



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

9-21-87

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 2516

87040654341

WINDELS, MARX, DAVIES & IVES

51 WEST 51ST STREET
NEW YORK, N.Y. 10019

(212) 977-9600

CABLE: WINMARLAW NY

TELEX:
DOMESTIC: 126959 (WU)
INTERNATIONAL: 66103 (WU)
& 126959 (WU)
TELECOPIER: (212) 977-9583

WILLIAM B. BIERCE
ERIC W. BRUNNER
ROY M. CARLIN
JAMES P. CONROY
ANTHONY A. DEAN
DANIEL V. DUFF, JR.
VICENTE GARCIA-DELGADO
MITCHELL A. GILBERT
ANDREW N. GRASS, JR.
ROGER I. HARRIS
WALTER F.J. HEALY
KEVIN R. KEATING
JOHN M. KRIZ
RICHARD R. LURY
ROBERT J. LYNCH
JOHN J. McDERMOTT
JONATHAN R. MOORE
RAYMOND T. MUNSELL
CRAIG P. MURPHY
EDWARD P. NOLAN
JAMES M. SHAUGHNESSY
EDWARD E. SHEA
KENNETH L. SPANGLER
JOHN Y. TAGGART
ROBERT D. TAISEY
PAUL WINDELS, JR.

RECEIVED AT THE FEC

QCC# 3957

87 JUL 20 AM: 24

COUNSEL

DERMCO IVES
JOHN T. OVIENS*

*ADMITTED IN PENNSYLVANIA AND DELAWARE ONLY

WASHINGTON OFFICE

1701 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006

(202) 775-5880

CABLE: WINMARLAW D.C.

TELEX:

DOMESTIC (WU): 897010

INTERNATIONAL (WU): 897010

TELECOPIER: (202) 775-0065

July 16, 1987

Federal Election Commission
Washington, D.C. 20463

Re: MUR 2516
William F. Buckley, Jr.

Gentlemen:

As evidenced by the enclosed Statement of Designation of Counsel, I represent William F. Buckley, Jr., described in the complaint filed in this matter given Docket No. MUR 2516 as William Buckley.

Mr. Buckley has no direct connection with Southern Educational Communications Association. As a result, your letter of June 30, 1987 was not received by him until July 15, 1987.

The complaint and request for emergency enforcement relief on its face does not give rise to any possible claim against Mr. Buckley.

Mr. Buckley, as host of Firing Line, a television program, did not make a "contribution" to any of the candidates appearing on the program by reason of his service as host, and his service as host was not "for the purpose of influencing any election." Furthermore, U.S.C.A. Section 441c(a), also cited as the statutory basis for the complaint, has no application to Mr. Buckley since he has no contract with the United States, and therefore is not inhibited by that section from making a contribution of money or other thing of value, not that he did so.

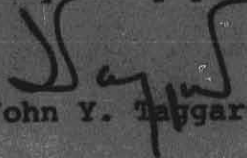
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RECEIVED
FEDERAL ELECTION COMMISSION
JUL 20 AM: 56

Federal Election Commission
July 16, 1987
Page Two

I respectfully ask that this complaint be dismissed
as it applies to William F. Buckley, Jr.

Very truly yours,


John Y. Taggart

JYT:mar
Enclosure

87040654343

SEVEN NOT TWO

CRANE & CO BOND DAI

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2516

NAME OF COUNSEL: John V. Taggart

ADDRESS: Windels, Marx, Davies & Ives
51 West 51st Street
New York, NY 10019

TELEPHONE: 212-977-9600

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.

7/16/87
Date

Wm F. Buckley, Jr.
Signature

RESPONDENT'S NAME: William F. Buckley, Jr.

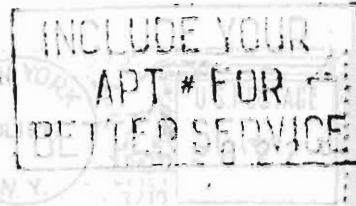
ADDRESS: 150 East 35th Street
New York, New York 10016

HOME PHONE: _____

BUSINESS PHONE: 212-679-7330

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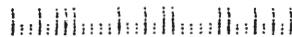
WINDELS, MARX, DAVIES & IVES
51 WEST 51ST STREET
NEW YORK, N. Y. 10019



Federal Election Commission
Washington, D.C. 20463

87 JUL 20 A10:24

RECEIVED AT THE FEC



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RECEIVED AT THE FECL

GCC # 4141



ANTHONY R. MARTIN-TRIGONA for PRESIDENT

DEMOCRAT / 1988

POST OFFICE BOX 1988, MIDDLETOWN, CONNECTICUT 06457

TELEPHONE (203) 347-0130

87 AUG 12

August 8, 1987

Mr. Lawrence M. Noble
Acting General Counsel
Federal Election Commission
Washington, DC 29463

87 AUG 12 A10:05

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

RE: MUR 2516 and other complaints (pending & enclosed)

Dear Mr. Noble:

This will respond to your letter of August 5th.

I am at a loss to understand why the Commission has acted as it did. Before seeking judicial review, which I would consider a waste of my time and your staff's time, I am asking for reconsideration. I realize that you recommended that the complaints proceed and that your views were rejected. Nevertheless, because I believed, and believe, the motion to dismiss to be frivolous and legally unfounded, I did not make as thorough a presentation as perhaps I might have.

I would like to make three points which are also stated as grounds for granting my motion.

First, as a candidate subject to regulatory jurisdiction, the law imposes burdens on me. If you were to read the injunction literally, as the Commission has done, I would need leave of the Commission to file as a candidate, open campaign committees and file financial reports. Obviously, no federal judge can place such restrictions on a candidate.*Likewise, read literally, I would have to get "leave" to file an income tax return or call the local police to report a burglary. Obviously, I do not. Even though I believe the injunction is a piece of malicious rubbish, it is still subject to a reading based on reasonable language. The injunction only seeks to restrict me from filing lawsuits or requests for personal/private relief. (See Part 2 below). In no way was it intended, nor could it be intended, to restrict my communications with government agencies without placing an absurd result on the injunction and its impact.

* To read the injunction as the agency seeks to do would suggest a federal judge can enjoin someone from being a candidate for office. Even in the age of the imperial federal judiciary, judges do not claim or seek to arrogate such powers to themselves, with the possible exception of Joe Cabranes in Connecticut.

87040654346

Lawrence M. Noble
page two
August 8, 1987

Because I am a candidate, there are legal duties imposed on me to obey the law, to make filings, and to ensure that violations by others are brought to your attention. In no way has such compliance with the law or reports of violations of the law been enjoined.

Second, the injunction contains within its terms an obvious "law enforcement" exception. This is critical because my complaint to the FEC does not start any proceeding. Enforcement action is taken by the FEC after investigating and evaluating my complaint. This is distinguished from a private law suit, where the filing of a law suit prompts private parties to appear or face default. My complaint to your agency is not an attempt to collect damages or to secure personal relief in the form of a judgment. It is merely to advise the agency that a violation of the law may have occurred, and to ask the agency to look into the matter and to take necessary and appropriate enforcement action. Nothing happens, however, until the agency conducts its own investigation, and decides whether to proceed.

To suggest that I have to obtain "leave" of an agency to report a violation of the law would reach an absurd result where I had to ask leave of the FBI to report a bank robbery. No one could intend such an absurd result, not even the author of the absurd injunction. Thus, since I have merely asked your agency to take law enforcement action by filing a request for such action, the injunction is not even implicated in such a request. Whether action should be taken is left up to the agency based on its own independent investigation. As I understand the law, moreover, your agency has an independent nondelegable duty to investigate violations of the law and to take enforcement action. I don't see how notice from a citizen that a violation may have occurred can be enjoined or in any way restrict your agency's duty to address the merits of the issues. When I complain, for example, that Jesse Jackson is opening illegal committees (as he has apparently done in Iowa) without complying with the law, how can I be "enjoined" from advising you of these facts to trigger your own independent law enforcement duties? It doesn't seem possible.

Third, there are two problems with the injunction that the agency can't ignore. What is it you want me to file? I have never had any prior actions with the respondents? As you correctly note, I raise serious issues, and I am filing new complaints directed at those issues. How does your agency expect me to comply. You have copies of the injunction, and since I have never sued any of the respondents, there is nothing more to file. Thus, even if I were to comply with the injunction, there would not be anything further to file, except to seek permission to file, which would be absurd in view of the fact I have already filed and the staff has recommended that my complaint is not frivolous and should go forward. The order attached to my response clearly modifies the injunction (as it has been modified on prior occasions by additional orders, so that the

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Lawrence M. Noble
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August 8, 1987

published order is no longer the complete or correct order) to state that "I am free to do so in forums of competent jurisdiction." If I read English as you read English, "free" means "free," which means there is no barrier placed on meritorious law suits in "forums of proper jurisdiction."

The respondents are using their injunction claims in bad faith for two reasons. One, I don't believe a federal judge in Connecticut can interfere with the law enforcement functions of your agency. As a candidate subject to your agency, while my campaign is pending I have the right and the duty to seek relief from the agency in all matters related to my campaign, and no one can enjoin me from seeking office. Second, the respondents have already announced plans to engage in what I believe are new violations of the campaign law.

Secondly, the district court in Connecticut has taken the view that it will only act when respondents complaint of a violation in that court. I am thus placed in a Hobson's Choice position. The court will only act when someone complains, but the respondents have never complained. Unless and until a violation has been found, your agency should not step in and act, and decide an issue, which the court in Connecticut has refused to resolve. Otherwise, there is no forum where I can resolve the matters properly. If your agency believes that I have violated the injunction, when I believe it does not apply and I have not, then I urge and invite you to file an immediate complaint in Connecticut, and to request a ruling. This is going to be a chronic and continuing problem. It is somewhat strange that I have legal duties imposed on me to report and to ensure that no violations of the law occur, but I am enjoined from doing my duty. It may well be that if the injunction is as you say it is, my reports should no longer be filed and I can just ignore the FEC. [I don't believe that is the case but if that is the way the agency reads the injunction, you may make it the case. The law can't swing both ways for the same person on the same issue.] Thus, since the district court in Connecticut has decided it will abstain, absent complaints from someone, I urge and invite you to file a complaint. In the absence of such action by the agency, my reports to the Commission of legal violations of the law should be processed normally as you indicated they will. As you can see the injunction is a mischievous document because it creates chaos from agencies and fora, and not for me. If you read it correctly and consistently, then your regulatory net over me might be at an end, which is not the result that you would want to achieve.

In closing, I believe the agency can and should resolve this matter by immediate reference to reconsideration and an immediate application in Connecticut (which respondents have never made). We can't just hold a presidential campaign in limbo, and hold the issues raised in limbo, while we figure out what to do. Furthermore, I have no particular desire to seek judicial review in Washington, because I would end up litigating against an agency staff that

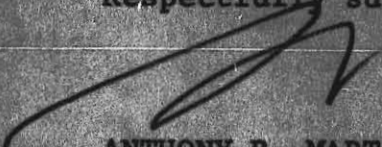
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Lawrence M. Noble
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August 8, 1987

recommended the complaint be processed. The District of Columbia court would no doubt have to defer to Connecticut, which puts us back where we began, because the Connecticut court has refused to act unless and until someone other than me files a complaint.*

I am prepared to cooperate with your staff in any lawful and appropriate manner. I ask that the issues raised in my petition be presented to the Commission at your earliest practical convenience.

Respectfully submitted,



ANTHONY R. MARTIN-TRIGONA

ARMF:sp

I certify I have served counsel for respondents with this letter and motion for reconsideration.



* A copy of that order is attached hereto for your reference.

NOTE

Attached to this letter is a court order from Connecticut. Out of an abundance of caution I should point out that many people are confused by court orders from Connecticut because they are entered in what I and many others find a strange manner. They type short orders across the face of the pleading, and the judge signs the pleading itself. The attached is a court order entered July 1, 1987 and signed by the district judge.

87040554349

7/1/87: Petitioner's actions will not be a cause for concern unless and until there is an actual case or controversy, viz, if and when the defendant in said case objects to the complaint on the ground that such filing violated the injunction. SO ORDERED.

Peter Dorsey, U.S.D.J.



ANTHONY R. MARTIN-TRIGONA for PRESIDENT

DEMOCRAT / 1988

POST OFFICE BOX 1988, MIDDLETOWN, CONNECTICUT 06457
TELEPHONE (203) 347-0130

June 25, 1987

Hon. Peter Dorsey
United States District Court
450 Main Street
Hartford, CT 06103

JUN 27 1987

Re: Martin-Trigona v. PBS (E.D. Va.)

Dear Judge Dorsey:

I want to bring the attached case to your attention. It was filed today in Virginia.

I did not attempt to comply with the purported injunction because there was simply no time to do so. In the context of a political campaign, the leave-to-file requirements, which takes from weeks to months, cannot have applicability, because by the time people figured out what to do, the campaign would have passed on.

I note that the Court of Appeals originally exempted political petitioning from the injunction. I believe that campaign-related litigation should fall within the same rubric. Your own order of June 3rd (copy attached) makes clear that the injunction is designed to curb litigation related to the cases before you.

Because of problems involving ballot access across the United States and related political problems, I am not going to be in a position to even try to comply with your injunction. Nor do I feel that a federal judge in Connecticut, or anywhere else, can constitutionally serve as a campaign czar of campaign-related litigation involving attempts to

1590

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I certify I have served opposing counsel with this motion.



ANTHONY R. MARTIN-TRIGONA for PRESIDENT

DEMOCRAT / 1988

POST OFFICE BOX 1988, MIDDLETOWN, CONNECTICUT 06457
TELEPHONE (203) 347-0130

August 8, 1987

Mr. Lawrence M. Noble
Acting General Counsel
Federal Election Commission
Washington, DC 29463

RE: MUR 2516 and other complaints (pending & enclosed)

Dear Mr. Noble:

This will respond to your letter of August 5th.

I am at a loss to understand why the Commission has acted as it did. Before seeking judicial review, which I would consider a waste of my time and your staff's time, I am asking for reconsideration. I realize that you recommended that the complaints proceed and that your views were rejected. Nevertheless, because I believed, and believe, the motion to dismiss to be frivolous and legally unfounded, I did not make as thorough a presentation as perhaps I might have.

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Lawrence M. Noble
page four
August 8, 1987

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Respectfully submitted,



ANTHONY R. MARTIN-TRIGONA

ARMT:sp

I certify I have served counsel for respondents with this letter and motion for reconsideration.



* A copy of that order is attached hereto for your reference.

NOTE

Attached to this letter is a court order from Connecticut. Out of an abundance of caution I should point out that many people are confused by court orders from Connecticut because they are entered in what I and many others find a strange manner. They type short orders across the face of the pleading, and the judge signs the pleading itself. The attached is a court order entered July 1, 1987 and signed by the district judge.

87040654355

Channel 11

5400 North St. Louis Avenue
Chicago, Illinois 60625
312/583-5000

WTTW
CHICAGO

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August 13, 1987

87 AUG 14 P 3: 22

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Susan Beard, Esquire
Federal Election Commission
Washington, D.C. 20463

Re: MARTIN-TRIGONA v. PBS

Dear Ms. Beard:

Enclosed please find the Statement of Designation Of Counsel,
in duplicate, for Chicago Educational Television Association. If
you have any questions regarding this matter, please contact me.

Sincerely,

Linda Hamer
Linda Hamer
Legal Assistant

Enclosures

8704054356

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2516

NAME OF COUNSEL: PBS or their outside counsel

ADDRESS: 1320 Braddock Place

Alexandria, VA 22314-1698

TELEPHONE: (703) 739-5063

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.

8/13/87
Date

Katherine Lauderdale
Signature
Katherine Lauderdale

RESPONDENT'S NAME: Chicago Educational Television Association

ADDRESS: 5400 N. St. Louis Avenue

Chicago, IL 60625

HOME PHONE: _____

BUSINESS PHONE: (312) 509-5545

87040654357

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2516

NAME OF COUNSEL: PBS or their outside counsel

ADDRESS: 1320 Braddock Place

Alexandria, VA 22314-1698

TELEPHONE: (703) 739-5063

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.

8/13/87
Date

Katherine Lauderdale
Signature
Katherine Lauderdale

RESPONDENT'S NAME: Chicago Educational Television Association

ADDRESS: 5400 N. St. Louis Avenue

Chicago, IL 60625

HOME PHONE: _____

BUSINESS PHONE: (312) 509-5545

87040554358

July 8, 1987

Express Mail

Federal Election Commission
Washington, D.C. 20463

Attention: Susan Beard, Esq.

07 JUL 9 4:30

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Re: MUR 2516

Dear Madam or Sir:

I am enclosing a designation of our representative in connection with Anthony R. Martin-Trigona's complaint.

Sincerely,



Glenn C. Schroeder
Vice President and General Counsel
Community Television of
Southern California

GCS:dg

cc: Steven Miles, Esq. (w/encl.)
Nancy Hendry, Esq. (w/encl.)

87040654359

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2516

NAME OF COUNSEL:

Arent, Fox, Kintner,
Plotkin & Kahn
1050 Connecticut Ave., N.W.
Washington, D.C. 20036

and Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314

Attn: Ted Frank or
Steven Miles

Attn: Nancy Hendry

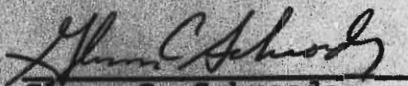
(202) 857-6000

(703) 739-5090

The above-named entities are hereby designated to act on behalf of the undersigned before the Federal Election Commission in the above-referenced matter, and are authorized to receive any pertinent notifications and other communications.

Date: 7/8/87

COMMUNITY TELEVISION OF
SOUTHERN CALIFORNIA

By: 

Glenn C. Schroeder
Vice President and
General Counsel

4401 Sunset Boulevard
Los Angeles, CA 90027

office phone (213) 667-9282
home phone: (213) 829-7258

87040654360



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2516
DATE FILMED 11/25/87 CAMERA NO. 3
CAMERAMAN A.S.

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PUBLIC RECORD INDEX - MUR 2516

1. Complaint, dtd 24 June 87, filed by Anthony R. Martin-Trigona.
2. Ltr, dtd 30 June 87, Lois G. Lerner (Assoc. General Counsel) to A. R. Martin-Trigona.
3. Ltr, dtd 30 June 97, L.G. Lerner to
 - a) William F. Buckley, Jr., b) Terrel Cass (Chm. Southern Educational Communications Association "SECA"), c) Gary Knell V.P. WNET Educational Broadcasting Corp. "EBC"), d) James L. Bauer (Gen Mgr. KUHT, University of Houston).
 - e) Arthur J. Singer (Gen Mgr. WENH-TV, University of New Hampshire "UNH:), f) Larry G. Pattern (Exec Dir. KDIN-TV, Iowa Public Broadcasint Board, g) William J. McCarter (Pres. Chicago Educational RV Assoc.), h) Anthony Tiano (Pres. KQED, Inc.), i) Ward B. Chamberlain, Jr. (Pres WETA Greater Washington Educational Telecommunications Assoc, Inc.), j) Bruce L. Christensen (Pres. PBS), k) William H. Robin (Pres. Community TV of Southern California), l) Henry P. Becton, Jr. (Pres. WGBH Educational Foundation), m) Preston Williams (Pres. Atlanta Board of Education).
4. Memo, 30 June 87, Lawrence M. Noble (Acting General Counsel) to The Commission, Subj: MUR 2516 - PBS, et al.
5. Certification of Commission action, 2 July 87.
6. Ltr, dtd 6 July 87, L.M. Noble to A.R. Martin-Trigona.
7. Ltr, dtd 7 July 87, W. Chamberlain to FEC w/atch (Statement of Designation of Counsel).
8. Motion to dismiss, dtd 8 July 87, filed by David Tillotson (Counsel for Public Broadcasting Service et al).
9. Statements of Designation of Counsel , dtd 8 July 87, Nancy Hendry and Victoria L. Eslinger for SECA.
10. Statement of Designation of Counsel, dtd 9 July 87, Nancy Hendry for EBC.
11. Statement of Designation of Counsel, dtd 16 July 87, Counsel for PBS same for IA Public Broadcasting Board.
12. Memo, 16 July 87, L.M. Noble to The Cmmission, Subj: Motion to Dismiss in MUR 2516.
13. Memo, 20 July 87, M.W. Emmons to L.M. Noble, Subj: Objections to G.C. Memo.

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14. Memo, 21 July 87, M.W. Emmons to L.M. Noble, Subj: Objections to G.C. Memo.
15. Ltr, dtd 21 July 87, D. Tillotson to FEC, Subj: Supplement to Motion to Dismiss.
16. Memo, 23 July 87, L.M. Noble to The Commission, Subj: Addendum to G.C. Memo, dtd 16 July 87.
17. Memo 27 July 87, L.G. Lerner to The Commission, w/atch (Response to Motion to Dismiss).
18. Certification of Commission action, 29 July 87.
19. Clsg ltr, dtd 5 Aug 87, L.M. Noble to A.R. Martin-Trigona.
20. Clsg ltrs, dtd 5 Aug 87, L.M. Noble to
a) John V. Taggart (re: William F. Buckley, Jr.), b) V.E. Enslinger (re: SECA), c) J.A. Millimet (re: UNH), d) P. Williams (re: Atlanta Board of Education), e) A. Tiano (re: KQED, Inc), f) W.F. McCarter (re: Chicago Educational TV Assoc.), g) J.L. Bauer (University of Houston), h) N.A. Hendry (re: PBS, wt al.), i) D. Tillotson (PBS), et al.).
21. Memo, 21 Aug 87, L.M. Noble to The Commission, Subj: Motion to Reconsider, w/atch (Motion to Reconsider).
22. Memo, 25 Aug 87, L.G. Lerner to The Commission, Subj: Motion to Reconsider, w/atch (Opposition to Emergency Motion for Reconsideration, 24 Aug 87, filed by D. Tillotson).
23. Ltrs, dtd 26 Aug 87, L.M. Noble to
a) A.R. Martin-Trigona, b) S.R. Miles (re: PBS).
24. Certification of Commission action, 27 Aug 87.
25. Ltr, dtd 27 Aug 87, L.M. Noble to A.R. Martin-Trigona.
26. Ltr, dtd 28 Aug 87, L.M. Noble to S.R. Miles.

-END-

NOTE: In preparing its file for the public record, O.G.C. routinely removes those documents in which it perceives little or no public interest, and those documents, or portions thereof, which are exempt from disclosure under the Freedom of Information Act.

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QCC# 3700
RECEIVED AT THE FCC
HAND DELIVERED
87 JUN 25 11:02

Before The
FEDERAL ELECTION COMMISSION
Washington, DC 20463

87 JUN 25 13:31

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

In The Matter of:

PUBLIC BROADCASTING SERVICE,
SOUTHERN EDUCATIONAL COMMUNICATIONS ASSOCIATION,
WILLIAM BUCKLEY,
COMMUNITY TV OF SOUTHERN CALIFORNIA,
KQED, INC.,
GREATER WASHINGTON EDUCATIONAL
TELECOMMUNICATIONS ASSOCIATION, INC.,
ATLANTA BOARD OF EDUCATION,
CHICAGO EDUCATIONAL TV ASSOCIATION,
IOWA PUBLIC BROADCASTING BOARD,
WGBH EDUCATIONAL FOUNDATION,
UNIVERSITY OF NEW HAMPSHIRE,
EDUCATIONAL BROADCASTING CORP.,
UNIVERSITY OF HOUSTON

Docket Number:

MUR 2516

COMPLAINT AND REQUEST FOR EMERGENCY ENFORCEMENT RELIEF

ANTHONY R. MARTIN-TRIGONA, herein after "Petitioner," hereby lodges a complaint against the above-named respondents (hereinafter "Respondents") and requests emergency enforcement relief.

1. PETITIONER

Anthony R. Martin-Trigona is a legally qualified candidate for President of the United States. He has complied with all of the Commission's filing requirements. The Commission, moreover, does not recognize an individual as a legally qualified candidate until a person has spent or received in excess of \$5,000 for his or her candidacy.¹ Petitioner represents under oath that he has spent in excess of \$5,000 as will be disclosed in reports due by July 15, 1987. Furthermore, petitioner has been operating a statewide

1. News reports sometimes refer to "hundreds" of presidential candidates. However, one does not become a candidate under the Commission's regulations unless or until the \$5,000 mark has been reached. Only a handful, approximately a dozen, candidates have reached this threshold level. Petitioner is one of that small group of candidates who have met the Commission's own test of formal candidacy.

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media advertizing campaign in New Hampshire, beginning in mid-April, 1987, and will begin a statewide media advertizing campaign in Iowa in July, 1987.

2. RESPONDENTS

Respondents are (i) the Public Broadcasting Service, a federally funded communications program of the United States; (ii) Southern Educational Communications Association ("SECA"), producer of the PBS program "Firing Line;" William Buckley, host of firing line, and various licensees of TV stations affiliated with PBS. [The respondents are listed by the formal name of their licensee and not by their station call letters.]

3. STATUTORY BASIS FOR COMPLAINT

1) Title 2 U.S.C. § 431 (8) (A) (i) states "The term 'contribution' includes---...anything of value made by any person for the purpose of influencing any election...

2) Title 2 U.S.C. § 441c (a) states "It shall be unlawful for any person---(1) who enters into any contract with the United States ...directly or indirectly to make any contribution of money or other thing of value,....."

3) The Public Broadcasting Service ("PBS") is federally funded, and most of the licensee respondents receive federal funding through various mechanisms for support of public TV.

4. GROUND FOR COMPLAINT

1) EXCLUDED ISSUES OR MATTERS NOT IN CONTENTION

Petitioner does not seek to limit respondent Buckley from doing anything he pleases in the way of exercising his First Amendment activities. However, Petitioner and other conservative Democrats cannot be asked to subsidize Mr. Buckley and

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the respondent licensees when they seek to use public funds and federally funded broadcast networks to benefit petitioner's campaign opponents and to injure petitioner's campaign.

2) PBS, the respondent licensees, and SECA, plan to air a live "debate" or candidate forum on July 1, 1987. Respondents have invited petitioner's campaign opponents to the forum, but have refused to invite petitioner. The net effect of the exclusion of petitioner from a a federally funded debate would be to injure his campaign by blacking or blanking him out and creating the impression he does not exist, while highlighting his opponents.

3) The program "Firing Line" is not a news program. It is an opinion and commentary program run by Mr. Buckley through SECA. Outside the area of a federal election campaign and conferring benefits on some candidates to the detriment of others, Mr. Buckley's actions are beyond review. When, however, he seeks to use a taxpayer supported communications medium to enhance the status of petitioner's opponents, and to injure petitioner's campaign, then such conduct amounts to a contribution within the concept of the federal election laws. To allow federal funding and a federally funded communications medium to materially advance the candidacy of petitioner's opponents, and to materially disadvantage petitioner's candidacy, violates petitioner's First Amendment rights. Congress never contemplated that federal funding could be used to distribute programs that would favor one candidate to the detriment of an equally legally qualified candidate for the same office.

4) The use of PBS and federally funded stations to disseminate the biased candidates' program violates petitioner's First Amendment rights. In effect, his tax dollars are being used to

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subsidize a program which is designed to enhance his opponents! The First Amendment does not contemplate that a candidate for office should be compelled to subsidize his own opponents for office as would be the result of the situation involving petitioner and respondents.²

5. PRAYER FOR RELIEF

Petitioner asks that the Commission protect his First Amendment rights by prohibiting the use of federally funded program sources to benefit his opponents' campaigns and to substantially injure his own campaign. It violates petitioner's First Amendment rights to use his tax dollars and the tax dollars of his supporters, conservative and moderate Democrats, to air a federally funded network program on PBS excluding petitioner and highlighting his liberal and ultra liberal opponents. Moreover, on the somewhat unique facts of this case, the action of the respondents amounts to a "contribution" and the Commission should so hold; since such contributions are barred for federally funded contractors, emergency enforcement action should be taken.

Respectfully submitted,

ANTHONY R. MARTIN-TRIGONA
P.O. Box 1988
Middletown, CT 06457
(203) 347-0130

June 24, 1987 State of Connecticut County of Middlesex

Appeared personally before me ANTHONY R. MARTIN-TRIGONA and, being first duly sworn, stated and deposed that the foregoing complaint is true and correct under penalty of perjury to the best of his knowledge information and belief.

My commission expires:

MY COMMISSION EXPIRES MARCH 31, 1991

NOTARY PUBLIC

2. Mr. Buckley's tactics would clearly "influence" the election, because they would black out petitioner and highlight his opponents. Nothing could be more influential in destroying petitioner's candidacy.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Anthony R. Martin-Trigona
PO Box 1988
Middleton, CT 06457

RE: MUR 2516

Dear Mr. Martin-Trigona:

This letter acknowledges receipt of your complaint, received on June 25, 1987, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by PBS, the Community TV Of Southern California, WGBH Educational Foundation, Atlanta Board Of Education, KQED Inc., Greater Washington Educational Telecommunications Association, Inc., Chicago Educational TV Association, Iowa Public Broadcasting Board, University Of New Hampshire, University Of Houston, Educational Broadcasting Corp., Southern Educational Communications Association, and Mr. William Buckley. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
Acting General Counsel

By: 
Lois G. Lerner
Associate General Counsel

Enclosures
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Mr. William Buckley
c/o Southern Educational
Communications Association
Box 5966
Columbia, SC 29250

RE: MUR 2516
William Buckley

Dear Mr. Buckley:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

8704061649



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Terrel Cass, Chairman
Southern Educational
Communications Association
Box 5966
Columbia, SC 29250

RE: MUR 2516
Southern Educational
Communications Association
Terrel Cass, Chairman

Dear Mr. Cass:

The Federal Election Commission received a complaint which alleges that the Southern Educational Communications Association may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Southern Educational Communications Association in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040661651



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Gary Knell, Vice-President, General
Counsel and Secretary
WNET
Educational Broadcasting Corp.
356 W. 58th Street
New York, NY 10019

RE: MUR 2516
Educational
Broadcasting Corp.
Gary Knell, Vice-
President, General
Counsel and Secretary

Dear Mr. Knell:

The Federal Election Commission received a complaint which alleges that the Educational Broadcasting Corp. may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Educational Broadcasting Corp. in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040661653



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

James L. Bauer, General
Manager
KUHT
University Of Houston
4513 Cullen Blvd.
Houston, TX 77004

RE: MUR 2516
University Of Houston
James L. Bauer,
General Manager

Dear Mr. Bauer:

The Federal Election Commission received a complaint which alleges that the University Of Houston may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the University Of Houston in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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3d

If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-6200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

8704061655



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 30, 1987

Arthur J. Singer, General
Manager
WENH-TV
University Of New Hampshire
Box 1100
Durham, NH 03824

RE: MUR 2516
University Of New
Hampshire
Arthur J. Singer,
General Manager

Dear Mr. Singer:

The Federal Election Commission received a complaint which alleges that the University Of New Hampshire may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the University Of New Hampshire in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040561652



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 30, 1987

Larry G. Pattern, Executive
Director
KDIN-TV
Iowa Public Broadcasting Board
Box 1758
Des Moines, IA 50306

RE: MUR 2516
Iowa Public
Broadcasting Board
Larry G. Pattern,
Executive Director

Dear Mr. Pattern:

The Federal Election Commission received a complaint which alleges that the Iowa Public Broadcasting Board may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Iowa Public Broadcasting Board in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel

By: 
Lois G. Lerner
Associate General Counsel

Enclosures

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

87040661659



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

**William J. McCarter, President
and General Manager
Chicago Educational TV
Association
5400 N. St. Louis Avenue
Chicago, IL 60625**

**RE: MUR 2516
Chicago Educational
TV Association
William J. McCarter,
President and General
Manager**

Dear Mr. McCarter:

The Federal Election Commission received a complaint which alleges that the Chicago Educational TV Association may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Chicago Educational TV Association in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

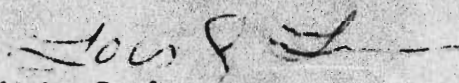
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-6200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040661661



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Anthony Tiano, President
and General Manager
KQED Inc.
500 Eight Street
San Francisco, CA 94103

RE: MUR 2516
KQED Inc.
Anthony Tiano,
President and General
Manager

Dear Mr. Tiano:

The Federal Election Commission received a complaint which alleges that KQED Inc. may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. 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 KQED Inc. in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

3h

If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040561663



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Ward B. Chamberlin, Jr., President
and General Manager
WETA
Greater Washington Educational
Telecommunications Association, Inc.
Box 2626
Washington, DC 20013

RE: MUR 2516
Greater Washington
Educational Telecom-
munications Association,
Inc.
Ward B. Chamberlin, Jr.,
President

Dear Mr. Chamberlin:

The Federal Election Commission received a complaint which alleges that the Greater Washington Educational Telecommunications Association, Inc. may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Greater Washington Educational Telecommunications Association, Inc. in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040561665



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Bruce L. Christensen, President
PBS
1320 Braddock Place
Alexandria, VA 22314

RE: MUR 2516
PBS
Bruce L. Christensen,
President

Dear Mr. Christensen:

The Federal Election Commission received a complaint which alleges that PBS may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. 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 PBS in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Lois G. Lerner
By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040561667



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

William H. Kobin, President
KCET
Community TV Of Southern
California
4401 Sunset Blvd.
Hollywood, CA 90027

RE: MUR 2516
Community TV Of
Southern California
William H. Kobin,
President

Dear Mr. Kobin:

The Federal Election Commission received a complaint which alleges that Community TV Of Southern California may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. 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 Community TV Of Southern California in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

87040561668

312

If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

8704061669



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Henry P. Becton, Jr., President
and General Manager
WGBH Educational Foundation
125 Western Avenue
Boston, MA 02134

RE: MUR 2516
WGBH Educational
Foundation
Henry P. Becton, Jr.,
President and General
Manager

Dear Mr. Becton:

The Federal Election Commission received a complaint which alleges that the WGBH Educational Foundation may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the WGBH Educational Foundation in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

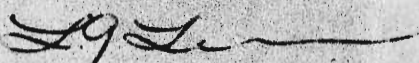
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If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040661671



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 30, 1987

Preston Williams, President
WPBA
Atlanta Board Of Education
740 Bismark Road, NE
Atlanta, GA 30324

RE: MUR 2516
Atlanta Board Of
Education
Preston Williams,
President

Dear Mr. Williams:

The Federal Election Commission received a complaint which alleges that the Atlanta Board Of Education may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2516. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Atlanta Board Of Education in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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3m

If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
Acting General Counsel


By: Lois G. Lerner
Associate General Counsel

Enclosures

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

87040661673

3m



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

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June 30, 1987

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
Acting General Counsel

SUBJECT: MUR 2516 - Public Broadcasting Service, et al.

BACKGROUND

On June 25, 1986, Anthony R. Martin-Trigona filed a complaint alleging that the Public Broadcasting Service ("PBS"), Southern Educational Communications Association ("SECA"), producer of "Firing Line," William Buckley, and named licensees of television stations affiliated with PBS will violate complainant's First Amendment rights and 2 U.S.C. § 441c(a) by using federal funds to benefit certain candidates for the Office of President and to injure complainant's own campaign for that office. Specifically, Mr. Martin-Trigona states that PBS and SECA plan to broadcast a "live 'debate' or candidate forum on July 1, 1987," apparently as part of the program, "Firing Line," hosted by William Buckley. He states further that respondents have refused to invite him to participate in the forum/debate despite his status as a candidate for the Office of President.

The complainant argues that PBS and the named affiliates receive federal funds, and that their use of such funds to "enhance the status of petitioner's opponents, and to injure petitioner's campaign" amounts to a contribution under the FECA in violation of his First Amendment rights and of the prohibition against contributions by federally-funded contractors. Complainant asks for "emergency enforcement action." (Emphasis in original.)

INJUNCTIVE RELIEF

Although the complainant couches his request in terms of "emergency enforcement action," this Office interprets this request to mean that complainant is seeking injunctive relief. The Commission is empowered to initiate such a civil action if it is unable to correct or prevent a violation of the Act, 2 U.S.C. §§ 437d(a)(5) and 437g(a)(6). However, given the requirement at 2 U.S.C. § 437g(a)(1) that respondents be given 15 days in which

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to respond to a complaint before the Commission conducts a vote on such complaint, it is problematic as to when the Commission may pursue injunctive relief immediately upon receipt of a complaint. 1/

In response to earlier such requests for injunctive relief the Commission has determined to apply the high standard required to obtain a temporary restraining order. See, e.g. MUR 1824. Under that standard the Commission may authorize the seeking of an injunction when:

- 1) There is a substantial likelihood that the complaint sets forth a violation of the Act;
- 2) Failure of the Commission to act expeditiously will result in irreparable harm to the complainant;
- 3) Expeditious action will not result in undue harm or prejudice to the interest of other persons; and
- 4) The public interest would be served by such expeditious handling of the matter.

In the present matter the violation of a statute under the Commission's jurisdiction alleged by the complainant is that of 2 U.S.C. § 441c(a). This provision prohibits contributions to a candidate for public office from "any person who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing of any material, supplies, or equipment to the United

1/ In MURs 1167, 1168, and 1170, - the Nashua Telegraph case - the Commission directed the respondents to file responses in less than the 15 days provided by statute. Because the respondents voluntarily complied, no judicial test of the Commission's authority to shorten the response time was necessary. At least one court has expressed the opinion, albeit in dicta, that the Commission cannot act until respondents have responded or fifteen days have elapsed. Durkin for U.S. Senate v. FEC, 2 Fed. Elec. Camp. Fin. Guide (CCH) §9147 (D.N.H., 1980).

In MUR 1287, the complainant, Barry Commoner, sought either injunctive relief against the League of Women Voters compelling his inclusion in all League debates, or a shortening of the time for the League to respond to the complaint. Because there was time for the League to respond and for the Commission to act prior to the planned debate, the Office of General Counsel recommended denial of the request to shorten the response time and the Commission approved the recommendation.

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States or any department or agency thereof . . . if payment for the performance of such contract or payment for such material . . . is to be made in whole or in part from funds appropriated by the Congress"

The application of the above statutory language to the facts asserted in the complainant raises a number of legal and factual questions which place in doubt the likelihood that the complaint sets forth violations of the Act. The complainant argues that PBS, SECA and the various affiliates of PBS will make "contributions" to the complainant's opponents and against the complainant by airing the debate or forum on "Firing Line. However, 2 U.S.C. § 431(9)(B)(i) exempts from the definition of "expenditure", and thus from the category of "in-kind contributions" ^{2/} any "news story, commentary, or editorial distributed through the facilities of any broadcasting station . . . , unless such facilities are owned or controlled by any political party, political committee or candidate." The complainant argues that "Firing Line" is not a news program; but he does term it "an opinion and commentary program," a definition which would apparently bring it within the statutory exemption.

Another exemption from the definition of "expenditure" and thus from consideration as an "in-kind contribution" is found at 2 U.S.C. § 431(9)(B)(ii) which excepts "non-partisan activity designed to encourage voters to register and vote." Based upon this statutory provision, the Commission's regulations at 11 C.F.R. §§ 100.7(b)(21) and 100.8(b)(23) exempt from the definitions of "contribution" and "expenditure" "funds used to defray costs incurred in staging nonpartisan candidate debates in accordance with the provisions of 11 C.F.R. § 110.13 and § 114(e)." 11 C.F.R. § 110.13(a)(2) permits broadcasters to stage such nonpartisan debates. The only requirement regarding staging is that at least two candidates be included and that the debate not promote one candidate over another. 11 C.F.R. § 110.13(b). Thus there is no requirement that all candidates be included.

Further questions arise as to whether the respondents are covered by the provisions of 2 U.S.C. § 441c(a); i.e., whether the fact that they receive federal funds creates the type of contactual relationship which Congress intended to address in this statute.

Given the uncertain resolution of the issues raised by the complaint, it is not at all clear that it sets forth a violation of the Act. The replies of all respondents to the complaint will

^{2/} 11 C.F.R. § 100.8(a) defines "expenditure" as including "other things of value." 11 C.F.R. § 100.8(a)(1)(iv) states that "for purposes of Section 100.8(a), 'anything of value' includes all in-kind contributions."

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have to be considered before any recommendations for Commission action on the merits can be made. Therefore, this Office recommends that the Commission not pursue injunctive relief at this time. If the Commission agrees, we ask that the attached letters to the respondents and complainant be approved.

RECOMMENDATIONS

1. Do not seek injunctive action at this time.
2. Approve the attached letters.

Attachments

Letters

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Attachment(s) letter
to Memo, 30 June 87
have been removed from this
position in Public Record File.
See Index Item(s) 6

87040661678

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Public Broadcasting Service, et al.) MUR 2516

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 2, 1987, the Commission decided by a vote of 6-0 to take the following actions in MUR 2516:

1. Do not seek injunctive action at this time, as recommended in the General Counsel's memorandum to the Commission dated June 30, 1987.
2. Approve the letters, as recommended in the General Counsel's memorandum to the Commission dated June 30, 1987.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

7-2-87

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary: Tues., 6-30-87, 10:18
Circulated on 48 hour tally basis: Tues., 6-30-87, 4:00
Deadline for vote: Thurs., 7-02-87, 4:00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 6, 1987

Anthony R. Martin-Trigona
P.O. Box 1988
Middletown, Connecticut 06457

MUR 2516

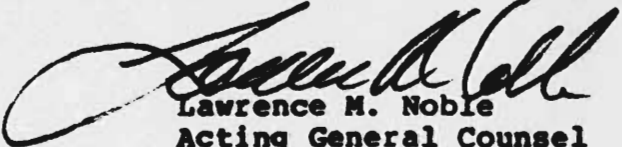
Dear Mr. Martin-Trigona:

On June 25, 1987, the Federal Election Commission received your letter alleging that the Public Broadcasting Service, the Southern Educational Communications Association, William Buckley, and other named respondents will violate the Federal Election Campaign Act of 1971, as amended ("the Act").

Your letter seeks "emergency enforcement action," which has been interpreted to mean injunctive relief, to prevent the respondents from airing a forum/debate on "Firing Line" among candidates for the Office of President without your participation. At this time there is insufficient evidence of a violation of the Act to warrant the Commission's seeking such relief.

If you have any questions, please contact Anne A. Weissenborn at (202) 376-5690.

Sincerely,


Lawrence M. Noble
Acting General Counsel

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

July 7, 1987

Lawrence M. Noble
Acting General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2516
Greater Washington
Educational Telecom-
munications Association,
Inc.
Ward B. Chamberlin, Jr.
President

Dear Mr. Noble:

I enclose herewith our designation of counsel in the
above matter.

Very truly yours,

Ward Chamberlin
Ward Chamberlin
President

WC/pss

Enclosure

cc: Nancy Hendry, PBS

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2516

NAME OF COUNSEL: Public Broadcasting Service & its counsel

ADDRESS: 1320 Braddock Place
Alexandria, VA 22314

TELEPHONE: 739-5000

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.

7/7/87
Date

Walter Chandler
Signature *Pres. emer, WETA*

RESPONDENT'S NAME: WETA

ADDRESS: P.O. Box 2626
Washington, D.C. 20013

HOME PHONE: _____

BUSINESS PHONE: 998-2701

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87 JUL 8 5:37

Before the
FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

In the Matter of:

PUBLIC BROADCASTING SERVICE,
SOUTHERN EDUCATIONAL COMMUNICATIONS
ASSOCIATION,
WILLIAM BUCKLEY,
COMMUNITY TV OF SOUTHERN CALIFORNIA,
KQED, INC.,
GREATER WASHINGTON EDUCATIONAL
TELECOMMUNICATIONS ASSOCIATION,
INC.,
ATLANTA BOARD OF EDUCATION,
CHICAGO EDUCATIONAL TV ASSOCIATION,
IOWA PUBLIC BROADCASTING BOARD,
WGBH EDUCATIONAL FOUNDATION,
UNIVERSITY OF NEW HAMPSHIRE,
EDUCATIONAL BROADCASTING CORP.,
UNIVERSITY OF HOUSTON

Docket No. MUR 2516

MOTION TO DISMISS

Pursuant to 11 C.F.R. § 111.6, Public Broadcasting Service ("PBS"), on behalf of itself, the Southern Educational Communications Association ("SECA"), and those PBS member stations who are named as parties^{1/} in the above-captioned

^{1/} PBS is a private non-profit membership corporation, the members of which are licensees of public television stations located throughout the United States and its territories. SECA is a regional membership organization of public television stations. In addition to naming PBS and SECA, the Complaint names the following PBS members: Community TV of Southern California, KQED, Inc., Greater Washington Educational Telecommunications Association, Inc., Atlanta Board of Education, Chicago Educational TV Association, Iowa Public Broadcasting Board, WGBH Educational Foundation, University of New Hampshire, Educational Broadcasting Corp., and University of Houston. PBS has contacted each of these mem-

CONTINUED ON NEXT PAGE

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Complaint and Request for Emergency Enforcement Relief ("Complaint") filed by Mr. Anthony R. Martin-Trigona on June 25, 1987, hereby moves for dismissal of the Complaint.^{2/}

As a result of Mr. Martin-Trigona's "well-documented practice" of abusing the litigation process, the United States District Court for the District of Connecticut has permanently enjoined Mr. Martin-Trigona from filing or attempting to initiate any "lawsuit, action, proceeding, or matter in any federal court, agency, tribunal, committee, or other federal forum of the United States" without first obtaining leave of that forum. In re Anthony R. Martin-Trigona, 592 F. Supp. 1566, 1568-69, 1571 (D.Conn. 1984), aff'd, 763 F.2d 140 (2d Cir. 1985), cert. denied, 106 S.Ct. 807 (1986). The United States District Court for the District of Connecticut strictly prescribed that:

bers and obtained their consent to be represented by PBS and its attorneys in this matter. Each of these PBS members and SECA will file an appropriate "Statement of Designation of Counsel" with the Commission.

^{2/} PBS received a notice and copy of the Complaint from the Federal Election Commission on July 2, 1987. In the event the Commission does not grant PBS's Motion To Dismiss, PBS reserves its rights to respond to the Complaint on substantive grounds as provided in 11 C.F.R. § 111.6(a) and hereby requests an extension of time in which to file such a response until fifteen days following PBS's receipt of notice that the Commission has denied the Motion to Dismiss.

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In seeking such leave, Martin-Trigona or any individual or entity acting for him, or at his behest, shall comply with each of the following requirements: (a) he shall file with the complaint or document purporting to commence a lawsuit, action, proceeding, or matter a motion captioned "Application Pursuant to Court Order Seeking Leave to File;" (b) he shall attach as "Exhibit 1" to that motion a copy of this court's opinion in In re Martin-Trigona, 573 F.Supp. 1245 (D.Conn. 1983), with all appendices; (c) he shall attach as "Exhibit 2" to that motion a copy of the decision of the Court of Appeals in In re Martin-Trigona, 737 F.2d 1254 (2d Cir. 1984), with all appendices; (d) he shall attach as "Exhibit 3" to that motion a copy of this order, In re Martin-Trigona, 592 F.Supp. 1566 (D.Conn. 1984), with all appendices; (e) he shall attach as "Exhibit 4" to that motion either an affidavit or an unsworn declaration pursuant to 28 U.S.C. § 1746 certifying whether or not the claim he wishes to present is a claim ever raised by him in any court, agency, tribunal, committee, or other forum; (f) he shall attach as "Exhibit 5" to that motion a list of each and every lawsuit, action, proceeding, matter, or complaint previously filed by him or on his behalf in any court, agency, tribunal, committee, or other forum, against each and every defendant or respondent in the lawsuit, action, proceeding, or matter he wishes to file or attempt to initiate; (g) he shall attach as "Exhibit 6" and successive exhibits (with numbers continuing as necessary) to that motion a copy of each such complaint or other document purporting to commence any such lawsuit, action, proceeding, or matter and a certified record of its disposition; (h) he shall serve on each defendant or respondent, if and when leave to serve the complaint or other analogous document in the new lawsuit, action, proceeding, or matter is granted, a copy of the

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materials specified in subsections (a), (b), (c), and (d) of this section, supra.

592 F. Supp. at 1571-72.

The District Court emphasized that "the failure by Martin-Trigona to advise a federal court, agency, tribunal, committee, or other federal forum in which he has filed a lawsuit, action, proceeding, or matter of the materials specified in subsections (a), (b), (c), and (d) of this section, supra, may be considered by such court or other forum a sufficient basis for sustaining a motion to dismiss such a lawsuit, action, proceeding, or matter, or a request otherwise to dispose of the matter filed or submitted by Martin-Trigona." 592 F. Supp. at 1572 (emphasis added). A copy of the District Court's opinion, including the Order of Permanent Injunction, is appended hereto as Exhibit 1.

PBS is not aware of any decision by the Commission granting Mr. Martin-Trigona leave to file his Complaint, nor is PBS aware of any effort by Mr. Martin-Trigona to comply with the District Court's injunction by seeking such leave. Even if Mr. Martin-Trigona requested and obtained prior leave from the Commission to file his Complaint, he failed to serve PBS with copies of his "Application Pursuant to Court Order Seeking Leave to File" and other materials as

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required by subsection (h) of the District Court's injunction.

WHEREFORE, because Mr. Martin-Trigona has failed to comply with the terms of the permanent injunction prescribing the conditions under which he may initiate the instant proceeding, PBS respectfully requests that Mr. Martin-Trigona's Complaint and Request for Emergency Enforcement Relief be dismissed.

Respectfully submitted,

PUBLIC BROADCASTING SERVICE

OF COUNSEL:

Paula A. Jameson, Esq.
Senior Vice President
and General Counsel

Nancy H. Hendry, Esq.
Deputy General Counsel

Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314-1698

Telephone: (703) 739-5063

David Tillotson
David Tillotson *SEM*

Steven R. Miles
Steven R. Miles

Arent, Fox, Kintner, Plotkin
& Kahn
1050 Connecticut Ave., N.W.
Washington, D.C. 20036-5339

Telephone: (202) 857-6027

Counsel for Public Broadcasting
Service

July 8, 1987

97040561697

EXHIBIT 1

In re Anthony R. Martin-Trigona,
592 F. Supp. 1566 (D.Conn. 1984)

87040561688

STATEMENT OF DESIGNATION OF COUNSEL

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MUR 2516

NAME OF COUNSEL: David Tillotson
Steven R. Miles

ADDRESS: Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

TELEPHONE: 202/ 857-6027

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.

7/8/87
Date

Paul L. Janner
Signature

RESPONDENT'S NAME: PUBLIC BROADCASTING SERVICE

ADDRESS: 1320 Braddock Place
Alexandria, Virginia 22314-1698

HOME PHONE: _____

BUSINESS PHONE: 703/ 739-5053

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OFFICE OF THE
GENERAL COUNSEL

87040561689

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2516
NAME OF COUNSEL: PAULA A. JAMESON
NANCY H. HENDRY
ADDRESS: PUBLIC BROADCASTING SERVICE
1320 Braddock Place
Alexandria, VA 22314-1698
TELEPHONE: 703/ 739-5053

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.

7/8/87
Date

Paula A. Jameson
Signature

RESPONDENT'S NAME: PUBLIC BROADCASTING SERVICE
ADDRESS: 1320 Braddock Place
Alexandria, VA 22314-1698
HOME PHONE: _____
BUSINESS PHONE: 703/ 739-5053

87040561690

STATEMENT OF DESIGNATION OF COUNSEL

NUR 2516

NAME OF COUNSEL: PBS or their outside counsel

ADDRESS: 1320 Braddock Place

Alexandria, VA 22314-1698

TELEPHONE: (703) 739-5063

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.

7/7/87
Date

Eric A. Brans
Signature

RESPONDENT'S NAME: WGBH Educational Foundation

ADDRESS: 125 Western Avenue

Boston, MA. 02134

HOME PHONE: _____

BUSINESS PHONE: (617) 492-2777, ext 4405

8704061691

CERTIFICATE OF SERVICE

I, Steven R. Miles, hereby certify that on this 8th day of July, 1987, I caused a copy of the foregoing PBS and WGBH Educational Foundation "Statement[s] of Designation of Counsel" to be served by first class, postage pre-paid mail on the following:

Mr. Anthony R. Martin-Trigona
P. O. Box 1988
Middletown, CT 06457

Mr. William Buckley
National Review
150 E. 35th Street
New York, NY 10016

Legal Counsel
KCET-TV
4401 Sunset Blvd.
Los Angeles, CA 90027

Legal Counsel
KQED-TV
500 Eight Street
San Francisco, CA 94103

Legal Counsel
WETA-TV
Box 2626
Washington, D.C. 20013

Legal Counsel
WNET-TV
356 W. 58th Street
New York, NYd 10019

Legal Counsel
SECA
P. O. Box 5966
Columbia, SC 29205

Legal Counsel
WPBA-TV
740 Bismarck Road, NE
Atlanta, GA 30324

Legal Counsel
WTTW-TV
5400 N. St. Louis
Chicago, IL 60625

Legal Counsel
KDIN-TV
Box 1758
Des Moines, IA 50306

Legal Counsel
WGHB-TV
125 Western Avenue
Boston, MA 02134

Legal Counsel
WENH-TV
Box 1100
Dover, NH 03824

Legal Counsel
KHUT-TV
4513 Cullen Boulevard
Houston, TX 77004


Steven R. Miles

87040561692

STATEMENT OF DESIGNATION OF COUNSEL 87 JUL 10 A 8: 53

MUR 2516

NAME OF COUNSEL:

Nancy Hendry

ADDRESS:

Deputy General Counsel
Public Broadcasting Service

1320 Braddock Place

Alexandria, Virginia 22314

TELEPHONE:

703/739-5000

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OFFICE OF THE
GENERAL COUNSEL

87 JUL 10 A 10: 00

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.

July 8, 1987
Date

Peter A. Pantano
Signature

RESPONDENT'S NAME:

Southern Educational Communications Association

ADDRESS:

P.O. Box 50,008

Columbia, South Carolina 29250

HOME PHONE:

803/798-5862

BUSINESS PHONE:

803/799-5517

87040361693

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2516

NAME OF COUNSEL: Victoria L. Eslinger

ADDRESS: Berry, Dunbar, O'Connor, Jordan & Eslinger

P.O. Box 11645, Capital Station

Columbia, South Carolina 29211

TELEPHONE: 803/765-1030

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.

7/8/87
Date

Atty. S. Pantano
Signature

RESPONDENT'S NAME: Southern Educational Communications Association

ADDRESS: P.O. Box 50,008

Columbia, South Carolina 29250

HOME PHONE: 803/798-5862

BUSINESS PHONE: 803/799-5517

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STATEMENT OF DESIGNATION OF COUNSEL 87 JUL 13 AM: 59

NUR 2516

NAME OF COUNSEL: Nancy Hendry, Deputy General Counsel

ADDRESS: Public Broadcasting Service (PBS)

1320 Braddock Place

Alexandria, VA 22314

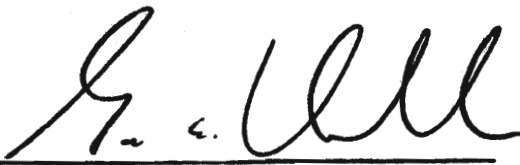
TELEPHONE: (703) 739-5000

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VICE OF THE
GENERAL COUNSEL
87 JUL 13 PM: 10

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.

July 9, 1987

Date


Signature

RESPONDENT'S NAME: Educational Broadcasting Corporation

ADDRESS: 356 West 58th Street

New York, NY 10019

Gary E. Knell, General Counsel

HOME PHONE: _____

BUSINESS PHONE: (212) 560-3028

8704061695

STATEMENT OF DESIGNATION OF COUNSEL

87 JUL 20 12:00

NUR 2516

NAME OF COUNSEL: Public Broadcast Service and its counsel

ADDRESS: 1320 Braddock Place

Alexandria, VA 22314-1698

TELEPHONE: (703) 739-5063

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.

July 16, 1987
Date


Signature

RESPONDENT'S NAME: Iowa Public Broadcasting Board

ADDRESS: c/o Lynn M. Walding
Assistant Attorney General
Hoover State Office Building

HOME PHONE: Des Moines, Iowa 50319

BUSINESS PHONE: (515) 281-8330

cc: George C. Carpenter, Administrator
Iowa Public Television
P.O. Box 6450
Johnston, IA 50131
L O C A L

Nancy H. Hendry
Deputy General Counsel
PBS Legal Department
1320 Braddock
Alexandria, VA 22314-1698

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OFFICE OF THE
GENERAL COUNSEL

87 JUL 20 12:00

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SENSITIVE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 16, 1987

87 JUL 16 P 1:41

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble *[Signature]*
Acting General Counsel

SUBJECT: Motion to Dismiss in MUR 2516

I. BACKGROUND

On June 25, 1987, Anthony R. Martin-Trigona filed a complaint against the Public Broadcasting Service ("PBS"), Southern Educational Communications Association, producer of "Firing Line," William Buckley, and named licensees of television stations affiliated with PBS. The complaint also asked for "emergency enforcement action." Treating this request as a request for injunctive relief, the Commission denied the request on July 2, 1987.

On July 8, 1987, counsel for the respondents filed a Motion to Dismiss, based upon the decision of the United States District Court for the District of Connecticut in In re Martin-Trigona, 592 F.Supp. 1566 (D. Conn. 1984), aff'd, 763 F.2d 140 (2d Cir. 1985), cert. denied, 106 S.Ct. 807 (1986).^{*/} The District Court enjoined Mr. Martin-Trigona from "filing or attempting to initiate any new lawsuit, action, proceeding, or matter in any federal court, agency, tribunal, committee, or other federal forum of the United States...without first obtaining leave of the court, agency, tribunal, committee, or other forum." 592 F.Supp. at 1571. The court stated that Mr. Martin-Trigona had to follow a number of steps which primarily consist of attaching copies of opinions of various courts to his application to seek leave to

^{*/} Mr. Martin-Trigona also apparently filed a complaint on this issue with the United States District Court for the Eastern District of Virginia. According to counsel for the respondents, the District Court granted the motion to dismiss on July 10, 1987, on the basis of the Connecticut District Court's opinion.

Memorandum to The Commission
Page 2

file. The court, however, also noted that failure to abide by the terms of the injunction may be considered by such court or other forum a sufficient basis for sustaining a motion to dismiss such a lawsuit, action, proceeding, or matter, or a request otherwise to dispose of the matter filed or submitted by Martin-Trigona." Id. at 1572 (emphasis added).

With respect to the Connecticut District Court's injunction, this Office notes that the Act gives the Commission exclusive jurisdiction over civil enforcement of the Act. 2 U.S.C. § 437c(b)(1). Moreover, under the terms of the court's injunction itself, the decision to dismiss a complaint when Mr. Martin-Trigona does not follow the court's prescribed steps is permissive, not mandatory, and left to the discretion of the agency. Although Mr. Martin-Trigona did not follow these steps in filing the present complaint with the Commission, this Office recommends that the Commission deny the motion to dismiss so that the Commission may receive a response to the complaint and address the substantive issues raised by it. We note that these issues are likely to arise again with regard to the 1988 presidential elections and, thus, it would be in the public interest to address them as early as possible.

If the Commission denies the motion to dismiss, the respondents have requested an extension of time of 15 days after their receipt of the notification of such denial in which to file their response to the complaint on substantive grounds. Under present Commission policy, the granting of such an extension would fall within this Office's authority. Since good cause for granting such an extension has been demonstrated, the requested extension is included in the proposed letter.

II. RECOMMENDATIONS

1. Deny the Motion to Dismiss.
2. Approve the attached letter.

Attachments

1. Motion to Dismiss
2. Proposed letter

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Attachment(s) 1, 2
to Memo, 16 July 57
have been removed from this
position in Public Record File.
See Index Item(s) 8



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / JOSHUA MCFADDEN *JM*

DATE: JULY 20, 1987

SUBJECT: OBJECTIONS TO MUR 2516 - General Counsel's
memorandum to the Commission dated
July 16, 1987.

The above-captioned document was circulated to the
Commission on Friday, July 17, 1987 at 12:00 P.M.

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

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

This matter will be placed on the Executive Session
agenda for July 28, 1987.

Please notify us who will represent your Division
before the Commission on this matter.

8704061700



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

MEMORANDUM TO: LAWRENCE M. NOBLE
ACTING GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN *JM*

DATE: JULY 21, 1987

SUBJECT: OBJECTION TO MUR 2516 - General Counsel's
Memorandum to the Commission dated July 16, 1987

The above-captioned document was circulated to the
Commission on Friday, July 17, 1987 at 12:00 P.M.

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

Commissioner Aikens	<u>X</u>
Commissioner Elliott	<u>X</u>
Commissioner Josefiak	<u>X</u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Thomas	<u>X</u>

This matter will be placed on the Executive Session
agenda for July 28, 1987.

Please notify us who will represent your Division
before the Commission on this matter.

87040561701

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HAND DELIVERED

87 JUL 21 410:41

Before the
FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

In the Matter of:

PUBLIC BROADCASTING SERVICE,
SOUTHERN EDUCATIONAL COMMUNICATIONS
ASSOCIATION,
WILLIAM BUCKLEY,
COMMUNITY TV OF SOUTHERN CALIFORNIA,
KQED, INC.,
GREATER WASHINGTON EDUCATIONAL
TELECOMMUNICATIONS ASSOCIATION, INC.,
ATLANTA BOARD OF EDUCATION,
CHICAGO EDUCATIONAL TV ASSOCIATION,
IOWA PUBLIC BROADCASTING BOARD,
WGBH EDUCATIONAL FOUNDATION,
UNIVERSITY OF NEW HAMPSHIRE,
EDUCATIONAL BROADCASTING CORP.,
UNIVERSITY OF HOUSTON

Docket No. MUR 2516

87 JUL 21 4:3:21

RECEIVED
GENERAL COUNSEL

SUPPLEMENT TO MOTION TO DISMISS

Public Broadcasting Service ("PBS"), by its
attorneys, hereby files this Supplement to PBS's Motion to
Dismiss the Complaint and Request for Emergency Relief
("Complaint") filed by Mr. Anthony R. Martin-Trigona on
June 25, 1987. The purpose of this Supplement is to bring
recent developments that may affect this proceeding to the
attention of the Federal Election Commission ("Commission").

In its Motion to Dismiss, PBS informed the Commission
that a United States District Court has permanently enjoined
Mr. Martin-Trigona from initiating any lawsuit in any federal

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forum unless he had first obtained, after notice to all parties, leave to file from that forum ("Injunction"). This Injunction was twice affirmed by the United States Court of Appeals for the Second Circuit. In re Anthony R. Martin-Trigona, 592 F.Supp. 1566, 1568-69, 1571 (D. Conn. 1984), aff'd., 763 F.2d 140 (2d Cir. 1985), cert. denied, 106 S.Ct. 807 (1986). Accord, In re Anthony R. Martin-Trigona, 737 F.2d 1254 (2d Cir. 1984), aff'g in part 573 F.Supp. 1245 (D. Conn. 1983). Because it appeared that Mr. Martin-Trigona had not complied with the provisions of that Injunction prior to filing his Complaint, PBS moved to dismiss the Complaint under the terms of the Injunction.^{1/}

On June 29, 1987, Mr. Martin-Trigona filed a Motion for Temporary Restraining Order and Preliminary Injunction and a Complaint for Declaratory and Injunctive Relief and Money Damages ("Motion and Complaint") against the same defendants that are named in this proceeding. The Motion and Complaint, which were filed in the United States District Court for the Eastern District of Virginia, were based upon the same factual allegations that are the basis of the instant Complaint. PBS moved to dismiss Mr. Martin-Trigona's Motion and Complaint on the ground that he failed to comply with the Injunction. On July 10, 1987, United States

^{1/} PBS has not received any response to its Motion to Dismiss from Mr. Martin-Trigona.

District Judge Albert V. Bryan, Jr. issued an Order dismissing Mr. Martin-Trigona's Motion and Complaint on the ground that Mr. Martin-Trigona had violated the Injunction by failing to obtain prior leave to file. A copy of that Order is attached hereto.^{2/}

The purpose of the Injunction is to save defendants from having to expend substantial time and money to defend themselves against frivolous and harassing charges by Mr. Martin-Trigona. Martin-Trigona, 592 F.Supp. at 1568-69. To permit Mr. Martin-Trigona to pursue his claims without complying with the Injunction is to undercut both the terms and the purpose of the United States District Court's Injunction.

WHEREFORE, for the foregoing reasons, PBS respectfully requests that Mr. Martin-Trigona's Complaint and

^{2/} It has recently come to PBS's attention that the United States District Court for the District of Columbia has in the last few months applied the terms of the Injunction in two cases filed by Mr. Martin-Trigona. In Martin-Trigona v. Stewart, 659 F.Supp. 45, 46 (D.D.C. 1987), the District Court dismissed an action against a former officer of the Federal Communications Commission because Mr. Martin-Trigona had not first obtained leave to file, as required by the Injunction. In Martin-Trigona v. Gary Hart, ___ F.Supp. ___ (D.D.C. May 28, 1987), Mr. Martin-Trigona moved under the terms of the Injunction for leave to file an action against then presidential candidate Gary Hart. United States District Judge June L. Green denied Mr. Martin-Trigona permission to file his action.

R 7 0 4 0 3 6 1 7 0 4

Request for Emergency Enforcement Relief be dismissed.

OF COUNSEL:

Paula A. Jameson, Esq.
Senior Vice President
and General Counsel

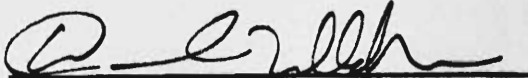
Nancy H. Hendry, Esq.
Deputy General Counsel

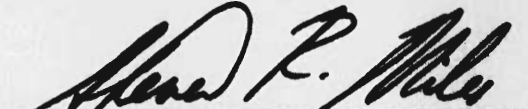
Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314-1698

Telephone: (703) 739-5053

Respectfully submitted,

PUBLIC BROADCASTING SERVICE


David Tillotson


Steven R. Miles

Arent, Fox, Kintner, Plotkin
& Kahn
1050 Connecticut Ave., N.W.
Washington, D.C. 20036-5339

Telephone: (202) 857-6027

Counsel for Public Broadcasting
Service

July 21, 1987

87040361705

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

ANTHONY R. MARTIN-TRIGONA,

Plaintiff,

V.

PUBLIC BROADCASTING SERVICE,
et al.,

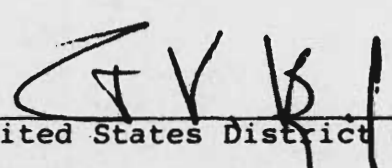
Defendants.

CIVIL ACTION NO. 87-629-A

ORDER

For the reasons stated from the bench, the court finding that no leave of the United States District Court for the District of Connecticut has been obtained for the filing of this action and not being persuaded that the injunction imposed by that court, as reported in 592 F. Supp. 1566, 1571-72, has been modified to permit the filing of this action without leave of court, it is hereby

ORDERED that this action is dismissed.


United States District Judge

Alexandria, Virginia
July 10th, 1987

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CERTIFICATE OF SERVICE

I, Steven R. Miles, hereby certify that on this 21st day of July, 1987, I caused a copy of the foregoing "Supplement to Motion to Dismiss" to be served by first class, postage pre-paid mail on the following:

Mr. Anthony R. Martin-Trigona
P. O. Box 1988
Middletown, CT 06457

Legal Counsel
WPBA-TV
740 Bismarck Road, NE
Atlanta, GA 30324

Mr. William Buckley
National Review
150 E. 35th Street
New York, NY 10016

Legal Counsel
WTTW-TV
5400 N. St. Louis
Chicago, IL 60625

Legal Counsel
KCET-TV
4401 Sunset Boulevard
Los Angeles, CA 90027

Legal Counsel
KDIN-TV
P. O. Box 1758
Des Moines, IA 50306

Legal Counsel
KQED-TV
500 Eight Street
San Francisco, CA 94103

Legal Counsel
WGHB-TV
125 Western Avenue
Boston, MA 02134

Legal Counsel
WETA-TV
P. O. Box 2626
Washington, D.C. 20013

Legal Counsel
WENH-TV
P. O. Box 1100
Dover, NH 03824

Legal Counsel
WNET-TV
356 W. 58th Street
New York, NY 10019

Legal Counsel
KHUT-TV
4513 Cullen Boulevard
Houston, TX 77004

Legal Counsel
SECA
P. O. Box 5966
Columbia, SC 29205


Steven R. Miles

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● SENSITIVE



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 23, 1987

97 JUL 23 P 2: 54

RECEIVED
FEDERAL ELECTION COMMISSION
JUL 23 1987

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble *mn(2P)*
Acting General Counsel

SUBJECT: General Counsel's Memorandum - MUR 2516

We request that this memorandum be placed on the agenda for Tuesday, July 28, 1987.

This memorandum supplements the General Counsel's memorandum in this matter dated July 16, 1987, which has been placed on the agenda for July 28, 1987.

EXECUTIVE SESSION

JUL 28 1987

Submitted Late

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 23, 1987

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble *LMN (2/1)*
Acting General Counsel

SUBJECT: MUR 2516 - Addendum to General Counsel's Memorandum
dated July 16, 1987 - On Agenda July 28, 1987

On July 22, 1987, the Office of the General Counsel received a supplement to the Respondents' Motion to Dismiss. Attachment 1. A memorandum from this Office recommending denial of the Motion to Dismiss was circulated on July 17, 1987, and is on the agenda for the executive session on July 28, 1987.

DISCUSSION

This Office reiterates its recommendation that the motion be denied. We recognize that Section 437g(a)(1) gives the Commission the authority to vote to dismiss a complaint after it has notified the respondent and given the respondent 15 days to respond to the complaint. These predicates have been met in this matter. Thus, the district court's injunction is not required as the basis for granting or denying the motion. Furthermore, we note that the injunction runs against Mr. Martin-Trigona personally and is not binding on the Commission but permits the Commission to exercise its discretion. As we stated in our July 16 memorandum, the issues raised by the complaint are likely to arise again during the 1988 presidential election and with respect to these respondents. In previous matters involving debates, the Commission has received responses and addressed the issues on substantive grounds. Proceeding to the next stage of the compliance process and addressing the substantive issues in the present matter is sufficiently important to offset, in this instance, the purposes of the injunction against Mr. Martin-Trigona.

The opinions issued by the district and appellate courts with respect to the injunction focus on Mr. Martin-Trigona's filing of numerous frivolous actions and his abuse of the

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Memorandum to the Commission
Page 2

judicial and administrative systems. For the Commission's consideration, we have attached copies of the court opinions related to the one included in the Respondents' Motion to Dismiss. These include the original district court opinion (Attachment 2), its modification by the appellate court (Attachment 3), and the appellate court opinion affirming the district court's injunction (Attachment 4). These opinions further detail the pattern of Mr. Martin-Trigona's activities that resulted in the injunction. These opinions did not refer to his filings with the Commission.

3. A review of the MUR Index indicates that Mr. Martin-Trigona previously filed five other complaints in 1976 and 1977.

MUR 197 was filed on August 11, 1976, and was closed on October 26, 1976. It alleged that Citizens for Reagan had accepted excessive contributions, contributions in the name of another, and received a \$1.3 million loan from the National Bank of Washington that was not in the ordinary course of business. The Commission found no reason to believe.

MUR 198 was filed on July 12, 1976, and was closed on November 21, 1977. It alleged that the President Ford Committee had received excessive contributions and that campaign related costs of trips made by Cabinet Officers had been understated. The Commission found no reason to believe concerning the excessive contributions since the money at issue had already been returned, but found reason to believe regarding the campaign-related costs of trips. This portion of the MUR was merged into MUR 190.

MUR 199 was filed August 9, 1976, and was closed on January 5, 1977. It alleged that the Committee for Jimmy Carter received excessive contributions and contributions made by parents in the names of their minor children. The Commission found reason to believe only against the parents involved. The Commission voted to close the MUR after the Committee voluntarily returned the funds at issue to the children.

MUR 417 was filed on July 29, 1977, and was closed on August 11, 1977. The Commission found no reason to believe that Alex Seith had violated the Act when a committee to test the waters for a senatorial campaign was formed and did not file with the Commission.

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Memorandum to the Commission
Page 3

Finally, MUR 486 was filed on December 19, 1977, and was closed on April 13, 1978. It alleged that Charles Percy and Alex Seith were receiving in-kind contributions since both wrote newspaper columns and that Percy was receiving free broadcast time. The Commission found no reason to believe that a violation had occurred.

Attachments

1. Supplement to Motion to Dismiss
2. Original District Court Opinion (September 26, 1983)
3. First Appellate Court Opinion (June 18, 1984)
4. Second Appellate Court Opinion (June 4, 1985)

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Attachment(s) 2, 3, 4.
to Addendum to G.C. Report, 16 July 87
have been removed from this
position in Public Record File.

See index-Item(s) 573 F. Supp. 1245 (1983),
737 F.2nd 1254 (1984),
763 F.2nd 140 (1985).



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

July 27, 1987

87 JUL 27 P 5: 11

RECEIVED
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
Acting General Counsel

BY: Lois G. Lerner *LL*
Associate General Counsel

SUBJECT: MUR 2516

EXECUTIVE SESSION

JUL 28 1987

Submitted Late

The attached response was received by the Office of the General Counsel on Monday afternoon, July 27, 1987. Counsel for the Respondents evidently served a copy of the motion on the complainant. Because it relates to the Memorandum dated July 16, 1987 and the Addendum dated July 23, 1987 which are on the agenda, we request that it be considered a late submission.

Attachment

8704061713

87 JUL 27 4: 03

Before The
FEDERAL ELECTION COMMISSION
Washington, DC 20463

87 JUL 27 12: 25

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

In The Matter of:

PUBLIC BROADCASTING SERVICE,
SOUTHERN EDUCATIONAL COMMUNICATIONS ASSOCIATION,
WILLIAM BUCKLEY,
COMMUNITY TV OF SOUTHERN CALIFORNIA,
KQED, INC.,
GREATER WASHINGTON EDUCATIONAL
TELECOMMUNICATIONS ASSOCIATION, INC.,
ATLANTA BOARD OF EDUCATION,
CHICAGO EDUCATIONAL TV ASSOCIATION,
IOWA PUBLIC BROADCASTING BOARD,
WGBH EDUCATIONAL FOUNDATION,
UNIVERSITY OF NEW HAMPSHIRE,
EDUCATIONAL BROADCASTING CORP.,
UNIVERSITY OF HOUSTON

Docket No.

MUR 2516

RESPONSE TO FRIVOLOUS "MOTION TO DISMISS"

Counsel for various respondents has filed a "motion to dismiss" which is utterly frivolous. Petitioner is a legally qualified candidate for President of the United States. No federal judge has any power to interfere with a political campaign or to enjoin access to the federal government. The injunction to which opposing counsel refer clearly applies only to judicial proceedings, and only to matters related to commercial disputes. An attached order supports that claim, and totally negates opposing counsel's efforts to avoid the legal issues in this proceeding. In the words of Contragate defense counsel, "it is time for opposing counsel to stop harassing" petitioner and to get down to the legal merits of the complaint before the Commission. It should be noted that the decision to which counsel refers from Virginia is utterly void and has been appealed to the Court of Appeals in Richmond, Virginia. Amusingly enough, the Gary

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Hart decision to which counsel refers directed petitioner to file with this Commission, which petitioner has now done.

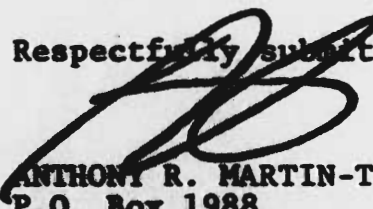
Opposing counsel seek to make a joke of very serious matters. It is doubly outrageous that public broadcasting stations, who beg the public for money, are using high-priced Washington lawyers to make a joke of our constitution and to seek to "take sides" in the 1988 election.

The motion to dismiss is utterly nonsensical and frivolous, and constitutes professional malpractice *

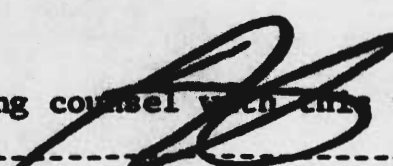
Opposing counsel are formally placed on notice that if they continue to file frivolous claims and pleadings, they will be held directly and personally liable for such misconduct and interference with a presidential campaign.

The motion to dismiss should be rejected, and the Commission should promptly decide the issues, so that judicial review may be had in the event of an adverse decision.

Respectfully submitted,


ANTHONY R. MARTIN-TRIGONA
P.O. Box 1988
Middletown, CT 06457

July 23, 1987

I certify I have served opposing counsel with this response.  17

* Petitioner notes that opposing counsel have themselves not complied with the injunction, which requires allegations of violations to be filed in Connecticut. Counsel are using smear tactics, and, in the absence of a complaint to the Connecticut court, the motion to dismiss should be seen for what it is a transparent harassing technique to avoid and delay decision on the merits. Only Connecticut can enforce the injunction

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MICROFILM.

JUN 3 1987

FILED

HARTFORD
UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JUN 3 9 56 AM '87
CLERK
U.S. DISTRICT COURT
HARTFORD, CT

In Re

ANTHONY R. MARTIN-TRIGONA,
Debtor

:

:

:

Misc. Civil No. H-83-62 (PCD)

RULING ON MOTION TO CONSIDER INJUNCTION

Defendants have moved this court to consider the proposed amended complaint filed by Anthony R. Martin-Trigona pursuant to and in light of In re Martin-Trigona, 592 F. Supp. 1566, 1573 (D. Conn. 1984), aff'd, 763 F.2d 140 (2d Cir. 1985), cert. denied, 106 S. Ct. 807 (1986). Initially, from a procedural standpoint, the court endorses the approach taken by the state defendants. Notions of comity and respect for our sister state courts demand that in situations such as this that the state court first be apprised of the alleged nonconformity by state plaintiff, Martin-Trigona, with the federal injunction for its determination as to whether the state proceedings should be stayed pending the federal court's consideration of the alleged nonconforming act in light of the federal injunction.

The injunction entered by this court is intended to curb unwarranted, vexatious and harassing litigation by Martin-Trigona against persons or entities connected with the principal federal litigation. Martin-Trigona's record of such litigation was deemed

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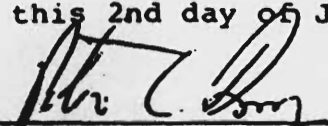
to warrant such restrictions because of his abuse of the legal system. To the extent that he attempts, in any forum, to relitigate a decided issue or to bring an action which is devoid of merit, the injunction would preclude his doing so. To the extent he wishes to litigate claims which are sound in law and supported in fact, he is free to do so and in forums of proper jurisdiction.

This court would only intercede by denying the right to sue, or by enjoining the filing of a specific claim. Such denial or enjoinder would be directed specifically against Martin-Trigona personally and not against a court, the jurisdiction of which he invoked. Such a court is to be apprised of the injunction by Martin-Trigona and may give effect to it should such court find it appropriate in particular circumstances. The Connecticut Superior Court, having had the injunction called to its attention and having deferred, it is proper here to consider the complaint in its amended form.

Counts II, III and IV do not present claims previously litigated, claims without legal or factual merit, or claims clearly intended to harass defendants, and they are not barred by the injunction and may be filed. The claim in Count V is without legal merit as it alleges no state action, an essential element of an action under 42 U.S.C. § 1983. Leave to file Count V is, therefore, denied.

SO ORDERED.

Dated at Hartford, Connecticut, this 2nd day of June, 1987.


Peter C. Dorsey

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Public Broadcasting Service,
Southern Educational Communications
Association,
William Buckley,
Community TV of Southern California,
KQED, Inc.,
Greater Washington Educational
Telecommunications Association,
Inc.,
Atlanta Board of Education,
Chicago Educational TV Association,
Iowa Public Broadcasting Board,
WGBH Educational Foundation,
University of New Hampshire,
Educational Broadcasting Corp.,
University of Houston

MUR 2516

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of July 28,
1987, do hereby certify that the Commission took the
following actions with respect to MUR 2516:

1. Decided by a vote of 4-2 to reject the recommendation contained in the General Counsel's report dated July 16, 1987, and instead dismiss the complaint in this matter.

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

(continued)

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Federal Election Commission
Certification for MUR 2516
July 28, 1987

Page 2

2. Decided by a vote of 6-0 to direct the Office of General Counsel to send appropriate letters, and that the letter to the Complainant advise him that if the proper materials are filed with his complaint pursuant to the decision of the United States District Court for the District of Connecticut, then the Commission will handle the matter under its usual procedures.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

July 29, 1987
Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

87040661719



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 1987

Anthony R. Martin-Trigona
P.O. Box 1988
Middleton, CT 06457

RE: MUR 2516

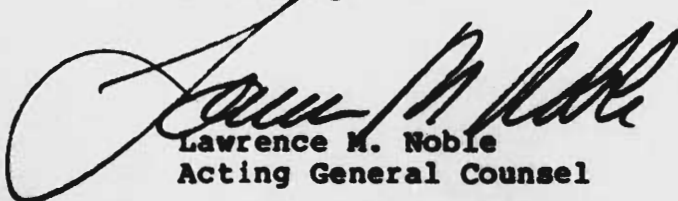
Dear Mr. Martin-Trigona:

On July 8, 1987, the Federal Election Commission received a Motion to Dismiss in the above-referenced matter and on July 22, 1987, received a Supplement to Motion to Dismiss. On July 27, 1987, the Commission received your response to this motion.

The Commission considered these documents as well as the opinion in In re Martin-Trigona, 592 F.Supp. 1566 (D. Conn. 1984). On July 28, 1987, the Commission granted the Motion to Dismiss because you failed to comply with the terms of the injunction of the United States District Court for Connecticut. Accordingly, the Commission closed its file in this matter. The Federal Election Campaign Act of 1971, as amended ("the Act") allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

This action does not preclude you from refiling the complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1), 11 C.F.R. § 111.4, and the terms of the injunction issued by the United States District Court for Connecticut. If you do so, the Commission will handle the matter under its usual procedures.

Sincerely,


Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Memoranda
Certification



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 1987

John Y. Taggart
Windels, Marx, Davies & Ives
51 West 51st Street
New York, NY 10019

Re: MUR 2516
William F. Buckley, Jr.

Dear Mr. Taggart:

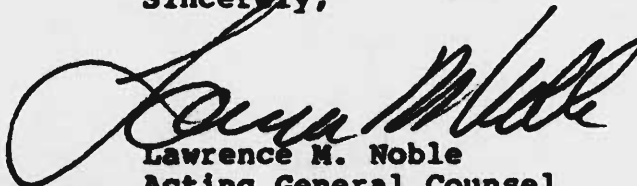
On June 30, 1987, the Federal Election Commission notified your client, William F. Buckley, Jr., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 28, 1987, the Commission granted a Motion to Dismiss the complaint because the complainant failed to comply with the injunction of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp 1566 (D. Conn. 1984). Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

If you have any questions, please contact Susan Beard, the attorney assigned to this matter at (202) 376-8200.

Sincerely,


Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Memoranda
Certification

20a



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 5, 1987

Victoria L. Eslinger
Berry, Dunbar, O'Connor, Jordan
& Eslinger
P.O. Box 11645, Capital Station
Columbia, S.C. 29211

Re: MUR 2516
Southern Educational
Communications
Association

Dear Ms. Eslinger:

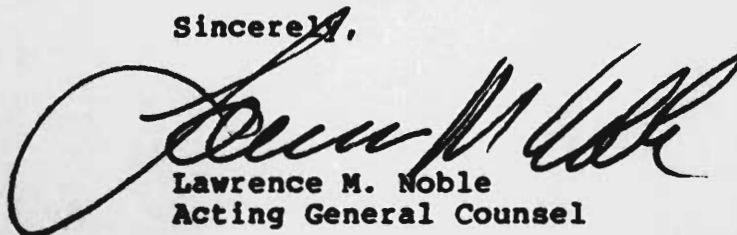
On June 30, 1987, the Federal Election Commission notified your client, Southern Educational Communications Association, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 28, 1987, the Commission granted a Motion to Dismiss the complaint because the complainant failed to comply with the injunction of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp 1566 (D. Conn. 1984). Accordingly, the Commission closed its file in this matter.

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Sincerely,



Lawrence M. Noble
Acting General Counsel

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87040561722



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 1987

Joseph A. Millimet
Devine, Millimet, Stohl & Branch
Professional Association
Box 719
Manchester, NH 03105

Re: MUR 2516
University of New
Hampshire

Dear Mr. Millimet:

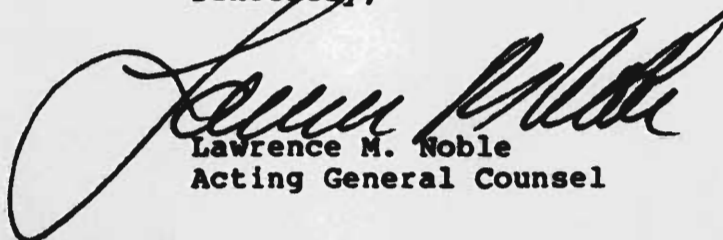
On June 30, 1987, the Federal Election Commission notified your client, University of New Hampshire, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 28, 1987, the Commission granted a Motion to Dismiss the complaint because the complainant failed to comply with the injunction of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp 1566 (D. Conn. 1984). Accordingly, the Commission closed its file in this matter.

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Sincerely,


Lawrence M. Noble
Acting General Counsel

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General Counsel's Memoranda
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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 5, 1987

Preston Williams, President
WPBA
Atlanta Board of Education
740 Bismark Road, N.E.
Atlanta, GA 30324

Re: MUR 2516
Atlanta Board of
Education

Dear Mr. Williams:

On June 30, 1987, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 28, 1987, the Commission granted a Motion to Dismiss the complaint because the complainant failed to comply with the injunction of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp 1566 (D. Conn. 1984). Accordingly, the Commission closed its file in this matter.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Lawrence M. Noble
Acting General Counsel

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87040561724



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 1987

Anthony Tiano, President
and General Manager
KQED, Inc.
500 Eight Street
San Francisco, CA 94103

Re: MUR 2516
KQED, Inc.

Dear Mr. Tiano:

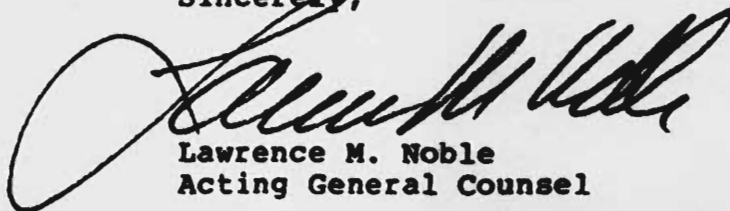
On June 30, 1987, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 28, 1987, the Commission granted a Motion to Dismiss the complaint because the complainant failed to comply with the injunction of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp 1566 (D. Conn. 1984). Accordingly, the Commission closed its file in this matter.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter at (202) 376-8200.

Sincerely,



Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Memoranda
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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 5, 1987

William J. McCarter, President
and General Manager
Chicago Educational TV Association
5400 N. St. Louis Avenue
Chicago, IL 60625

Re: MUR 2516
Chicago Educational TV
Association

Dear Mr. McCarter:

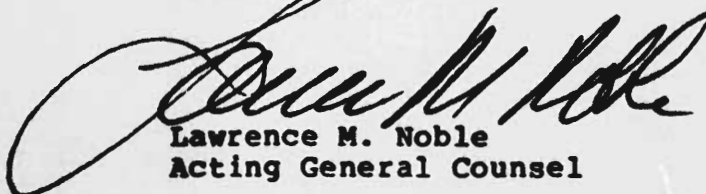
On June 30, 1987, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 28, 1987, the Commission granted a Motion to Dismiss the complaint because the complainant failed to comply with the injunction of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp 1566 (D. Conn. 1984). Accordingly, the Commission closed its file in this matter.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter at (202) 376-8200.

Sincerely,



Lawrence M. Noble
Acting General Counsel

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General Counsel's Memoranda
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87040561726



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 1987

James L. Bauer, General Manager
KUHT
University of Houston
4513 Cullen Blvd.
Houston, TX 77004

Re: MUR 2516
University of Houston

Dear Mr. Bauer:

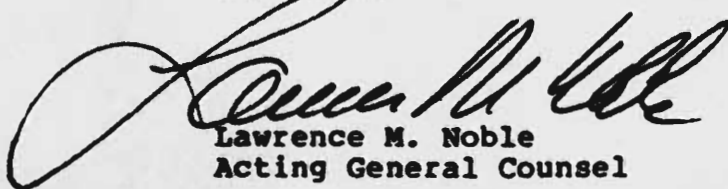
On June 30, 1987, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 28, 1987, the Commission granted a Motion to Dismiss the complaint because the complainant failed to comply with the injunction of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp 1566 (D. Conn. 1984). Accordingly, the Commission closed its file in this matter.

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If you have any questions, please contact Susan Beard, the attorney assigned to this matter at (202) 376-8200.

Sincerely,


Lawrence M. Noble
Acting General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 5, 1987

Nancy H. Hendry
Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314-1698

Re: MUR 2516
Public Broadcasting
Service, et. al.

Dear Ms. Hendry:

On June 30, 1987, the Federal Election Commission notified your clients, Public Broadcasting Service, WGBH Educational Foundation, Iowa Public Broadcasting Board, Greater Washington Educational Telecommunications Association, Inc., Community TV of Southern California, Southern Educational Communications Association, and Educational Broadcasting Corporation, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On July 28, 1987, the Commission granted a Motion to Dismiss the complaint because the complainant failed to comply with the injunction of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp 1566 (D. Conn. 1984). Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

If you have any questions, please contact Susan Beard, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Lawrence M. Noble
Acting General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 1987

David Tillotson, Esquire
Steven R. Miles, Esquire
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Ave., N.W.
Washington, D.C. 20036-5339

RE: MUR 2516
Public Broadcasting Service,
et al.

Dear Mr. Tillotson and Mr. Miles:

On July 8, 1987, the Federal Election Commission received your Motion to Dismiss in the above-referenced matter on behalf of the Public Broadcasting Service, the Southern Educational Communications Association, and those PBS member stations named as parties in the complaint. On July 22, 1987, the Commission received your Supplement to Motion to Dismiss. On July 27, 1987, the Commission received the complainant's response to this motion.

The Commission considered these documents as well as the opinion in In re Martin-Trigona, 592 F.Supp. 1566 (D. Conn. 1984). On July 28, 1987, the Commission granted your Motion to Dismiss because the complainant failed to comply with the terms of the injunction of the United States District Court for Connecticut. Accordingly, the Commission closed its file in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

If you have any questions, please contact Susan Beard, the attorney assigned to this matter at (202) 376-8200.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
General Counsel's Memoranda
Certification

SENSITIVE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 21, 1987

97 AUG 21 12:13

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble
Acting General Counsel
SUBJECT: MUR 2516 - Motion for Reconsideration

On August 12, 1987, the Office of the General Counsel received a Motion for Reconsideration from Mr. Martin-Trigona, the complainant in MUR 2516. Attachment 1. On July 28, 1987, the Commission voted to dismiss the complaint in MUR 2516. The Respondents in MUR 2516 were the Public Broadcasting Service ("PBS"), Southern Educational Communications Association, producer of "Firing Line," William Buckley, and named licensees of television stations affiliated with PBS.

I. BACKGROUND

The Commission based its decision to dismiss the complaint in MUR 2516 on the opinion of the United States District Court for Connecticut in In re Martin-Trigona, 592 F.Supp. 1566 (D. Conn. 1984), aff'd, 763 F.2d 140 (2d Cir. 1985), cert. denied, 106 S.Ct. 807 (1986). The District Court enjoined Mr. Martin-Trigona from instituting any action in any federal forum against any person or entity without first obtaining leave of that forum. The District Court stated:

Anthony R. Martin-Trigona is hereby permanently enjoined from filing or attempting to initiate any new lawsuit, action, proceeding, or matter in any federal court, agency, tribunal, committee, or other federal forum of the United States, against any person or entity, other than a person or entity comprehended by the terms of section VII, infra, or serving any such person or entity with any paper purporting to initiate any such lawsuit, action, proceeding, or matter without first obtaining leave of that court, agency, tribunal, committee, or other forum.

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MEMORANDUM TO THE COMMISSION
PAGE 2

87040661731

In seeking such leave, Martin-Trigona or any individual or entity acting for him, or at his behest, shall comply with each of the following requirements: (a) he shall file with the complaint or document purporting to commence a lawsuit, action, proceeding, or matter a motion captioned "Application Pursuant to Court Order Seeking Leave to File;" (b) he shall attach as "Exhibit 1" to that motion a copy of this court's opinion In re Martin-Trigona, 573 F.Supp. 1245 (D.Conn.1983), with all appendices; (c) he shall attach as "Exhibit 2" to that motion a copy of the decision of the Court of Appeals in In re Martin-Trigona, 737 F.2d 1254 (2d Cir.1984), with all appendices; (d) he shall attach as "Exhibit 3" to that motion a copy of this order, In re Martin-Trigona, 592 F.Supp. 1566 (D. Conn. 1984), with all appendices; (e) he shall attach as "Exhibit 4" to that motion either an affidavit or an unsworn declaration pursuant to 28 U.S.C. § 1746 certifying whether or not the claim he wishes to present is a claim ever raised by him in any court, agency, tribunal, committee, or other forum; (f) he shall attach as "Exhibit 5" to that motion a list of each and every lawsuit, action, proceeding, matter, or complaint previously filed by him or on his behalf in any court, agency, tribunal, committee, or other forum, against each and every defendant or respondent in the lawsuit, action, proceeding, or matter he wishes to file or attempt to initiate; (g) he shall attach as "Exhibit 6" and successive exhibits (with numbers continuing as necessary) to that motion a copy of each such complaint or other document purporting to commence any such lawsuit, action, proceeding, or matter and a certified record of its disposition; (h) he shall serve on each defendant or respondent, if and when leave to serve the complaint or other analogous document in the new lawsuit, action, proceeding, or matter is granted, a copy of the materials specified in subsections (a), (b), (c), and (d) of this section, supra.

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Failure to comply with the terms of this order will be sufficient grounds for a federal court, agency, tribunal, committee, or other federal forum to deny any motion by Martin-Trigona for leave to file. Further the failure by Martin-Trigona to advise a federal court, agency, tribunal, committee, or other federal forum in which he has filed a lawsuit, action, proceeding, or matter of the materials specified in subsections (a), (b), (c), and (d) of this section, supra, may be considered by such court or other forum a sufficient basis for sustaining a motion to dismiss such a lawsuit, action, proceeding, or matter, or a request otherwise to dispose of the matter filed or submitted by Martin-Trigona.

Id. at 1571-72.

II. DISCUSSION

Mr. Martin-Trigona has presented several reasons why the Commission should reconsider its decision to dismiss the complaint in MUR 2516.

First, Mr. Martin-Trigona argues that if one reads the injunction literally, he would need to seek leave of the Commission to file a Statement of Candidacy or disclosure reports. The injunction, however, only applies to matters in any federal forum which are instituted by Mr. Martin-Trigona which are "against any person or entity." Id. at 1571. The Commission's dismissal in MUR 2516 applied only to the complaint filed against the named Respondents. The Commission's action did not affect the filing of any Statement of Candidacy or reports of receipts and disbursements by Mr. Martin-Trigona.

Second, Mr. Martin-Trigona argues that there is a "law enforcement" exception in the injunction. The only limitation on the injunction which could be considered as "law enforcement" is that the injunction shall not "be construed as having any effect on Anthony R. Martin-Trigona's ability to defend himself in any criminal action brought against him." Id. at 1575.

Third, Mr. Martin-Trigona appears to be arguing that filing a complaint with the Commission does not institute any proceeding. However, when a complaint is filed with the Commission, an administrative procedure is initiated.

MEMORANDUM TO THE COMMISSION
PAGE 4

Fourth, Mr. Martin-Trigona argues that the terms of the injunction have already been satisfied since the Commission already knows about the injunction. However, under the terms of the injunction, there are other requirements that need to be satisfied besides notifying the forum that an injunction exists. See parts (e)-(h) quoted above. These requirements serve two important purposes: they enable the forum involved to make a well informed decision on whether to grant leave to file, and they inform respondents of Mr. Martin-Trigona's litigious background. Thus, there are other documents that can be and should be filed under the injunction, but which Mr. Martin-Trigona has not filed.

Fifth, Mr. Martin-Trigona appears to be arguing that the terms of the injunction are, in effect, preventing him from seeking elected office. As noted above, the injunction only applies to actions against other individuals or entities and not to filing Statements of Candidacy and other documents that must be filed by individuals seeking Federal office.

Finally, Mr. Martin-Trigona appears to be suggesting that the Commission should not dismiss the complaint, but instead that either the Commission or the Respondents should have brought the failure to comply with the injunction to the attention of the District Court for Connecticut. However, the very terms of the injunction state that failure to advise a federal forum of the court opinions in In re Martin-Trigona "may be considered by such court or other forum a sufficient basis for sustaining a motion to dismiss such a lawsuit, action, proceeding, or matter." Id. at 1572.

Accordingly, the Office of the General Counsel recommends that the Motion for Reconsideration be denied.

III. RECOMMENDATIONS

1. Deny the Motion for Reconsideration.
2. Approve the attached letter.

Attachments

1. Motion for Reconsideration
2. Proposed letter

8704061733

GCC # 4141

ANTHONY R.
MARTIN-TRIGONA for PRESIDENT

DEMOCRAT / 1988

POST OFFICE BOX 1988, MIDDLETOWN, CONNECTICUT 06457

TELEPHONE (203) 347-0130

87 AUG 12

August 8, 1987

37 AUG 12 A10:05

Mr. Lawrence M. Noble
Acting General Counsel
Federal Election Commission
Washington, DC 29463

RE: MUR 2516 and other complaints (pending & enclosed)

Dear Mr. Noble:

This will respond to your letter of August 5th.

I am at a loss to understand why the Commission has acted as it did. Before seeking judicial review, which I would consider a waste of my time and your staff's time, I am asking for reconsideration. I realize that you recommended that the complaints proceed and that your views were rejected. Nevertheless, because I believed, and believe, the motion to dismiss to be frivolous and legally unfounded, I did not make as thorough a presentation as perhaps I might have.

I would like to make three points which are also stated as grounds for granting my motion.

First, as a candidate subject to regulatory jurisdiction, the law imposes burdens on me. if you were to read the injunction literally, as the Commission has done, I would need leave of the Commission to file as a candidate, open campaign committees and file financial reports. Obviously, no federal judge can place such restrictions on a candidate.*Likewise, read literally, I would have to get "leave" to file an income tax return or call the local police to report a burglary. Obviously, I do not. Even though I believe the injunction is a piece of malicious rubbish, it is still subject to a reading based on reasonable language. The injunction only seeks to restrict me from filing lawsuits or requests for personal/private relief. (See Part 2 below). In no way was it intended, nor could it be intended, to restrict my communications with government agencies without placing an absurd result on the injunction and its impact.

* To read the injunction as the agency seeks to do would suggest a federal judge can enjoin someone from being a candidate for office. Even in the age of the imperial federal judiciary, judges do not claim or seek to arrogate such powers to themselves, with the possible exception of Joe Cabranes in Connecticut.

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ATT.
P. 1

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Lawrence M. Noble
page two
August 8, 1987

Because I am a candidate, there are legal duties imposed on me to obey the law, to make filings, and to ensure that violations by others are brought to your attention. In no way has such compliance with the law or reports of violations of the law been enjoined.

Second, the injunction contains within its terms an obvious "law enforcement" exception. This is critical because my complaint to the FEC does not start any proceeding. Enforcement action is taken by the FEC after investigating and evaluating my complaint. This is distinguished from a private law suit, where the filing of a law suit prompts private parties to appear or face default. My complaint to your agency is not an attempt to collect damages or to secure personal relief in the form of a judgment. It is merely to advise the agency that a violation of the law may have occurred, and to ask the agency to look into the matter and to take necessary and appropriate enforcement action. Nothing happens, however, until the agency conducts its own investigation, and decides whether to proceed.

To suggest that I have to obtain "leave" of an agency to report a violation of the law would reach an absurd result where I had to ask leave of the FBI to report a bank robbery. No one could intend such an absurd result, not even the author of the absurd injunction. Thus, since I have merely asked your agency to take law enforcement action by filing a request for such action, the injunction is not even implicated in such a request. Whether action should be taken is left up to the agency based on its own independent investigation. As I understand the law, moreover, your agency has an independent nondelegable duty to investigate violations of the law and to take enforcement action. I don't see how notice from a citizen that a violation may have occurred can be enjoined or in any way restrict your agency's duty to address the merits of the issues. When I complain, for example, that Jesse Jackson is opening illegal committees (as he has apparently done in Iowa) without complying with the law, how can I be "enjoined" from advising you of these facts to trigger your own independent law enforcement duties? It doesn't seem possible.

Third, there are two problems with the injunction that the agency can't ignore. What is it you want me to file? I have never had any prior actions with the respondents? As you correctly note, I raise serious issues, and I am filing new complaints directed at those issues. How does your agency expect me to comply. You have copies of the injunction, and since I have never sued any of the respondents, there is nothing more to file. Thus, even if I were to comply with the injunction, there would not be anything further to file, except to seek permission to file, which would be absurd in view of the fact I have already filed and the staff has recommended that my complaint is not frivolous and should go forward. The order attached to my response clearly modifies the injunction (as it has been modified on prior occasions by additional orders, so that the

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Lawrence M. Noble
page three
August 8, 1987

published order is no longer the complete or correct order) to state that "I am free to do so in forums of competent jurisdiction." If I read English as you read English, "free" means "free," which means there is no barrier placed on meritorious law suits in "forums of proper jurisdiction."

The respondents are using their injunction claims in bad faith for two reasons. One, I don't believe a federal judge in Connecticut can interfere with the law enforcement functions of your agency. As a candidate subject to your agency, while my campaign is pending I have the right and the duty to seek relief from the agency in all matters related to my campaign, and no one can enjoin me from seeking office. Second, the respondents have already announced plans to engage in what I believe are new violations of the campaign law.

Secondly, the district court in Connecticut has taken the view that it will only act when respondents complaint of a violation in that court. I am thus placed in a Hobson's Choice position. The court will only act when someone complains, but the respondents have never complained. Unless and until a violation has been found, your agency should not step in and act, and decide an issue, which the court in Connecticut has refused to resolve. Otherwise, there is no forum where I can resolve the matters properly. If your agency believes that I have violated the injunction, when I believe it does not apply and I have not, then I urge and invite you to file an immediate complaint in Connecticut, and to request a ruling. This is going to be a chronic and continuing problem. It is somewhat strange that I have legal duties imposed on me to report and to ensure that no violations of the law occur, but I am enjoined from doing my duty. It may well be that if the injunction is as you say it is, my reports should no longer be filed and I can just ignore the FEC. [I don't believe that is the case but if that is the way the agency reads the injunction, you may make it the case. The law can't swing both ways for the same person on the same issue.] Thus, since the district court in Connecticut has decided it will abstain, absent complaints from someone, I urge and invite you to file a complaint. In the absence of such action by the agency, my reports to the Commission of legal violations of the law should be processed normally as you indicated they will. As you can see the injunction is a mischievous document because it creates chaos from agencies and fora, and not for me. If you read it correctly and consistently, then your regulatory net over me might be at an end, which is not the result that you would want to achieve.

In closing, I believe the agency can and should resolve this matter by immediate reference to reconsideration and an immediate application in Connecticut (which respondents have never made). We can't just hold a presidential campaign in limbo, and hold the issues raised in limbo, while we figure out what to do. Furthermore, I have no particular desire to seek judicial review in Washington, because I would end up litigating against an agency staff that

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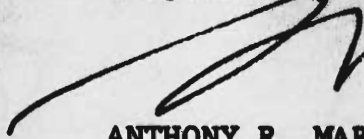
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Lawrence M. Noble
page four
August 8, 1987

recommended the complaint be processed. The District of Columbia court would no doubt have to defer to Connecticut, which puts us back where we began, because the Connecticut court has refused to act unless and until someone other than me files a complaint.*

I am prepared to cooperate with your staff in any lawful and appropriate manner. I ask that the issues raised in my petition be presented to the Commission at your earliest practical convenience.

Respectfully submitted,



ANTHONY R. MARTIN-TRIGONA

ARMT:sp

I certify I have served counsel for respondents with this letter and motion for reconsideration.



* A copy of that order is attached hereto for your reference.

NOTE

Attached to this letter is a court order from Connecticut. Out of an abundance of caution I should point out that many people are confused by court orders from Connecticut because they are entered in what I and many others find a strange manner. They type short orders across the face of the pleading, and the judge signs the plading itself. The attached is a court order entered July 1, 1987 and signed by the district judge.

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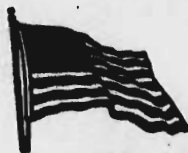
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ANTHONY R.
MARTIN-TRIGONA for PRESIDENT

DEMOCRAT / 1988

POST OFFICE BOX 1988, MIDDLETOWN, CONNECTICUT 06457

TELEPHONE (203) 347-0130



Peter Dorsey, U.S.D.J.

June 25, 1987

Hon. Peter Dorsey
United States District Court
450 Main Street
Hartford, CT 06103

Re: Martin-Trigona v. PBS (E.D. Va.)

Dear Judge Dorsey:

I want to bring the attached case to your attention. It was filed today in Virginia.

I did not attempt to comply with the purported injunction because there was simply no time to do so. In the context of a political campaign, the leave-to-file requirements, which takes from weeks to months, cannot have applicability, because by the time people figured out what to do, the campaign would have passed on.

I note that the Court of Appeals originally exempted political petitioning from the injunction. I believe that campaign-related litigation should fall within the same rubric. Your own order of June 3rd (copy attached) makes clear that the injunction is designed to curb litigation related to the cases before you.

Because of problems involving ballot access across the United States and related political problems, I am not going to be in a position to even try to comply with your injunction. Nor do I feel that a federal judge in Connecticut, or anywhere else, can constitutionally serve as a campaign czar of campaign-related litigation involving attempts to

7/1/87: Petitioner's actions will not be considered unless and until there is an actual case or controversy, viz, if and when the defendant in said case objects to the complaint on the ground that such filing violated the injunction. SO ORDERED.

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(5)

87 AUG12 48:46

Before The
FEDERAL ELECTION COMMISSION
Washington, DC 20463

In The Matter of:

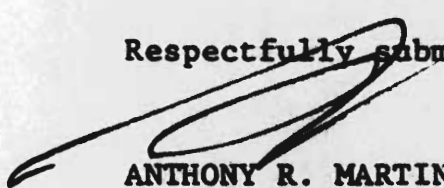
PUBLIC BROADCASTING SERVICE,
SOUTHERN EDUCATIONAL COMMUNICATIONS ASSOCIATION,
WILLIAM BUCKLEY,
COMMUNITY TV OF SOUTHERN CALIFORNIA,
KQED, INC.,
GREATER WASHINGTON EDUCATIONAL
TELECOMMUNICATIONS ASSOCIATION, INC.,
ATLANTA BOARD OF EDUCATION,
CHICAGO EDUCATIONAL TV ASSOCIATION,
IOWA PUBLIC BROADCASTING BOARD,
WGBH EDUCATIONAL FOUNDATION,
UNIVERSITY OF NEW HAMPSHIRE,
EDUCATIONAL BROADCASTING CORP.,
UNIVERSITY OF HOUSTON

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EMERGENCY
MOTION FOR RECONSIDERATION

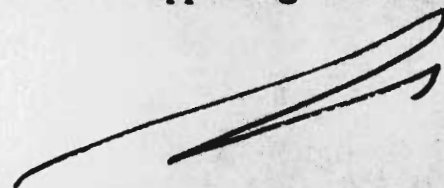
The petitioner hereby moves the Commission to reconsider its action of July 28, 1987 based on the claims and arguments contained in the attached letter to the Acting General Counsel.

Respectfully submitted,


ANTHONY R. MARTIN-TRIGONA
P.O. Box 1988
Middletown, CT 06457

August 8, 1987

I certify I have served opposing counsel with this motion.



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ANTHONY R. MARTIN-TRIGONA for PRESIDENT

DEMOCRAT / 1988

POST OFFICE BOX 1988, MIDDLETOWN, CONNECTICUT 06457
TELEPHONE (203) 347-0130

August 8, 1987

Mr. Lawrence M. Noble
Acting General Counsel
Federal Election Commission
Washington, DC 29463

RE: MUR 2516 and other complaints (pending & enclosed)

Dear Mr. Noble:

This will respond to your letter of August 5th.

I am at a loss to understand why the Commission has acted as it did. Before seeking judicial review, which I would consider a waste of my time and your staff's time, I am asking for reconsideration. I realize that you recommended that the complaints proceed and that your views were rejected. Nevertheless, because I believed, and believe, the motion to dismiss to be frivolous and legally unfounded, I did not make as thorough a presentation as perhaps I might have.

I would like to make three points which are also stated as grounds for granting my motion.

First, as a candidate subject to regulatory jurisdiction, the law imposes burdens on me. If you were to read the injunction literally, as the Commission has done, I would need leave of the Commission to file as a candidate, open campaign committees and file financial reports. Obviously, no federal judge can place such restrictions on a candidate.*Likewise, read literally, I would have to get "leave" to file an income tax return or call the local police to report a burglary. Obviously, I do not. Even though I believe the injunction is a piece of malicious rubbish, it is still subject to a reading based on reasonable language. The injunction only seeks to restrict me from filing lawsuits or requests for personal/private relief. (See Part 2 below). In no way was it intended, nor could it be intended, to restrict my communications with government agencies without placing an absurd result on the injunction and its impact.

* To read the injunction as the agency seeks to do would suggest a federal judge can enjoin someone from being a candidate for office. Even in the age of the imperial federal judiciary, judges do not claim or seek to arrogate such powers to themselves, with the possible exception of Joe Cabranes in Connecticut.

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Lawrence M. Noble
page two
August 8, 1987

Because I am a candidate, there are legal duties imposed on me to obey the law, to make filings, and to ensure that violations by others are brought to your attention. In no way has such compliance with the law or reports of violations of the law been enjoined.

Second, the injunction contains within its terms an obvious "law enforcement" exception. This is critical because my complaint to the FEC does not start any proceeding. Enforcement action is taken by the FEC after investigating and evaluating my complaint. This is distinguished from a private law suit, where the filing of a law suit prompts private parties to appear or face default. My complaint to your agency is not an attempt to collect damages or to secure personal relief in the form of a judgment. It is merely to advise the agency that a violation of the law may have occurred, and to ask the agency to look into the matter and to take necessary and appropriate enforcement action. Nothing happens, however, until the agency conducts its own investigation, and decides whether to proceed.

To suggest that I have to obtain "leave" of an agency to report a violation of the law would reach an absurd result where I had to ask leave of the FBI to report a bank robbery. No one could intend such an absurd result, not even the author of the absurd injunction. Thus, since I have merely asked your agency to take law enforcement action by filing a request for such action, the injunction is not even implicated in such a request. Whether action should be taken is left up to the agency based on its own independent investigation. As I understand the law, moreover, your agency has an independent nondelegable duty to investigate violations of the law and to take enforcement action. I don't see how notice from a citizen that a violation may have occurred can be enjoined or in any way restrict your agency's duty to address the merits of the issues. When I complain, for example, that Jesse Jackson is opening illegal committees (as he has apparently done in Iowa) without complying with the law, how can I be "enjoined" from advising you of these facts to trigger your own independent law enforcement duties? It doesn't seem possible.

Third, there are two problems with the injunction that the agency can't ignore. What is it you want me to file? I have never had any prior actions with the respondents? As you correctly note, I raise serious issues, and I am filing new complaints directed at those issues. How does your agency expect me to comply. You have copies of the injunction, and since I have never sued any of the respondents, there is nothing more to file. Thus, even if I were to comply with the injunction, there would not be anything further to file, except to seek permission to file, which would be absurd in view of the fact I have already filed and the staff has recommended that my complaint is not frivolous and should go forward. The order attached to my response clearly modifies the injunction (as it has been modified on prior occasions by additional orders, so that the

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Lawrence M. Noble
page three
August 8, 1987

published order is no longer the complete or correct order) to state that "I am free to do so in forums of competent jurisdiction." If I read English as you read English, "free" means "free," which means there is no barrier placed on meritorious law suits in "forums of proper jurisdiction."

The respondents are using their injunction claims in bad faith for two reasons. One, I don't believe a federal judge in Connecticut can interfere with the law enforcement functions of your agency. As a candidate subject to your agency, while my campaign is pending I have the right and the duty to seek relief from the agency in all matters related to my campaign, and no one can enjoin me from seeking office. Second, the respondents have already announced plans to engage in what I believe are new violations of the campaign law.

Secondly, the district court in Connecticut has taken the view that it will only act when respondents complaint of a violation in that court. I am thus placed in a Hobson's Choice position. The court will only act when someone complains, but the respondents have never complained. Unless and until a violation has been found, your agency should not step in and act, and decide an issue, which the court in Connecticut has refused to resolve. Otherwise, there is no forum where I can resolve the matters properly. If your agency believes that I have violated the injunction, when I believe it does not apply and I have not, then I urge and invite you to file an immediate complaint in Connecticut, and to request a ruling. This is going to be a chronic and continuing problem. It is somewhat strange that I have legal duties imposed on me to report and to ensure that no violations of the law occur, but I am enjoined from doing my duty. It may well be that if the injunction is as you say it is, my reports should no longer be filed and I can just ignore the FEC. [I don't believe that is the case but if that is the way the agency reads the injunction, you may make it the case. The law can't swing both ways for the same person on the same issue.] Thus, since the district court in Connecticut has decided it will abstain, absent complaints from someone, I urge and invite you to file a complaint. In the absence of such action by the agency, my reports to the Commission of legal violations of the law should be processed normally as you indicated they will. As you can see the injunction is a mischievous document because it creates chaos from agencies and fora , and not for me. If you read it correctly and consistently, then your regulatory net over me might be at an end, which is not the result that you would want to achieve.

In closing, I believe the agency can and should resolve this matter by immediate reference to reconsideration and an immediate application in Connecticut (which respondents have never made). We can't just hold a presidential campaign in limbo, and hold the issues raised in limbo, while we figure out what to do. Furthermore, I have no particular desire to seek judicial review in Washington, because I would end up litigating against an agency staff that

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Lawrence M. Noble
page four
August 8, 1987

recommended the complaint be processed. The District of Columbia court would no doubt have to defer to Connecticut, which puts us back where we began, because the Connecticut court has refused to act unless and until someone other than me files a complaint.*

I am prepared to cooperate with your staff in any lawful and appropriate manner. I ask that the issues raised in my petition be presented to the Commission at your earliest practical convenience.

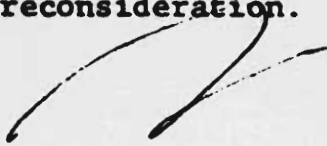
Respectfully submitted,



ANTHONY R. MARTIN-TRIGONA

ARMT:sp

I certify I have served counsel for respondents with this letter and motion for reconsideration.



* A copy of that order is attached hereto for your reference.

NOTE

Attached to this letter is a court order from Connecticut. Out of an abundance of caution I should point out that many people are confused by court orders from Connecticut because they are entered in what I and many others find a strange manner. They type short orders across the face of the pleading, and the judge signs the plading itself. The attached is a court order entered July 1, 1987 and signed by the district judge.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 25, 1987

SENSITIVE

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MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
Acting General Counsel

BY: Lois G. Lerner *LL*
Associate General Counsel

SUBJECT: MUR 2516

The attached opposition was received by the Office of the General Counsel on Monday, August 24, 1987, at 4:41 p.m. Complainant evidently served a copy of the motion on the Respondents. The arguments presented in this opposition supplement those discussed in the General Counsel's Memorandum dated August 21, 1987, which is currently in circulation.

Attachment

87040561744

BEFORE THE
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

In the Matter of:

PUBLIC BROADCASTING SERVICE,
SOUTHERN EDUCATIONAL COMMUNICATIONS
ASSOCIATION,
WILLIAM BUCKLEY,
COMMUNITY TV OF SOUTHERN CALIFORNIA,
KQED, INC.,
GREATER WASHINGTON EDUCATIONAL
TELECOMMUNICATIONS ASSOCIATION,
INC.,
ATLANTA BOARD OF EDUCATION,
CHICAGO EDUCATIONAL TV ASSOCIATION,
IOWA PUBLIC BROADCASTING BOARD,
WGBH EDUCATIONAL FOUNDATION,
UNIVERSITY OF NEW HAMPSHIRE,
EDUCATIONAL BROADCASTING CORP.,
UNIVERSITY OF HOUSTON

Docket No. MUR 2516

OPPOSITION TO EMERGENCY MOTION FOR RECONSIDERATION

The Public Broadcasting Service ("PBS"), on behalf of itself, the Southern Educational Communications Association, and those PBS member stations who are named above as parties, hereby opposes the Emergency Motion for Reconsideration ("Petition") that Anthony Martin-Trigona ("Martin-Trigona") filed in the above-captioned matter on August 8, 1987.

In his Petition, Martin-Trigona seeks reconsideration of the Commission's action of July 28, 1987 dismissing his complaint in this matter on the ground that "the complainant failed to comply with the terms of the injunction of the United States District Court for Connecticut" in filing his

Attachment 1

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complaint. The Connecticut Court injunction permanently enjoined Martin-Trigona "from filing or attempting to initiate any new lawsuit, action, proceeding, or matter in any federal court, agency, tribunal, committee or other federal forum of the United States without first obtaining leave of the court, agency, tribunal, committee or other forum." In re Martin-Trigona, 529 F. Supp. 1566, 1571 (D. Conn. 1984); aff'd, 763 F. 2d 140 (2d Cir. 1985); cert. denied, 106 S. Ct. 807 (1986). In seeking reconsideration of the Commission's action, Martin-Trigona brings no new facts to the Commission's attention, and, on that basis alone, reconsideration should be denied. Martin-Trigona does, however, present three arguments, each of which is devoid of merit.

First, Martin-Trigona contends that because he is a federal "candidate subject to regulatory jurisdiction," the injunction was not intended to restrict his communications with government agencies such as the FEC. This contention has no bearing on the issue at hand. In this case, Martin-Trigona is not attempting to file a report or to take any other action required of him by law or regulation. Rather, he is attempting to prosecute a Complaint and Request for Emergency Enforcement Relief ("Complaint") against PBS and the other respondents herein. The plain language of the injunction issued by the Connecticut District Court bars

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Martin-Trigona from filing such a Complaint "without first obtaining leave of" the FEC in the manner specified in the injunction (emphasis added). Id.

Second, Martin-Trigona argues that there is an implicit "law enforcement exception" in the injunction which renders it inapplicable to his complaint. In this regard, he contends that his "complaint ... does not start any proceeding" and that he is not seeking any "personal relief." This contention is clearly incorrect. The fact is that his Complaint did initiate a formal proceeding under the Rules of the FEC in which he is complainant and PBS and other named parties are respondents, and he is indeed seeking personal relief, to wit, an order either mandating that PBS and the other respondents afford him an opportunity to appear on television programs featuring other Democratic Party candidates or, in the alternative, barring PBS and the other respondents from presenting such programs. Again, there is no question here of requiring Martin-Trigona to seek leave of the Commission, or of any other agency, to report a perceived violation of law. The injunction merely establishes an orderly process that requires Martin-Trigona to first obtain leave of the Commission before initiating, or attempting to initiate, a formal proceeding against specific respondents,

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such as the one initiated by his Complaint.^{1/}

Finally, Martin-Trigona argues that he is at a loss as to how he can comply with the injunction to bring a matter such as this to the attention of the FEC. The steps for complying with the injunction are set out concisely and in plain English in the body of the decision which imposed the injunction. The steps are not complicated or unduly burdensome. The fact is that Martin-Trigona is simply unwilling to comply with the injunction because, as stated in his Petition, he regards it as "malicious rubbish."

There can be no doubt that the Connecticut District Court's injunction applies to the Complaint that Martin-Trigona is seeking to prosecute before the FEC. The injunction, which is intended to protect respondents such as PBS from the trouble and expense of vexatious and frivolous litigation brought by Martin-Trigona, expressly provides that (i) failure by Martin-Trigona to comply with the terms of the injunction "will be sufficient grounds for a federal court, agency, tribunal, committee or any other federal forum to

^{1/} On August 20, 1987, in a situation analogous to the one presented by this case, the Federal Communications Commission dismissed a complaint filed by Martin-Trigona against two radio stations solely on the ground that Martin-Trigona had violated the injunction by filing the complaint without first seeking leave to file from the FCC. An FCC Public Notice reflecting this action is attached hereto.

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deny any motion by Martin-Trigona for leave to file" and (ii) "the failure of Martin-Trigona to advise a federal court, agency, tribunal, committee or other federal forum in which he has filed a lawsuit, action, proceeding, or matter of the [specific facts enumerated in the injunction order] may be considered by such court or other forum a sufficient basis for sustaining a motion to dismiss such lawsuit, action, proceeding or matter...." Id. at 1572.

Accordingly, respect for the authority of the Federal District Court in Connecticut which issued the injunction, the Court of Appeals for the Second Circuit which affirmed it, and for our judicial system in general, requires that the Commission take the action it did dismissing Martin-Trigona's complaint based upon his total failure to comply with the injunction. Accordingly, Martin-Trigona's Emergency Motion for Reconsideration should be denied.

Respectfully submitted,

OF COUNSEL:

Paula A. Jameson, Esq.
Senior Vice President
and General Counsel
Nancy H. Hendry, Esq.
Deputy General Counsel
PUBLIC BROADCASTING
SERVICE
1320 Braddock Place
Alexandria, VA 22314
(703) 739-5063


David Tillotson
Steven R. Miles
BRENT FOX KINTNER PLOTKIN & KARN
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 857-6027

Counsel for Public Broadcasting
Service

DATED: August 24, 1987

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NEWS

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

News media information 202 / 632-5050
Recorded listing of releases and texts
202 / 632-6000

4524

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 588 (D.C. Cir. 1975).

Report No. MM-265

MASS MEDIA ACTION

August 20, 1987

COMMISSION DISMISSES MARTIN-TRIGONA PETITION TO DENY ASSIGNMENT OF LICENSES FOR WAVZ(AM), NEW HAVEN, CT AND WKCI-FM, HAMDEN, CT

The Commission has dismissed a petition by Anthony Martin-Trigona which sought to deny the assignment of licenses for WAVZ(AM) at New Haven, CT, and WKCI-FM at Hamden, CT, from Northeast Broadcasting Corporation to Noble Broadcast of Connecticut, Inc.

Martin-Trigona's petition was accompanied by a motion filed pursuant to a court order requesting that the Commission allow him to file his pleading. Martin-Trigona argued that he had sufficient standing to file because he was a listener of both stations and had competitor standing as the licensee of AM station WNHC at New Haven. Additionally, Martin-Trigona contended that the operation of WAVZ caused signal interference to WNHC(AM).

The Commission concluded, however, that although his petition was procedurally defective and could have been dismissed on that basis, it need not reach that point because the Court of Appeals for the New York Circuit had affirmed a Connecticut district court's permanent injunction limiting Martin-Trigona's litigative activities. Therefore, it denied his motion.

Action by the Commission August 18, 1987, by Letter (FCC 87-276). Commissioners Patrick (Chairman), Quello, Dawson and Dennis.

-FCC-

News Media contact: Patricia A. Chew at (202) 632-5050.
Mass Media Bureau contact: Myrna F. Stoff at (202) 254-9572.

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CERTIFICATE OF SERVICE

I, Lorraine Mossburg, hereby certify that on this 24th day of August, 1987, I caused a copy of the foregoing "Opposition to Emergency Motion for Reconsideration" to be served by first class, postage pre-paid mail on the following:

Mr. Anthony R. Martin-Trigona
P. O. Box 1988
Middletown, CT 06457

Legal Counsel
WPBA-TV
740 Bismarck Road, NE
Atlanta, GA 30324

Mr. William Buckley
National Review
150 E. 35th Street
New York, NY 10016

Legal Counsel
WTTW-TV
5400 N. St. Louis
Chicago, IL 60625

Legal Counsel
KCET-TV
4401 Sunset Boulevard
Los Angeles, CA 90027

Legal Counsel
KDIN-TV
P. O. Box 1758
Des Moines, IA 50306

Legal Counsel
KQED-TV
500 Eight Street
San Francisco, CA 94103

Legal Counsel
WGHB-TV
125 Western Avenue
Boston, MA 02134

Legal Counsel
WETA-TV
P. O. Box 2626
Washington, D.C. 20013

Legal Counsel
WENH-TV
P. O. Box 1100
Dover, NH 03824

Legal Counsel
WNET-TV
356 W. 58th Street
New York, NY 10019

Legal Counsel
KHUT-TV
4513 Cullen Boulevard
Houston, TX 77004

Legal Counsel
SECA
P. O. Box 5966
Columbia, SC 29205

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Lorraine Mossburg

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STATEMENT OF REASONS

As a result of Martin-Trigona's "well-documented practice" of abusing the litigation process, the United States District Court for the District of Connecticut has permanently enjoined Martin-Trigona from filing or attempting to initiate any "lawsuit, action, proceeding, or matter in any federal court, agency, tribunal, committee, or other federal forum of the United States" without first obtaining leave of that forum. In re Anthony R. Martin-Trigona, 592 F. Supp. 1566, 1568-69, 1571 (D.Conn. 1984), aff'd, 763 F.2d 140 (2d Cir. 1985), cert. denied, 106 S.Ct. 807 (1986). Accord, In re Anthony R.

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Martin-Trigona, 737 F.2d 1254 (2d Cir. 1984), aff'g in part 573 F.Supp. 1245 (D.Conn. 1983). See also, Martin-Trigona v. Stewart, 659 F. Supp. 45, 46 (D.D.C. 1987)(court granted motion to dismiss for plaintiff's failure to comply with terms of injunction); Martin-Trigona v. Gary Hart, Civ. No. (D.D.C. May 28, 1987)(in unreported order, court denied plaintiff's leave to file for lack of subject matter jurisdiction); Martin-Trigona v. PBS, et al., Civ. No. 87-629-A (E.D. Va. July 10, 1987)(in unreported order, court granted motion to dismiss for plaintiff's failure to comply with terms of injunction).

The United States District Court for the District of Connecticut strictly prescribed that in seeking leave to initiate any federal action, Martin-Trigona shall file along with his complaint an "Application pursuant to Court Order seeking leave to file," six specific exhibits noting his personal litigation history, and any prior litigation over the issue presented in his complaint. 592 F. Supp. at 1571-72. The District Court emphasized that "the failure by Martin-Trigona to advise a federal court, agency, tribunal, committee, or other federal forum in which he has filed a lawsuit, action, proceeding, or matter of the materials specified in subsections (a), (b), (c), and (d) of this section, supra, may be considered by such court or other forum a sufficient basis for sustaining a motion to dismiss such a lawsuit, action, proceeding, or matter, or a request otherwise to dispose of the matter filed or submitted by Martin-Trigona." 592 F. Supp. at 1572.

The respondents noted that the purpose of the injunction is to save defendants from having to expend substantial time and money to defend themselves against frivolous and harassing charges by Martin-Trigona. Martin-Trigona, 592 Supp. at 1568-69. Respondents agreed that to permit Martin-Trigona to pursue his claims without complying with the injunction would undercut both the terms and the purpose of the United States District Court's injunction.

Because Martin-Trigona did not comply with the provisions of the injunction, the respondents moved the Commission to dismiss his complaint. A majority of the Commission agreed and voted to grant the motion to dismiss and close the file. The majority noted, however, that if the complainant complies with the terms of the injunction issued by the United States District Court for the District of Connecticut, as well as 2 U.S.C. §437g(a)(1) and 11 CFR 114.4, the Commission would consider the complaint in accordance with its usual procedures.

8/21/87
Date

Joan D. Aikens
Joan D. Aikens
Commissioner

8/21/87
Date

Lee Ann Elliott
Lee Ann Elliott
Commissioner

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Statement of Reasons
MUR 2516

Page 4

Date

8/21/87
Date

Danny L. McDonald
Commissioner

John Warren McGarry
Commissioner

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 26, 1987

Anthony R. Martin-Trigona
P.O. Box 1988
Middletown, CT 06457

RE: MUR 2516

Dear Mr. Martin-Trigona:

By letter dated August 5, 1987, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against the Public Broadcasting Service, Southern Educational Communications Association, William Buckley, Community TV of Southern California, KQED, Inc., Greater Washington Educational Telecommunications Association, Inc., Atlanta Board of Education, Chicago Educational TV Association, Iowa Public Broadcasting Board, WGBH Educational Foundation, University of New Hampshire, Educational Broadcasting Corp., and University of Houston. Enclosed with that letter were General Counsel's Memoranda and the Certification.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to grant Respondents' Motion to Dismiss. This document will be placed on the public record as part of the file of MUR 2516.

If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble (LP)
Lawrence M. Noble
Acting General Counsel

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

plm
August 26, 1987

Steven R. Miles, Esquire
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Ave., N.W.
Washington, D.C. 20036-5339

RE: MUR 2516
Public Broadcasting Service,
et al.

Dear Mr. Miles:

By letter dated August 5, 1987, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against your clients. Enclosed with that letter were General Counsel's Memoranda and the Certification.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to grant your Motion to Dismiss. This document will be placed on the public record as part of the file of MUR 2516.

If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble (LH)

Lawrence M. Noble
Acting General Counsel

Enclosure
Statement of Reasons

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Public Broadcasting Service ("PBS"),)
Southern Educational Communications)
Association, producer of "Firing Line,")
William Buckley, and named licensees of)
television stations affiliated with PBS)

MUR 2516

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 26, 1987, the Commission decided by a vote of 4-0 to take the following actions in MUR 2516:

1. Deny the Motion for Reconsideration, as recommended in the General Counsel's memorandum to the Commission dated August 21, 1987.
2. Approve the letter, as recommended in the General Counsel's memorandum to the Commission dated August 21, 1987.

Commissioners Aikens, Elliott, McDonald, and McGarry voted affirmatively for the decision; Commissioners Josefiak and Thomas did not cast a vote.

Attest:

8-27-87

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary: Fri., 8-21-87, 12:13
Circulated on 48 hour tally basis: Mon., 8-24-87, 11:00
Deadline for vote: Wed., 8-26-87, 11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 27, 1987

Anthony R. Martin-Trigona
Post Office Box 1988
Middletown, CT 06457

RE: MUR 2516

Dear Mr. Martin-Trigona:

This is in response to your Motion for Reconsideration dated August 8, 1987, in which you request the Federal Election Commission to reconsider its dismissal of your complaint in MUR 2516.

On August 26, 1987, the Commission reviewed your Motion for Reconsideration and determined not to grant your request to reopen this matter.

As you were previously informed, the Commission's decision does not preclude you from refileing the complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1), 11 C.F.R. § 111.4, and the terms of the injunction issued by the United States District Court for Connecticut. If you do so, the Commission will handle the matter under its usual procedures.

Sincerely,

Lawrence M. Noble (L/N)

Lawrence M. Noble
Acting General Counsel

Enclosures
General Counsel's Memorandum
Certification

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re: MUR

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 28, 1987

Steven R. Miles, Esquire
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Ave., N.W.
Washington, D. C. 20036-5339

RE: MUR 2516
Public Broadcasting Service,
et al.

Dear Mr. Miles:

This is to inform you that on August 26, 1987, the Commission reviewed Complainant's Motion for Reconsideration and determined not to grant his request to reopen this matter.

If you have any questions, please contact Susan Beard, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble (LH)
Lawrence M. Noble
Acting General Counsel

Enclosures
General Counsel's Memorandum
Certification

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2516

DATE FILMED 11/25/87 CAMERA NO. 3

CAMERAMAN AS

87040661761