in Washington -- \$250 per person.

Congressman Allan Wheat and some democrats

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REASONER: (continued):

this time, that's \$250 -- that seems to be fairly standard. Senator Howard Baker and Senator Richard Lugar are hosting this one in honor of John M. Burris of Delaware who's a candidate -- \$500 per person.

CONG. CONABLE:

It does constitute, in my way of thinking anyway, a serious abuse potentially since the very people most affected by the work of the committee are the ones who come to those cocktail parties, feel they have to maintain the goodwill of the congressman.

REASONER:

Congressman Jim Leach, Republican of Iowa, now in his fourth term in congress, has never accepted PAC money -- a practice only a few of his colleagues have followed.

CONG. LEACH:

Who represents poor people when you have a system in which money is the primary influence peddler?

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CONG. LEACH: (continued)

In the last few major Senate elections, eastern unions, western oil interests have pumped spectacular sums of money into my state. We're a small business, we're a rural state, we're a farm state. And in Iowa it's nuts to have candidates indebted to eastern unions or, for that matter, Texas oil.

REASONER:

If you're a challenger and the money isn't dumped in your lap, you go after it. Congressman Leach told us how candidates do it. They go to K Street Northwest in Washington where so many PACs are located. It's sometimes called PAC Street.

CONG. LEACH:

They say I'd like money from your group. That group generally gives them, by the way, a questionnaire to fill out -- it has their name, their address, what they're running for. Then it says: how do you stand on issues? And the issues aren't abstract.

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CONG. LEACH: (continued)

They're not, do you support a balanced budget? Do you support a strong national defense? They are: do you favor a tax cut for this industry? Do you favor spending for that program? And then, depending on how you vote, or how you filled out the application, you get money.

REASONER:

Congressman Leach has co-sponsored legislation to limit the total amount of money that a candidate can receive from all PACs to \$90,000.

Do you have any indication that your colleagues are getting more concerned about all of this?

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CONG. LEACH:

Privately many say there's a huge problem. Publicly they throw up their hands and say there's nothing they can do about it. You present a bill, for example, on changing the system and they'll say well maybe we'll consider it next time, but I don't want to co-sponsor it because that'll hurt my campaign contributions in the next election

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EPSTEIN BECKER BORSODY & GREEN, P.C.

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April 2, 1985

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RECEIVED
GENERAL COUNSEL

Ms. Beverly Kramer
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: Federal Election Commission MUR 1809 -- Respondent, Citizens Against PACs, Inc.

Dear Ms. ~~Kramer~~: *Beverly*

As we discussed this afternoon, Respondent, Citizens Against PACs, Inc., hereby requests an additional eleven day extension of time, from April 4, 1985 to April 15, 1985, in which to respond to the Commission's Request for Written Answers and Documents in the above-captioned matter. This extension is necessary to allow the Respondent to compile all of the information requested by the Commission, and to adequately prepare its answer to the Commission's questions.

As always, if you have any further questions regarding this matter, please do not hesitate to contact me.

Very truly yours,

Leslie

Leslie J. Kerman

LJK:ses

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ACC# 6981

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P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY

March 26, 1985

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

Re: Federal Election Commission -- Matter Under
Review 1809 -- Respondent, Campaign Finance
Research Institute/Project for Investigative
Reporting on Money in Politics -- Motion to
Reconsider Reason-to-Believe Determination and
to Withdraw Request for Written Answers

Dear Mr. Steele:

In response to the Commission's determination, received by this office on March 7, 1985, enclosed please find Motion to Reconsider Reason-to-Believe Determination and to Withdraw Request for Written Answers filed on behalf of the Respondent Campaign Finance Research Institute/Project for Investigative Reporting on Money in Politics in the above-captioned matter.

We also were notified on March 7, 1985 of the Commission's reason-to-believe determination, as well as its request for answers to questions, against Citizens Against PACs, Inc. ("CAP") in MUR 1809.

We emphasize, however, that the Campaign Finance Research Institute ("Institute") and its program, the Project for Investigative Reporting on Money in Politics ("Project") are entirely separate and distinct entities from CAP. The Institute/Project has not supported CAP or coordinated its activities with CAP, nor has CAP provided funds to the Insti-

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Charles N. Steele, Esquire
March 26, 1985
Page Two

tute/Project. See Affidavit of James Boyd, Executive Director of the Project, attached to the Motion as Exhibit A.

Accordingly, we will respond to the Commission's reason-to-believe determination against CAP under separate cover within the time prescribed.

Very truly yours,

William C. Oldaker

William C. Oldaker
Counsel for the Campaign Finance
Research and the Project for
Investigative Reporting on
Money in Politics

Enclosure

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EPSTEIN BECKER BORSODY & GREEN, P.C.

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March 26, 1985

¹P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY

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

Re: Federal Election Commission -- Matter Under
Review 1809 -- Respondent, Campaign Finance
Research Institute/Project for Investigative
Reporting on Money in Politics -- Motion to
Reconsider Reason-to-Believe Determination and
to Withdraw Request for Written Answers

Dear Mr. Steele:

This responds to your letter, received by this office on March 7, 1985, wherein we were notified of the Commission's reason-to-believe determination in the above-captioned matter and requested to answer a series of questions.

For the reasons set forth herein, we believe that the activities of the Campaign Finance Research Institute ("the Institute") and a program it sponsors, the Project for Investigative Reporting on Money in Politics ("the Project") (collectively referred to as "the Respondent") clearly are covered by the news story exemption, 2 U.S.C. § 431(9)(B)(i). Thus, we respectfully urge the Commission to reconsider its reason-to-believe determination against the Respondent and to withdraw its request for written answers.

We submit that, upon reconsideration, the Commission should dismiss the complaint against the Respondent.^{1/}

1/

The questions proffered to Respondent by the Commission in this complaint were not accompanied by an order pursuant to 2 U.S.C. § 437(a)(1). Accordingly, the five-day time period prescribed in 11 C.F.R. § 111.15(a) for submission of a Motion to Quash a Subpoena is not applicable in this situation, and the instant Motion, filed with the Commission prior to the due date for responses to the Questions, is timely.

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I. Statement of Pertinent Facts

As discussed in Respondent's initial response to the complaint, the Campaign Finance Research Institute is a non-profit corporation which the Internal Revenue Service has determined to be exempt from income tax under 26 U.S.C. § 501(c)(3). In furtherance of its purposes, the Institute began sponsorship on June 23, 1983 of a program called the Project for Investigative Report on Money in Politics. The Project is not a separate legal entity for either tax or corporate law purposes but is simply the name given to an Institute program. See Affidavit of James Boyd, Executive Director of the Project, attached hereto as Exhibit A at ¶ 2.

The sole activity of the Project - the activity which is the subject of this complaint - is to provide monetary grants to journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics. See Project's flyer, attached hereto as Exhibit B; also see Exhibit A at ¶ 3. Both print and broadcast journalists are invited to apply for these widely-publicized grants. Grant applications must include (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experience; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the payment to be made to the applicant. See Exhibit A at ¶ 4 and Exhibit B.

We emphasize that all material submitted to the Project in connection with grant applications is held in strict confidence. See Exhibits A at ¶ 5 and Exhibit B. This is done to protect journalistic leads and ideas.

The Project's Advisory Board, which is composed of prominent journalists including four Pulitzer-Prize winners, reviews the applications and, subsequently, awards grants. Criteria for judging the applications include (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications. See Exhibit A at ¶ 6 and Exhibit B.

We call particular attention to the following paragraph in the Project's flyer which states: "The sole purpose

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of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest. (Emphasis added) Exhibit B; also see Exhibit A at ¶ 8. Accordingly, all Project grantees must sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and the grant will be used in a non-partisan manner. See Exhibit A at ¶ 10.

The Project has made nineteen grants since its inception in 1983, including the grant of \$1,750 to Stephen Hartgen of the Times-News which is discussed by the Complainant. Significantly, the Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees. See Exhibit A at ¶ 9. Grant recipients are neither obligated to produce stories nor obligated to publish or air their stories. Furthermore, grant recipients are not given any deadlines by the Project, and the Project does not review stories prior to their publication or broadcast. See Response of Stephen Hartgen, Managing Editor of the Times-News, attached hereto as Exhibit C.

Thus, we cannot emphasize too strongly that once the Project has approved a grant, it has absolutely no further voice in deciding what is published, or indeed whether anything is published as a result of the grant. Those matters are, as they should be, entirely determined by the grant recipient and the editor(s) of the publication that has expressed interest in publishing the findings.

With respect to its financial backing, The Institute and therefore the Project has received support from some eighteen foundations and individuals. None of its supporters are either candidates for political office or political committees. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or political committee. See Exhibit A at ¶ 11. Neither Philip Stern nor Citizens Against PACs, Inc. has ever contributed to the Institute/Project.^{2/}

^{2/}

As set forth in its initial response to this complaint, the Stern Fund also has never contributed to the Institute/Project.

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The Institute and thus the Project are independent entities which are in no way controlled by any candidate for political office or any political committee. See Exhibit A at ¶ 12. Further, the Institute/Project is in no way affiliated or connected with the nonprofit corporation, Citizens Against PACs, Inc. See Exhibit A at ¶ 13.

The grant activities of the Project are carried on for one purpose - to assist journalists in researching and, if the findings meet editorial standards, publishing in established print or broadcast outlets new stories uncovering and exposing campaign finance abuses in all levels of American politics. See Exhibit A at ¶ 14.

II. Analysis

A. RESPONDENT'S ACTIVITIES ARE COVERED BY THE PRESS EXEMPTION EMBODIED IN 2 U.S.C. § 431(9)(B)(i); ACCORDINGLY, THE COMMISSION LACKS SUBJECT-MATTER JURISDICTION TO CONDUCT THIS INVESTIGATION

As discussed in Respondent's initial response, the news story exemption embodied in 2 U.S.C. § 431(9)(B)(i) would be meaningless if the Commission were required to -- or had jurisdiction to - examine the funding of news stories where no candidate or political committee control is alleged. If every candidate, such as former Congressman Hansen, who was dissatisfied with the media's coverage of his/her campaign could force an FEC investigation of the financial support of the local newspapers, television stations or other media outlets, the statutory protection provided for in the news story exception would be effectively nullified and the Commission would be in the position of a national media censor, a role which it clearly was not intended to have. Thus, if the Commission can investigate the funding of the Times-News story, it can investigate the funding of any story; and if it can investigate grants from an independent, non-partisan group, it can surely investigate a media outlet's other means of financial support: advertisers, investors and other financial supporters. Surely that would void the protection of 2 U.S.C. § 431(9)(B)(i).

In the instant complaint, neither Complainant nor the Commission has in any way alleged that Respondent is ~~owned~~ or controlled by a candidate or political committee. On the contrary, James Boyd, Executive Director of the Project, has submitted a sworn affidavit to the Commission, attached hereto

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as Exhibit A, stating that the Project "is neither owned nor controlled by any candidate for political office or any political committee." Exhibit A at ¶ 12. Further, Mr. Boyd states that "(t)he Project has not received any financial support from any candidate for political office or any political committee. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or any political committee." See Exhibit A at ¶ 11.

Accordingly, as a program which is neither owned nor controlled by any candidate or political committee but is operated exclusively to finance journalistic efforts to produce bona fide news stories, Respondent and its activities fall within the protection of the news story exception. Thus, the Commission lacks jurisdiction to pursue this investigation.

Moreover, this conclusion is supported by the Commission's decision of February 12, 1985 in MUR 1809 that there was no reason to believe that a violation of any statute within the Commission's jurisdiction had been committed by the Times-News by acceptance by one of its journalist of a grant from the Project. If the Commission, as it has indicated, lacks jurisdiction to investigate the acceptance of a grant by the Times-News pursuant to 2 U.S.C. § 431(9)(B)(i), then equally the Commission is precluded from investigating Respondent, as the source of the grant to the journalist from the Times-News, under the same exception, 2 U.S.C. § 431(9)(B)(i).

As set forth in the Commission's notification letter of March 5, 1985, the Commission's reason-to-believe determination in this matter is premised solely on its belief that the Respondent made expenditures in violation of 2 U.S.C. § 441b, the prohibition on corporate expenditures in connection with federal elections. Specifically, the Commission desires to investigate whether the monetary grants made by the Project to journalists to research and expose campaign finance abuses constitute prohibited corporate expenditures pursuant to the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. ("the Act"). It is clear, however, that pursuant to the news story exemption set forth in 2 U.S.C. § 431(a)(B)(i) -- an exception which the Commission is required to interpret broadly pursuant to the First Amendment -- Respondent's activities are not expenditures and therefore the Commission lacks subject-matter jurisdiction to conduct an investigation of the Respondent. See Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir. 1981); Federal Election Commission v. Phillips Publishing, Inc., 517 F.Supp. 1308 (D.D.C. 1981); Reader's Digest Association v. Federal Election Commission, 509 F.Supp. 1210 (S.D.N.Y. 1981).

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Under the Act, an "expenditure" is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. . ." 2 U.S.C. § 431(9)(A)(i). The Act expressly exempts from classification as an expenditure, however, "any news story, commentary, or editorial distributed through the facilities of any . . . newspaper . . . unless such facilities are owned or controlled by any political party, political committee or candidate." 2 U.S.C. § 431(9)(B)(i). Further, Commission regulations specifically extend this news story exemption to "any costs incurred in covering or carrying such a story." 11 C.F.R. § 100.8(b)(2) (emphasis added).

Pursuant to the Act -- especially the emphasized provision quoted above -- and pertinent regulations, the news story exemption applies not only to the direct cost of publishing new stories, but also to the costs of gathering information and preparing the materials for publication. This reflects the reality that news stories do not spring to life fully developed, but cost money to research and prepare. Where that money comes from will vary from case to case -- advertisers, the resources of the owners and the outlet, or outside funding.

For the exception for "costs" of stories to be meaningful, the news story exemption must cover not only the media outlets themselves but also including organizations, such as the Project, operated exclusively to provide financial support for independent journalistic projects (subject, of course, to requirement that the media outlet or organization is not controlled by a candidate or political committee).

Accordingly, as a program operated exclusively to finance journalistic efforts to produce bona fide news stories which is neither owned nor controlled by any candidate or political committee, Respondent and its activities fall within the protection of the news story exception, and thus, the Commission lacks jurisdiction to pursue this investigation.

B. AS THE COMMISSION LACKS SUBJECT-MATTER JURISDICTION OVER THE ACTIVITIES OF THE RESPONDENT, THE COMMISSION'S REQUEST FOR WRITTEN ANSWERS IS BARRED

Because the Commission lacks subject-matter jurisdiction over the activities of the Respondent, the Commission is barred from investigating the subject matter of the com-

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Charles N. Steele, Esquire
March 26, 1985
Page Seven

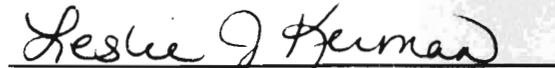
plaint, and, consequently, its request for written answers from the Respondent should be quashed. See Federal Election Commission v. Phillips Publishing, Inc., supra, at 1313.

III. Conclusion

As demonstrated herein, Respondent's activities are covered by the press exemption embodied in 2 U.S.C. § 431(9)(B)(i), and accordingly, the Commission lacks subject-matter jurisdiction to conduct this investigation. Therefore, we urge the Commission to reconsider and rescind its reason-to-believe determination and to withdraw its request for written answers.

Respectfully submitted,


William C. Oldaker


Leslie J. Kerman

Counsel for the Campaign Finance
Institute/Project for Investigative
Reporting on Money in Politics

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AFFIDAVIT OF JAMES BOYD

I, JAMES BOYD, DECLARE AS FOLLOWS:

1. I am the Executive Director of the Campaign Finance Research Institute's Project for Investigative Reporting on Money in Politics ("the Project"), P.O. Box 770, Madison, Virginia 22727.
2. The Project has no independent corporate existence; it is an activity of the Campaign Finance Research Institute.
3. The purpose of the Project is to sponsor a grant program for journalists who wish to undertake investigative reporting on the role and influence of money at all levels of American politics.
4. Both print and broadcast journalists are invited to apply for the Project's widely-publicized grants. Grant applications must include (1) the subject, purpose and nature of the proposed research; (2) the estimated time and expense required; (3) the reasons for believing there is a likelihood of uncovering the pertinent information; (4) the applicant's background and/or journalistic experience; and (5) a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards).
5. All material submitted to the Project in connection with grant applications is held in strict confidence.

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6. The Project's Advisory Board, which is composed of prominent journalists including four Pulitzer-Prize winners, reviews the applications and awards grants. Criteria for judging the applications include (1) the public importance of the subject; (2) the apparent likelihood of uncovering the information described in the application; and (3) the applicant's credentials or qualifications.

7. In addition to the grants awarded by the Advisory Board, the Executive Director of the Project is empowered to make grants of Three Hundred Dollars (\$300.00) or less at his/her own discretion.

8. As the Project is strictly non-partisan, Advisory Board Members are instructed that all grants should be awarded without regard to the political affiliation or ideology of the subject of the proposed research and without regard to the effect on any electoral contest.

9. The Project has made nineteen grants since its inception in 1983. The Project neither imposes any conditions or qualifications on the award of its grants nor in any way seeks to restrict the journalistic freedom of the grantees.

10. All Project grantees must sign a statement that they are not affiliated with or controlled by any political candidate or political committee, and that the grant will be used in a non-partisan manner.

11. The Project has received support from approximately eighteen foundations and individuals. The Project has not

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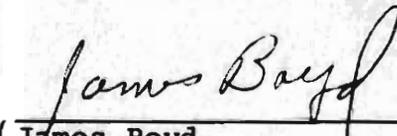
received any financial support from any candidate for political office or any political committee. Moreover, as a matter of policy, the Project would not knowingly accept financial support from any candidate for political office or any political committee.

12. The Project is neither owned nor controlled by any candidate for political office or any political committee.

13. The Project is in no way affiliated or connected with the nonprofit corporation, Citizens Against PACs, Inc.

14. The grant activities of the Project are carried on for one purpose - to assist journalists in publishing in established print or broadcast outlets news stories uncovering and exposing campaign finance abuses in all levels of American politics.

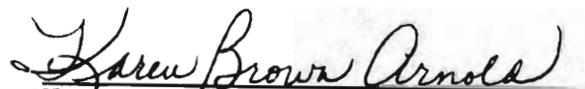
86040520270



James Boyd
Executive Director
Campaign Finance Research Institute's
Project for Investigative Reporting
on Money in Politics
P.O. Box 770
Madison, Virginia 22707

City of Washington)
District of Columbia)

I, KAREN BROWN ARNOLD, a Notary Public, hereby certify that on the 19th day of MARCH, 1985, there personally appeared before me James Boyd, who acknowledged signing the foregoing document and that the statements therein contained are true.


Notary Public

*project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Les Payne, *Newsday* • Jim Pulk, *NBC News*
• Myrta Pulliam, *The Indianapolis Star* • Robert Walters, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
Philip M. Stern, *Chairman* James Boyd, *Executive Director*

A PROGRAM OF GRANTS FOR

*investigative reporting
on money in politics*

The Project for Investigative Reporting on Money in Politics announces a program of grants to journalists who wish to undertake investigative reporting on the role and influence of money in American politics, at all levels (national, state and local.)

Applications are invited from both print and broadcast journalists. As a general rule, however, grants will not cover the cost of radio or TV production, but only the time and expense of the research.

Applications for grants should be equivalent, in form, to a "query memo" to an editor, and should set forth the subject, purpose and nature of the research; the estimated time and expense required; the reasons for believing there is a likelihood of uncovering the pertinent information; and the applicant's background and/or journalistic experience.

Applications should also be accompanied by a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the amount to be paid the applicant in accordance with that publication's or broadcaster's customary rates.

The size of the grants will depend on the amount of work required. In addition, the Project will pay reasonable out-of-pocket expenses.

The applications will be reviewed by a committee of experienced working journalists. All materials submitted to the Project will be held in strict confidence.

Criteria for judging the applications will include the public importance of the subject; the apparent likelihood of uncovering the information described in the application; and the applicant's credentials or qualifications.

The Project will be strictly non-partisan. The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest.

HOW AND WHERE TO APPLY

Applications should include:

- a brief description of the subject, purpose and nature of the research.
- the estimated amount of time and expense required.
- the applicant's background and/or journalistic experience.
- a letter from a print or broadcast news editor expressing interest in publishing or airing the product of the research and stating the payment to be made to the applicant.

Applications should be sent to:

James Boyd, Executive Director, Project for Investigative Reporting on Money in Politics
Post Office Box 770 • Madison, Virginia 22727 • Telephone (703) 672-3166

86040520271



The Times-News

P.O. Box 548

Twin Falls, Idaho 83301

208-733-0931

October 29, 1984

Ms. Beverly Kramer
Federal Election Commission
Washington, D. C. 20463

Dear Ms. Kramer:

This letter is in response to a letter of October 15 from your office concerning an allegation raised by Rep. George Hansen of the Second Congressional District of Idaho that certain Times-News articles, and the way in which they were funded, constitute violations of the Federal Election Campaign Act.

After a careful review of both the congressman's allegations and the relevant law in this area, it is our opinion that the complaint against The Times-News lacks substance and should be dismissed. In our opinion, the congressman's letters to your office of Sept. 26 and Sept. 17 contain numerous errors of both fact and opinion. Furthermore, we believe newspaper reporting is specifically exempt from the FECA under the language of U.S. Code, Title II, Sect. 431-9bi. Additionally, the main controlling legal case in this area, Buckley vs. Valeo, 424 U.S. 1 (1975) and subsequent rules of the commission itself employing that decision's language suggest that the articles by The Times-News did not violate the "express advocacy" standard set out by the Supreme Court in that case. It is our opinion that the ongoing coverage of politics and public officials by the American press is within the affirmative intent of the First Amendment of the U. S. Constitution. Such coverage, in which The Times-News is routinely engaged, does not constitute an "in-kind" contribution to an elected official's opponent.

Let me give a bit of background. The Times-News is a 22,000-circulation, seven-day daily newspaper in Southern Idaho, in Rep. Hansen's district. It is the major daily newspaper for eight counties. In March and April 1984, The Times-News sent a reporter to Washington to cover the trial of Rep. Hansen, who had been indicted for alleged violations of the Ethics in Government Act. He was convicted of four felony violations and has been both reprimanded by the full House and sentenced to 15 months in prison. The conviction is under appeal.

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October 29, 1984

Following the conviction, The Times-News decided to further follow up on several avenues which had either come up directly or which had been alluded to in the trial. These avenues involved Hansen's financial affairs.

We were aware of the Project for Investigative Reporting on Money in Politics through its advertising in national journalism magazines and we asked the organization about the procedures for filing a grant request to help defray investigation expenses. A grant proposal was developed in June and was approved in July. There were absolutely no strings of any kind attached to the \$1,750 grant, nor any preconditions as to whether The Times-News was even obligated to produce any stories. The stories which resulted were entirely the product of the newspaper alone. The money was to fund a trip for our reporter to Washington to examine records, conduct interviews and gather information concerning reports we had obtained from various sources on alleged secret bank accounts, large loans from individuals, and financial support from various religious organizations. Our reporter examined aspect of these allegations for several weeks in June in Idaho, and then in Washington through the month of July. We published several stories based on that research, which we enclose.

We do not think that the investigative reporting by The Times-News on the financial affairs of its congressman, a convicted felon, in any way violates the FECA regulation of political speech. There are two basic arguments for this.

One, the FEC act itself exempts newspaper stories specifically in Sect. 431-9bi. That exemption covers "any news story distributed through newspapers." That language seems very clear.

Two, under the "express advocacy" test of Buckley vs. Valeo, reporting of the type The Times-News conducted is, in our view, also outside the purview of the FECA act. Consider the following questions:

- 1.) Do the news articles use any of the words of express advocacy, such as "elect, support, cast your ballot for, defeat, reject?" The answer is no.
- 2.) Is the election referred to? Only obliquely.
- 3.) Are readers urged to act on policy issues discussed? No.
- 4.) Is the candidate's opponent mentioned favorably? No.
- 5.) Is the reporting an isolated foray into criticism and analysis of this public official's performance? No.

The reporting on Rep. Hansen, through his indictment, trial and conviction has been extensive. Perhaps no Idaho politician has

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October 29, 1984

been covered as completely throughout his career. The Times-News has endeavored to provide a balanced picture of the congressman's battles by publishing, on its editorial page and in its news columns, explanations by Hansen himself, members of his staff, family, and supporters.

In the absence of any "yes" answers to those questions, we do not see how the reporting by The Times-News in the present case can be construed to have violated the "express advocacy" standard of Buckley vs. Valeo. In Buckley, the court considered the language of the FECA and wrote that: "The key operative language of the provision limits any expenditure relative to a clearly identified candidate . . . (There) is no definition clarifying what expenditures are "relative to" a candidate. The use of so indefinite a phrase as "relative to" a candidate fails to clearly mark the boundary between permissible and impermissible speech." " . . . " to preserve the provision against invalidation on vagueness grounds, (it) must be construed to apply only to expenditures for communications that in express terms advocate the election or a defeat of a clearly identified candidate for federal office." *

We believe the reporting in this matter by The Times-News is well within the constitutional protection afforded by the First Amendment, the language of the Federal Election Act and the "express advocacy" standard and that the grant from the Project for Investigative Reporting was completely legal and appropriate. In our view, the complaint by the congressman is without merit and should not proceed beyond the "Matter Under Review" stage.

We look forward to hearing from you relative to this matter. At this time, we will not submit a designation of legal counsel, but reserve the right to do so in the future.

Sincerely,



Stephen Hartgen
Managing Editor

85040320274



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 18, 1985

Leslie Kerman
Epstein, Becker, Borsody & Green, P.C.
1140 - 19th Street, N.W.
Washington, D.C. 20036-6601

Re: MUR 1809
Citizens Against PACs, Inc.
Project for Investigative
Reporting on Money in Politics
Campaign Finance Research Institute

Dear Ms. Kramer:

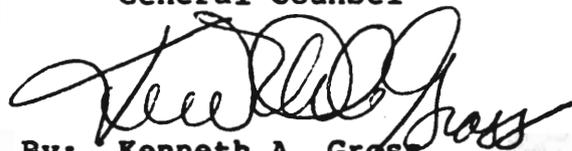
This is in reference to your letter dated March 8, 1985, requesting an extension of 30 days (or, until April 19, 1985) to respond to the Commission's questions and request for documents in connection with its notice that it has reason to believe that your clients have violated the Act.

Considering the Commission's responsibilities under 2 U.S.C. § 437g(a)(8)(A) to act expeditiously on complaints and the circumstances of this matter, your request for an extension will be granted only until April 4, 1985.

If you have any questions, please contact Beverly Kramer, the staff member handling this matter, at 523-4143.

Sincerely,

Charles N. Steele
General Counsel


By: Kenneth A. Gross
Associate General Counsel

10275

NY#6860

EPSTEIN BECKER BORSODY & GREEN, P.C.

ATTORNEYS AT LAW

1140 19TH STREET, N.W.

WASHINGTON, D.C. 20036-6601

(202) 861-0900

250 PARK AVENUE
NEW YORK, NEW YORK 10177-0077
(212) 370-9800

108 NORTH ST. ASAPH STREET
ALEXANDRIA, VIRGINIA 22314
(703) 684-1204

MALLICK TOWER
ONE SUMMIT AVENUE
FORT WORTH, TEXAS 76102-2666
(817) 334-0701

P.C. NEW YORK, WASHINGTON, D.C.
AND VIRGINIA ONLY

FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111-5954
(415) 398-5565

1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-2501
(213) 556-8861

515 EAST PARK AVENUE
TALLAHASSEE, FLORIDA 32301-2524
(904) 681-0596

March 8, 1985

Ms. Beverly Kramer
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20036

Re: Federal Election Commission MUR 1809 - Citizens
Against PACs, Inc., Project for Investigative
Reporting on Money in Politics and Campaign
Finance Research Institute

Dear Ms. ~~Kramer~~: *Beverly*

As we discussed, our office received Questions and Requests for Documents ("Questions") in the above-captioned matter from the Commission by mail on Thursday, March 7, 1985. Accordingly, the responses for Citizens Against PACs, Inc., the Project for Investigative Reporting on Money in Politics, and the Campaign Finance Research Institute are currently due to be filed with the Commission on March 20, 1985. See 11 C.F.R. § 111.2(a) and (c).

We hereby request a thirty-day extension of time, from March 20, 1985 to April 19, 1985, in which to respond to the Commission's Questions in this complaint. Due to the extensiveness of the Commission's Questions as well as the volume of documents requested, this extension of time is necessary for us to be able to fully and adequately respond to the Commission's Question on behalf of the three respondents we represent.

If you have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,

Leslie J. Kerman

Leslie J. Kerman

LJK:ses

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FEB 11 1985
p 4: 41

EPSTEIN BECKER BORSODY & GREEN P.C.

ATTORNEYS AT LAW

1140 19TH STREET, N.W.

WASHINGTON, D.C. 20036-6601

(202) 661-0900

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(213) 556-8861

815 EAST PARK AVENUE
TALLAHASSEE, FLORIDA 32301-2524
(904) 681-0596

March 8, 1985

Ms. Beverly Kramer
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20036

Re: Federal Election Commission MUR 1809 - Citizens
Against PACs, Inc., Project for Investigative
Reporting on Money in Politics and Campaign
Finance Research Institute

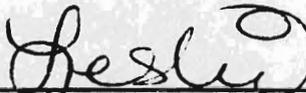
Dear Ms. ~~Kramer~~: *Beverly*

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We hereby request a thirty-day extension of time, from March 20, 1985 to April 19, 1985, in which to respond to the Commission's Questions in this complaint. Due to the extensiveness of the Commission's Questions as well as the volume of documents requested, this extension of time is necessary for us to be able to fully and adequately respond to the Commission's Question on behalf of the three respondents we represent.

If you have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,



Leslie J. Kerman

LJK:ses

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MAR 8 11:41

RECEIVED
OFFICE OF THE
GENERAL COUNSEL



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REC'D
EFEC
SECRETARY

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March 4, 1985

SENSITIVE

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel *KAG*

SUBJECT: MUR 1809 - Questions and Request for Documents

Attached, for your information, are questions and a request for documents being issued to the Project for Investigative Reporting on Money in Politics and the Campaign Finance Research Institute, respondents in MUR 1809. The questions are being issued as agreed upon in the Executive Session of February 20, 1985.

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Campaign Finance Research Institute
Project for Investigative
Reporting on Money in Politics
MUR 1809

QUESTIONS AND REQUEST FOR DOCUMENTS

The questions below pertain to a grant program for investigative reporting on the role and influence of money in American politics and its sponsor, the Project for Investigative Reporting on Money in Politics ("the Project"). A copy of the Project's flyer announcing the grant program is attached hereto.

1. Provide the full names and mailing addresses of the organizations and/or individuals who established the Project.
2. Provide the date on which the Project was established.
3. State the purpose behind the establishment of the Project.
4. Provide the full names and mailing addresses of the organizations and/or individuals who funded the Project.
5. Provide the full names and mailing addresses of the organizations and/or individuals who established the grant program.
6. Provide the date on which the grant program was established.
7. State the purpose behind the establishment of the grant program.
8. Provide the full names and mailing addresses of the organizations and/or individuals who funded the grant program.
9. State whether the funding by the organizations and individuals listed in response to question #8 resulted from a solicitation.

If so, identify the organization which solicited the funds for the grant program. In addition, state whether the organizations and individuals were specifically solicited to fund the grant program. Provide a copy of the solicitation.

10. State how much money was contributed by each of the organizations and/or individuals listed in response to question #8.
11. Describe the input, other than financial, that each of the organizations and/or individuals listed in response to question #8 had in the establishment and operation of the grant program.

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12. State how many grants were given out under the grant program.
13. List the recipients of the grants and describe each recipient's grant proposal.
14. Provide copies of all grant proposals whether or not ultimately accepted.
15. State who reviewed the grant proposals.
16. State who ultimately made the decision as to who would receive the grants.
17. List the criteria used to make the determinations as to who would receive the grants.
18. List the terms or conditions of the grant program. In this connection state whether
 - a) grant recipients were obligated to produce stories.
 - b) grant recipients were obligated to publish or air their stories.
 - c) grant recipients were obligated to meet any deadlines. If so, give the deadlines and explain the purpose of the deadlines.
 - d) there were any limits or conditions as to what the grant recipients could or could not state in their stories. If so, please explain.
 - e) once the stories were prepared, the writers were required to have their stories reviewed by sponsors of the grant program prior to the publication or airing of their stories. If so, what editorial control or discretion did the sponsors have over the stories?
19. State whether the Center for Investigative Reporting was involved in any way with the grant program. If so, please explain.
20. State why a grant was awarded to the Times News.

85040620380

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Project for Investigative)
Reporting on Money in)
Politics)
Campaign Finance Research) MUR 1809
Institute, Inc.)
Stern Fund)
Philip Stern)
Times-News)
Citizens Against PACs, Inc.)
Center for Investigative)
Reporting)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 20, 1985, do hereby certify that the Commission took the following actions pertaining to the General Counsel's February 12, 1985 report on MUR 1809:

1. Decided by a vote of 5-0 to reject recommendation number 1 in the report and instead find reason to believe that the Project for Investigative Reporting on Money in Politics has violated 2 U.S.C. § 441b.
2. Decided by a vote of 5-0 to reject recommendation number 2 in the report and instead find reason to believe that the Campaign Finance Research Institute, Inc. violated 2 U.S.C. § 441b.

(continued)

8 6 0 4 0 5 2 0 2 8 1

3. Decided by a vote of 5-0 to take no action at this time with respect to recommendations number 3 and 4 in the report.
4. Decided by a vote of 5-0 to find no reason to believe that the Times-News violated any section of the Act in regard to the matters at issue in MUR 1809.
5. Decided by a vote of 5-0 to find reason to believe that Citizens Against PACs, Inc. violated 2 U.S.C. § 441b.
6. Decided by a vote of 5-0 to take no action at this time with respect to recommendation number 7 in the Counsel's report.
7. Decided by a vote of 5-0 to close the file as it pertains to the Times-News.
8. Decided by a vote of 5-0 to direct the Office of General Counsel to send appropriate letters and questions pursuant to the actions taken this date.

Commissioners Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for each of the above decisions; Commissioner Aikens was not present during consideration of this matter.

Attest:

2-21-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

85040520282



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
 FROM: Office of General Counsel *AK*
 DATE: February 13, 1985
 SUBJECT: MUR 1809 - General Counsel's Report

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

85040520283

CIRCULATIONS

DISTRIBUTION

48 Hour Tally Vote	<input checked="" type="checkbox"/>	Compliance	<input checked="" type="checkbox"/>
Sensitive	<input checked="" type="checkbox"/>	Audit Matters	<input type="checkbox"/>
Non-Sensitive	<input type="checkbox"/>	Litigation	<input type="checkbox"/>
24 Hour No Objection	<input type="checkbox"/>	Closed MUR Letters	<input type="checkbox"/>
Sensitive	<input type="checkbox"/>	Status Sheets	<input type="checkbox"/>
Non-Sensitive	<input type="checkbox"/>	Advisory Opinions	<input type="checkbox"/>
Information	<input type="checkbox"/>	Other (see distribution below)	<input type="checkbox"/>
Sensitive	<input type="checkbox"/>		
Non-Sensitive	<input type="checkbox"/>		
Other	<input type="checkbox"/>		



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL
FROM: MARJORIE W. EMMONS/JODY C. RANSOM *JCR*
DATE: FEBRUARY 14, 1985
SUBJECT: OBJECTION - MUR 1809 General Counsel's
Report signed February 12, 1985

The above-named document was circulated to the
Commission on Wednesday, February 13, 1985 at 4:00.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	_____ X _____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Reiche	_____

This matter will be placed on the Executive Session
agenda for Wednesday, February 20, 1985.

85040620284



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 5, 1985

Stephen Hartgen, Managing Editor
The Times-News
P.O. Box 548
Twin Falls, Idaho 83301

Re: MUR 1809
The Times-News

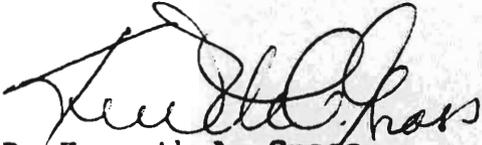
Dear Mr. Hartgen:

On October 15, 1984, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on February 12, 1985, 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 by the Times-News. Accordingly, the Commission closed its file in this matter as it pertains to the Times-News. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

86040520285



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 5, 1985

William C. Oldaker, Esquire
Epstein, Becker, Borsody & Green, P.C.
1140 - 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 1809
Citizens Against PACs, Inc.
Project for Investigative Reporting
on Money in Politics
Campaign Finance Research Institute

Dear Mr. Oldaker:

The Federal Election Commission notified your clients on October 15, 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on February 20, 1985, determined that there is reason to believe that the Project for Investigative Reporting on Money in Politics, the Campaign Finance Research Institute and Citizens Against PACs, Inc. violated 2 U.S.C. § 441b, a provision of the Act. Specifically, it appears your clients made expenditures in connection with federal elections and that because your clients are corporations, they are in violation of 2 U.S.C. § 441b which prohibits such expenditures.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding the matter in question. Please submit answers to the enclosed questions within 10 days of receipt of this letter. Statements should be submitted under oath.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However, in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2, of the enclosed procedures.

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Letter to William C. Oldaker
Page 2

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 have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202)523-4143.

Sincerely



John Warren McGarry
Chairman

Enclosures
Procedures
Questions and Requests For Documents

86040620287

Campaign Finance Research Institute
Project for Investigative
Reporting on Money in Politics
MUR 1809

QUESTIONS AND REQUEST FOR DOCUMENTS

The questions below pertain to a grant program for investigative reporting on the role and influence of money in American politics and its sponsor, the Project for Investigative Reporting on Money in Politics ("the Project"). A copy of the Project's flyer announcing the grant program is attached hereto.

1. Provide the full names and mailing addresses of the organizations and/or individuals who established the Project.
2. Provide the date on which the Project was established.
3. State the purpose behind the establishment of the Project.
4. Provide the full names and mailing addresses of the organizations and/or individuals who funded the Project.
5. Provide the full names and mailing addresses of the organizations and/or individuals who established the grant program.
6. Provide the date on which the grant program was established.
7. State the purpose behind the establishment of the grant program.
8. Provide the full names and mailing addresses of the organizations and/or individuals who funded the grant program.
9. State whether the funding by the organizations and individuals listed in response to question #8 resulted from a solicitation.

If so, identify the organization which solicited the funds for the grant program. In addition, state whether the organizations and individuals were specifically solicited to fund the grant program. Provide a copy of the solicitation.

10. State how much money was contributed by each of the organizations and/or individuals listed in response to question #8.
11. Describe the input, other than financial, that each of the organizations and/or individuals listed in response to question #8 had in the establishment and operation of the grant program.

86040520298

12. State how many grants were given out under the grant program.
13. List the recipients of the grants and describe each recipient's grant proposal.
14. Provide copies of all grant proposals whether or not ultimately accepted.
15. State who reviewed the grant proposals.
16. State who ultimately made the decision as to who would receive the grants.
17. List the criteria used to make the determinations as to who would receive the grants.
18. List the terms or conditions of the grant program. In this connection state whether
 - a) grant recipients were obligated to produce stories.
 - b) grant recipients were obligated to publish or air their stories.
 - c) grant recipients were obligated to meet any deadlines. If so, give the deadlines and explain the purpose of the deadlines.
 - d) there were any limits or conditions as to what the grant recipients could or could not state in their stories. If so, please explain.
 - e) once the stories were prepared, the writers were required to have their stories reviewed by sponsors of the grant program prior to the publication or airing of their stories. If so, what editorial control or discretion did the sponsors have over the stories?
19. State whether the Center for Investigative Reporting was involved in any way with the grant program. If so, please explain.
20. State why a grant was awarded to the Times News.

86040520289

QUESTIONS AND REQUEST FOR DOCUMENTS

The following questions pertain to newspaper advertisements referenced in the CBS news program "60 Minutes" which aired on September 23, 1984. A transcript of the program is attached as an exhibit. The headlines of the advertisements read as follows:

- o Why did Representative Martin Frost help the dairy lobby milk his constituents? (See Exhibit at 3)
 - o What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him? (See Exhibit at 3)
 - o Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money? (See Exhibit at 3)
 - o What is Congressman Rostenkowski going to do with a half million dollars of leftover campaign money? Take it with him? (See Exhibit at 4)
 - o Why did Ocean Spray Cranberry PAC give \$2,000 to Congressman Michel? (See Exhibit at 7)
 - o Why did Senator Bingaman allow the doctors lobby to butter its bread on both sides? (See Exhibit at 8)
1. State whether these advertisements were paid for, in whole or in part, by Citizens Against PACs, Inc.

List all parties who paid for these advertisements.
 2. Provide copies of each of the advertisements.
 3. State the date(s) on which each of the advertisements ran and the names of the newspapers, magazines, and or other periodical publications in which each advertisement was placed.
 4. State whether the advertisements were run only in the district or state in which the referenced candidate was seeking re-election.

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Page 2
Questions and Request for Documents
Citizens Against PACs

5. Explain why these particular candidates were made the target of your advertisements.

6. State whether there has been any instance in which both major party candidates from the same district have been targets of your advertisements. If so, please provide copies of each advertisement.

7. State the total amount of expenditures made in connection with the advertisements.

86040520291

60 MINUTES
"CONGRESSMAN FOR SALE?"

VOL. XVII, No. 2

FINAL -- 9/23/84

REASONER:

Buying a congressman's vote is illegal -- it's bribery. But giving money to a congressman in the hopes he'll vote the way you want -- or at least listen to you -- is perfectly legal. It's done every day -- and every year in a bigger way by Political Action Committees -- or PACs.

Every special interest group seems to have a PAC -- there are about 4,000 of them. Among those with more than a million dollars to give away are the PACs of the realtors, the doctors, the seafarers union, the dairy farmers and conservatives.

And each PAC can give as much as \$10,000 to a congressman -- maybe yours.

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REASONER: (continued):

The Federal Election Commission keeps track of who gives what to whom; but one private citizen, at least, is going through the computerized files and getting that information out to the grassroots. And congressmen don't like it.

PHILIP STERN:

With the nearest ocean five hundred miles away, why did Congressman Hubbard get \$45,000 in campaign gifts from the maritime industry? A clue we suggest: he is a member of the House Merchant Marine Committee that handles all shipping legislation and, therefore, he is in a special position to do favors for the maritime interests.

REASONER:

The ad about Congressman Carroll Hubbard, Jr., a five-term democrat from western Kentucky, was placed in four local newspapers by Philip Stern. Stern is a

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REASONER: (continued):

writer, a liberal activist, and philanthropist, and he's heir to a Sears Roebuck fortune. So far this election year his organization, Citizens Against PACs, has taken on ten congressmen.

Why did Representative Martin Frost help the dairy lobby milk his constituents?

What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him?

Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?

One of the ads took on the powerful Chairman of the House Ways and Means Committee, Dan Rostenkowski of Chicago.

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PHILIP STERN:

And our ad said, what is Congressman Rostenkowski going to do with a half million dollars of left-over campaign money -- take it with him?

He is safely ensconced in a heavily democratic district, has not gotten less than 80% of the vote since 1974. Starts out with \$224,00 in the bank, safe district. Nonetheless, he raises another half million dollars.

REASONER:

Congressman Rostenkowski oversees the writing of tax legislation and that's of major interest to PACs. He declined to be interviewed by 60 MINUTES. But in early 1982, he told CBS News...

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CONG. ROSTENKOWSKI:

The PACs that are making those contributions are aware that, by that contribution, doesn't necessarily mean that I'm going to, I'm going to support their position. I don't discourage the rendering of a campaign contribution, but there's no commitment.

CONG. FRANK:

Those who tell you it has no effect at all are asking you to believe that somehow we've discovered a race of people who can regularly accept large amounts of money from perfect strangers for very important reasons and then be totally unaffected by it in their behavior.

REASONER:

Congressman Barney Frank, an incumbent democrat, found himself running against an incumbent republican when two congressional districts were combined in Massachusetts. In the 1982 election he raised and spent more money than anyone else in his race for congress.

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CONG. FRANK:

I raised a million and a half, my opponent raised about a million.

REASONER:

About \$225,000 of Frank's money came from PACs.

CONG. FRANK:

I don't think it's a corrupt system but it's a distorted system. Some people will say well, they don't buy my vote, they buy access, but time is our scarcest commodity. If you have bought twenty minutes with a committee chairman or a powerful member, that's very valuable.

REASONER:

The more money a congressman gets from PACs the more likely he is to be a subject of one of Stern's ads. House Republican leader, Robert Michel of Illinois was a target.

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PHILIP STERN:

And our headline was: Why did the Ocean Spray Cranberry PAC give \$2,000 to Congressman Michel? He got more than two-thirds of his 1982 campaign money, not from the voters of his district, from, but from groups outside his district who had only a remote interest in the welfare of Peoria, Illinois.

REASONER:

The Michel campaign contended that the list of PACs which contributed to that campaign is so large and so varied as to make charges of influence peddling laughable.

PHILIP STERN:

I think that answer is laughable. If anyone of those lobbyists comes in and says, remember me, I gave you \$2,000, Michel will remember him.

REASONER:

Michel's campaign chairman said that your ads go way too far, that there's something just short of pure political character assassination. Your response?

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PHILIP STERN:

If Congressman Michel resents the inference that is being drawn from those facts, let him change the system. Congress made these laws and they can change them.

REASONER:

Stern believes that Congress must be made uncomfortable before it will reform itself and he is relentlessly bipartisan in his targets for embarrassment. For example, liberal democrat Jeff Bingaman, freshman senator from New Mexico.

PHILIP STERN:

The headline was: Why did Senator Bingaman allow the doctors lobby to butter its bread on both sides?

REASONER:

The American Medical Association had given Bingaman's conservative republican opponent \$7,500 but the opponent lost and after the election, on December 29th, 1982...

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PHILIP STERN:

The AMA reached into its little black bag and lo and behold, it found \$10,000 it wanted to give to Jeff Bingaman and did.

REASONER:

Senator Bingaman said in a letter to one of your board members: "The allegation that the AMA or any other organization which has contributed to my campaign has first claim on my ear is false and offensive." Now did you go too far in your assertion?

PHILIP STERN:

No sir. We said to him if you want to disabuse AMA and your voters of any such idea, send the money back. And his response: "I can't afford to." If he can't afford to do without AMA money now, five years before his re-election, how is he going to fend off the blandishments of those, of AMA and other PACs, when he is in the heat of his next re-election campaign?

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PHILIP STERN:

This law...

REASONER:

Philip Stern worked for passage of the 1974 Federal Election Law that brought public financing, contribution limits, and spending ceilings to presidential elections. He'd like to see the same rules applied to congressional elections and he'd like to eliminate PACs, the loophole created by the 1974 law. Then reform was aided by the scandal of Watergate. Now he feels there is only scandal waiting to happen. Stern hopes his ads will get constituents angry enough to ask embarrassing questions of their congressmen and begin the process of campaign finance reform.

Not only outsiders, do-gooders, idealists and gadflies like Citizens Against PACs are concerned about the large amount of special interest PAC money in congressional campaigns.

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REASONER: (continued):

Widely respected members of congress, like Representative Barber Conable, the ranking republican member of the Ways and Means Committee, also see the danger.

CONG. CONABLE:

I think the public has a right to be worried about it. My impression is that even the perception that congress is being bought is dangerous.

REASONER:

Congressman Conable, who is retiring after 20 years of representing the voters of Rochester, New York has had a policy of accepting no more than fifty dollars from any source other than the party itself.

CONG. CONABLE:

It's meant something to the people I've represented because they felt that I couldn't very well be bought for fifty dollars.

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REASONER:

Sometimes congressmen seem to want to be seduced.

CONG. CONABLE:

Well it's not a matter of their being seduced so much as they feel to be safe they've got to have large sums of money to spend on media advertising to defend their incumbency.

REASONER:

It's incumbents who make the election rules and they rake in the PAC money -- three and a half times more than the challengers.

Bill Olwell knows this. He directs the PAC of the largest union in the AFL-CIO. This election, his United Food and Commercial Workers will give close to two million dollars to candidates. About 75% of it will go to incumbents.

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BILL OLWELL:

If you go back over 40 years 92% of all incumbents that run for re-election are re-elected.

REASONER:

Are you, as a man who has to live with it, satisfied with the system?

BILL OLWELL:

Absolutely not. I think it's a crazy system. I think we ought to really sit down and really think what we're doing to American politics.

REASONER:

Bill Ollwell's dissatisfaction with the influence of money in politics is shared by Ned Cabot who directs the PAC of the Equitable Life Insurance Company.

NED CABOT:

The life insurance PAC doesn't represent my interests as a father, a resident of a city, somebody who's interested in the environment, lives near the water. It

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NED CABOT: (continued)

doesn't represent any of those things. It does what it's supposed to do, represent a single interest.

REASONER:

Cabot believes the general interest gets short shrift in a system where it's hard to run for congress without PAC Money.

CONG. CONABLE:

Well I'm old enough to remember the time when a young fellow, friends of mine, could get together with their friends and family and business associates and raise enough money to run for congress. In 1982, the average winner of a contested race, that is those, one in which the winner won by less than 55% of the vote, had to raise \$361,000 to get elected to the Congress of the United States.

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REASONER:

Richard Armstrong is the President of the Public Affairs Council -- the professional organization of corporate public affairs executives. The Council has defended PACs but also has sponsored meetings at which business-PAC directors have discussed ethical guidelines for corporate PAC giving.

RICHARD ARMSTRONG:

The stickiest kinds of questions are things like: Should you give money to a candidate who doesn't really need it?

REASONER:

Armstrong thinks congress should reform some of its worst practices -- like the use of excess campaign funds.

RICHARD ARMSTRONG:

It's shocking the use that they're making of these, they're allowed to put it in their office account, they're supposed to declare it as income, they are not declaring it as income, and they're going ahead and using it -- you know, Senator Cranston took singing

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RICHARD ARMSTRONG: (cont'd)

lessons, Dole decorated his office with some of these funds. D'Amato bought a couple of cars, that type of thing. So I think it might make some sense, I'm speaking for myself, that at the end of a campaign, if they've got some money left, that they give it to the party or give it back to the contributors, or give it to the Red Cross, something like that.

REASONER:

For the record, Senator Cranston hired a voice coach, but not for singing lessons. Senator Dole commissioned an efficiency study of his office, rather than redecorate it, though others in congress have used excess funds for redecorating. And Senator D'Amato leased cars instead of buying them, but he didn't use his own excess funds, he had his bills paid for him by the National Republican Senatorial Committee, one of the biggest PACs.

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REASONER:

All year long, at places in Washington like the Capitol Hill Club, incumbents go after PAC money by giving cocktail parties.

They're like charity fundraisers -- with tickets ranging from \$250 to \$1,000 except that the charity is the incumbent's re-election campaign.

In his district a congressman might charge \$50, \$25, or as little as \$10 for voters to attend a similar function.

If you receive a few such invitations in the mail, the head of a small PAC receives a boxfull. And not the ones for ten dollars.

Congressman and Mrs. Doug Walgren invite you to join them for a party of early risers. That's for breakfast -- 8:00 to 10:00 a.m. in Washington -- \$250 per person.

Congressman Allan Wheat and some democrats

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REASONER: (continued):

this time, that's \$250 -- that seems to be fairly standard. Senator Howard Baker and Senator Richard Lugar are hosting this one in honor of John M. Burris of Delaware who's a candidate -- \$500 per person.

CONG. CONABLE:

It does constitute, in my way of thinking anyway, a serious abuse potentially since the very people most affected by the work of the committee are the ones who come to those cocktail parties, feel they have to maintain the goodwill of the congressman.

REASONER:

Congressman Jim Leach, Republican of Iowa, now in his fourth term in congress, has never accepted PAC money -- a practice only a few of his colleagues have followed.

CONG. LEACH:

Who represents poor people when you have a system in which money is the primary influence peddler?

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CONG. LEACH: (continued)

In the last few major Senate elections, eastern unions, western oil interests have pumped spectacular sums of money into my state. We're a small business, we're a rural state, we're a farm state. And in Iowa it's nuts to have candidates indebted to eastern unions or, for that matter, Texas oil.

REASONER:

If you're a challenger and the money isn't dumped in your lap, you go after it. Congressman Leach told us how candidates do it. They go to K Street Northwest in Washington where so many PACs are located. It's sometimes called PAC Street.

CONG. LEACH:

They say I'd like money from your group. That group generally gives them, by the way a questionnaire to fill out -- it has their name, their address, what they're running for. Then it says: how do you stand on issues? And the issues aren't abstract.

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CONG. LEACH: (continued)

They're not, do you support a balanced budget? Do you support a strong national defense? They are: do you favor a tax cut for this industry? Do you favor spending for that program? And then, depending on how you vote, or how you filled out the application, you get money.

REASONER:

Congressman Leach has co-sponsored legislation to limit the total amount of money that a candidate can receive from all PACs to \$90,000.

Do you have any indication that your colleagues are getting more concerned about all of this?

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CONG. LEACH:

Privately many say there's a huge problem. Publicly they throw up their hands and say there's nothing they can do about it. You present a bill, for example, on changing the system and they'll say well maybe we'll consider it next time, but I don't want to co-sponsor it because that'll hurt my campaign contributions in the next election.

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DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING COMPLAINTS FILED WITH THE
FEDERAL ELECTION COMMISSION

Complaints filed with the Federal Election Commission shall be referred to the Enforcement Division of the Office of the General Counsel, where they are assigned a MUR (Matter Under Review) number and assigned to a staff member. Within 5 days of receipt of a complaint, the Commission shall notify, in writing, any respondent listed in the complaint that the complaint has been filed and shall include with such notification a copy of the complaint. Simultaneously, the complainant shall be notified that the complaint has been received and will be acted upon. The respondent(s) shall then have 15 days to demonstrate, in writing, that no action should be taken against him/ her in response to the complaint.

At the end of the 15 days, the Office of General Counsel shall report to the Commission making a recommendation(s) based upon a preliminary legal and factual analysis of the complaint and any submission made by the respondent(s). A copy of respondent's submission shall be attached to the Office of General Counsel's report and forwarded to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act (FECA) and that the Commission will conduct an investigation of the matter; or (b) that the Commission finds no reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act (FECA) and, accordingly, that the Commission close the file on the matter.

If, by an affirmative vote of four (4) Commissioners, the Commission decides that it has reason to believe that a person has committed or is about to commit a violation of the Federal Election Campaign Act (FECA), the Office of the General Counsel shall open an investigation into the matter. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for deposition, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission during its investigation.

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DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE
FEDERAL ELECTION COMMISSION

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of General Counsel where they are assigned a MUR (Matter Under Review) number, and assigned to a staff member.

Following review of the information which generated the MUR, a recommendation on how to proceed on the matter, which shall include preliminary legal and factual analysis, and any information compiled from materials available to the Commission shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act (FECA) may have occurred or is about to occur and that the Commission conduct an investigation of the matter; or (b) that the Commission find no reason to believe that a possible violation of the FECA has occurred and that the Commission close the file on the matter.

Thereafter, if the Commission decides by an affirmative vote of four (4) Commissioners that there is reason to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed, the Office of the General Counsel shall open an investigation into the matter. Upon notification of the Commission's finding(s), within 15 days a respondent(s) may submit any factual or legal materials relevant to the allegations. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission in its investigation.

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

In the Matter of)
)
Project for Investigative)
Reporting on Money in Politics)
Campaign Finance Research)
Institute Inc.)
Stern Fund)
Philip Stern)
Times-News)
Citizens Against PACs, Inc.)
Center for Investigative Reporting)

25 FEB 13 P12: 59

MUR 1809

SENSITIVE

GENERAL COUNSEL'S REPORT

I. Statement of the Case

On September 28, 1984, Congressman George Hansen filed a complaint challenging the legality of certain actions undertaken by various tax-exempt organizations and a newspaper in what appears to be a case of first impression.^{1/}

The complaint relates to a series of articles appearing in an Idaho newspaper, the Times-News. The articles report unfavorably on the financial affairs of Congressman George Hansen, a 1984 Republican candidate for the U.S. House of Representatives' seat in the second district of Idaho.

The complaint alleges that the cost of reporting the stories was borne in part by a grant to the reporter from a tax-exempt organization called the Project for Investigative Reporting on Money in Politics, that the Project was in turn supported by

^{1/} The complaint was originally rejected by the Office of the General Counsel because it failed to meet the statutory requirement that a complaint be sworn to. See 2 U.S.C. § 437g(a)(1). The complaint was subsequently modified and submitted to the Commission on September 28, 1984. A copy of the complaint was circulated to the Commission on October 11, 1984.

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funds from another tax-exempt organization, the Campaign Finance Research Institute, and that the ultimate source of the funds was Mr. Philip Stern and the Stern Fund. Complaint at 1.

The complainant contends that the above organizations funded the Times-News for activities aimed at influencing federal elections and, that the Times-News applied for and received a grant of \$1,750 from these organizations "for the purpose of attacking one candidate for Federal Office." Complaint at 1.

Although the complainant does not cite to a specific section of the Act, he appears to argue that the expenditures at issue are being made "in connection with" federal elections and that because the organizations are corporations they are in violation of 2 U.S.C. § 441b which prohibits such expenditures.

In addition, the complainant states that Mr. Philip Stern, personally and through the Stern Fund, spends a substantial sum of money using the following organizations as conduits:

- The Center for Investigative Reporting
- The Project for Investigative Reporting on Money in Politics
- The Campaign Research Institute, Inc.
- Citizens Against PACs

The complainant states that Mr. Stern and the other organizations select one of two candidates for public elective office and attack that candidate to the exclusion of ~~the~~ other. The complaint charges that neither Philip Stern nor his

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organizations have filed financial statements with the Commission.

The complainants assertions in regard to the Project for Investigative Reporting on Money in Politics and the Campaign Finance Research Institute appear to be based on the factual contentions of the complainant concerning their alleged funding of the Times-News articles, as discussed above. The complainant's allegations concerning the Center for Investigative Reporting are not supported by any information or documentation.

As basis for the complainants' assertions regarding Citizens Against PAC's, the complainant relies on a transcript from the CBS television program "60 Minutes" which aired on September 23, 1984. The transcript pertains to an interview between CBS News reporter Harry Reasoner and Mr. Philip Stern. The interview discloses that Mr. Stern directs an organization called "Citizens Against PACs" and that the organization was responsible for various newspaper ads which had as their subject the amount of special interest PAC money in the campaigns of specific candidates for Congress. See Complaint at 9 through 29.

Although, again, the complainant does not cite to a specific section of the Act, he appears to argue the following:

- 1) that the expenditures by Mr. Philip Stern constitute independent expenditures within the meaning of 2 U.S.C. § 431(17) and that his failure to report the expenditures violates 2 U.S.C. § 434(c) and 11 CFR § 109.2
- 2) that the Stern Fund, the Project for Investigative Reporting on Money in Politics, Citizens Against PACs and the Campaign Research Institute have made

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corporate expenditures "in connection with" federal elections, in violation of 2 U.S.C. § 441b

- 3) that Citizens Against PACs has failed to register and report as a political committee, in violation of 2 U.S.C. § 433 and 434.

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Notices of the complaint were sent to the respondents on October 15, 1984.^{2/} On November 1, 1984 the Office of the General Counsel received the response of the Times-News. See Attachment I, pages 1-11. On November 15, 1984, this Office received the response of the Stern Fund. See Attachment II, pages 12-15. On November 29, 1984, this Office received a response submitted on behalf of Mr. Philip Stern, Citizens Against PACs, Inc., the Campaign Research Institute and the Project for Investigative Reporting on Money in Politics. See Attachment III, pages 16-20. The three responses urge that the Commission dismiss the complaint as insufficient to satisfy the requirements of 11 C.F.R. § 111.4 or, in the alternative, that the Commission find no reason to believe a violation of the Act has occurred and close the file in this matter.

II. Legal and Factual Analysis

A. Propriety of the Complaint

Respondents raise as a threshold defense the nature and content of the complaint upon which this matter is based. See

^{2/} The notice sent to the Center for Investigative Reporting was returned as undeliverable. This Office has been unsuccessful in its attempts to locate a proper address for the respondent.

Attachments at 1, 14-15, 19. Respondents assert that Congressman Hansen's correspondence with the Commission is not properly treated as a complaint under 11 C.F.R. § 111.4. Respondents argue that the complaint is deficient because it does not "clearly identify who Congressman Hansen thinks has violated the law and how." See Attachments at 14 and 19. Respondents appear to base this argument on the language of 11 C.F.R. § 111.4(d)(1) and (3) which states that "[t]he complaint should conform" to the provision that "[i]t should clearly identify as a respondent each person or entity who is alleged to have committed a violation" and "[i]t should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction."

The Explanation and Justification which accompanied Section 111.4 differentiated between the statutory requirements of the complainant's full name and address and of a sworn, signed and notarized statement with which a complaint must comply in order to be considered proper and actionable (11 C.F.R. § 111.4(b)), and additional requirements which should be met (11 C.F.R. § 111.4(d)) (Emphasis added). In the absence of the latter types of information, i.e., a clear identification of respondents or, a clear statement of facts, the Commission "may" find that the complaint is insufficient and vote to take no action. Put another way, subsection (d) is not an absolute requirement, but, rather, provides the Commission with a basis for refusing to investigate a complaint in the absence of sufficient information.

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In the present matter, the complainant's letter and accompanying documents provide sufficient information upon which the Commission can base a decision as to whether to proceed. Although the letter does not explicitly identify the respondents nor those sections of the Act which were allegedly violated, these failures are not fatal to the complaint. The complaint is proper as it stands because the letter and attached documents provide sufficient information for the Commission to address the complaint fully.

B. The Alleged Statutory Violations in Regard to Expenditures for Newspaper Stories

1. Legal Framework

The Act makes it unlawful for any corporation to make contributions or expenditures in connection with federal elections. 2 U.S.C. § 441b. However, the Act specifically exempts from classification as a contribution or expenditure "any news story, commentary, or editorial distributed through the facilities of any...newspaper... unless such facilities are owned or controlled by any political party, political committee, or candidate. 2 U.S.C. § 431(9)(B)(i).

The Commission's regulations extend the news story exemption to "any cost incurred in covering or carrying a news story, commentary or editorial by any...newspaper... unless the facility is owned or controlled by any political party, political committee, or candidate." 11 C.F.R. § 100.7(b)(2) and 100.8 (b)(2). This exemption from the definition of contribution

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and expenditure is a limited exemption designed to insure the right of the media to cover and comment on election campaigns. See H.R. Rep. No. 1239, 93d Cong., 2d Sess. 4 (1974).

2. Application of the Law to the Facts

The Act of which Congressman Hansen complains concerns the funding by various organizations of newspaper articles appearing in the Times-News. Congressman Hansen alleges that the cost of reporting the stories was paid in part by a grant to the reporter from the Project for Investigative Reporting on Money in Politics, that the Project was in turn supported by funds from the Campaign Research Institute, and that the ultimate source of the funds was Mr. Philip Stern and the Stern Fund. The complainant contends that these organizations are tax-exempt corporations, that the organizations funded the Times-News for activities aimed at influencing federal elections and, that the Times-News received the grant for the specific "purpose of attacking one candidate for Federal Office." On the basis of these assertions, the complainant alleges that the above-referenced organizations have made corporate expenditures "in connection with" federal elections and that the expenditures violate 2 U.S.C. § 441b.

The various respondents assert that there are factual errors in what Congressman Hansen alleges and argue that even if all of the allegations were true, there would be no violation of the Act as the expenditures in question constitute exempted activity pursuant to 2 U.S.C. §431(9)(B)(i) and 11 C.F.R. § 100.7(b)(a) and 11 C.F.R. § 100.8(b)(2).

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The factual dispute centers on Congressman Hansen's allegations regarding the purpose of the grant and the source from which the grant money was obtained. According to the respondents, the Project for Investigative Reporting on Money in Politics operates under the auspices of the Campaign Finance Research Institute, an organization exempt from federal income tax under 26 U.S.C. § 501(c)(3). The responses state that the Institute and, therefore the Project, received its support from approximately eighteen foundations and individuals from all sections of the country. Attachments at 16-17. According to the respondents, neither Philip Stern in his personal capacity or through the Stern Fund, nor the Citizens Against PACs, Inc. have ever contributed to the Institute. See Attachment at 12, 13, 17.3/

The respondents also dispute the complainant's allegation that the purpose of the grant was "to attack one candidate for federal office." To support the view that the complainants' allegations are factually incorrect, the respondents attach a copy of the Project's flyer which describes the Project's mode of operation. The purpose of the Project, is set forth in the last paragraph of the flyer which states "The Project will be

3/ The response of the Stern Fund explains that an entity called "the Stern Family Fund" may have made a grant to the Institute, and that the entity is separate and distinct from the Stern Fund.

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strictly non-partisan. The sole purpose of its grants is to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest." See Attachments at 20.

The above facts notwithstanding, central to the issue of whether the exemptions of 2 U.S.C. § 431(9)(B)(i), 11 C.F.R. § 100.7(b)(2) and 11 C.F.R. § 100.8(b)(2) apply, are the questions whether the articles of which Congressman Hansen complains were distributed through the facilities of a bona fide newspaper and whether its facilities are owned or controlled by any political party, political committee or candidate. Congressman Hansen does not dispute that the Times-News is a bona fide newspaper. Indeed, as the respondents point out, Congressman Hansen describes the Times-News as "one of the major newspapers in my congressional district." Moreover, Congressman Hansen does not allege that the facilities of the Times-News are owned or controlled by any political party, political committee or candidate, nor is there any evidence to suggest any type of political affiliation. Absent any facts to the contrary, it appears that the activities in question are exempt from the classification of contribution or expenditure. 4/

4/

this case involves the application of an exemption specifically carved out by Congress in order to insure the right of the media (continued on next page)

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Based on the foregoing, the Office of the General Counsel recommends that the Commission find no reason to believe that any violation of the Act has occurred as regards this matter.

C. The Alleged Statutory violations in Regard to Expenditures for Newspaper Ads.

Another matter of which Congressman Hansen complains relates to various newspaper ads, the contents of which were disclosed on the CBS News program "60 Minutes." Mr. Hansen attributes the ads to an organization called Citizens Against PAC's, an organization which, according to Mr. Hansen's assertions, receives funds from and is directed by Mr. Philip Stern and the Stern Fund.

Congressman Hansen charges that "Stern and his alter egos select one of two candidates for public federal office and attack that candidate to the exclusion of the other." Complaint at 2. Congressman Hansen complains that neither Mr. Stern nor his organizations have filed financial statements with the Commission as independent campaign organizations or as organizations for which the beneficiary candidate is responsible. Complaint at 2. Moreover, Congressman Hansen challenges the legality of expenditures made by the tax-exempt organizations such as the Stern Fund and Citizens Against PAC's, where, as he alleges, the

4/ (continued)
to cover and comment on election campaigns -- the news story exemption. In this case the financing of investigative reporting appears to be a necessary adjunct of the news story exemption. Where, as here, the grant of money was obtained through the efforts of a bona fide newspaper reporter in the course of his employment and the articles by that reporter were carried through the facilities of a bona fide newspaper it appears that the expenditures implicitly fall within news story exceptions to FECA.

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expenditures are made for the purpose of influencing federal elections.

Although the complainant does not cite to a specific section of the Act, he appears to argue the following:

1. that the expenditures by Mr. Philip Stern constitute independent expenditures within the meaning of 2 U.S.C. § 431(17) and that his failure to report the expenditures violates 2 U.S.C. § 434(c) and 11 C.F.R. § 109.2.
2. that the Stern Fund and Citizens Against PACs have made corporate expenditures "in connection with" federal elections, in violation of 2 U.S.C. § 441b.
3. that Citizens Against PACs has failed to register and report as a political committee in violation of 2 U.S.C. § 433 and § 434.

The first of these allegations, that Mr. Stern has violated 2 U.S.C. § 434(c) and 11 C.F.R. § 109.2 rests on two conclusions; 1) that Mr. Philip Stern is the only source from which the expenditures for the ads were made; and 2) that the expenditures for the ads qualify as "independent expenditures" within the meaning of 2 U.S.C. § 431(17).

The information provided by the complainant and the respondents is inconclusive on the question of who financed the advertisements in question. However, assuming arguendo that Mr. Philip Stern financed the advertisements, to establish a

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violation of 2 U.S.C. § 434(c) and 11 C.F.R. § 109.2 it must be shown that the expenditures for the advertisements qualify and independent expenditures within the meaning of 2 U.S.C. § 431(17). Pursuant to this section the term "independent expenditures" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

In Buckley v. Valeo, 424 U.S. 1 (1975), the Supreme Court held that in order for communications to be considered express advocacy they must be "unambiguously related to the campaign of a particular federal candidate." Buckley, 424 U.S. at 80. The court provided an illustrative list of terms which, if used, would be considered examples of express advocacy (words like "vote for," "vote against," "elect," and "defeat"); a list which was codified in regulations promulgated by the Commission in adopting the definition of express advocacy used in Buckley. 11 C.F.R. § 109.1(b)(2). In this matter the communications do not reach those standards. There are no words of express advocacy and no reference whatsoever to a particular election. Examples of the advertisements appear in the "60 Minutes"

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transcript as follows:

- o Why did Representative Martin Frost Help the dairy lobby milk his constituents?
- o What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him?
- o Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?

In that the above communications do not qualify as "independent expenditures," the Office of the General Counsel recommends that the Commission find no reason to believe that Mr. Philip Stern has violated the Act.

In the alternative, the complainant appears to argue that the expenditures for the advertisements were born out of funds from the Stern Fund and Citizens Against PACs, both of which he asserts are corporations. The complainant argues that the expenditures by these corporations in connection with federal elections violates 2 U.S.C. § 441b. For the reasons set forth below this Office recommends that the Commission find no reason to believe that the Stern Fund violated 2 U.S.C. § 441b, but find reason to believe that the Citizens Against PACs, Inc. violated 2 U.S.C. § 441b.

In response to the complaint, counsel for the Stern Fund states that no Stern Fund money supported any of the activities described in the "60 Minutes" program. See Response at 13. Because the complaint provides no evidence to the contrary, there is no basis for proceeding against the Stern Fund.

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The Citizens Against PACs neither admits nor denies that it supported the activities described in the "60 Minutes" program. Their response merely states that "Citizens Against PACs, Inc. is a non-profit corporation, organized under the laws of the District of Columbia for the purpose of raising public consciousness about the defects of the current system of campaign finance." The response further states that "Citizens Against PACs does not make contributions or expenditures for the purpose of influencing elections, and, accordingly has no registration or reporting obligations with the Federal Election Commission." See Response at 17, footnote 1.

In order to find a violation of 2 U.S.C. § 441b it must be shown that the advertisements in question were made "in connection with" a federal election. The United States Court of Appeals for the Third Circuit has held that in order for a contribution or expenditure to be regarded as being made in connection with a federal election, a nexus must be established between the alleged contribution or expenditure and the federal election in question. Miller v. AT&T, 507 F.2d 759, 764 (1974).

In the matter at issue, such a nexus appears to exist. The expenditures were for advertisements which have as their subjects incumbent officials who were seeking re-election to federal office in 1984, e.g., Rep. Carroll Hubbard (D-KY-1); Rep. Martin Frost (D-TX-24); Rep. W. Hensen Moore (R-LA-6); Rep. Mickey Edwards (R-OK-5); Rep. Dan Rostenkowski (D-IL-8); Rep. Robert H.

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Michel (R-IL-18); Sen. Jeff Bingaman (D-NM). According to the transcript of the "60 Minutes" program, the advertisements concerning these officials were placed in local newspapers in the districts or states in which the candidates were seeking re-election. Though the transcript reveals no information concerning the date on which the advertisements ran in the papers, it appears that the advertisements ran prior to September 23, 1984, the date on which the "60 Minutes" program aired and hence, prior to the general election. The transcript reveals that the headlines of some of the advertisements read as follows:

- o Why did Representative Martin Frost help the dairy lobby milk his constituents?
- o What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him?
- o Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?
- o What is Congressman Rostenkowski going to do with a half million dollars of leftover campaign money? Take it with him?
- o Why did Ocean Spray Cranberry PAC give \$2,000 to Congressman Michel?
- o Why did Senator Bingaman allow the doctors lobby to butter its bread on both sides?

The negative content of these ads, together with the other factors i.e., the timing of the ads, the areas in which they were

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distributed, and the fact that they have candidates as there subjects, leads us to conclude that the expenditures for the ads were made in connection with a federal election. Accordingly the General Counsel's Office recommends that the Commission find reason to believe that Citizens Against PACs, Inc. violated 2 U.S.C. §441b. 5/

III. Recommendations

1. Find no reason to believe that the Project for Investigative Reporting on Money in Politics has violated any section of the Act in regard to the matters at issue in MUR 1809.
2. Find no reason to believe that the Campaign Finance Research Institute, Inc. violated any section of the Act in regard to the matters at issue in MUR 1809.
3. Find no reason to believe that the Stern Fund violated any section of the Act in regard to the matters at issue in MUR 1809.
4. Find no reason to believe that Mr. Philip Stern violated any section of the Act in regard to the matters at issue in MUR 1809.
5. Find no reason to believe that the Times-News violated any section of the Act in regard to the matters at issue in MUR 1809.
6. Find reason to believe that Citizens Against PACs, Inc. violated 2 U.S.C. § 441b.
7. Find no reason to believe that the Center for Investigative Reporting violated any section of the Act in regard to the matters at issue in MUR 1809.
8. Close the file as it pertains to the Project for Investigative Reporting on Money in Politics, the Campaign Finance Research Institute, Mr. Philip Stern, the Stern Fund, the Times-News and the Center for Investigative Reporting.

5/ We note that the complaint alleged that Citizens Against PACs, Inc. is a political committee, however, as this report illustrates, this entity is properly analyzed under the provisions of 2 U.S.C. § 441b.

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9. Approve and send the attached letters and questions.

Charles N. Steele
General Counsel

February 12, 1985
Date

By: Kenneth A. Gross
Associate General Counsel

Attachments

- I. Response of the Times-News (pages 1-11)
- II. Response of the Stern Fund (pages 12-15)
- III. Response of Philip Stern, Citizens Against PACs, Inc., the Campaign Finance Research Institute, and the Project for Investigative Reporting on Money in Politics (pages 16-20)
Letters to Respondents (pages 21-25)
Questions and Request for Documents (pages 26-27)
Exhibit (pages 28-48)

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The Times-News

RECEIVED AT THE FEC

P.O. Box 548

Twin Falls, Idaho 83301

208-733-0931

NOV 1 8:40

NOV 1 11:06
GENERAL DELIVERY

October 29, 1984

Ms. Beverly Kramer
Federal Election Commission
Washington, D. C. 20463

Dear Ms. Kramer:

This letter is in response to a letter of October 15 from your office concerning an allegation raised by Rep. George Hansen of the Second Congressional District of Idaho that certain Times-News articles, and the way in which they were funded, constitute violations of the Federal Election Campaign Act.

After a careful review of both the congressman's allegations and the relevant law in this area, it is our opinion that the complaint against The Times-News lacks substance and should be dismissed. In our opinion, the congressman's letters to your office of Sept. 26 and Sept. 17 contain numerous errors of both fact and opinion. Furthermore, we believe newspaper reporting is specifically exempt from the FECA under the language of U.S. Code, Title II, Sect. 431-9bi. Additionally, the main controlling legal case in this area, Buckley vs. Valeo, 424 U.S. 1 (1975) and subsequent rules of the commission itself employing that decision's language suggest that the articles by The Times-News did not violate the "express advocacy" standard set out by the Supreme Court in that case. It is our opinion that the ongoing coverage of politics and public officials by the American press is within the affirmative intent of the First Amendment of the U. S. Constitution. Such coverage, in which The Times-News is routinely engaged, does not constitute an "in-kind" contribution to an elected official's opponent.

Let me give a bit of background. The Times-News is a 22,000-circulation, seven-day daily newspaper in Southern Idaho, in Rep. Hansen's district. It is the major daily newspaper for eight counties. In March and April 1984, The Times-News sent a reporter to Washington to cover the trial of Rep. Hansen, who had been indicted for alleged violations of the Ethics in Government Act. He was convicted of four felony violations and has been both reprimanded by the full House and sentenced to 15 months in prison. The conviction is under appeal.

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October 29, 1984

Following the conviction, The Times-News decided to further follow up on several avenues which had either come up directly or which had been alluded to in the trial. These avenues involved Hansen's financial affairs.

We were aware of the Project for Investigative Reporting on Money in Politics through its advertising in national journalism magazines and we asked the organization about the procedures for filing a grant request to help defray investigation expenses. A grant proposal was developed in June and was approved in July. There were absolutely no strings of any kind attached to the \$1,750 grant, nor any preconditions as to whether The Times-News was even obligated to produce any stories. The stories which resulted were entirely the product of the newspaper alone. The money was to fund a trip for our reporter to Washington to examine records, conduct interviews and gather information concerning reports we had obtained from various sources on alleged secret bank accounts, large loans from individuals, and financial support from various religious organizations. Our reporter examined aspect of these allegations for several weeks in June in Idaho, and then in Washington through the month of July. We published several stories based on that research, which we enclose.

We do not think that the investigative reporting by The Times-News on the financial affairs of its congressman, a convicted felon, in any way violates the FECA regulation of political speech. There are two basic arguments for this.

One, the FEC act itself exempts newspaper stories specifically in Sect. 431-9bi. That exemption covers "any news story distributed . . . through newspapers." That language seems very clear.

Two, under the "express advocacy" test of Buckley vs. Valeo, reporting of the type The Times-News conducted is, in our view, also outside the purview of the FECA act. Consider the following questions:

- 1.) Do the news articles use any of the words of express advocacy, such as "elect, support, cast your ballot for, defeat, reject?" The answer is no.
- 2.) Is the election referred to? Only obliquely.
- 3.) Are readers urged to act on policy issues discussed? No.
- 4.) Is the candidate's opponent mentioned favorably? No.
- 5.) Is the reporting an isolated foray into criticism and analysis of this public official's performance? No.

The reporting on Rep. Hansen, through his indictment, trial and conviction has been extensive. Perhaps no Idaho politician has

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October 29, 1984

been covered as completely throughout his career. The Times-News has endeavored to provide a balanced picture of the congressman's battles by publishing, on its editorial page and in its news columns, explanations by Hansen himself, members of his staff, family, and supporters.

In the absence of any "yes" answers to those questions, we do not see how the reporting by The Times-News in the present case can be construed to have violated the "express advocacy" standard of Buckley vs. Valeo. In Buckley, the court considered the language of the FECA and wrote that: "The key operative language of the provision limits any expenditure relative to a clearly identified candidate . . . (There) is no definition clarifying what expenditures are "relative to" a candidate. The use of so indefinite a phrase as "relative to" a candidate fails to clearly mark the boundary between permissible and impermissible speech." " . . . " to preserve the provision against invalidation on vagueness grounds, (it) must be construed to apply only to expenditures for communications that in express terms advocate the election or a defeat of a clearly identified candidate for federal office."

We believe the reporting in this matter by The Times-News is well within the constitutional protection afforded by the First Amendment, the language of the Federal Election Act and the "express advocacy" standard and that the grant from the Project for Investigative Reporting was completely legal and appropriate. In our view, the complaint by the congressman is without merit and should not proceed beyond the "Matter Under Review" stage.

We look forward to hearing from you relative to this matter. At this time, we will not submit a designation of legal counsel, but reserve the right to do so in the future.

Sincerely,



Stephen Hartgen
Managing Editor

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Records: Hansen cash flow unusually high

Hansens put \$840,000 through bank in month

By Times-News and Associated Press

GLENN FERRY — During a single month in the winter of 1979, 156 checks, totaling nearly \$840,000, were written on the Glenn Ferry personal bank account opened by Rep. George Hansen and his wife, Connie.

The figures, showing deposits of up to \$61,000 and check drafts of up to \$10,000, are contained in an Idaho State Bank joint-checking account statement of the Hansens which was submitted by federal prosecutors as court evidence in the congressman's trial in March.

The statement shows the Hansens placed nearly \$800,000 in the account in 21 separate deposits — at least one on virtually every working day of the month. Many of the 156 checks written on the accounts were for amounts between \$0,000 and \$10,000.

Despite the large deposits, keeping the account in the black sometimes required precision timing.

On January 12, 1979, the account briefly fell \$14,518 in the red when \$188,000 in deposits failed to clear the ledger before a weekend check posting.

Again on Jan. 17, the account was briefly \$,977.26 in the red, before a \$39,000 check posted later that same day brought the account back into the black.

Hansen told the Times-News Friday he would not comment on the source of cash infusions into the Glenn Ferry account, nor on what the money was used for.

He said he wanted his campaign to stay focused on issues, not on the "garbage."

"Your newspaper should get on the issues and off the balcony," Hansen said.

Hansen said he hadn't "even looked at" an Idaho Statesman article published Friday also detailing the Glenn Ferry transactions.

"As far as I can tell, it was a rehash of some information that appeared in the trial, and a lot of wild speculations. As far as I'm concerned, we have a dirty-up operation by certain elements of the press."

Hansen said such tactics "failed to defeat me in the primary and failed to create problems at Sun Valley (the site of a recent state Republican convention)."

But Richard Stallings, Hansen's

Democratic opponent in the November elections, said people have reacted to the information about the account "with a sense of disgust and disbelief."

"Most people have difficulty comprehending life-time earnings of almost a million dollars," Stallings said.

"People are frustrated and angered to learn that their congressman was able to write checks for \$840,000 in a one-month period while going around the nation claiming poverty and persecution."

The Hansens' bank statement was submitted by federal prosecutors seeking to prove that the congressman knew of, participated and benefited from, an \$87,000 profit that Connie Hansen realized in three days of trading on the silver commodities market.

Hansen's failure to report the \$87,000 on congressional disclosure documents formed one part of an April 2, four-part felony conviction for violations of the Ethics in Government Act of 1976. Following the conviction, Federal District Court

• See CHECKS on Page A5

Flow of checks used to buoy personal finances

By RICK SHUAUGHNESSY
Times-News writer

TWIN FALLS — A bank statement showing 177 transactions involving almost \$800,000 in George and Connie Hansen's joint Glenn Ferry bank account in early 1979 is the latest of several public records that provide a glimpse into the seven-term congressman's financial practices.

Sources familiar with Hansen's financial affairs say the transactions in the Glenn Ferry account are part of a larger operation that Hansen has used to buoy his personal finances.

According to those sources — who spoke on the basis that they would not be identified — Hansen has used congressional staff members and at least one other individual in Idaho to transfer checks between at least five different bank accounts in the state.

The Hansen operation kited checks drawn on these accounts and added money to the operation through short-term personal loans, the sources say.

A bank kiting is the process of issuing checks for a larger amount than the balance in the account, taking advantage of the time interval needed



REP. GEORGE HANSEN

Finances questioned again

for check collection and the fact that accounts may be credited by a bank as soon as the checks are deposited by the holder, but are charged only when the check is presented for payment.

By maintaining the flow of checks through the system, the kiter can either enjoy the use of an interest-free part of credit or cash withdraw cash from the operation.

Jim Outler, the highest paid member of Hansen's Idaho staff, said in an interview Friday that he may have made bank deposits for Hansen in the past, but he said he would have done so as a personal favor since Hansen is too far removed in his Washington D.C. office to conduct his own Idaho banking affairs.

"We all just fit in wherever... I do what has to be done," he said.

Outler explained the large volume of funds that moved through the Glenn Ferry bank by saying, "when you're a quarter of a million dollars in debt, you have to move some big money."

He added, "George has paid every penny to everybody (he's borrowed from) with full interest."

The monthly statement for Hansen's account at the Idaho State Bank in Glenn Ferry was entered as evidence in Hansen's recent criminal trial. It shows 177 transactions — 156 checks totaling \$800,000 and 21 deposits totaling \$800,000 — between Jan. 9 and Feb. 6, 1979.

The balance on that account varied from as high as \$87,000 to as low as

• See CHECKS on Page A5

Case records reveal Hansen banking

CHECKING ACCOUNT STATEMENT

NAME: HANSEN, GEORGE OR CONNIE		ADDRESS: 4200 SOUTH PLUMBER		CITY: TWIN FALLS, IDAHO 83402	
CHECKS		DEPOSITS		DATE	
BALANCE FORWARD	387.13				
	1,128.18	64,812	998,500	JAN 07 79	51,355.68
	990,500	30,000	1,000,000	JAN 10 79	91,935.68
	991,000	40,283	999,500		
	36,000	99,000	990,000		
	992,500	99,500	999,500	25,000.00	JAN 11 79
	1,700,000	299,500	787.1		56,812.66
	000,000	153,17	000,000		

Checks

Continued from Page A1

Judge Joyce Hans Green ordered Hansen to pay a \$40,000 fine and serve up to 18 months in prison. Hansen has appealed the verdict and sentence.

The \$87,000 in silver profits was initially deposited from a Chicago brokerage house to the First Security Bank's Pocatello branch, according to trial testimony.

7

3 5 0 4 0 5 2 0 3 3

30649-	211500-	999000-			
998000-	1900-	991500-			
29579-	6800-	20000-			
50000-	997500-	997000-			
500000-	7800-	991500-			
996500-	6931-	250000-	5800000+	JAN 18 79	69
2700-	997500-	993000-	5800000+	JAN 19 79	73
993500-				JAN 19 79	72
993000-RT					
995500-	910000-	996000-	3000000+	JAN 22 79	70
895000-	1705-	520000-			
900000-	560000-	994000-		JAN 23 79	85
1000-	995000-	994500-			

CHECKS DEPOSITED STATEMENT

NAME HANSEN, GEORGE OR CONNIE
ADDRESS 4700 18TH PLACE N.
ARLINGTON, V.A. 22207

49H 74 1E91	C106 544
-------------	----------

CHECKS	CHECKS	CHECKS	DEPOSITS	DATE	BY	BALANCE
BALANCE FORWARD:				JAN 23 79	85	31,637.33*
1006-	37800-	47500-				
2500-			4300000+	JAN 23 79	89	79,749.37*
2800-	995500-	1624-	1000000+	JAN 24 79	84	85,744.01*
50000-	90000-	120000-	2500000+	JAN 25 79	99	88,474.04*
50000-	570000-	994500-				
912500-			3000000+	JAN 26 79	114	46,612.07*
907000-	992500-	6000-				
44679-	3500-	18952-	5500000+	JAN 29 79	123	51,526.48*
996000-	250000-	900000-		JAN 29 79	124	46,426.48*
903500-	994000-	930500-		JAN 29 79	123	51,526.48*
53307-	1445-	8813-		JAN 30 79	126	51,197.28*
			3500000+	JAN 30 79	120	106,197.28*
20000-	28507-	997500-				
950000-	992000-	3570-	2000000+	JAN 31 79	136	50,960.35*
996500-	997000-	3570-	5500000+	FEB 01 79	140	21,304.10*
510000-	997000-	2547-		FEB 01 79	140	76,304.10*
510000-RT						
20500-	10900-	1500-	3000000+	FEB 02 79	147	56,250.83*
996000-	991500-	996000-				
2153-	999000-	993000-	5000000+	FEB 05 79	153	55,650.83*
998000-	450000-	997500-				
100000-			2000000+	JAN 31 79	136	50,960.35*
83125-	994000-	999500-	5500000+	FEB 01 79	140	21,304.10*
889000-				FEB 01 79	140	76,304.10*
999500-	93335-	32992-	3000000+	FEB 02 79	147	56,250.83*
920000-	990000-	990500-				
999000-			5000000+	FEB 05 79	153	55,650.83*
560000-	520000-	991500-	3100000+			
998000-	999500-	991000-	5100000+	FEB 06 79	156	107,835.83*
997000-	997000-	992500-				

5

40P

NO ERROR IS REPORTED
IF TEN DAYS, THE ACCOUNT
WILL BE CONSIDERED
CORRECT

GLENN FERRY
GRAND VIEW
MELBA-RUNA
CAMBRIDGE
HAGERMAN



LAST AMOUNT
WITH YOUR OWN
STOCK BALANCE

DESCRIPTION OF LEASES	BY	DATE

now long the account was open, whether it is still open, or whether the one-month's transactions in it are representative of the account's activity. In 1978, the account balance was listed as \$888, according to a 1977 property separation agreement drawn up by the Hansens.

The amount of money deposited into the Glenns Ferry account can not be explained by an examination of Hansen's personal or campaign disclosure documents. Hansen's congressional salary in 1979 was \$88,300, with honoraria that totaled only \$2,300. He also had six outstanding bank loans with unpaid balances of more than \$10,000. One of the six loans apparently was at the same bank in the amount of \$15,000. A 1981 bank document also filed with the federal court lists the loan as unsecured and due in 1982 at 21 percent interest.

The same document lists Hansen's net worth as \$68,600 in 1977 and \$290,600 in 1980. Hansen's campaign contributions for the first three months of 1979 were listed at \$23,438.

Hansen

Continued from Page A1
being overdrawn by \$14,518 during the one-month period.

The statement is just one of several public records which have surfaced recently involving Hansen's financial affairs. Others include:

- Testimony in Hansen's criminal trial by his Pocatello accountant, Lee Caldwell, who said Hansen instructed him on Jan. 18, 1979 to write a \$125,000 check on a Pocatello account that contained less than \$300. The \$125,000 was used as margin money to claim a profit of \$87,000 on a silver investment made by Connie.

- Caldwell testified that Hansen told him a deposit would be made that same day to cover the check. However, it wasn't until Jan. 21, three days later, that a check for the margin money and the profit was wired to Idaho from a Chicago bank. It was deposited in time to keep the \$125,000 check from bouncing.

- A separation agreement between Hansen and his wife, notarized Sep. 30, 1977, shows the Hansens maintained nine checking accounts, in Idaho, Virginia and Arizona. The account balances ranged from \$100 to \$5,122 at the time of the separation, the agreement claims.

- Testimony and a stipulation entered into at Hansen's court trial outline how Hansen, between the summer of 1981 and March, 1982, withdrew at least \$100,000 from his Washington D.C. bank account, Inc.

Investigation confirms constituents loaned Hansen funds

By RICK SHAUGHNESSY
Times-News writer
Copyright 1984

7-1284

TWIN FALLS -- In a several-week investigation, The Times-News has been able to confirm existence of eight loans or solicitations by Rep. George Hansen of money from Second Congressional District residents in amounts up to \$10,000.

The promissory notes are up to seven years old. Two of Hansen's solicitations were for short time periods of four days or less and at interest rates of up to 25 percent.

Several other individuals reported to hold promissory notes from the congressman or to have made past loans to him declined to

comment.

Creditors contacted by The Times-News appear divided on the question of whether the personal loans they have extended to the seven-term congressman will be honored. They also appear to disagree on the cause of Hansen's legal and financial woes.

Several Hansen creditors said they thought it was Hansen's inability to manage personal finances — not his attacks on bureaucratic "dragons" — that have caused his legal and financial problems.

Those problems include a four-count felony conviction, likely reprimand by the House of Representatives, personal indebtedness of at least \$350,000 and the most severe threat of losing his seat in Congress that he has ever

faced.

Division on the issue of whether Hansen will make good on his outstanding personal loans is most evident between Rep. Mack Nelbour, a key Republican legislator from Paul, and his brother, Grant, with whom he farms.

Both extended one-year personal loans to Hansen in 1976 that have never been repaid.

"I'm sure that it was never paid back. I'm sure that it will never be paid back — not at this stage," says Mack Nelbour of the \$500 loan he made to Hansen on Feb. 6, 1976. The four-term incumbent state representative adds that he has always supported Hansen and believes the Republican Party should continue to support him.

In American Falls, Grant Nelbour and his

brother-in-law and business partner, Art West, hold a \$1,500 note from Hansen dated Feb. 11, 1978. The note, which was due Feb. 11, 1977, appears on its face to be interest-free, says the younger Nelbour brother.

"But he didn't. I assume he's paying me interest. I don't loan money without interest," Grant Nelbour says he expects to get the money back along with the "prevailing rate" of interest. Hansen didn't comply, in 1979, that is the reason he needed the loan, Nelbour says. "It may have had to do with (his) legal problems or it may have been OSHA," he said.

Other Hansen loans or solicitations to the second district include:

• Steve Maynard of Rimbey says he loaned Hansen \$2,500 in the winter of 1980 and was

repaid promptly at 20 percent interest. Hansen told him the loan was "used entirely" to be used for printed materials to solicit contributions. "Several people up here have loaned much more," Maynard said.

• Jim Siddaway, a farmer and Republican commissioner in Fremont County, says he was solicited by Hansen for a loan about one year ago. Siddaway says he declined to make the loan.

"The thing that disturbed me was he was going to pay a fabulous amount of interest — 20 to 25 percent," says Siddaway, a director of Valley Bank of Idaho Falls. The present bank says it never loaned money to Hansen, but the shareholder says he has loaned him

• See L.A. Times Page A8

1-1204
Correction

In a Thursday story about Rep. George Hansen's solicitations of personal loans, it was incorrectly stated that brothers Mack and Grant Nelbaur farm together.

They do not. Mack, a state representative, farms north of Paul Grant, the younger of the two, farms near American Falls with his partner and brother-in-law, Art West.

3 0 4 0 3 2 0 3 3 8
Loans

• Continued from Page A1

the proposed transaction.

Commenting on the recently-reported statement from the Idaho State Bank in Glenns Ferry that showed more than \$850,000 circulating through one of the Hansens' many checking accounts in one month, Siddoway said, "I was amazed he could still raise those kinds of funds."

At Valley Bank, Hansen "was doing some things there that weren't quite up to snuff," says Siddoway. "We advised him that he would have to (discontinue the practices) and he quit doing business there," Siddoway says.

•Rep. Donna Scott, R-Twin Falls, says she was called by Hansen several years ago for a \$5,000 short term loan which she declined to make.

•Morgan Garner, a Rexburg rancher, says he loaned Hansen \$2,000 in October 1982. "I've never heard from him since. . . I think it's long spent and long-gone. I don't know whether I'll ever see it again," he says.

Two individuals contacted by The Times-News confirmed either loans or solicitations, but only on the condition that they not be identified:

•A retired couple in the Idaho Falls area who were solicited by Hansen in May 1984 for a \$10,000 loan for three or four days. The husband says Hansen told them "he needed the money to save his house in Pocatello."

•"I feel sorry for George. He's a damn good man. But I think now we did right," he says.

•An Idaho Falls-area farmer says he loaned Hansen \$10,000 at 20 percent interest in the fall of 1982. "He said it was over the immigration deal. I had it in my mind that it wasn't over immigration. It was to ball him out," the former creditor says.

He says he had to call Hansen a couple of times after the loan came due, but was paid with interest within one or two months of the due date.

There wasn't too much explanation. He felt he needed some extra money to work on (illegal alien legislation), to promote his ideas on it. I felt in my own mind that all this was going for his campaign."



REP. DONNA SCOTT
Declined to make loan

A bank statement made public following Hansen's recent criminal trial shows more than \$850,000 being deposited and withdrawn from a personal bank account of Hansen and his wife, Connie, in Glenns Ferry. Hansen has declined comment on the source of the account's deposits or to whom his checks were written.

Bankers and others familiar with Hansen's financial operations say the congressman has engaged in a system of "check kiting" combined with "check swapping" and with the promissory notes.

The Grant Nelbaur loan raises several questions: Was the loan properly disclosed under the Ethics in Government Act of 1978? If the loan is interest free, does the lack of interest constitute a gift to Hansen? And, did a separation agreement entered into between the Hansens relieve Hansen of his liability to Nelbaur?

Requests of Hansen for comment on these questions were not answered.

On disclosure forms for calendar year 1978, members of Congress were required to list their liabilities in excess of \$2,500. The single promissory note to Nelbaur and West exceeded that level, but was not included on Hansen's Ethics in Government Act disclosure form for that year.

Nelbaur says the loan could be considered as two separate loans of



REP. MACK NIEBAUR
Repayment doubtful

\$1,500 each. Hansen has contended that a separation agreement assigned the couple's personal loans to Connie and freed him of any obligation to report them as his debts.

That agreement, entered into by the couple on Sep. 27, 1977, assigned \$372,750 in personal loans to Connie and assigned none of the couple's personal loans to George. The agreement stated that George Hansen "shall be free of any liability or obligation" for the loans.

Grant Nelbaur says he was never notified by Hansen of the separation agreement or of the Hansens' contention that George "shall be free of any liability or obligation" for the \$8,400 note.

The Ethics Manual for Members and Employees of the U.S. House of Representatives does not address the issue of whether interest-free loans constitute gifts. The manual does state, however, that "loans made in a commercially reasonable manner — including requirements that the loan be repaid and that a reasonable rate of interest be paid — are not gifts."

Under the heading "Appearance of Influence" the manual states, "this standard of official conduct . . . requires a member . . . of the House in accepting any gift, favor or benefit which would not have been offered but for the individual's position in Congress . . ."



because there are so few minority police were alerted a month ago that the

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George Hansen develops ties to Rev. Moon's church

Congressman helped by support from cult

By RICK SHAUGHNESSY
Times-News writer

WASHINGTON — The Rev. Sun Myung Moon's controversial Unification Church is distributing copies of Rep. George Hansen's book "To Harass Our People" and may be funding the financially beleaguered congressman's book publishing venture.

Meanwhile, Hansen's efforts to reopen Moon's criminal case are being criticized by religious leaders, including a top official of Moral Majority who Hansen attempted to ally to Moon's cause. Moon has been convicted and is serving jail time on federal income tax-evasion charges.

The nature of the relationship between Hansen and the Unification Church is difficult to determine exactly.

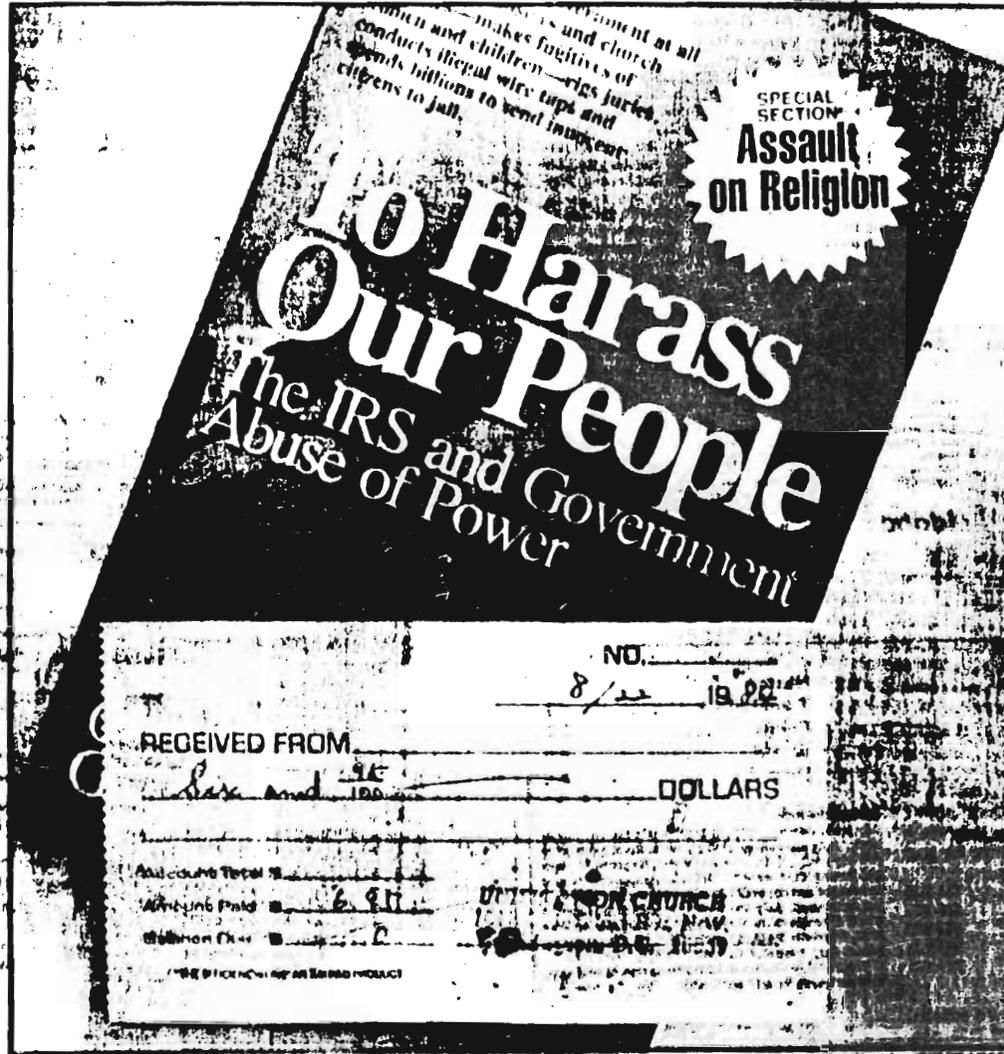
Cooperation between a congressman from a family-oriented rural and conservative district in the West with a religious movement that has been criticized for its alleged destruction of nuclear families might seem unusual. However, Hansen and the Unification Church share common ground:

Both are considered among the most conservative of their peers, politically and socially. They both have been involved in vocal and intense battles with the Internal Revenue Service and both are vehemently anti-Communist. Both paint themselves as oppressed by bureaucratic and liberal forces in American society.

The Unification Church's national organization denies there is a relationship between it and the congressman and Hansen refuses to comment on his connections with the church.

He also refuses to disclose the financial backers of his publishing venture and declines to disclose the amount or source of personal income that has accrued to him from "Positive Publications" — a publishing company, apparently operated as a partnership or sole proprietorship of Hansen's.

But in the investigation, The Times-News learned of a number of apparent connections between Hansen and Unification Church-controlled organizations



Copies of George Hansen's book on the IRS are being distributed by Sun Myung Moon's Unification Church

Times-News obtained grant to aid in funding for stories

By STEPHEN HARTGEN
Times-News managing editor

The Times-News applied for and received a \$1,750 grant from a tax-exempt, non-profit foundation to help fund a trip to Washington, D.C. for staff writer Rick Shaughnessy in August to explore the campaign finances of Rep. George Hansen.

The grant came from The Project for Investigative Reporting on Money in Politics, based near Washington in Madison, Va. The group is "strictly non-partisan," according to a grants flier from the group soliciting applications which was distributed to many news organizations in 1983.

"The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest," the flier states.

The Times-News paid Shaughnessy's salary during his four weeks in the Washington area, during which he examined various public records, interviewed both public officials and private individuals concerning the Unification Church and Hansen's campaign finances. Shaughnessy also interviewed one of Hansen's neighbors and spoke by telephone with two members of Hansen's church.

The grant paid for Shaughnessy's flight, copying expenses, telephone calls and in-

cidental expenses around the Washington area. In addition, it paid for two trips by Shaughnessy to Eastern Idaho in June and July, during which he interviewed people who had loaned Hansen varying amounts of money.

The grant Project's executive director, Jim Boyd, told The Times-News that the group has a tax-exempt status from the Internal Revenue Service. He said it derives its money from about ten other tax-exempt foundations, which each contributed between \$5,000 and \$10,000 to launch the Project's program.

Among the contributing foundations are the Poynter Fund, the Joyce Fund, the Ottlinger Trust, and the Stern Family Foundation. Some of the ten, he said, are foundations of

American journalistic families and newspaper owners.

One of the Project's founders, Philip Stern, said in a newspaper trade journal last year that "This is a particularly important moment to encourage investigative reporting on money in politics. The public and the press are increasingly concerned about the explosive growth of campaign money and its influence on public policy-making. This grant program is designed to heighten journalists' interest in that area."

"Hopefully, grants to investigative journalists to supplement what the publication or broadcaster can pay will enable reporters and editors to undertake stories they would otherwise let pass," Stern said.

According to Boyd, the grant requests are reviewed by a independent, non-partisan board of journalists, which has no involvement with any of the contributing foundations.

The members of the review board include James Polk, NBC News, Washington; Myrtle Pulkam, features editor, The Indianapolis Star, Indianapolis and president, Investigative Reporters and Editors; and Aaron Epstein, Knight-Ridder correspondent, Washington; Los Poyas, Newbury; and Bob Walters, Newspaper Enterprise Association syndicator, Washington.

The Times-News grant proposal was submitted June 8 and approved unanimously July 21. Shaughnessy traveled to Washington Aug. 8 and returned Aug. 22.

(9)

Hansen

Continued from Page A1

parts of the country in which the Unification Church has distributed copies of "To Harass Our People."

The Times-News purchased one copy on Aug. 23 from the church's Washington D.C. center and obtained a stamped receipt.

A second copy of the book was mailed free of charge on Aug. 28 to a Times-News reporter from the Rose of Sharon Press in New York City.

Joy Garrett, Director of Public Affairs for the Unification Church, told The Times-News "our church had nothing to do with the publishing of the book." She added "nobody at the (church's) national headquarters office purchased these (Hansen books) on a national basis."

She said purchasing decisions by church organizations at the state or local levels would be made there. Garrett said the book is being distributed by many religious groups, including the Unification Church. She said she obtained her personal copy of the book from a Pentecostal church.

A Washington, D.C., Unification Church member identified only as Katy told The Times-News copies of the books were purchased from Hansen by the Washington church on several occasions. "We bought them from him. He'd sell them at quite a low price," she said. The woman said Unification Church members were assigned to distribute the books at a Washington, D.C., rally on May 30 and at a pageant in the nation's capital on July 28.

Both events were organized by the Ad Hoc Committee for Religious Freedom — a group that appears to act as an alter-ego of the Hansen-founded Coalition for Religious Freedom.

Hansen is actively promoting the Unification Church's cause. The 1984 version of Hansen's book includes a new, 61-page "Special Section, Assault on Religion," which was not contained in the 1980 version of the book. In it, Hansen vigorously defends Unification Church founder Moon. He says the would-be Messiah's conviction on tax-evasion charges are the result of "politics and prejudice carrying the offensive." He blames the Internal Revenue Service for persecuting Moon.

At the May 30th rally of the Ad-Hoc Committee for Religious Freedom in Washington, D.C., Hansen again rose in Moon's defense. "Reverend Moon's Unification Church seems aptly named for the fight that's going on today, because it is indeed important that we unify to bring freedom of religion fully to this country," he said.

Hansen's politicking for Moon alienated at least two prominent clergymen. Joshua O. Haberman, senior rabbi for the Washington Hebrew Congregation, says Hansen has misrepresented Haberman's views on the Moon tax case.

Haberman was one of nine clergymen to sign a Hansen-circulated "Declaration on Religious Freedom." The declaration was circulated by Hansen and endorsed by the religious leaders in January.

Copies of the declaration were enclosed in a mass-mailed, fundraising letter sent by Hansen in late January, soliciting money for the Coalition for Religious Freedom. That organization was founded by Hansen in conjunction with his Association of Concerned Taxpayers.

"He used my name improperly and without authorization," Haberman said in a recent telephone interview. "I had approved of a general statement of principles. He said I would like a review of the Moon case," Haberman says, adding that the claim is untrue: "I feel justice has been done to Moon."

Haberman said he has always been reluctant to sign petitions or statements because of a fear of being misrepresented. "I thought a congressman wouldn't do that but, lo and behold, not long after the list of signatures (was complete), I was represented to favor other cases."

Haberman says after he complained to Hansen about the representations, the congressman apologized by letter.

Jerry Falwell, the Baptist minister who heads the Moral Majority, also signed the Hansen-circulated petition and has also disassociated himself from the Coalition for Religious Freedom.

Exploiting Falwell's retreat, Ron Godwin, executive vice president for Moral Majority, said the coalition's finances were too secretive and the

source of funds was suspect. He added that the main focus of the organization appeared to be helping Moon get out of jail.

Godwin questioned the motives of the fundamentalist Christian leaders who are involved with the coalition, saying "they're taking money from a cult whose own doctrines are 180 degrees opposed. It's a little bit like the Jewish National Fund accepting money from Arafat."

"We're not against the Unification Church and we're not against Rev. Moon," Godwin said, "but we don't like to be associated with groups that are secretly funded." Godwin said Moral Majority experienced difficulty determining the source of financing of the Hansen-founded coalition.

He says in addition to Haberman, he is aware of at least two other signers of the Declaration on Religious Freedom who claim to have been misrepresented by Hansen.

In his January fund-raising appeal for the coalition, Hansen wrote "Government planners knew that most people would not defend the smaller sects like Scientologists, Unificationists, Pentecostals and Mormons."

"It's no accident that government picked an unpopular sect of Oriental origin, the Unification Church, to begin establishing ultimate government control over the finances of all churches."

In a telephone interview Thursday, The Times-News asked Hansen: "What is your relationship with the Unification Church, as far as bringing clergymen aboard — attempting to enlist support for their cause?"

"I don't even hear your questions," Hansen responded.

Some of the organizations promoting Hansen's book are administered by Unification Church members, agents or former members. It is difficult to distinguish between the activities of the Coalition for Religious Freedom, which Hansen founded, and the Ad Hoc Committee for Religious Freedom, which has spent lavishly on rallies and pageants, promoting both the cause of religious freedom and Hansen's book. Both groups have strong associations with the Unification Church.

The Coalition for Religious

Freedom was run until August by Warren Richardson, who also served as legal counsel and business agent for the Unification Church. The Washington Times newspaper stated the church began that venture in 1982.

Richardson was also executive director of Causa, the Unification Church's political arm in Central and South America and now serves that organization as a consultant and member of its board of trustees.

Causa has been tied to the U.S. CIA in aiding Honduras-based anti-Sandinista forces and has been condemned along with the Unification Church by a conference of Holy See Roman Catholic bishops as anti-Christian.

On Thursday, Causa was named by both the Washington Post and NBC News as being the source of a \$200,000 donation, arranged by Col. Bo Hitt Pitts, the number two man in the Unification Church. The money went to the Conservative Alliance, a lobbying organization headed by Terry Dolan, who also heads the National Conservative Political Action Committee.

Hansen was endorsed by Dolan's NCPAC in July. As of July 31, Hansen's campaign committee had not reported any donations from NCPAC. The next campaign finance disclosure form is due to be filed by October 15.

Richardson told The Times-News that the Coalition for Religious Freedom is incorporated in the District of Columbia under its kit-kit name. When he was informed that the District of Columbia corporations bureau found no such listing which requested by The Times-News, Richardson said he would make inquiries to determine the structure of the organization and to determine its source of financing and overall budget.

At this writing, Richardson has not provided the requested information and additional efforts to contact him have proved unsuccessful.

In the Magic Valley, Unification Church members and Hansen supporters have worked together. Paul Carlson, a Unification Church missionary stationed in Twin Falls, hosted a dinner meeting on religious freedom at the Canyon Springs Inn on July 12. Carlson's event was held conducted under the name of the ad-hoc committee but materials from the

ad-hoc committee were distributed and video tapes of the Moon 30...

County Fair, also helped promote a religious freedom rally at Anderson's Campground in Jerome County on Aug. 8. The rally was partially funded by Larry Hansen, a former Hansen staff member who was dismissed with Hansen in the first round of "To Harass Our People."

Hansen's wife, Mary, a TV news anchor, was also present. The first edition of the book was also available free of charge at the Anderson's Campground rally.

Hansen's association with the Washington Times, The Washington Post, and published material that Hansen's claim that he was not prosecuted under the Government Act.

Journalist Geraldine Ferraro's "Unification" press conference in August, Washington Times Reporter Thomas Archibald reportedly returned to Hansen's car while attempting to grill the Democratic vice-presidential pick of previous Archibald stories, which generally support Hansen positions on the ethics law and its application, were delivered to The Times-News by Hansen supporters on the day of their publication, July 17.

And on at least one occasion, information provided only to Archibald from The Times-News surfaced almost immediately in Hansen

statements on KLLX radio's "Partyline."

Hansen told radio talk show host James Keefe that a Times-News reporter was in the Washington D.C. area "going through the Arlington Courthouse records, interviewing with reporters of other newspapers, I guess trying to see if we were the instigators of Mrs. Ferraro's problems, trying to — I guess — to poison the minds of a few people since they don't happen to report in Washington, my case like The Times-News report."

Archibald, who is one of a few Washington Times reporters listed by church officials, says he doesn't know how Hansen knew that The Times-News had contacted him for an interview that was scheduled but had not yet taken place.

Archibald's lying strategy is unusual for the Times, especially if that paper's reporters were hired by editor Smith Hempstone and publisher Jim Whelan (for they exercised control of the paper in 1982).

Whelan, who has since left the Washington Times, questioned the newspaper's integrity at the time of his firing, claiming the staff had obtained the paper to Unification Church leader Park.

10

Moon

Continued from Page A1

14K GOLD ART-CARVED H.E. CLASS RINGS

The Best in Gold

The ad can get you super savings on your Art-Carved 14K gold high school class ring. Art-Carved back's exclusive design of the Lifetime Warranty. This offer expires November 30, 1984 and is to be used only for the purchase of 14K gold Art-Carved H.E. Class rings.

\$25 WITH THIS AD

FREE custom inscription on back and 14K gold Art-Carved High School class ring.

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877 MAIN AVE. EAST, TWIN FALLS, IDAHO

886-3436

Moon

Continued from Page A1

the House Carl Albert and Unification Church member Susan Bergman.

In his book, "Gifts of Deceit," Robert Boettcher, staff director of the House Subcommittee on International Relations quotes Moon, articulating this strategy: "Some day in the near future, when I walk into the congressman's or senator's offices without notice or appointment, the aides will jump out of their seats and go to get the senator. They will get their senator or congressman saying, 'he must see Rev. Moon.'"

Pak was considered the most uncooperative of witnesses questioned by the subcommittee. He and the Unification Church filed a \$30 million law suit against the subcommittee chairman, Rep. Donald Fraser, and his investigators on the grounds that they conspired to violate the civil rights of Pak and the church through the investigation.

Unification Church leaders and leaders in the religious freedom movement make similar claims about Moon's jailing on the tax-evasion charges.

Unification Church members are encouraged to participate in the religious freedom movement, but they are also instructed to downplay their religious affiliation while performing that work. In the Church's July 1, Washington D.C. newsletter, members were advised:

"A religious liberty movement is forming throughout the country. Such a movement must not be tied to any one denomination or church... When you volunteer your time to meet

clergy, please bear in mind that your efforts do not stem from the 'Unification Church' but from a broad-based concern for the religious liberty of all

people... Your participation is essential, but the ownership belongs to God and not to the Unification Church."

Questions surround Unification Church

WASHINGTON — Since the early 1970s when growing numbers of American youths began giving up school books and family life to hawk flowers and live in communal quarters for Rev. Sun Myung Moon's Unification Church, the organization has been at the center of controversy.

Parents and cult awareness groups accuse the Unification Church and its Korean founder with brainwashing its young devotees, turning them into "Moonies." The critics claim the church indoctrinates members with a highly regimented lifestyle that is both physically exhausting and emotionally altering and renders members incapable of independent thought.

They quote Moon's statement — "I am a thinker. I am your brain. When you join the effort with me you can do everything in utter obedience to me because what I am doing is not done at random.

What I am doing is under God's command" — as evidence that church members are totally manipulated and, once indoctrinated, are no longer in control of their mental faculties.

The church denies the brainwashing charges and has filed lawsuits and kidnapping charges against "deprogrammers," individuals who attempt to return church members into the mainstream of society by asking or forcing the member to confront and question the teachings of the church.

But in an interview with the Far Eastern Economic Review, Col. Bo Hi Pak, second in command in the Unification Church, denied reports that the church keeps children away from their parents.

"It's media brainwashing," he said of the reports, adding that those who oppose the church are "communists, communist sympathizers and far-out liberals."

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WRITER'S DIRECT DIAL NUMBER
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November 15, 1984

14 NOV 15 11:22

Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Attention: Beverly Kramer

Re: MUR 1809

This statement is in response to Associate General Counsel Gross' letter of October 15, received by the Stern Fund (the "Fund") on October 25, 1984, notifying the Fund that Congressman George Hansen had filed a complaint against the Fund relating to a story appearing in the Twin Falls, Idaho, Times-News.

The complaint is factually incorrect, is clearly without merit, and is procedurally defective. It should be promptly dismissed.

1. The allegations are factually incorrect.

Congressman Hansen's letters are a hodge-podge of unsubstantiated charges against Mr. Stern, the Fund, various public charities, and the Times-News. The Fund is not in a position to comment on the charges against other parties, but the claims about the actions of the Fund are simply untrue.

The Stern Fund is a foundation established many years ago by Mr. Stern's parents. He is one of eleven members of the Board, but has no control over the Fund. It is therefore entirely independent of and distinct from Mr. Stern, and is not, as Congressman Hansen claims, his "alter ego."

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STERN M. CAPLIN
THOMAS A. THAYER
FRYD M. ELLIOTT, JR.
DAVID ROSENBLUM
RALD B. LEWIS
ALTER D. SLOANBERG
INGO B. RAMONATO
ANSEL B. ROSENBAUM
RICHARD E. TINSIE
FERNAND S. BAILOR
STUART L. BROWN
STAFFORD SNILEY
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COTT D. NICHOL
HARRISON J. COHEN
RANDALL S. KAPLAN
MAUREN J. GORNAN
TEVEN D. ARSH
ROBERT L. PALMER

ROBERT A. KLAYMAN
IRVING SALEN
RALPH A. NUOIO
PETER VAN P. LOCKWOOD
L. E. IRISH
HERBERT H. BELLER
RICHARD W. BRILLMAN
PATRICIA D. LEVIE
ROBERT C. FOLEY
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GREGG W. BEEB
GEOFFREY JUDD VITTY
JOHN C. FELDRAND
ROBERT A. BOISTRE
DANIEL H. DAVIDSON
DANIEL H. SRAVIDO
DAVID H. CROWE
VIRGINIA T. WHITNER
JEFFREY S. LEBMAN
OLENE E. CARRINGTON
JULIE W. DAVIS

NOT ADMITTED IN D.C.

Contrary to Congressman Hansen's assertion, the Fund was not the source of the funds used to pay the costs of covering the stories he describes. If, as one of the newspaper stories says, an entity called the "Stern Family Fund" made a grant to the Project for Investigative Reporting on Money in Politics (the "Project"), the entity is not the Stern Fund. The Fund has never made a grant to the Project, the Campaign Finance Research Institute, or the Citizens against PACs. Its last grant to the Center for Investigative Reporting was in 1982. That grant was restricted to a project on agribusiness and no part of those funds was available to the Times-News. To its knowledge, no Fund grantee has ever assisted any reporter for the Times-News.

(Congressman Hansen also apparently objects to a CBS 60-Minutes program. That story is also covered by the news story exception, and, in any event, no Stern Fund money supported either it or the activities reported in it.)

Thus, the Stern Fund has no connection with the stories complained of, and could not be in violation of the Federal Election Campaign laws on account of them.

2. The actions complained of are covered by the news story exception.

On its face, the only act by anyone of which Congressman Hansen complains is a series of articles by a reporter for the Times-News of Twin Falls, Idaho. Congressman Hansen does not dispute that the Times-News is a bona fide newspaper; indeed, he describes it as "one of the major newspapers in my Congressional District." He alleges that the cost of reporting the stories he objects to was borne in part by a grant to the reporter from the Project, that the Project was in turn supported by funds from another organization, the Campaign Finance Research Institute, and that the funds of these organizations, from which the costs of the Times-News stories were paid ultimately came from Mr. Stern and the Fund.

As explained above, there are serious factual errors in what Congressman Hansen alleges, but even if all his allegations were true, there would be no violation of the Federal Election Campaign Act. The Act specifically exempts from classification as a contribution or expenditure "any news story, commentary, or editorial distributed through the facilities of any ... newspaper ... unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i).

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The Commission's regulations expressly extend the news story exemption to "any costs incurred in covering or carrying" such a story. 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2). Thus, the Commission's regulations make clear that the news story exemption applies not only to the direct cost of publishing news stories but to the costs of gathering the information in them and preparing the materials for publication.

Congressman Hansen's complaint (even if it were accurate) is on its face directed at actions covered by these exemptions. The statute and regulations contain only a single limitation on the exemption -- a situation where the media outlet is itself controlled by a candidate or political committee. Congressman Hansen does not allege that the Times-News is so controlled, so he does not contend that the candidate-control rule applies here.

The absolutely clear effect of these statutory provisions and Commission regulations is that news stories about politics are not within the Commission's jurisdiction, provided the news outlet is not controlled by a candidate or political group. No other rule would be consistent with a free press.

This protection would be entirely meaningless if the Commission were required to -- or had jurisdiction to -- examine the funding of news stories where no candidate control is alleged. All news entities, large and small, must obtain their funds from somewhere. Some get funds from their owners, some from individual and corporate supporters sympathetic to their editorial perspectives and some from advertisers. If every candidate dissatisfied with the media's coverage of his campaign could force an FEC investigation of the financial support of the local newspapers, television stations or other media outlets, the statutory protection of news coverage would be meaningless and the Commission would be in the position of a national media censor, which it clearly does not have the authority to do.

3. The complaint is procedurally defective.

Congressman Hansen's broad-brush correspondence with the Commission about his dissatisfaction with the Times-News coverage of him and his campaign is not properly treated as a complaint under 11 C.F.R. § 111.4. It does not -- as a complaint must under the regulations -- clearly identify who Congressman Hansen thinks has violated the law and how. Similarly, the documents he attaches only identify the stories Congressman Hansen objects to; they offer no evidence that the Stern Fund has any connection with them. In fact, Congressman Hansen is quite frank that what he really wants is an advisory opinion on his list of general

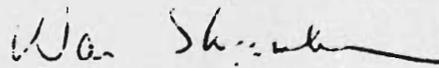
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questions -- but the Commission's regulations forbid it to entertain requests for advisory opinions on hypothetical questions or on questions about the activities of third parties. 11 C.F.R. § 112.1(b).

For these reasons, Congressman Hansen's "complaint" should be promptly rejected without further proceedings.

A letter authorizing us to represent the Fund in connection with this matter is attached.

Sincerely yours,



Walter Slocombe

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WS/kg

Enclosure

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P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY

November 28, 1984

1 NOV 29 11:06

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

Re: MUR 1809

Dear Mr. Steele:.

This letter constitutes the response of Philip Stern, Citizens Against PACs, Inc., the Campaign Research Institute and the Project for Investigative Reporting on Money in Politics, collectively referred to as "the Respondents," to a complaint, MUR 1809, filed by Congressman George Hansen which alleges that Respondents violated federal election law. Specifically, the complaint relates to a story appearing in The Times-News in Twin Falls, Idaho. It alleges that Respondents funded the research of this story and, in so doing, contravened federal election law.

Congressman Hansen's letters (which by his own acknowledgement are framed as a query rather than a complaint) are factually incorrect, clearly without merit, and procedurally defective. Accordingly, the "complaint" should be dismissed forthwith.

1. The allegations are factually incorrect.

Congressman Hansen's letters contain a series of unsubstantiated charges against Mr. Stern, Citizens Against PACs, Inc., the Campaign Research Institute, the Project for Investigative Reporting on Money in Politics, and the Times-News.

The correct facts are as follows:

The Project for Investigative Reporting on Money in Politics ("the Project") began operations on June 23, 1983. The Project operates under the auspices of the Campaign Finance Research Institute ("the Institute"), an organization which the

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Internal Revenue Service has determined to be exempt from federal income tax under 26 U.S.C. § 501(c)(3). The Institute and therefore the Project has received its support from approximately eighteen foundations and individuals from all sections of the country. Significantly, neither Philip Stern, in his personal capacity, or Citizens Against PACs, Inc. have ever contributed to the Institute.

The Project's mode of operation is described in the Project's flyer, attached hereto as Exhibit A. The purpose of the Project is set forth in the last paragraph of the flyer, which states that "The Project will be strictly non-partisan. The sole purpose of its (the Project's) grants is to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest." (Emphasis added.)

Pursuant to those guidelines, the Project's Advisory Board (which includes many prize winning journalists) approved, as one of 14 grants made since the Project's inception, a grant of \$1,750 to the Times-News, as set forth in the response to MUR 1809 from Stephen Hartgen, Managing Editor of the Times-News, attached hereto as Exhibit B.

Contrary to Congressman Hansen's letters, neither Citizens Against PACs, Inc.^{1/} or the Center for Investigative Journalism had the remotest connection with this grant or with the news story that appeared in the Times-News.

2. The actions complained of are covered by the news story exception.

On its face, the only act by anyone of which Congressman Hansen complains is a series of articles by a reporter for the Times-News of Twin Falls, Idaho. Congressman Hansen does not dispute that the Times-News is a bona fide newspaper; indeed, he describes it as "one of the major newspapers in my Congressional District." He alleges that the cost of reporting the stories he objects to was borne in part by a grant to the reporter from the Project, that the Project was in turn supported by funds from another organization, the Campaign Finance Research Institute.

1/

Note that Citizens Against PACs, Inc. is a nonprofit corporation, organized under the laws of the District of Columbia for the purpose of raising public consciousness about the defects of the current system of campaign finance. Citizens Against PACs does not make contributions or expenditures for the purpose of influencing federal elections, and, accordingly, has no registration or reporting obligations with the Federal Election Commission.

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As explained above, there are serious factual errors in what Congressman Hansen alleges, but even if all his allegations were true, there would be no violation of the Federal Election Campaign Act. The Act specifically exempts from classification as a contribution or expenditure "any news story, commentary, or editorial distributed through the facilities of any . . . newspaper . . . unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i).

The Commission's regulations expressly extend the news story exemption to "any costs incurred in covering or carrying" such a story. 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2). Thus, the Commission's regulations make clear that the news story exemption applies not only to the direct cost of publishing news stories but to the costs of gathering the information in them and preparing the materials for publication.

Congressman Hansen's complaint (even if it were accurate) is on its face directed at actions covered by these exemptions. The statute and regulations contain only a single limitation on the exemption -- a situation where the media outlet is itself controlled by a candidate or political committee. Congressman Hansen does not allege that the Times-News is so controlled, so he does not contend that the candidate-control rule applies here.

The clear effect of these statutory provisions and Commission regulations is that news stories about politics are not within the Commission's jurisdiction, provided the news outlet is not controlled by a candidate or political group. No other rule would be consistent with a free press.

This protection would be entirely meaningless if the Commission were required to -- or had jurisdiction to -- examine the funding of news stories where no candidate control is alleged. All news entities, large and small, must obtain their funds from somewhere. Some get funds from their owners, some from individual and corporate supporters sympathetic to their editorial perspectives and some from advertisers. If every candidate dissatisfied with the media's coverage of his campaign could force an FEC investigation of the financial support of the local newspapers, television stations or other media outlets, the statutory protection of news coverage would be meaningless and the Commission would be in the position of a national media censor, which it clearly does not have the authority to do.

Charles N. Steele, Esquire
November 28, 1984
Page Four

3. The complaint is procedurally defective.

Congressman Hansen's broad-brush correspondence with the Commission about his dissatisfaction with the Times-News coverage of him and his campaign is not properly treated as a complaint under 11 C.F.R. § 111.4. It does not -- as a complaint must under the regulations -- clearly identify who Congressman Hansen thinks has violated the law and how. In fact, Congressman Hansen is quite frank that what he really wants is an advisory opinion on his list of general questions -- but the Commission's regulations forbid it to entertain requests for advisory opinions on hypothetical questions or on questions about the activities of third parties. 11 C.F.R. § 112.1(b).

For the reasons set forth above, Congressman Hansen's "complaint" should be promptly rejected without further proceedings.

Sincerely yours,

William C. Oldaker jk
William C. Oldaker

Counsel for Philip M. Stern, Citizens
Against PACs, Inc., the Campaign
Research Institute, Inc. and the
Project for Investigative Reporting
on Money in Politics

85040620350

*project for
investigative reporting
on money in politics*

ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Les Payne, *Newsday* • Jim Polk, *NBC News*
• Myrta Pulliam, *The Indianapolis Star* • Robert Walters, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
Philip M. Stern, Chairman James Boyd, Executive Director

A PROGRAM OF GRANTS FOR

*investigative reporting
on money in politics*

The Project for Investigative Reporting on Money in Politics announces a program of grants to journalists who wish to undertake investigative reporting on the role and influence of money in American politics, at all levels (national, state and local.)

Applications are invited from both print and broadcast journalists. As a general rule, however, grants will not cover the cost of radio or TV production, but only the time and expense of the research.

Applications for grants should be equivalent, in form, to a "query memo" to an editor, and should set forth the subject, purpose and nature of the research; the estimated time and expense required; the reasons for believing there is a likelihood of uncovering the pertinent information; and the applicant's background and/or journalistic experience.

Applications should also be accompanied by a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the amount to be paid the applicant in accordance with that publication's or broadcaster's customary rates.

The size of the grants will depend on the amount of work required. In addition, the Project will pay reasonable out-of-pocket expenses.

The applications will be reviewed by a committee of experienced working journalists. All materials submitted to the Project will be held in strict confidence.

Criteria for judging the applications will include the public importance of the subject; the apparent likelihood of uncovering the information described in the application; and the applicant's credentials or qualifications.

The Project will be strictly non-partisan. The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest.

HOW AND WHERE TO APPLY

Applications should include:

- a brief description of the subject, purpose and nature of the research.
- the estimated amount of time and expense required.
- the applicant's background and/or journalistic experience.
- a letter from a print or broadcast news editor expressing interest in publishing or airing the product of the research and stating the payment to be made to the applicant.

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Applications should be sent to:

James Boyd, Executive Director, Project for Investigative Reporting on Money in Politics
Post Office Box 770 • Madison, Virginia 22727 • Telephone (703) 672-3166

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker, Esquire
Epstein, Becker, Borsody & Green, P.C.
1140 - 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 1809
Philip Stern
Campaign Research Institute
Project for Investigation
Reporting on Money in Politics

Dear Mr. Oldaker:

On October 15, 1984, the Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 1985, 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 by Philip Stern, the Campaign Research Institute, and the Project for Investigative Reporting on Money in Politics. Accordingly, the Commission closed its file in this matter as it pertains to Mr. Stern and the referenced organizations. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

(21)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Stephen Hartgen, Managing Editor
The Times-News
P.O. Box 548
Twin Falls, Idaho 83301

Re: MUR 1809
The Times-News

Dear Mr. Hartgen:

On October 15, 1984, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 1985, 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 by the Times-News. Accordingly, the Commission closed its file in this matter as it pertains to the Times-News. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Walter Slocombe
Caplin & Drysdale
One Thomas Circle, N.W.
Washington, D.C. 20005

Re: MUR 1809
The Stern Fund

Dear Mr. Slocombe:

On October 15, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on _____, 1985, 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 by the Stern Fund. Accordingly, the Commission closed its file in this matter as it pertains to your client. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker, Esquire
Epstein, Becker, Borsody & Green, P.C.
1140 - 19th Street, N.W.
Washington, D.C. 20036

Re: MUR 1809
Citizens Against PACs, Inc.

Dear Mr. Oldaker:

The Federal Election Commission notified your client on October 15, 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on , 1985, determined that there is reason to believe that your client has violated 2 U.S.C. § 441b, a provision of the Act. Specifically, it appears that your client made expenditures for newspaper advertisements in connection with federal elections and that because your client is a corporation it is in violation of 2 U.S.C. § 441b which prohibits such expenditures.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding the matter in question. Please submit answers to the enclosed questions within 10 days of receipt of this letter. Statements should be submitted under oath.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However, in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2, of the enclosed procedures.

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Letter to William C. Oldaker
Page 2

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 have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202)523-4143.

Sincerely,

John Warren McGarry
Chairman

Enclosures
Procedures
Questions and Request For Documents
Exhibit

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QUESTIONS AND REQUEST FOR DOCUMENTS

The following questions pertain to newspaper advertisements referenced in the CBS news program "60 Minutes" which aired on September 23, 1984. A transcript of the program is attached as an exhibit. The headlines of the advertisements read as follows:

- o Why did Representative Martin Frost help the dairy lobby milk his constituents? (See Exhibit at 3)
 - o What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him? (See Exhibit at 3)
 - o Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money? (See Exhibit at 3)
 - o What is Congressman Rostenkowski going to do with a half million dollars of leftover campaign money? Take it with him? (See Exhibit at 4)
 - o Why did Ocean Spray Cranberry PAC give \$2,000 to Congressman Michel? (See Exhibit at 7)
 - o Why did Senator Bingaman allow the doctors lobby to butter its bread on both sides? (See Exhibit at 8)
1. State whether these advertisements were paid for, in whole or in part, by Citizens Against PACs, Inc.

List all parties who paid for these advertisements.

2. Provide copies of each of the advertisements.
3. State the date(s) on which each of the advertisements ran and the names of the newspapers, magazines, and or other periodical publications in which each advertisement was placed.
4. State whether the advertisements were run only in the district or state in which the referenced candidate was seeking re-election.

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Page 2
Questions and Request for Documents
Citizens Against PACs

5. Explain why these particular candidates were made the target of your advertisements.

6. State whether there has been any instance in which both major party candidates from the same district have been targets of your advertisements. If so, please provide copies of each advertisement.

7. State the total amount of expenditures made in connection with the advertisements.

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60 MINUTES
"CONGRESSMAN FOR SALE?"

VOL. XVII, No. 2

FINAL -- 9/23/84

REASONER:

Buying a congressman's vote is illegal -- it's bribery. But giving money to a congressman in the hopes he'll vote the way you want -- or at least listen to you -- is perfectly legal. It's done every day -- and every year in a bigger way by Political Action Committees -- or PACs.

Every special interest group seems to have a PAC -- there are about 4,000 of them. Among those with more than a million dollars to give away are the PACs of the realtors, the doctors, the seafarers union, the dairy farmers and conservatives.

And each PAC can give as much as \$10,000 to a congressman -- maybe yours.

REASONER: (continued):

The Federal Election Commission keeps track of who gives what to whom; but one private citizen, at least, is going through the computerized files and getting that information out to the grassroots. And congressmen don't like it.

PHILIP STERN:

With the nearest ocean five hundred miles away, why did Congressman Hubbard get \$45,000 in campaign gifts from the maritime industry? A clue we suggest: he is a member of the House Merchant Marine Committee that handles all shipping legislation and, therefore, he is in a special position to do favors for the maritime interests.

REASONER:

The ad about Congressman Carroll Hubbard, Jr., a five-term democrat from western Kentucky, was placed in four local newspapers by Philip Stern. Stern is a

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REASONER: (continued):

writer, a liberal activist, and philanthropist, and he's heir to a Sears Roebuck fortune. So far this election year his organization, Citizens Against PACs, has taken on ten congressmen.

Why did Representative Martin Frost help the dairy lobby milk his constituents?

What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him?

Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?

One of the ads took on the powerful Chairman of the House Ways and Means Committee, Dan Rostenkowski of Chicago.

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PHILIP STERN:

And our ad said, what is Congressman Rostenkowski going to do with a half million dollars of left-over campaign money -- take it with him?

He is safely ensconced in a heavily democratic district, has not gotten less than 80% of the vote since 1974. Starts out with \$224,00 in the bank, safe district. Nonetheless, he raises another half million dollars.

REASONER:

Congressman Rostenkowski oversees the writing of tax legislation and that's of major interest to PACs. He declined to be interviewed by 60 MINUTES. But in early 1982, he told CBS News...

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CONG. ROSTENKOWSKI:

The PACs that are making those contributions are aware that, by that contribution, doesn't necessarily mean that I'm going to, I'm going to support their position. I don't discourage the rendering of a campaign contribution, but there's no commitment.

CONG. FRANK:

Those who tell you it has no effect at all are asking you to believe that somehow we've discovered a race of people who can regularly accept large amounts of money from perfect strangers for very important reasons and then be totally unaffected by it in their behavior.

REASONER:

Congressman Barney Frank, an incumbent democrat, found himself running against an incumbent republican when two congressional districts were combined in Massachusetts. In the 1982 election he raised and spent more money than anyone else in his race for congress.

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CONG. FRANK:

I raised a million and a half, my opponent raised about a million.

REASONER:

About \$225,000 of Frank's money came from PACs.

CONG. FRANK:

I don't think it's a corrupt system but it's a distorted system. Some people will say well, they don't buy my vote, they buy access, but time is our scarcest commodity. If you have bought twenty minutes with a committee chairman or a powerful member, that's very valuable.

REASONER:

The more money a congressman gets from PACs, the more likely he is to be a subject of one of Stern's ads. House Republican leader, Robert Michel of Illinois was a target.

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PHILIP STERN:

And our headline was: Why did the Ocean Spray Cranberry PAC give \$2,000 to Congressman Michel? He got more than two-thirds of his 1982 campaign money, not from the voters of his district, from, but from groups outside his district who had only a remote interest in the welfare of Peoria, Illinois.

REASONER:

The Michel campaign contended that the list of PACs which contributed to that campaign is so large and so varied as to make charges of influence peddling laughable.

PHILIP STERN:

I think that answer is laughable. If anyone of those lobbyists comes in and says, remember me, I gave you \$2,000, Michel will remember him.

REASONER:

Michel's campaign chairman said that your ads go way too far, that there's something just short of pure political character assassination. Your response?

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PHILIP STERN:

If Congressman Michel resents the inference that is being drawn from those facts, let him change the system. Congress made these laws and they can change them.

REASONER:

Stern believes that Congress must be made uncomfortable before it will reform itself and he is relentlessly bipartisan in his targets for embarrassment. For example, liberal democrat Jeff Bingaman, freshman senator from New Mexico.

PHILIP STERN:

The headline was: Why did Senator Bingaman allow the doctors lobby to butter its bread on both sides?

REASONER:

The American Medical Association had given Bingaman's conservative republican opponent \$7,500 but the opponent lost and after the election, on December 29th, 1982...

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PHILIP STERN:

The AMA reached into its little black bag and lo and behold, it found \$10,000 it wanted to give to Jeff Bingaman and did.

REASONER:

Senator Bingaman said in a letter to one of your board members: "The allegation that the AMA or any other organization which has contributed to my campaign has first claim on my ear is false and offensive." Now did you go too far in your assertion?

PHILIP STERN:

No sir. We said to him if you want to disabuse AMA and your voters of any such idea, send the money back. And his response: "I can't afford to." If he can't afford to do without AMA money now, five years before his re-election, how is he going to fend off the blandishments of those, of AMA and other PACs, when he is in the heat of his next re-election campaign?

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PHILIP STERN:

This law...

REASONER:

Philip Stern worked for passage of the 1974 Federal Election Law that brought public financing, contribution limits, and spending ceilings to presidential elections. He'd like to see the same rules applied to congressional elections and he'd like to eliminate PACs, the loophole created by the 1974 law. Then reform was aided by the scandal of Watergate. Now he feels there is only scandal waiting to happen. Stern hopes his ads will get constituents angry enough to ask embarrassing questions of their congressmen and begin the process of campaign finance reform.

Not only outsiders, do-gooders, idealists and gadflies like Citizens Against PACs are concerned about the large amount of special interest PAC money in congressional campaigns.

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REASONER: (continued):

Widely respected members of congress, like Representative Barber Conable, the ranking republican member of the Ways and Means Committee, also see the danger.

CONG. CONABLE:

I think the public has a right to be worried about it. My impression is that even the perception that congress is being bought is dangerous.

REASONER:

Congressman Conable, who is retiring after 20 years of representing the voters of Rochester, New York has had a policy of accepting no more than fifty dollars from any source other than the party itself.

CONG. CONABLE:

It's meant something to the people I've represented because they felt that I couldn't very well be bought for fifty dollars.

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REASONER:

Sometimes congressmen seem to want to be seduced.

CONG. CONABLE:

Well it's not a matter of their being seduced so much as they feel to be safe they've got to have large sums of money to spend on media advertising to defend their incumbency.

REASONER:

It's incumbents who make the election rules and they rake in the PAC money -- three and a half times more than the challengers.

Bill Olwell knows this. He directs the PAC of the largest union in the AFL-CIO. This election, his United Food and Commercial Workers will give close to two million dollars to candidates. About 75% of it will go to incumbents.

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BILL OLWELL:

If you go back over 40 years 92% of all incumbents that run for re-election are re-elected.

REASONER:

Are you, as a man who has to live with it, satisfied with the system?

BILL OLWELL:

Absolutely not. I think it's a crazy system. I think we ought to really sit down and really think what we're doing to American politics.

REASONER:

Bill Ollwell's dissatisfaction with the influence of money in politics is shared by Ned Cabot who directs the PAC of the Equitable Life Insurance Company.

NED CABOT:

The life insurance PAC doesn't represent my interests as a father, a resident of a city, somebody who's interested in the environment, lives near the water. It

NED CABOT: (continued)

doesn't represent any of those things. It does what it's supposed to do, represent a single interest.

REASONER:

Cabot believes the general interest gets short shrift in a system where it's hard to run for congress without PAC Money.

CONG. CONABLE:

Well I'm old enough to remember the time when a young fellow, friends of mine, could get together with their friends and family and business associates and raise enough money to run for congress. In 1982, the average winner of a contested race, that is those, one in which the winner won by less than 55% of the vote, had to raise \$361,000 to get elected to the Congress of the United States.

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REASONER:

Richard Armstrong is the President of the Public Affairs Council -- the professional organization of corporate public affairs executives. The Council has defended PACs but also has sponsored meetings at which business-PAC directors have discussed ethical guidelines for corporate PAC giving.

RICHARD ARMSTRONG:

The stickiest kinds of questions are things like: Should you give money to a candidate who doesn't really need it?

REASONER:

Armstrong thinks congress should reform some of its worst practices -- like the use of excess campaign funds.

RICHARD ARMSTRONG:

It's shocking the use that they're making of these, they're allowed to put it in their office account, they're supposed to declare it as income, they are not declaring it as income, and they're going ahead and using it -- you know, Senator Cranston took singing

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RICHARD ARMSTRONG: (cont'd)

lessons, Dole decorated his office with some of these funds. D'Amato bought a couple of cars, that type of thing. So I think it might make some sense, I'm speaking for myself, that at the end of a campaign, if they've got some money left, that they give it to the party or give it back to the contributors, or give it to the Red Cross, something like that.

REASONER:

For the record, Senator Cranston hired a voice coach, but not for singing lessons. Senator Dole commissioned an efficiency study of his office, rather than redecorated it, though others in congress have used excess funds for redecorating. And Senator D'Amato leased cars instead of buying them, but he didn't use his own excess funds, he had his bills paid for him by the National Republican Senatorial Committee, one of the biggest PACs.

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REASONER:

All year long, at places in Washington like the Capitol Hill Club, incumbents go after PAC money by giving cocktail parties.

They're like charity fundraisers -- with tickets ranging from \$250 to \$1,000 except that the charity is the incumbent's re-election campaign.

In his district a congressman might charge \$50, \$25, or as little as \$10 for voters to attend a similar function.

If you receive a few such invitations in the mail, the head of a small PAC receives a boxfull. And not the ones for ten dollars.

Congressman and Mrs. Doug Walgren invite you to join them for a party of early risers. That's for breakfast -- 8:00 to 10:00 a.m. in Washington -- \$250 per person.

Congressman Allan Wheat and some democrats

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REASONER: (continued):

this time, that's \$250 -- that seems to be fairly standard. Senator Howard Baker and Senator Richard Lugar are hosting this one in honor of John M. Burris of Delaware who's a candidate -- \$500 per person.

CONG. CONABLE:

It does constitute, in my way of thinking anyway, a serious abuse potentially since the very people most affected by the work of the committee are the ones who come to those cocktail parties, feel they have to maintain the goodwill of the congressman.

REASONER:

Congressman Jim Leach, Republican of Iowa, now in his fourth term in congress, has never accepted PAC money -- a practice only a few of his colleagues have followed.

CONG. LEACH:

Who represents poor people when you have a system in which money is the primary influence peddler?

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CONG. LEACH: (continued)

In the last few major Senate elections, eastern unions, western oil interests have pumped spectacular sums of money into my state. We're a small business, we're a rural state, we're a farm state. And in Iowa it's nuts to have candidates indebted to eastern unions or, for that matter, Texas oil.

REASONER:

If you're a challenger and the money isn't dumped in your lap, you go after it. Congressman Leach told us how candidates do it. They go to K Street Northwest in Washington where so many PACs are located. It's sometimes called PAC Street.

CONG. LEACH:

They say I'd like money from your group. That group generally gives them, by the way, a questionnaire to fill out -- it has their name, their address, what they're running for. Then it says: how do you stand on issues? And the issues aren't abstract.

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CONG. LEACH: (continued)

They're not, do you support a balanced budget? Do you support a strong national defense? They are: do you favor a tax cut for this industry? Do you favor spending for that program? And then, depending on how you vote, or how you filled out the application, you get money.

REASONER:

Congressman Leach has co-sponsored legislation to limit the total amount of money that a candidate can receive from all PACs to \$90,000.

Do you have any indication that your colleagues are getting more concerned about all of this?

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CONG. LEACH:

Privately many say there's a huge problem. Publicly they throw up their hands and say there's nothing they can do about it. You present a bill, for example, on changing the system and they'll say well maybe we'll consider it next time, but I don't want to co-sponsor it because that'll hurt my campaign contributions in the next election.

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SAN FRANCISCO, CALIFORNIA 94104
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November 28, 1984

P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY

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

Re: MUR 1809

Dear Mr. Steele:

This letter constitutes the response of Philip Stern, Citizens Against PACs, Inc., the Campaign Research Institute and the Project for Investigative Reporting on Money in Politics, collectively referred to as "the Respondents," to a complaint, MUR 1809, filed by Congressman George Hansen which alleges that Respondents violated federal election law. Specifically, the complaint relates to a story appearing in The Times-News in Twin Falls, Idaho. It alleges that Respondents funded the research of this story and, in so doing, contravened federal election law.

Congressman Hansen's letters (which by his own acknowledgement are framed as a query rather than a complaint) are factually incorrect, clearly without merit, and procedurally defective. Accordingly, the "complaint" should be dismissed forthwith.

1. The allegations are factually incorrect.

Congressman Hansen's letters contain a series of unsubstantiated charges against Mr. Stern, Citizens Against PACs, Inc., the Campaign Research Institute, the Project for Investigative Reporting on Money in Politics, and the Times-News.

The correct facts are as follows:

The Project for Investigative Reporting on Money in Politics ("the Project") began operations on June 23, 1983. The Project operates under the auspices of the Campaign Finance Research Institute ("the Institute"), an organization which the

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Internal Revenue Service has determined to be exempt from federal income tax under 26 U.S.C. § 501(c)(3). The Institute and therefore the Project has received its support from approximately eighteen foundations and individuals from all sections of the country. Significantly, neither Philip Stern, in his personal capacity, or Citizens Against PACs, Inc. have ever contributed to the Institute.

The Project's mode of operation is described in the Project's flyer, attached hereto as Exhibit A. The purpose of the Project is set forth in the last paragraph of the flyer, which states that "The Project will be strictly non-partisan. The sole purpose of its (the Project's) grants is to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest." (Emphasis added.)

Pursuant to those guidelines, the Project's Advisory Board (which includes many prize winning journalists) approved, as one of 14 grants made since the Project's inception, a grant of \$1,750 to the Times-News, as set forth in the response to MUR 1809 from Stephen Hartgen, Managing Editor of the Times-News, attached hereto as Exhibit B.

Contrary to Congressman Hansen's letters, neither Citizens Against PACs, Inc.^{1/} or the Center for Investigative Journalism had the remotest connection with this grant or with the news story that appeared in the Times-News.

2. The actions complained of are covered by the news story exception.

On its face, the only act by anyone of which Congressman Hansen complains is a series of articles by a reporter for the Times-News of Twin Falls, Idaho. Congressman Hansen does not dispute that the Times-News is a bona fide newspaper; indeed, he describes it as "one of the major newspapers in my Congressional District." He alleges that the cost of reporting the stories he objects to was borne in part by a grant to the reporter from the Project, that the Project was in turn supported by funds from another organization, the Campaign Finance Research Institute.

1/

Note that Citizens Against PACs, Inc. is a nonprofit corporation, organized under the laws of the District of Columbia for the purpose of raising public consciousness about the defects of the current system of campaign finance. Citizens Against PACs does not make contributions or expenditures for the purpose of influencing federal elections, and, accordingly, has no registration or reporting obligations with the Federal Election Commission.

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As explained above, there are serious factual errors in what Congressman Hansen alleges, but even if all his allegations were true, there would be no violation of the Federal Election Campaign Act. The Act specifically exempts from classification as a contribution or expenditure "any news story, commentary, or editorial distributed through the facilities of any . . . newspaper . . . unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i).

The Commission's regulations expressly extend the news story exemption to "any costs incurred in covering or carrying" such a story. 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2). Thus, the Commission's regulations make clear that the news story exemption applies not only to the direct cost of publishing news stories but to the costs of gathering the information in them and preparing the materials for publication.

Congressman Hansen's complaint (even if it were accurate) is on its face directed at actions covered by these exemptions. The statute and regulations contain only a single limitation on the exemption -- a situation where the media outlet is itself controlled by a candidate or political committee. Congressman Hansen does not allege that the Times-News is so controlled, so he does not contend that the candidate-control rule applies here.

The clear effect of these statutory provisions and Commission regulations is that news stories about politics are not within the Commission's jurisdiction, provided the news outlet is not controlled by a candidate or political group. No other rule would be consistent with a free press.

This protection would be entirely meaningless if the Commission were required to -- or had jurisdiction to -- examine the funding of news stories where no candidate control is alleged. All news entities, large and small, must obtain their funds from somewhere. Some get funds from their owners, some from individual and corporate supporters sympathetic to their editorial perspectives and some from advertisers. If every candidate dissatisfied with the media's coverage of his campaign could force an FEC investigation of the financial support of the local newspapers, television stations or other media outlets, the statutory protection of news coverage would be meaningless and the Commission would be in the position of a national media censor, which it clearly does not have the authority to do.

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Charles N. Steele, Esquire
November 28, 1984
Page Four

3. The complaint is procedurally defective.

Congressman Hansen's broad-brush correspondence with the Commission about his dissatisfaction with the Times-News coverage of him and his campaign is not properly treated as a complaint under 11 C.F.R. § 111.4. It does not -- as a complaint must under the regulations -- clearly identify who Congressman Hansen thinks has violated the law and how. In fact, Congressman Hansen is quite frank that what he really wants is an advisory opinion on his list of general questions -- but the Commission's regulations forbid it to entertain requests for advisory opinions on hypothetical questions or on questions about the activities of third parties. 11 C.F.R. § 112.1(b).

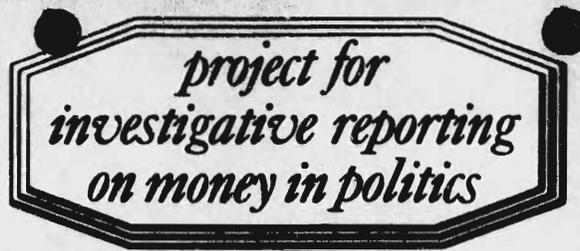
For the reasons set forth above, Congressman Hansen's "complaint" should be promptly rejected without further proceedings.

Sincerely yours,

William C. Oldaker jk
William C. Oldaker

Counsel for Philip M. Stern, Citizens
Against PACs, Inc., the Campaign
Research Institute, Inc. and the
Project for Investigative Reporting
on Money in Politics

85040520383



ADVISORY BOARD • Aaron Epstein, *Knight-Ridder Newspapers* • Les Payne, *Newsday* • Jim Polk, *NBC News*
 • Myrta Pulliam, *The Indianapolis Star* • Robert Walters, *Newspaper Enterprise Ass'n* • Edward Zuckerman, *Fairchild Publications*
 Philip M. Stern, Chairman James Boyd, Executive Director

A PROGRAM OF GRANTS FOR

investigative reporting on money in politics

The Project for Investigative Reporting on Money in Politics announces a program of grants to journalists who wish to undertake investigative reporting on the role and influence of money in American politics, at all levels (national, state and local.)

Applications are invited from both print and broadcast journalists. As a general rule, however, grants will not cover the cost of radio or TV production, but only the time and expense of the research.

Applications for grants should be equivalent, in form, to a "query memo" to an editor, and should set forth the subject, purpose and nature of the research; the estimated time and expense required; the reasons for believing there is a likelihood of uncovering the pertinent information; and the applicant's background and/or journalistic experience.

Applications should also be accompanied by a letter from a print or broadcast news editor expressing an interest in publishing or airing the product of the research (provided it meets professional journalistic standards) and stating the amount to be paid the applicant in accordance with that publication's or broadcaster's customary rates.

The size of the grants will depend on the amount of work required. In addition, the Project will pay reasonable out-of-pocket expenses.

The applications will be reviewed by a committee of experienced working journalists. All materials submitted to the Project will be held in strict confidence.

Criteria for judging the applications will include the public importance of the subject; the apparent likelihood of uncovering the information described in the application; and the applicant's credentials or qualifications.

The Project will be strictly non-partisan. The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest.

HOW AND WHERE TO APPLY

Applications should include:

- a brief description of the subject, purpose and nature of the research.
- the estimated amount of time and expense required.
- the applicant's background and/or journalistic experience.
- a letter from a print or broadcast news editor expressing interest in publishing or airing the product of the research and stating the payment to be made to the applicant.

Applications should be sent to:

James Boyd, Executive Director, Project for Investigative Reporting on Money in Politics
 Post Office Box 770 • Madison, Virginia 22727 • Telephone (703) 672-3166

86040520384



The Times-News

P.O. Box 548

Twin Falls, Idaho 83301

208-733-0931

October 29, 1984

Ms. Beverly Kramer
Federal Election Commission
Washington, D. C. 20463

Dear Ms. Kramer:

This letter is in response to a letter of October 15 from your office concerning an allegation raised by Rep. George Hansen of the Second Congressional District of Idaho that certain Times-News articles, and the way in which they were funded, constitute violations of the Federal Election Campaign Act.

After a careful review of both the congressman's allegations and the relevant law in this area, it is our opinion that the complaint against The Times-News lacks substance and should be dismissed. In our opinion, the congressman's letters to your office of Sept. 26 and Sept. 17 contain numerous errors of both fact and opinion. Furthermore, we believe newspaper reporting is specifically exempt from the FECA under the language of U.S. Code, Title II, Sect. 431-9bi. Additionally, the main controlling legal case in this area, Buckley vs. Valeo, 424 U.S. 1 (1975) and subsequent rules of the commission itself employing that decision's language suggest that the articles by The Times-News did not violate the "express advocacy" standard set out by the Supreme Court in that case. It is our opinion that the ongoing coverage of politics and public officials by the American press is within the affirmative intent of the First Amendment of the U. S. Constitution. Such coverage, in which The Times-News is routinely engaged, does not constitute an "in-kind" contribution to an elected official's opponent.

Let me give a bit of background. The Times-News is a 22,000-circulation, seven-day daily newspaper in Southern Idaho, in Rep. Hansen's district. It is the major daily newspaper for eight counties. In March and April 1984, The Times-News sent a reporter to Washington to cover the trial of Rep. Hansen, who had been indicted for alleged violations of the Ethics in Government Act. He was convicted of four felony violations and has been both reprimanded by the full House and sentenced to 15 months in prison. The conviction is under appeal.

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October 29, 1984

Following the conviction, The Times-News decided to further follow up on several avenues which had either come up directly or which had been alluded to in the trial. These avenues involved Hansen's financial affairs.

We were aware of the Project for Investigative Reporting on Money in Politics through its advertising in national journalism magazines and we asked the organization about the procedures for filing a grant request to help defray investigation expenses. A grant proposal was developed in June and was approved in July. There were absolutely no strings of any kind attached to the \$1,750 grant, nor any preconditions as to whether The Times-News was even obligated to produce any stories. The stories which resulted were entirely the product of the newspaper alone. The money was to fund a trip for our reporter to Washington to examine records, conduct interviews and gather information concerning reports we had obtained from various sources on alleged secret bank accounts, large loans from individuals, and financial support from various religious organizations. Our reporter examined aspect of these allegations for several weeks in June in Idaho, and then in Washington through the month of July. We published several stories based on that research, which we enclose.

We do not think that the investigative reporting by The Times-News on the financial affairs of its congressman, a convicted felon, in any way violates the FECA regulation of political speech. There are two basic arguments for this.

One, the FEC act itself exempts newspaper stories specifically in Sect. 431-9bi. That exemption covers "any news story distributed through newspapers." That language seems very clear.

Two, under the "express advocacy" test of Buckley vs. Valeo, reporting of the type The Times-News conducted is, in our view, also outside the purview of the FECA act. Consider the following questions:

- 1.) Do the news articles use any of the words of express advocacy, such as "elect, support, cast your ballot for, defeat, reject?" The answer is no.
- 2.) Is the election referred to? Only obliquely.
- 3.) Are readers urged to act on policy issues discussed? No.
- 4.) Is the candidate's opponent mentioned favorably? No.
- 5.) Is the reporting an isolated foray into criticism and analysis of this public official's performance? No.

The reporting on Rep. Hansen, through his indictment, trial and conviction has been extensive. Perhaps no Idaho politician has

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October 29, 1984

been covered as completely throughout his career. The Times-News has endeavored to provide a balanced picture of the congressman's battles by publishing, on its editorial page and in its news columns, explanations by Hansen himself, members of his staff, family, and supporters.

In the absence of any "yes" answers to those questions, we do not see how the reporting by The Times-News in the present case can be construed to have violated the "express advocacy" standard of Buckley vs. Valeo. In Buckley, the court considered the language of the FECA and wrote that: "The key operative language of the provision limits any expenditure relative to a clearly identified candidate . . . (There) is no definition clarifying what expenditures are "relative to" a candidate. The use of so indefinite a phrase as "relative to" a candidate fails to clearly mark the boundary between permissible and impermissible speech." " . . . " to preserve the provision against invalidation on vagueness grounds, (it) must be construed to apply only to expenditures for communications that in express terms advocate the election or a defeat of a clearly identified candidate for federal office." *

We believe the reporting in this matter by The Times-News is well within the constitutional protection afforded by the First Amendment, the language of the Federal Election Act and the "express advocacy" standard and that the grant from the Project for Investigative Reporting was completely legal and appropriate. In our view, the complaint by the congressman is without merit and should not proceed beyond the "Matter Under Review" stage.

We look forward to hearing from you relative to this matter. At this time, we will not submit a designation of legal counsel, but reserve the right to do so in the future.

Sincerely,



Stephen Hartgen
Managing Editor

86040520397



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

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

DATE: NOVEMBER 21, 1984

SUBJECT: MUR 1809 - First General Counsel's
Report signed November 19, 1984

The above-captioned matter was circulated to the Commission on a 24 hour no-objection basis at 11:00, November 20, 1984.

There were no objections to the First General Counsel's Report at the time of the deadline.

86040520388



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cut*
DATE: November 19, 1984
SUBJECT: MUR 1809 - First General Counsel's Report

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

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[]	Compliance	[X]
Sensitive	[]	Audit Matters	[]
Non-Sensitive	[]	Litigation	[]
24 Hour No Objection	[X]	Closed MUR Letters	[]
Sensitive	[X]	Status Sheets	[]
Non-Sensitive	[]	Advisory Opinions	[]
Information	[]	Other (see distribution below)	[]
Sensitive	[]		
Non-Sensitive	[]		
Other	[]		

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SENSITIVE

RECEIVED
OFFICE OF THE FEC
SECRETARY

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

FIRST GENERAL COUNSEL'S REPORT

NOV 19 P 3: 59

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 11/19/84-4:00

MUR #1809
DATE COMPLAINT RECEIVED
BY OGC 9/28/84
DATE OF NOTIFICATION TO
RESPONDENTS 10/15/84
STAFF MEMBER B. Kramer

COMPLAINANT'S NAME: Congressman George Hansen
RESPONDENTS' NAMES: Project for Investigative Reporting on
Money In Politics
Campaign Finance Research Institute, Inc.
Stern Fund
Philip Stern
Twin Falls Times News
Citizens Against PACs
Center for Investigative Reporting

RELEVANT STATUTE: 2 U.S.C. § 441b
2 U.S.C. § 433
2 U.S.C. § 434
2 U.S.C. § 434(c)
2 U.S.C. § 431(8) (A) and (B)
2 U.S.C. § 431(9) (A) and (B)

INTERNAL REPORTS CHECKED: AO 1980-109
MUR 1723

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On September 28, 1984, Congressman George Hansen filed a complaint challenging the legality of certain actions undertaken by various tax-exempt organizations and a newspaper in what appears to be a case of first impression. */

*/ A copy of the complaint was previously circulated to the Commission.

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The complainant contends that certain tax-exempt foundations are funding newspapers for activities aimed at influencing federal election campaigns. Specifically, the complainant charges that an Idaho newspaper, The Twin Falls Times News, applied for and received a grant from a tax-exempt non-profit organization "for the purpose of attacking one candidate for Federal office." Complaint at 1. According to the complaint, the grant came from The Project for Investigative Reporting on Money in Politics. The funding source of the project was, according to the complaint, the Campaign Finance Research Institute, Inc., which receives donations from, inter alia the Stern Fund and Philip Stern.

Although the complainant does not cite to a specific section of the Act, he appears to argue that the expenditures at issue are being made "in connection with" federal elections and that because the grant organizations are corporations they are in violation of 2 U.S.C. § 441b which prohibits such expenditures.

In addition, the complainant states that Mr. Philip Stern, personally and through the Stern Fund, spends a substantial sum of money using the following organizations as conduits:

- The Center for Investigative Reporting
- The Project for Investigative Reporting on Money in Politics
- The Campaign Research Institute, Inc.
- Citizens Against PACs

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The complainant states that Mr. Stern and the other organizations select one of two candidates for public elective office and attack that candidate to the exclusion of the other. The complainant charges that neither Philip Stern nor his organizations have filed financial statements with the Commission.

Although the complainant does not cite to a specific violation of the Act, he appears to argue that expenditures by the above-referenced organizations are being made "in connection with" federal elections and that to the extent these organizations may be incorporated, they are in violation of 2 U.S.C. § 441b which prohibits such expenditures. In the alternative, the complainant appears to argue that Mr. Stern has failed to report independent expenditures in accordance with 2 U.S.C. § 434(c) and 11 C.F.R. § 109.2 or, that the above organizations have failed to register and report as political committees in accordance with 2 U.S.C. § 433 and § 434.

Notices of the complaint were sent to the respondents on October 15, 1984, however, the respondents counsel submitted a written request for an extension until November 28, 1984, to respond. The Office of General Counsel granted the requested

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extension and so notified the respondents. As soon as the responses are received, this Office will prepare a report to the Commission with recommendations.

Charles N. Steele
General Counsel

Nov. 19, 1984
Date

By: 
Kenneth A. Gross
Associate General Counsel

86040520393

GCC#5637

LAW OFFICES

CAPLIN & DRYSDALE
CHARTERED

ONE THOMAS CIRCLE, N.W.
WASHINGTON, D.C. 20005

(202) 862-5000

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MYRON C. BAUM
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WRITER'S DIRECT DIAL NUMBER
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RONALD S. LEWIS
WALTER S. SLOVICER
CONO E. MANOMASO
DANIEL B. ROSENBAUM
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BERNARD S. BAILOS
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STAFFORD SMILEY
FRANK M. CHAFFER
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HAROLD E. KAPLAN
MAUREN J. COHMAN
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ROBERT A. ELAYMAN
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RALPH A. RUOTO
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HERBERT H. BELLER
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JOHN C. FELDRAMP
ROBERT A. HOUSTON
DANIEL H. DAVIDSON
DANIEL H. DEAVINO
DAVID H. CHOWE
VIVIANA T. WHITNER
JEFFERY S. LEHMAN
OLENE B. CARRINGTON*
JULIE W. DAVIS

*NOT ADMITTED IN D.C.

November 15, 1984

Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Attention: Beverly Kramer

Re: MUR 1809

This statement is in response to Associate General Counsel Gross' letter of October 15, received by the Stern Fund (the "Fund") on October 25, 1984, notifying the Fund that Congressman George Hansen had filed a complaint against the Fund relating to a story appearing in the Twin Falls, Idaho, Times-News.

The complaint is factually incorrect, is clearly without merit, and is procedurally defective. It should be promptly dismissed.

1. The allegations are factually incorrect.

Congressman Hansen's letters are a hodge-podge of unsubstantiated charges against Mr. Stern, the Fund, various public charities, and the Times-News. The Fund is not in a position to comment on the charges against other parties, but the claims about the actions of the Fund are simply untrue.

The Stern Fund is a foundation established many years ago by Mr. Stern's parents. He is one of eleven members of the Board, but has no control over the Fund. It is therefore entirely independent of and distinct from Mr. Stern, and is not, as Congressman Hansen claims, his "alter ego."

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GENERAL COUNSEL

Contrary to Congressman Hansen's assertion, the Fund was not the source of the funds used to pay the costs of covering the stories he describes. If, as one of the newspaper stories says, an entity called the "Stern Family Fund" made a grant to the Project for Investigative Reporting on Money in Politics (the "Project"), the entity is not the Stern Fund. The Fund has never made a grant to the Project, the Campaign Finance Research Institute, or the Citizens against PACs. Its last grant to the Center for Investigative Reporting was in 1982. That grant was restricted to a project on agribusiness and no part of those funds was available to the Times-News. To its knowledge, no Fund grantee has ever assisted any reporter for the Times-News.

(Congressman Hansen also apparently objects to a CBS 60-Minutes program. That story is also covered by the news story exception, and, in any event, no Stern Fund money supported either it or the activities reported in it.)

Thus, the Stern Fund has no connection with the stories complained of, and could not be in violation of the Federal Election Campaign laws on account of them.

2. The actions complained of are covered by the news story exception.

On its face, the only act by anyone of which Congressman Hansen complains is a series of articles by a reporter for the Times-News of Twin Falls, Idaho. Congressman Hansen does not dispute that the Times-News is a bona fide newspaper; indeed, he describes it as "one of the major newspapers in my Congressional District." He alleges that the cost of reporting the stories he objects to was borne in part by a grant to the reporter from the Project, that the Project was in turn supported by funds from another organization, the Campaign Finance Research Institute, and that the funds of these organizations, from which the costs of the Times-News stories were paid ultimately came from Mr. Stern and the Fund.

As explained above, there are serious factual errors in what Congressman Hansen alleges, but even if all his allegations were true, there would be no violation of the Federal Election Campaign Act. The Act specifically exempts from classification as a contribution or expenditure "any news story, commentary, or editorial distributed through the facilities of any ... newspaper ... unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i).

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The Commission's regulations expressly extend the news story exemption to "any costs incurred in covering or carrying" such a story. 11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2). Thus, the Commission's regulations make clear that the news story exemption applies not only to the direct cost of publishing news stories but to the costs of gathering the information in them and preparing the materials for publication.

Congressman Hansen's complaint (even if it were accurate) is on its face directed at actions covered by these exemptions. The statute and regulations contain only a single limitation on the exemption -- a situation where the media outlet is itself controlled by a candidate or political committee. Congressman Hansen does not allege that the Times-News is so controlled, so he does not contend that the candidate-control rule applies here.

The absolutely clear effect of these statutory provisions and Commission regulations is that news stories about politics are not within the Commission's jurisdiction, provided the news outlet is not controlled by a candidate or political group. No other rule would be consistent with a free press.

This protection would be entirely meaningless if the Commission were required to -- or had jurisdiction to -- examine the funding of news stories where no candidate control is alleged. All news entities, large and small, must obtain their funds from somewhere. Some get funds from their owners, some from individual and corporate supporters sympathetic to their editorial perspectives and some from advertisers. If every candidate dissatisfied with the media's coverage of his campaign could force an FEC investigation of the financial support of the local newspapers, television stations or other media outlets, the statutory protection of news coverage would be meaningless and the Commission would be in the position of a national media censor, which it clearly does not have the authority to do.

3. The complaint is procedurally defective.

Congressman Hansen's broad-brush correspondence with the Commission about his dissatisfaction with the Times-News coverage of him and his campaign is not properly treated as a complaint under 11 C.F.R. § 111.4. It does not -- as a complaint must under the regulations -- clearly identify who Congressman Hansen thinks has violated the law and how. Similarly, the documents he attaches only identify the stories Congressman Hansen objects to; they offer no evidence that the Stern Fund has any connection with them. In fact, Congressman Hansen is quite frank that what he really wants is an advisory opinion on his list of general

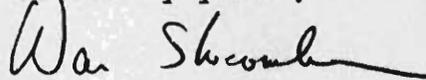
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questions -- but the Commission's regulations forbid it to entertain requests for advisory opinions on hypothetical questions or on questions about the activities of third parties. 11 C.F.R. § 112.1(b).

For these reasons, Congressman Hansen's "complaint" should be promptly rejected without further proceedings.

A letter authorizing us to represent the Fund in connection with this matter is attached.

Sincerely yours,



Walter Slocombe

WS/kg

Enclosure

R 6 0 4 0 6 2 0 3 9 7

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

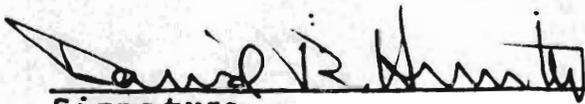
NAME OF COUNSEL: Walter B. Slocombe
Thomas A. Troyer

ADDRESS: Caplin & Drysdale, Chartered
One Thomas Circle, N.W.
Washington, D.C. 20005

TELEPHONE: (202) 862-5071

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.

October 29, 1984
Date


Signature

RESPONDENT'S NAME: Mr. David R. Hunter
Executive Director
Stern Fund

ADDRESS: 370 Lexington Avenue
New York, New York 10017

HOME PHONE: (516) 944 6082

BUSINESS PHONE: (212) 532-0617

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 16, 1984

Leslie Kerman, Esquire
Epstein, Becker, Borsody
& Green P.C.
1140 - 19th Street, N.W.
Washington, DC 20036

Re: MUR 1809

Dear Ms. Kerman:

This is in reference to your letter dated November 6, 1984, requesting an extension until November 28, 1984, to respond to the Commission's notice of complaint filed in the above-captioned matter. After considering the circumstances presented in your letter, the Office of General Counsel has determined to grant your requested extension. Accordingly, your response will be due on November 28, 1984.

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

85040520399

PCC #5512

EPSTEIN BECKER BORSODY & GREEN, P.C.

ATTORNEYS AT LAW

**1140 19TH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 661-0900**

**250 PARK AVENUE
NEW YORK, NEW YORK 10177
(212) 370-9800**

**MALICK TOWER
ONE SUMMIT AVENUE
FORT WORTH, TEXAS 76102[†]
(817) 334-0701**

**1575 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067
(213) 556-6661**

**FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111[†]
(415) 398-6668**

**†P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY**

November 6, 1984

34 NOV 6 P12:17

GENERAL COUNSEL

**Ms. Beverly Kramer
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463**

Re: MUR 1809

Dear Ms. Kramer:

**Enclosed please find Statements of Designation of
Counsel for Philip Stern, Citizens Against PACs, Inc., the
Campaign Research Institute, Inc., and the Project for Investi-
gative Reporting on Money and Politics.**

**In addition, we request as extension of time, from
November 5, 1984 to November 28, 1984, in which to respond to
this complaint. As we have discussed, due to the number of
Respondents involved, other matters before this office and
the fact that William Oldaker will be out of the country
until November 27, 1984, such an extension of time is necessary
for us to be able to prepare an adequate response for our
clients.**

**Thank you for your assistance and cooperation in
this matter.**

Sincerely,

Leslie J. Kerpan

Leslie J. Kerpan

**LJK:ses
Enclosures**

85040320400

EPSTEIN BECKER BORSODY & GREEN, P.C.

**ATTORNEYS AT LAW
1140 18TH STREET, N.W.
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(202) 861-0900**

**250 PARK AVENUE
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(212) 370-9800**

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ONE SUMMIT AVENUE
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**1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067
(213) 556-8861**

**FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111
(415) 398-8865**

***P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY**

November 2, 1984

**Ms. Beverly Kramer
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463**

Re: MUR 1809

Dear Ms. Kramer:

**Enclosed please find Statements of Designation
Counsel for Philip Stern, Citizens Against PACs, Inc., the
Campaign Research Institute, Inc., and the Project for Investi-
gative Reporting on Money and Politics.**

**In addition, we request as extension of time, from
November 5, 1984 to November 20, 1984, in which to respond to
this complaint. As we have discussed, due to the number of
Respondents involved and other matters before this office, such
an extension of time is necessary for us to be able to prepare
an adequate response for our clients.**

**Thank you for your assistance and cooperation in this
matter.**

Sincerely,

Leslie J. Kerman

Leslie J. Kerman

**LJK:ses
Enclosures**

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61111111

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

NAME OF COUNSEL: William C. Oldaker, Esquire

ADDRESS: Leslie J. Kerman, Esquire
Epstein Becker Borsody & Green, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: (202) 861-0900

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.

10/30/84
Date

Philip Stern
Signature

RESPONDENT'S NAME: Philip Stern

ADDRESS: 2000 P Street, NW Suite 408
Washington, D.C. 20036

HOME PHONE: _____

BUSINESS PHONE: (202) 463-0465

86040520402

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

NAME OF COUNSEL: William C. Oldaker, Esquire

ADDRESS: Leslie J. Kerman, Esquire
Epstein Becker Borsody & Green, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: (202) 861-0900

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.

10/30/84
Date

William C. Oldaker
Signature

RESPONDENT'S NAME: Citizens Against PACs, Inc.

ADDRESS: 2000 P Street, NW Suite 408
Washington, D.C. 20036

HOME PHONE: _____

BUSINESS PHONE: (202) 463-0465

86040520403

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

NAME OF COUNSEL: William C. Oldaker, Esquire

ADDRESS: Leslie J. Kerman, Esquire
Epstein Becker Borsody & Green, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: (202) 861-0900

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.

10/30/84
Date

Philip M. Ste...
Signature

RESPONDENT'S NAME: The Campaign Research
Institute, Inc.

ADDRESS: 2000 P Street, NW Suite 409
Washington, D.C. 20036

HOME PHONE: _____

BUSINESS PHONE: (202) 296-6580

86040520404

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

NAME OF COUNSEL: William C. Oldaker, Esquire

ADDRESS: Leslie J. Kerman, Esquire
Epstein Becker Borsody & Green, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: (202) 861-0900

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.

Oct. 30, 1984
Date

James P. Boyd
Signature

RESPONDENT'S NAME: The Project for Investigative
Reporting on Money and Politics

ADDRESS: PO Box 770
Madison, VA 22727

HOME PHONE: (203) 672-3166

BUSINESS PHONE: (203) 672-3166 (202) 296-6580

85040520405

GCC#S475

EPSTEIN BECKER BORSODY & GREEN, P.C.

ATTORNEYS AT LAW
1140 19TH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 681-0900

250 PARK AVENUE
NEW YORK, NEW YORK 10177
(212) 370-9800

MALICK TOWER
ONE SUMMIT AVENUE
FORT WORTH, TEXAS 76102
(817) 334-0701

1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067
(213) 556-8881

FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111
(415) 398-5585

P.C. IN NEW YORK AND
WASHINGTON, D.C. ONLY

November 2, 1984

Ms. Beverly Kramer
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1809

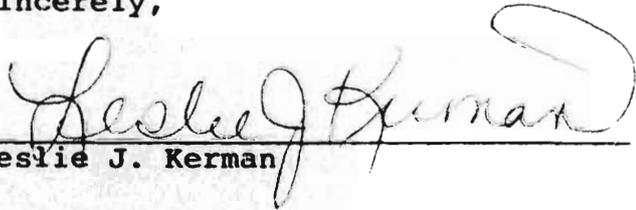
Dear Ms. Kramer:

Enclosed please find Statements of Designation of Counsel for Philip Stern, Citizens Against PACs, Inc., the Campaign Research Institute, Inc., and the Project for Investigative Reporting on Money and Politics.

In addition, we request as extension of time, from November 5, 1984 to November 20, 1984, in which to respond to this complaint. As we have discussed, due to the number of Respondents involved and other matters before this office, such an extension of time is necessary for us to be able to prepare an adequate response for our clients.

Thank you for your assistance and cooperation in this matter.

Sincerely,



Leslie J. Kerman

LJK:ses
Enclosures

34 NOV 2 1984
P 4: 29
RECEIVED
COMMUNICATIONS
DIVISION

85040520406

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

NAME OF COUNSEL: William C. Oldaker, Esquire

ADDRESS: Leslie J. Kerman, Esquire
Epstein Becker Borsody & Green, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: (202) 861-0900

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.

10/30/84
Date

Philip Stern
Signature

RESPONDENT'S NAME: Philip Stern

ADDRESS: 2000 P Street, NW Suite 408
Washington, D.C. 20036

HOME PHONE: _____

BUSINESS PHONE: (202) 463-0465

86040520407

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

NAME OF COUNSEL: William C. Oldaker, Esquire

ADDRESS: Leslie J. Kerman, Esquire
Epstein Becker Borsody & Green, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: (202) 861-0900

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.

10/30/84
Date

Leslie J. Kerman
Signature

RESPONDENT'S NAME: Citizens Against PACs, Inc.

ADDRESS: 2000 P Street, NW Suite 408
Washington, D.C. 20036

HOME PHONE: _____

BUSINESS PHONE: (202) 463-0465

86040520408

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

NAME OF COUNSEL: William C. Oldaker, Esquire

ADDRESS: Leslie J. Kerman, Esquire
Epstein Becker Borsody & Green, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: (202) 861-0900

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.

10/30/84
Date

Philip M. Steiner
Signature

RESPONDENT'S NAME: The Campaign Research
Institute, Inc.

ADDRESS: 2000 P Street, NW Suite 409
Washington, D.C. 20036

HOME PHONE: _____

BUSINESS PHONE: (202) 296-6580

36040520409

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1809

NAME OF COUNSEL: William C. Oldaker, Esquire

ADDRESS: Leslie J. Kerman, Esquire
Epstein Becker Borsody & Green, P.C.
1140 19th Street, N.W., Suite 900
Washington, D.C. 20036

TELEPHONE: (202) 861-0900

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.

Oct. 30, 1984
Date

James P. Boyd
Signature

RESPONDENT'S NAME: The Project for Investigative
Reporting on Money and Politics

ADDRESS: PO Box 770
Madison, VA 22727

HOME PHONE: (703) 672-3166

BUSINESS PHONE: (703) 672-3166 (202) 296-6580

86040520410



The Times-News

P.O. Box 548

Twin Falls, Idaho 83301

208-733-0931

OGCH 5429
RECEIVED AT THE FEC

NOV 1 10:40

NOV 1 11:06
RECEIVED
DIRECTOR OF THE
GENERAL COUNSEL

October 29, 1984

Ms. Beverly Kramer
Federal Election Commission
Washington, D. C. 20463

Dear Ms. Kramer:

This letter is in response to a letter of October 15 from your office concerning an allegation raised by Rep. George Hansen of the Second Congressional District of Idaho that certain Times-News articles, and the way in which they were funded, constitute violations of the Federal Election Campaign Act.

After a careful review of both the congressman's allegations and the relevant law in this area, it is our opinion that the complaint against The Times-News lacks substance and should be dismissed. In our opinion, the congressman's letters to your office of Sept. 26 and Sept. 17 contain numerous errors of both fact and opinion. Furthermore, we believe newspaper reporting is specifically exempt from the FECA under the language of U.S. Code, Title II, Sect. 431-9bi. Additionally, the main controlling legal case in this area, Buckley vs. Valeo, 424 U.S. 1 (1975) and subsequent rules of the commission itself employing that decision's language suggest that the articles by The Times-News did not violate the "express advocacy" standard set out by the Supreme Court in that case. It is our opinion that the ongoing coverage of politics and public officials by the American press is within the affirmative intent of the First Amendment of the U. S. Constitution. Such coverage, in which The Times-News is routinely engaged, does not constitute an "in-kind" contribution to an elected official's opponent.

Let me give a bit of background. The Times-News is a 22,000-circulation, seven-day daily newspaper in Southern Idaho, in Rep. Hansen's district. It is the major daily newspaper for eight counties. In March and April 1984, The Times-News sent a reporter to Washington to cover the trial of Rep. Hansen, who had been indicted for alleged violations of the Ethics in Government Act. He was convicted of four felony violations and has been both reprimanded by the full House and sentenced to 15 months in prison. The conviction is under appeal.

86040620411

October 29, 1984

Following the conviction, The Times-News decided to further follow up on several avenues which had either come up directly or which had been alluded to in the trial. These avenues involved Hansen's financial affairs.

We were aware of the Project for Investigative Reporting on Money in Politics through its advertising in national journalism magazines and we asked the organization about the procedures for filing a grant request to help defray investigation expenses. A grant proposal was developed in June and was approved in July. There were absolutely no strings of any kind attached to the \$1,750 grant, nor any preconditions as to whether The Times-News was even obligated to produce any stories. The stories which resulted were entirely the product of the newspaper alone. The money was to fund a trip for our reporter to Washington to examine records, conduct interviews and gather information concerning reports we had obtained from various sources on alleged secret bank accounts, large loans from individuals, and financial support from various religious organizations. Our reporter examined aspect of these allegations for several weeks in June in Idaho, and then in Washington through the month of July. We published several stories based on that research, which we enclose.

We do not think that the investigative reporting by The Times-News on the financial affairs of its congressman, a convicted felon, in any way violates the FECA regulation of political speech. There are two basic arguments for this.

One, the FEC act itself exempts newspaper stories specifically in Sect. 431-9bi. That exemption covers "any news story distributed . . . through newspapers." That language seems very clear.

Two, under the "express advocacy" test of Buckley vs. Valeo, reporting of the type The Times-News conducted is, in our view, also outside the purview of the FECA act. Consider the following questions:

- 1.) Do the news articles use any of the words of express advocacy, such as "elect, support, cast your ballot for, defeat, reject?" The answer is no.
- 2.) Is the election referred to? Only obliquely.
- 3.) Are readers urged to act on policy issues discussed? No.
- 4.) Is the candidate's opponent mentioned favorably? No.
- 5.) Is the reporting an isolated foray into criticism and analysis of this public official's performance? No.

The reporting on Rep. Hansen, through his indictment, trial and conviction has been extensive. Perhaps no Idaho politician has

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October 29, 1984

been covered as completely throughout his career. The Times-News has endeavored to provide a balanced picture of the congressman's battles by publishing, on its editorial page and in its news columns, explanations by Hansen himself, members of his staff, family, and supporters.

In the absence of any "yes" answers to those questions, we do not see how the reporting by The Times-News in the present case can be construed to have violated the "express advocacy" standard of Buckley vs. Valeo. In Buckley, the court considered the language of the FECA and wrote that: "The key operative language of the provision limits any expenditure relative to a clearly identified candidate . . . (There) is no definition clarifying what expenditures are "relative to" a candidate. The use of so indefinite a phrase as "relative to" a candidate fails to clearly mark the boundary between permissible and impermissible speech." " . . . " to preserve the provision against invalidation on vagueness grounds, (it) must be construed to apply only to expenditures for communications that in express terms advocate the election or a defeat of a clearly identified candidate for federal office."

We believe the reporting in this matter by The Times-News is well within the constitutional protection afforded by the First Amendment, the language of the Federal Election Act and the "express advocacy" standard and that the grant from the Project for Investigative Reporting was completely legal and appropriate. In our view, the complaint by the congressman is without merit and should not proceed beyond the "Matter Under Review" stage.

We look forward to hearing from you relative to this matter. At this time, we will not submit a designation of legal counsel, but reserve the right to do so in the future.

Sincerely,



Stephen Hartgen
Managing Editor

86040620413

FEDERAL ELECTION COMMISSION

1325 K STREET, NW
WASHINGTON, DC 20463

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE, \$300

POSTAGE AND FEE PAID
FEDERAL ELECTION COMMISSION

David Weir
Executive Director
Center for Investigative Reporting
1419 Broadway, Room 600
Oakland, California 94612

CERTIFIED
#943867

4 1 4 2 0 4 1 4
6 0 5 0 4 0 9 8

U.S. MAIL



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Weir
Executive Director
Center for Investigative
Reporting
1419 Broadway, Room 600
Oakland, California 94612

Re: MUR 1809

Dear Mr. Weir:

This letter is to notify you that on September 28, 1984 the Federal Election Commission received a complaint which alleges that Center for Investigative Reporting 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 1809. 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 Center for Investigative Reporting 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.

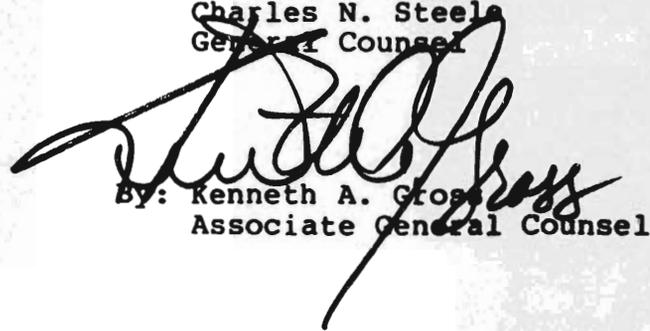
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

85040520415

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter at (202) 523-4143. 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

86040520416



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 15, 1984

The Honorable George Hansen
1125 Longworth Building
Washington, D.C. 20515

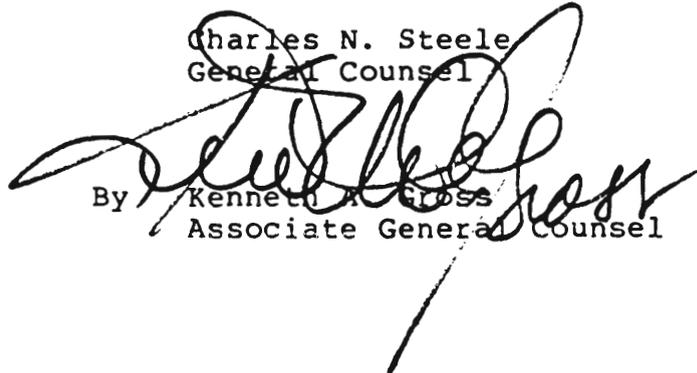
Dear Congressman Hansen:

This letter is to acknowledge receipt of your complaint which we received on September 28, 1984, against Project for Investigative Reporting on Money in Politics, Twin Falls Times News, Phillip Stern, The Stern Fund, Center for Investigative Reporting, Campaign Finance Research Institute, Inc. and Citizens Against PACs, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent 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 Barbara A. Johnson at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By 
Kenneth A. Gross
Associate General Counsel

Enclosure

86040520417



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Phillip Stern
Co-Chairman
Citizens against PACs
2000 P Street, N.W., Suite 408
Washington, D.C. 20036

Re: MUR 1809

Dear Mr. Stern:

This letter is to notify you that on September 28, 1984 the Federal Election Commission received a complaint which alleges that Citizens Against PACs 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 1809. 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 Citizens Against PACs 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.

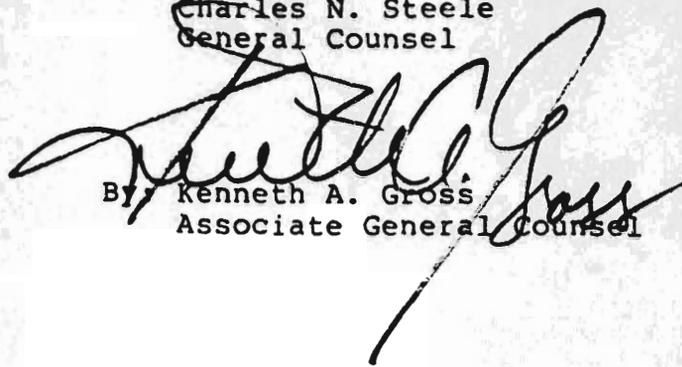
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

85040520418

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter at (202) 523-4143. 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

85040620419



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Boyd
Executive Director
Campaign Finance Research
Institute, Inc.
2000 P Street, Suite 408
Washington, D.C. 20036

Re: MUR 1809

Dear Mr. Boyd:

This letter is to notify you that on September 28, 1984 the Federal Election Commission received a complaint which alleges that Campaign Finance Research Institute, Inc. 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 1809. 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 Campaign Finance Research Institute, Inc. 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.

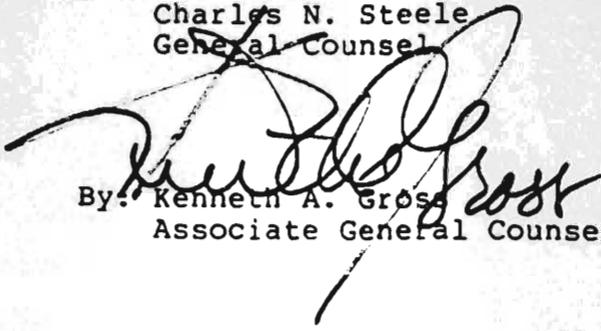
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

96040520420

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter at (202) 523-4143. 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

96040520421



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Weir
Executive Director
Center for Investigative
Reporting
1419 Broadway, Room 600
Oakland, California 94612

Re: MUR 1809

Dear Mr. Weir:

This letter is to notify you that on September 28, 1984 the Federal Election Commission received a complaint which alleges that Center for Investigative Reporting 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 1809. 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 Center for Investigative Reporting 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.

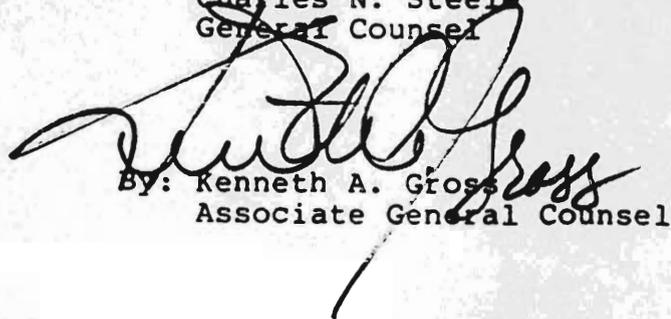
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

85040620422

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter at (202) 523-4143. 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

86040520423



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steven Hartgen
Editor
Twin Falls Times News
132 Third Street West
Twin Fall, Idaho 83301

Re: MUR 1809

Dear Mr. Hartgen:

This letter is to notify you that on September 28, 1984 the Federal Election Commission received a complaint which alleges that Twin Falls Times News 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 1809. 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 Twin Falls Times News 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.

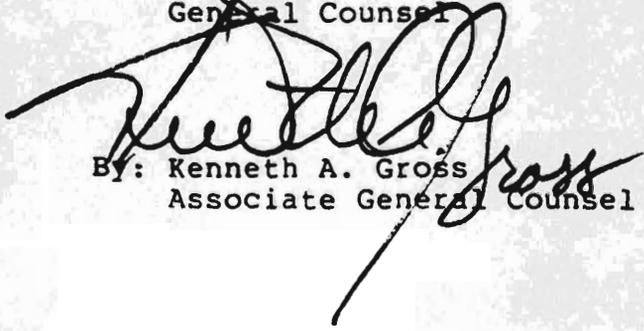
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

86040520424

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter at (202) 523-4143. 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

85040520425



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Boyd
Director
Project for Investigative
Reporting on Money in Politics
Box 770
Madison, Virginia 22727

Re: MUR 1809

Dear Mr. Boyd:

This letter is to notify you that on September 28, 1984 the Federal Election Commission received a complaint which alleges that Project for Investigative Reporting on Money in Politics 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 1809. 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 Project for Investigative Reporting on Money in Politics 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.

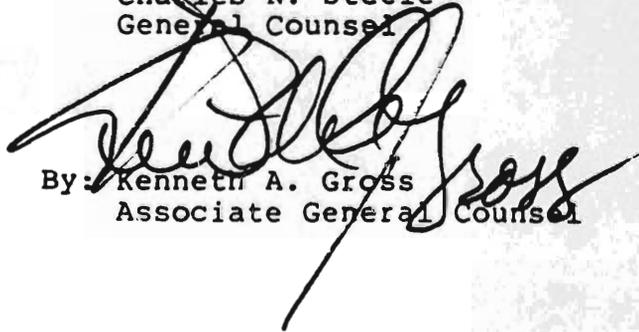
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

86040520426

If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter at (202) 523-4143. 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

8 5 0 4 0 5 2 0 4 2 7



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Phillip Stern
The Stern Fund
370 Lexington Avenue
New York, New York 10017

Re: MUR 1809

Dear Mr. Stern:

This letter is to notify you that on September 28, 1984 the Federal Election Commission received a complaint which alleges you and The Stern Fund 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 1809. 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 and The Stern Fund 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.

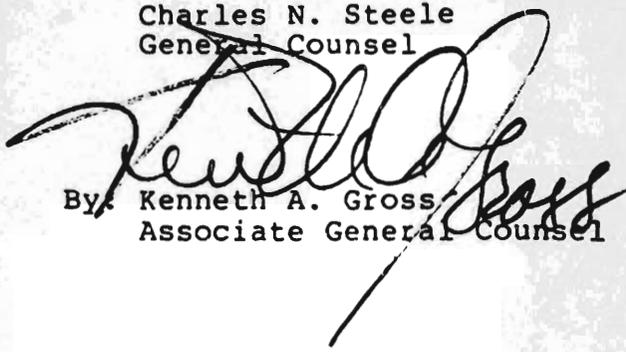
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Beverly Kramer, the staff person assigned to this matter at (202) 523-4143. 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

86040520429

GEORGE HANSEN
SECOND DISTRICT, IDAHO

1128 LONGWORTH BUILDING
WASHINGTON, D.C. 20515
TEL: (202) 225-3631

COMMITTEES-SUBCOMMITTEES:

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FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE

INTERNATIONAL TRADE, INVESTMENT
AND MONETARY POLICY



Congress of the United States
House of Representatives
Washington, D.C. 20515

GCC # 4898

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205 NORTH GARDEN STREET
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RECEIVED
OFFICE OF THE
SECRETARY
SEP 28 AIO: C3

September 26, 1984

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

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1809

Dear Members of the Commission:

Pursuant to the information contained in your response of September 20 to my letter of September 18, I am sending this amendment to that original letter. I call to your attention that the original letter was an inquiry and not a complaint. I send this communication in the form you require, not to procure the prosecution or legal sanction of anyone, but rather to secure the view of the Federal Election Commission as to the propriety of certain actions which appear to be a case of novel impression. To reiterate my basic concern: Is there a legal or ethical stricture against surreptitious funding by tax exempt organizations of purported news articles, the basic purposes of which is to influence the outcome of a federal election?

In the case in point, as I have advised you in my earlier correspondence, the immediate grantor is an organization which calls itself the Project for Investigative Reporting on Money in Politics. Its address is Box 770, Madison, Virginia 22727. Its director is a man who gives his name as James Boyd.

The funding source of that project is, according to Mr. Boyd, an organization called the Campaign Finance Research Institute, Inc. Mr. Boyd refused to divulge the address of that organization and there is no public record now available to me from which I am able to determine that information or indeed whether there is such an organization.

Both Mr. Boyd and the Stern Fund itself acknowledge that the Stern Fund, located in New York City, and Philip Stern himself provided the money from which the grant in question was made.

The Twin Falls Times News is located at 132 Third Street West, Twin Falls, Idaho 83301. That newspaper, through its editor, Steven Hartgen applied for the grant for the purpose of attacking one candidate for federal office. The fund was expended by a reporter named Rick Shaughnessy, who in addition to the Project

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for Investigative Reporting is also employed by the Times News.

Since my original letter Philip Stern has appeared on the television program "60 Minutes" (copy of the transcript of that portion of the program is attached hereto) on September 23, 1984. During that program, he acknowledges that he directs yet another organization devoted to influencing Federal Elections called "Citizens against PACs".

The list of organizations in which Mr. Stern is personally involved and which devote a substantial part of their donations from Mr. Stern and others to influencing federal elections is impressive.

Based upon public admissions, Mr. Stern, personally and through the Stern Fund, spends a substantial sum of money using the following organizations as conduits:

- The Center for Investigative Reporting
- The Project for Investigative Reporting on Money and Politics
- The Campaign Research Institute, Inc.
- Citizens Against PACs

In each instance, Stern and his alter egos select one of two candidates for public federal elective office and attack that candidate to the exclusion of the other. There appears to be no public record that Stern or his organizations ever have filed financial statements with the Federal Election Commission as either independent campaign organizations or as organizations for which the beneficiary candidate is responsible.

My original question remains. Is activity by tax exempt organizations in which money and in kind expenditures are made for the purpose of influencing a Federal Election ethical or legal under the existing law? Are not many of the expenditures, made by corporations, illegal as corporate contributions? Are these expenditures reportable under the law? Does the requirement to report include the grant recipient organizations, including newspapers which accept the advertising of such groups without disclosing the source? Are newspapers included under the Federal Election law to the extent that they must report in kind services to a candidate for which they receive grants or donations from third parties?

The newspaper article which makes the admissions to which I referred in my letter of September 18 was attached to that letter. All other matters remain as I alleged in my original letter which I append and make part of this document by reference.

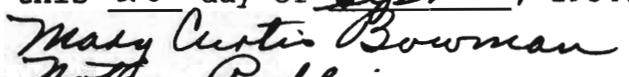
Sincerely,

 District of Columbia

GEORGE HANSEN
Member of Congress

GVH:jg

*Subscribed and Sworn before me
this 26 day of Sept, 1984.


Notary Public
Comm. expires May 30, 1989

85040620431

GEORGE HANSEN
SECOND DISTRICT, IDAHO

1125 LONGWORTH BUILDING
WASHINGTON, D.C. 20518
TEL.: (202) 225-5531

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REGULATION AND INSURANCE

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AND MONETARY POLICY



Congress of the United States
House of Representatives
Washington, D.C. 20515

September 17, 1984

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TEL.: 734-6466

WESTERN IDAHO
442 BORAH FEDERAL BUILDING
304 NORTH 8TH STREET
BOISE, IDAHO 83701
TEL.: 334-1676

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

Dear Members of the Commission:

I attach an article from the Twin Falls, Idaho Times News, one of the major newspapers in my Congressional District. Although the article does not acknowledge it, the admissions contained in this article were the result of my discovery of the connection between the newspaper, its reporter, and certain tax-exempt organizations which appear to be funding activities aimed at influencing federal election campaigns.

I also attach my two letters to the editor of the Times News which provoked the article. The second of these letters makes demand for a copy of the grant application for these funds, the terms of which would be very significant to the issue raised herein. The newspaper has declined to disclose this information.

The admission made in that article raises several questions which fall under the jurisdiction of the Federal Election Commission. I list some of these questions regarding the legal use of Foundation funds to influence an election below and request your prompt consideration of this matter and prompt action to curtail what appear to be improper activities by the newspaper, the tax-exempt foundations or both.

1. Does the grant of money for the specific purpose of adversely influencing the campaign for federal office of a candidate constitute a campaign contribution to the election campaign of that candidate's opponent?
2. Would such a grant be an independent contribution or a direct contribution?
3. Would such a grant be an illegal contribution by a corporation?
4. Is the newspaper which receives such contributions required

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to report them either as an independent committee or as a campaign committee of the candidate for whose benefit the contributions were made?

5. Having received money for the purpose of denigrating one candidate, is the newspaper required to advertise that its stories, produced, either in whole or in part, out of those contributions, are political advertising for the opposing candidate?

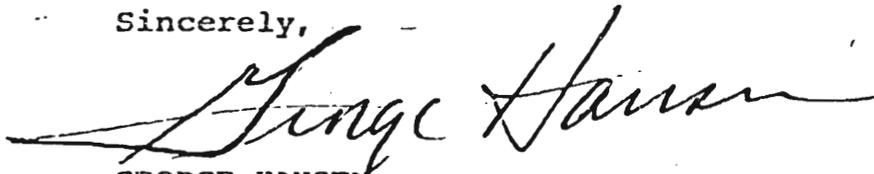
6. Is the offer of money by the tax-exempt organization for the purpose of influencing a federal election a bribe under federal criminal law?

6. Is the acceptance of that money for such purpose also a criminal act?

Certainly any targeting of candidates by outside influences contaminating the press to poison the public for a particular brand of ideology should be properly identified and effectively dealt with.

The facts admitted by the newspaper are being transmitted for appropriate consideration to the Exempt Organizations Branch of the Internal Revenue Service as to whether financing political campaigns is within the proper function of a tax-exempt organization. But a further question also arises about whether these activities are duplicated in other Congressional Districts as well. Your investigation is therefore of considerable national importance, and I urge a prompt and thorough review.

Sincerely,



GEORGE HANSEN
Member of Congress

GVH:at

85040520433

Times-News obtained grant to aid

By STEPHEN HARTGEN
Times-News managing editor

The Times-News applied for and received a \$1,750 grant from a tax-exempt, non-profit foundation to help fund a trip to Washington, D.C. for staff writer Rick Shaughnessy in August to explore the campaign finances of Rep. George Hansen.

The grant came from The Project for Investigative Reporting on Money in Politics, based near Washington in Madison, Va. The group is "strictly non-partisan," according to a grants flier from the group soliciting applications which was distributed to many news organizations in 1983.

"The sole purpose of its grants will be to research and expose campaign finance abuses, without regard to political affiliation or ideology, and without regard to the effect on any electoral contest," the flier states.

The Times-News paid Shaughnessy's salary during his four weeks in the Washington area, during which he examined various public records, interviewed both public officials and private individuals concerning the Unification Church and Hansen's campaign finances. Shaughnessy also interviewed one of Hansen's neighbors and spoke by telephone with two members of Hansen's church.

The grant paid for Shaughnessy's flight, copying expenses, telephone calls and in-

cidental expenses around the Washington area. In addition, it paid for two trips by Shaughnessy to Eastern Idaho in June and July, during which he interviewed people who had loaned Hansen varying amounts of money.

The grant Project's executive director, Jim Boyd, told The Times-News that the group has a tax-exempt status from the Internal Revenue Service. He said it derives its money from about ten other tax-exempt foundations, which each contributed between \$5,000 and \$10,000 to launch the Project's program.

Among the contributing foundations are the Poynter Fund, the Joyce Fund, the Ottlinger Trust, and the Stern Family Foundation. Some of the ten, he said, are foundations of

TIMES-NEWS
9-16-84

in funding for stories

American journalistic families and newspaper owners.

One of the Project's founders, Philip Stern, said in a newspaper trade journal last year that "This is a particularly important moment to encourage investigative reporting on money in politics. The public and the press are increasingly concerned about the explosive growth of campaign money and its influence on public policy-making. This grant program is designed to heighten journalists' interest in that area."

"Hopefully, grants to investigative journalists to supplement what the publication or broadcaster can pay will enable reporters and editors to undertake stories they would otherwise let pass," Stern said.

According to Boyd, the grant requests are reviewed by a independent, non-partisan board of journalists, which has no involvement with any of the contributing foundations.

The members of the review board include James Polk, NBC News, Washington; Myrta Pulliam, features editor, The Indianapolis Star, Indianapolis and president of Investigative Reporters and Editors, Inc.; Aaron Epstein, Knight-Ridder correspondent, Washington; Les Payne, Newsday; and Bob Walters, Newspaper Enterprise Association syndicate, Washington.

The Times-News grant proposal was submitted June 5 and approved unanimously July 23. Shaughnessy travelled to Washington Aug. 3 and returned Aug. 30.

T.N. 9-16-84

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SECOND DISTRICT, IDAHO

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House of Representatives
Washington, D.C. 20515

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304 NORTH 8TH STREET
BOISE, IDAHO 83701
TEL.: 334-1876

September 14, 1984

Mr. Steve Hartgen
Editor
The Times News
132 Third Street West
Twin Falls, Idaho 83301

Dear Steve:

After my letter to you yesterday, Mr. Shaughnessy called and left a message that he had misinformed me and that the source of his funding was an alleged organization called the Project for Investigative Reporting on Money and Politics.

My letter remains essentially unimpaired by this correction of alleged misinformation. However, in order to have this matter resolved, I ask you to provide me immediately the grant application of funds for Mr. Shaughnessy which he says that you both knew of, approved and have possession of.

Sincerely,

GEORGE HANSEN
Member of Congress

GVH:at

86040520435

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SECOND DISTRICT, IDAHO

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Congress of the United States
House of Representatives
Washington, D.C. 20515

September 13, 1984

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TEL: 734-6466

WESTERN IDAHO
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304 NORTH 8TH STREET
BOISE, IDAHO 83701
TEL: 334-1876

Mr. Steven Hartgen
Editor
The Times News
132 Third Street West
Twin Falls, Idaho 83301

Dear Steve:

I was contacted today by your reporter, Rick Shaughnessy, who appears to have spent the better part of the past two months trying to produce some reportable mud about my personal life. I informed Mr. Shaughnessy that I was continuing a policy of refusing to talk to him on such matters on the basis of his personal involvement in the election campaign of my political opposition and his recent admission that you have me targeted.

During the course of the conversation, he admitted to me that he had, with your knowledge and consent, accepted a grant from the Center for Investigative Reporting, a tax-exempt organization based in Oakland, California, for the specific purpose of funding his extended attempt to involve me in a politically harmful story.

This fact alone raises in my mind serious questions about the use of your local newspaper for radical, ideological purposes. While I have no question that the Gannett organization would stoop to such activity, it seems a misuse of the trust which your readers repose in the Times News. No public acknowledgement is made ever that Shaughnessy is paid, as a hired gun, at least in part, by an organization with direct links to the Stern Fund in New York and the Institute for Policy Studies (IPS), the most notorious left-wing think tank in Washington; not to mention the Playboy Foundation, one of the most corrosive influences in destroying the moral fibre of America.

No comment is necessary about the ethical considerations involved in a kind of leasing of your newspaper's circulation to radical leftist organizations. It does appear to me that you owe your public a frank acknowledgement of the connection of your editorial content with organizations with an open ideological commitment to the destruction of the free enterprise system. I can under-

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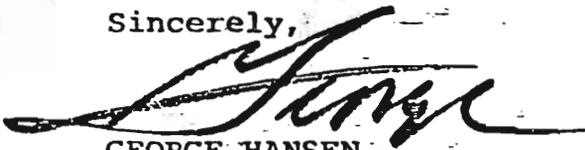
Mr. Hartgen
September 13, 1984
Page 2

stand political opposition based upon clearly stated criteria, but I cannot understand political opposition based upon premises which are not and apparently cannot be openly admitted.

An attempt to verify the funding of Shaughnessy by these leftist forces only strengthens my misgivings. Although he admitted to me personally that the Center for Investigative Reporting (CIR) was funding him, and that the Stern Fund was the ultimate source of that funding, Dan Noyes, a founder and director of the CIR went to great pains to deny that CIR had ever heard of Rick Shaughnessy. Is connection with that group so disreputable that they are forced to lie about their connection with the Times News?

I think that it is time that the Times News either stops pretending to objectivity or explains itself to its own readers.

Sincerely,



GEORGE HANSEN
Member of Congress

GVH:at

86040620437

60 MINUTES
"CONGRESSMAN FOR SALE?"

VOL. XVII, No. 2

FINAL -- 9/23/84

REASONER:

Buying a congressman's vote is illegal -- it's bribery. But giving money to a congressman in the hopes he'll vote the way you want -- or at least listen to you -- is perfectly legal. It's done every day -- and every year in a bigger way by Political Action Committees -- or PACs.

Every special interest group seems to have a PAC -- there are about 4,000 of them. Among those with more than a million dollars to give away are the PACs of the realtors, the doctors, the seafarers union, the dairy farmers and conservatives.

And each PAC can give as much as \$10,000 to a congressman -- maybe yours.

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REASONER: (continued):

The Federal Election Commission keeps track of who gives what to whom; but one private citizen, at least, is going through the computerized files and getting that information out to the grassroots. And congressmen don't like it.

PHILIP STERN:

With the nearest ocean five hundred miles away, why did Congressman Hubbard get \$45,000 in campaign gifts from the maritime industry? A clue we suggest: he is a member of the House Merchant Marine Committee that handles all shipping legislation and, therefore, he is in a special position to do favors for the maritime interests.

REASONER:

The ad about Congressman Carroll Hubbard, Jr., a five-term democrat from western Kentucky, was placed in four local newspapers by Philip Stern. Stern is a

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REASONER: (continued):

writer, a liberal activist, and philanthropist, and he's heir to a Sears Roebuck fortune. So far this election year his organization, Citizens Against PACs, has taken on ten congressmen.

Why did Representative Martin Frost help the dairy lobby milk his constituents?

What is Representative Henson Moore going to do with \$467,000 in leftover campaign money? Take it with him?

Who does Representative Mickey Edwards care more about? You and your vote? Or the auto dealers and their money?

One of the ads took on the powerful Chairman of the House Ways and Means Committee, Dan Rostenkowski of Chicago.

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PHILIP STERN:

And our ad said, what is Congressman Rostenkowski going to do with a half million dollars of left-over campaign money -- take it with him?

He is safely ensconced in a heavily democratic district, has not gotten less than 80% of the vote since 1974. Starts out with \$224,00 in the bank, safe district. Nonetheless, he raises another half million dollars.

REASONER:

Congressman Rostenkowski oversees the writing of tax legislation and that's of major interest to PACs. He declined to be interviewed by 60 MINUTES. But in early 1982, he told CBS News...

R 6 0 4 0 5 2 0 4 4 1

CONG. ROSTENKOWSKI:

The PACs that are making those contributions are aware that, by that contribution, doesn't necessarily mean that I'm going to, I'm going to support their position. I don't discourage the rendering of a campaign contribution, but there's no commitment.

CONG. FRANK:

Those who tell you it has no effect at all are asking you to believe that somehow we've discovered a race of people who can regularly accept large amounts of money from perfect strangers for very important reasons and then be totally unaffected by it in their behavior.

REASONER:

Congressman Barney Frank, an incumbent democrat, found himself running against an incumbent republican when two congressional districts were combined in Massachusetts. In the 1982 election he raised and spent more money than anyone else in his race for congress.

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CONG. FRANK:

I raised a million and a half, my opponent raised about a million.

REASONER:

About \$225,000 of Frank's money came from PACs.

CONG. FRANK:

I don't think it's a corrupt system but it's a distorted system. Some people will say well, they don't buy my vote, they buy access, but time is our scarcest commodity. If you have bought twenty minutes with a committee chairman or a powerful member, that's very valuable.

REASONER:

The more money a congressman gets from PACs, the more likely he is to be a subject of one of Stern's ads. House Republican leader, Robert Michel of Illinois was a target.

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PHILIP STERN:

And our headline was: Why did the Ocean Spray Cranberry PAC give \$2,000 to Congressman Michel? He got more than two-thirds of his 1982 campaign money, not from the voters of his district, from, but from groups outside his district who had only a remote interest in the welfare of Peoria, Illinois.

REASONER:

The Michel campaign contended that the list of PACs which contributed to that campaign is so large and so varied as to make charges of influence peddling laughable.

PHILIP STERN:

I think that answer is laughable. If anyone of those lobbyists comes in and says, remember me, I gave you \$2,000, Michel will remember him.

REASONER:

Michel's campaign chairman said that your ads go way too far, that there's something just short of pure political character assassination. Your response?

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PHILIP STERN:

If Congressman Michel resents the inference that is being drawn from those facts, let him change the system. Congress made these laws and they can change them.

REASONER:

Stern believes that Congress must be made uncomfortable before it will reform itself and he is relentlessly bipartisan in his targets for embarrassment. For example, liberal democrat Jeff Bingaman, freshman senator from New Mexico.

PHILIP STERN:

The headline was: Why did Senator Bingaman allow the doctors lobby to butter its bread on both sides?

REASONER:

The American Medical Association had given Bingaman's conservative republican opponent \$7,500 but the opponent lost and after the election, on December 29th, 1982...

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PHILIP STERN:

The AMA reached into its little black bag and lo and behold, it found \$10,000 it wanted to give to Jeff Bingaman and did.

REASONER:

Senator Bingaman said in a letter to one of your board members: "The allegation that the AMA or any other organization which has contributed to my campaign has first claim on my ear is false and offensive." Now did you go too far in your assertion?

PHILIP STERN:

No sir. We said to him if you want to disabuse AMA and your voters of any such idea, send the money back. And his response: "I can't afford to." If he can't afford to do without AMA money now, five years before his re-election, how is he going to fend off the blandishments of those, of AMA and other PACs, when he is in the heat of his next re-election campaign?

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PHILIP STERN:

This law...

REASONER:

Philip Stern worked for passage of the 1974 Federal Election Law that brought public financing, contribution limits, and spending ceilings to presidential elections. He'd like to see the same rules applied to congressional elections and he'd like to eliminate PACs, the loophole created by the 1974 law. Then reform was aided by the scandal of Watergate. Now he feels there is only scandal waiting to happen. Stern hopes his ads will get constituents angry enough to ask embarrassing questions of their congressmen and begin the process of campaign finance reform.

Not only outsiders, do-gooders, idealists and gadflies like Citizens Against PACs are concerned about the large amount of special interest PAC money in congressional campaigns.

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REASONER: (continued):

Widely respected members of congress, like Representative Barber Conable, the ranking republican member of the Ways and Means Committee, also see the danger.

CONG. CONABLE:

I think the public has a right to be worried about it. My impression is that even the perception that congress is being bought is dangerous.

REASONER:

Congressman Conable, who is retiring after 20 years of representing the voters of Rochester, New York has had a policy of accepting no more than fifty dollars from any source other than the party itself.

CONG. CONABLE:

It's meant something to the people I've represented because they felt that I couldn't very well be bought for fifty dollars.

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REASONER:

Sometimes congressmen seem to want to be seduced.

CONG. CONABLE:

Well it's not a matter of their being seduced so much as they feel to be safe they've got to have large sums of money to spend on media advertising to defend their incumbency.

REASONER:

It's incumbents who make the election rules and they rake in the PAC money -- three and a half times more than the challengers.

Bill Olwell knows this. He directs the PAC of the largest union in the AFL-CIO. This election, his United Food and Commercial Workers will give close to two million dollars to candidates. About 75% of it will go to incumbents.

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BILL OLWELL:

If you go back over 40 years 92% of all incumbents that run for re-election are re-elected.

REASONER:

Are you, as a man who has to live with it, satisfied with the system?

BILL OLWELL:

Absolutely not. I think it's a crazy system. I think we ought to really sit down and really think what we're doing to American politics.

REASONER:

Bill Ollwell's dissatisfaction with the influence of money in politics is shared by Ned Cabot who directs the PAC of the Equitable Life Insurance Company.

NED CABOT:

The life insurance PAC doesn't represent my interests as a father, a resident of a city, somebody who's interested in the environment, lives near the water. It

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NED CABOT: (continued)

doesn't represent any of those things. It does what it's supposed to do, represent a single interest.

REASONER:

Cabot believes the general interest gets short shrift in a system where it's hard to run for congress without PAC Money.

CONG. CONABLE:

Well I'm old enough to remember the time when a young fellow, friends of mine, could get together with their friends and family and business associates and raise enough money to run for congress. In 1982, the average winner of a contested race, that is those, one in which the winner won by less than 55% of the vote, had to raise \$361,000 to get elected to the Congress of the United States.

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REASONER:

Richard Armstrong is the President of the Public Affairs Council -- the professional organization of corporate public affairs executives. The Council has defended PACs but also has sponsored meetings at which business-PAC directors have discussed ethical guidelines for corporate PAC giving.

RICHARD ARMSTRONG:

The stickiest kinds of questions are things like: Should you give money to a candidate who doesn't really need it?

REASONER:

Armstrong thinks congress should reform some of its worst practices -- like the use of excess campaign funds.

RICHARD ARMSTRONG:

It's shocking the use that they're making of these, they're allowed to put it in their office account, they're supposed to declare it as income, they are not declaring it as income, and they're going ahead and using it -- you know, Senator Cranston took singing

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RICHARD ARMSTRONG: (cont'd)

lessons, Dole decorated his office with some of these funds. D'Amato bought a couple of cars, that type of thing. So I think it might make some sense, I'm speaking for myself, that at the end of a campaign, if they've got some money left, that they give it to the party or give it back to the contributors, or give it to the Red Cross, something like that.

REASONER:

For the record, Senator Cranston hired a voice coach, but not for singing lessons. Senator Dole commissioned an efficiency study of his office, rather than redecorated it, though others in congress have used excess funds for redecorating. And Senator D'Amato leased cars instead of buying them, but he didn't use his own excess funds, he had his bills paid for him by the National Republican Senatorial Committee, one of the biggest PACs.

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REASONER:

All year long, at places in Washington like the Capitol Hill Club, incumbents go after PAC money by giving cocktail parties.

They're like charity fundraisers -- with tickets ranging from \$250 to \$1,000 except that the charity is the incumbent's re-election campaign.

In his district a congressman might charge \$50, \$25, or as little as \$10 for voters to attend a similar function.

If you receive a few such invitations in the mail, the head of a small PAC receives a boxfull. And not the ones for ten dollars.

Congressman and Mrs. Doug Walgren invite you to join them for a party of early risers. That's for breakfast -- 8:00 to 10:00 a.m. in Washington -- \$250 per person.

Congressman Allan Wheat and some democrats

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REASONER: (continued):

this time, that's \$250 -- that seems to be fairly standard. Senator Howard Baker and Senator Richard Lugar are hosting this one in honor of John M. Burris of Delaware who's a candidate -- \$500 per person.

CONG. CONABLE:

It does constitute, in my way of thinking anyway, a serious abuse potentially since the very people most affected by the work of the committee are the ones who come to those cocktail parties, feel they have to maintain the goodwill of the congressman.

REASONER:

Congressman Jim Leach, Republican of Iowa, now in his fourth term in congress, has never accepted PAC money -- a practice only a few of his colleagues have followed.

CONG. LEACH:

Who represents poor people when you have a system in which money is the primary influence peddler?

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CONG. LEACH: (continued)

In the last few major Senate elections, eastern unions, western oil interests have pumped spectacular sums of money into my state. We're a small business, we're a rural state, we're a farm state. And in Iowa it's nuts to have candidates indebted to eastern unions or, for that matter, Texas oil.

REASONER:

If you're a challenger and the money isn't dumped in your lap, you go after it. Congressman Leach told us how candidates do it. They go to K Street Northwest in Washington where so many PACs are located. It's sometimes called PAC Street.

CONG. LEACH:

They say I'd like money from your group. That group generally gives them, by the way, a questionnaire to fill out -- it has their name, their address, what they're running for. Then it says: how do you stand on issues? And the issues aren't abstract.

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CONG. LEACH: (continued)

They're not, do you support a balanced budget? Do you support a strong national defense? They are: do you favor a tax cut for this industry? Do you favor spending for that program? And then, depending on how you vote, or how you filled out the application, you get money.

REASONER:

Congressman Leach has co-sponsored legislation to limit the total amount of money that a candidate can receive from all PACs to \$90,000.

Do you have any indication that your colleagues are getting more concerned about all of this?

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CONG. LEACH:

Privately many say there's a huge problem. Publicly they throw up their hands and say there's nothing they can do about it. You present a bill, for example, on changing the system and they'll say well maybe we'll consider it next time, but I don't want to co-sponsor it because that'll hurt my campaign contributions in the next election.

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