



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2580

DATE FILMED 7/13/00 CAMERA NO. _____

CAMERAMAN _____

38040710913

RECEIVED
FEDERAL ELECTION COMMISSION

88 FEB 17 AM 9:00

COMPLAINT

I am not affiliated with any presidential campaign or political committee, but I am interested in the fair and even-handed application of the Federal Election Campaign Act to all groups.

To the best of my knowledge, Common Cause is an incorporated entity and is prohibited from paying for the type of advertisement attached to this complaint. This was a full page advertisement appearing in the Washington Post on Monday, January 25, 1988.

The advertisement refers to Senator Robert Dole and his "own bid for the presidency." This language is prohibited by 2 U.S.C. §441b. In the alternative, this advertisement certainly cost more than \$1,000, requiring Common Cause to register as a political committee.

In addition, the advertisement does not contain any disclaimer in violation of 2 U.S.C. §441d.

Further, because this advertisement influences federal elections, the solicitations Common Cause used to raise money to pay for this ad must also comply with federal campaign laws.

Lastly, I believe this advertisement is only part of a larger effort by Common Cause to exert influence on other federal elections. To the best of my information

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FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK
88 FEB 10 AM 11:37

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and belief, other advertisements and publications have been paid for by Common Cause for the purpose of influencing federal elections. I want the Federal Election Commission to undertake a review of all other election-related disbursements by Common Cause in the belief they are a political committee required to register and report under 2 U.S.C. §§432, 433 and 434.

In summary, I believe that Common Cause and Fred Wertheimer, individually, as its president, have violated 2 U.S.C. §§432, 433, 434, 441b, and 441d. Although I am not a supporter of Senator Dole, I am interested in the fair applicaiton of the present campaign finance laws.

Mary Z. Zalar, M.D.

Mary Zalar
3365 Rittenhouse Street
Washington, D.C. 20015

Signed and Sworn before a
Notary Public on February 4, 1988

Dorinda M. Felt

My Commission Expires June 14, 1991

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Senator Dole, don't just take Common Cause's word for it.

THE DES MOINES REGISTER, Des Moines, Iowa

Perpetuating a Disgrace

"How much more sleazy will campaign finance have to become before Congress acts? The unseemly scramble by public officials to get cash from special interests is a national disgrace. So is the failure of the Senate to deal with it."

SAN JOSE MERCURY NEWS, San Jose, California

Dole's Delay

"Dole's tactics, intended to turn campaign financing reform into a partisan issue, are bad for his party and bad for the nation. The current Senate bill is an intelligent and fair one, which would do for Congressional elections what has already been done for presidential ones—provide a sane cap for spending."

THE WICHITA EAGLE BEACON, Wichita, Kansas

Dole Weak on Campaign Reform

"Indeed, Mr. Dole is especially vulnerable to criticism on campaign finance. Since coming to the Senate in 1968, Mr. Dole has raised more money from Political Action Committees than any other senator. ... Only if Congress passes legislation, such as the Senate bill, will the political system focus on the individual voter, and not on the PAC dollar."

THE DALLAS MORNING NEWS, Dallas, Texas

Campaign Financing

Dear Senator Dole,

As more than 250 newspapers across the nation have made clear in their editorials, it is widely recognized that we must clean up our corrupt congressional campaign financing system. It is also widely recognized that you, Senator Dole, are playing the key role in blocking Senate action on S. 2, the comprehensive campaign reform legislation that would accomplish this goal.

To justify your leadership of the filibuster blocking S. 2, you are taking positions that simply don't stand up. You are publicly saying, for example, that S. 2 is not campaign reform because "it doesn't even cut PAC spending."

Senator Dole, you know that's not true. Had S. 2 been in effect for the 1986 Senate elections, PAC money would have been dramatically cut from \$45 million to \$16 million, and your own PAC receipts of more than \$1 million would have been cut to \$190,000.

You are also saying you oppose S. 2 because

Campaign Financing Senate Republicans Should End Filibuster

"...The rapidly climbing cost of campaigning **not only discourages many talented men and women from entering politics, it forces officeholders to spend too much time raising money and to neglect their paramount business of lawmaking.**"

THE WASHINGTON POST, Washington, D.C.

Bob Dole and Fund Raising

"The excess of the present system of congressional campaign finance will in the long run stain those who support it.... At some point in a process such as this, a candidate is no longer running for office so much as trying to buy it. The amounts are **not just obscene; they are insane.**... The Republicans are on the **wrong side of this issue; Mr. Dole should lead them to a better place.**"

THE KANSAS CITY TIMES, Kansas City, Missouri

Poison of the PACs

"Bob Dole himself acknowledged a year or two ago that PACs threaten to undermine Congress.... Yet he **now appears to be putting Republican Party organizational efforts ahead of everything else. It is a troubling position.**"

THE NEW YORK TIMES, New York, New York

The Filibuster and the Smell

"Passing this bill would start to **disperse the noxious cloud over the Capitol, a cloud redolent of money.**"

Stop protecting a corrupt campaign financing system.

This message is brought to you by **the 280,000 members of Common Cause** who are urging passage of S.2, **essential** government integrity legislation.

Common Cause 200 M Street, N.W. Washington, D.C. 20036

been cut to \$190,000.

You are also saying you oppose S.2 because you object to its spending limit and public financing provisions. Yet when it comes to your own bid for the presidency, you have accepted spending limits and more than \$5 million in public funds to advance your campaign.

Senator Dole, it's time you stopped blocking legislation that is absolutely essential to restoring honesty and integrity in government. It's time you stopped protecting the special interest PACs and the "arms race" system of unlimited spending in Senate elections. It's time you let the Senate act on S.2.

Fred Werth

FRED WERTH
President, Common Cause



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

February 19, 1988

Ms. Mary Zalar
3365 Rittenhouse Street
Washington, DC 20015

RE: MUR 2580

Dear Ms. Zalar:

This letter acknowledges receipt of your complaint, received on February 10, 1988, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Common Cause and Fred Wertheimer. 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 2580. 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 Betha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

Eric S. Lerner
Associate General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 19, 1988

Fred Wertheimer, President
Common Cause
2030 M Street, NW
Washington, DC 20036

RE: MUR 1580
Common Cause

Dear Mr. Wertheimer:

The Federal Election Commission received a complaint which alleges that you and Common Cause 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 1580. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and Common Cause 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.

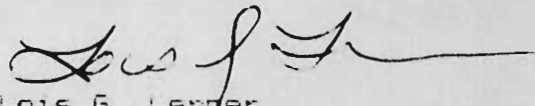
This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(2)(A) of Title 2, United States Code. The Commission is advising that you wish the matter to be kept out of the public domain. If you intend to be represented by an attorney in this matter, please advise the Commission by return mail or telephone. Please provide the date, address, and telephone number of your attorney, and authorize your attorney to receive any communications and other information from the Commission.

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If you have any questions, please contact Charles Snyder, 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
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures

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

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8CC#6654

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

WILMER, CUTLER & PICKERING

2445 M STREET, N. W.

WASHINGTON, D. C. 20037-1420

88 MAR -2 AM 11:46

INTERNATIONAL TELEX: 440 238 WCPI UI
TELEX: 88-2402 WICRNG WSH
TELEPHONE 202 683-6000

EUROPEAN OFFICE
4 CARLTON GARDENS
PALL MALL
LONDON, SW1Y 5AA, ENGLAND
TELEPHONE 011-441-639-4486
TELEX: 8812818 WCPLDN
TELEFAX: 888-3837
CABLE ADDRESS: WICRNG LONDON

ROGER M. WITTEN
DIRECT LINE (202)
683-6170

March 2, 1988

Charles Snyder, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2580 -- Common Cause

Dear Mr. Snyder:

We represent Common Cause and Fred Wertheimer in connection with MUR 2580. I enclose a completed form authorizing us to represent Common Cause and Mr. Wertheimer in this matter.

Mary Zalar's Complaint against Common Cause is frivolous and should be dismissed forthwith. The complaint does not state any violation by Common Cause of 2 U.S.C. Sections 441b, 441d, or 432-434 as alleged.

Common Cause is a corporation and Fred Wertheimer is its President. Common Cause did pay for the advertisement that is attached to the Complaint. However, Common Cause's payment for the advertisement does not constitute an "expenditure" prohibited by 2 U.S.C. Section 441b. The advertisement was not made for the purpose of influencing any federal election and does not, under any test, expressly advocate the election or defeat of Senator Dole or any other clearly identified candidate. See 2 U.S.C. Sections 431(9)(A) and 431(17); 11 C.F.R. Sections 100.8(a), 109.1. The advertisement relates solely to the nonpartisan public issue of campaign finance reform legislation that was pending before the Senate. As the Supreme Court recently held, Section 441b's prohibition on corporate expenditures in connection with federal elections does not reach "a mere discussion of public issues that by their nature raise the names of certain politicians." FEC v. Massachusetts Citizens for Life, 107 S.Ct. 616, 623 (1986).

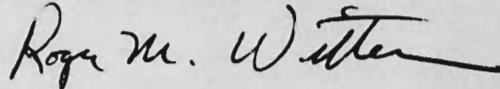
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Since Common Cause's payment for the advertisement was not an "expenditure," Common Cause was not required to register as a "political committee." See 2 U.S.C. Section 431(4)(A); 11 C.F.R. Section 100.5. For the same reason, Common Cause was not required to include in the advertisement any disclaimer pursuant to 2 U.S.C. Section 441d(a)(3) that the advertisement was not authorized by any candidate or candidate committee.

The Complaint's vague and general assertion that Common Cause may have engaged in "other" efforts to influence elections is wholly unsubstantiated and, in any event, false. Common Cause is a nonpartisan organization. It does not and never has supported or opposed candidates for election. Therefore, there are no "other election-related disbursements by Common Cause" for the Commission to review. Accordingly, Common Cause has not violated 2 U.S.C. Sections 432-434.

For these reasons, the Zalar Complaint against Common Cause and Fred Wertheimer should be dismissed.

Very truly yours,



Roger M. Witten
Carol F. Lee
Counsel for Common Cause and
Fred Wertheimer

cc: Mr. Wertheimer

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2580

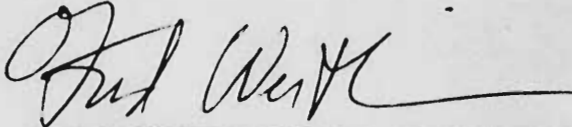
NAME OF COUNSEL: Roger M. Witten

ADDRESS: Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

TELEPHONE: (202) 663-6170

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.

February 23, 1988
Date


Signature

RESPONDENT'S NAME: Common Cause and Fred Wertheimer

ADDRESS: 2030 M Street, N.W.
Washington, D.C. 20036

HOME PHONE: _____

BUSINESS PHONE: 833-1200

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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR #2580
DATE COMPLAINT RECEIVED
BY OGC: 2/10/88
DATE OF NOTIFICATION TO
RESPONDENT: 2/19/88
STAFF MEMBER: Snyder

SENSITIVE
EXECUTIVE SESSION
JUN 07 1988

COMPLAINT: Mary Zalar
RESPONDENTS: Common Cause, Fred Wertheimer
RELEVANT STATUTES: 2 U.S.C. §§ 441b, 441d, 432, 433, and 434

INTERNAL REPORTS
CHECKED:

FEDERAL AGENCIES
CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed by Mary Zalar, alleging that Common Cause, a corporation, and Fred Wertheimer, as President, paid for an advertisement that appeared in the Washington Post, January 25, 1988, that referred to Senator Robert Dole and his "own bid for the presidency." In the view of the complainant, this statement represents a corporate expenditure in connection with a federal election, in violation of 2 U.S.C. § 441b. Complainant also states that, "in the alternate," the advertisement "certainly cost more than \$1,000," requiring Common Cause to register and report as a political committee." According to complainant, Common Cause's failure to register and report was in violation of 2 U.S.C. §§ 433 and 434. As a political committee, Common Cause would be required to raise funds in accordance with 2 U.S.C. § 432, and complainant also

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alleges a violation of that statute. Finally, complainant alleges that respondents violated 2 U.S.C. § 441d by failing to include in its advertisement a disclaimer stating whether it was authorized by any candidate for federal office.

II. FACTUAL AND LEGAL ANALYSIS

Common Cause is a corporation and Fred Wertheimer is the president of that corporation. See Attachment 1. Respondent acknowledges that it paid for the advertisement that appeared in the Washington Post on January 25, 1988 (hereinafter "the advertisement"). Id. The advertisement stated in pertinent part:

It is also widely recognized that you, Senator Dole, are playing the key role in blocking Senate action on S2, the comprehensive campaign reform legislation

To justify your leadership of the filibuster blocking S2, you are taking positions that simply don't stand up

You are . . . saying you oppose S2 because you object to its spending limit and public financing provisions. Yet when it comes to your own bid for the presidency, you have accepted spending limits and more than \$5 million in public funds to advance your campaign.

In order to determine whether the foregoing communication resulted in a violation of the Federal Election Campaign Act ("the Act"), it is necessary first to examine the legal standards relating to the specific statutory provisions cited by complainant as having been violated by respondents. First, in order to determine whether Common Cause qualified as a political committee under the Act, and, therefore, became subject to the

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requirements set forth at 2 U.S.C. §§ 432, 433, and 434, it is necessary to consider the appropriate portion of the statutory definition of the term "political committee":

(4) The term "political committee" means-

(A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.

2 U.S.C. § 431. The Act further defines the term expenditure to mean, "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office" 2 U.S.C. § 431(9)A()(i) (Emphasis added).

Accordingly, Common Cause would not be required to register and report, or to conform to the other requirements of the Act pertaining to political committees, unless the advertisement that it paid for cost in excess of \$1,000 and had the purpose of influencing a federal election.

Because Common Cause is a corporation, the issue is also presented whether it violated the prohibition on corporate expenditures. Under the Act,

(a) It is unlawful for any ... corporation whatever ... to make a contribution or expenditure in connection with any [federal] election

2 U.S.C. § 441b. Accordingly, Common Cause would violate 2 U.S.C. § 441b if the advertisement that it paid for were in connection with a federal election.

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Finally, the advertisement does not contain a disclaimer stating whether it was authorized by any candidate, candidate committee, or agent of a candidate. Under the Act,

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication - . . .

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

2 U.S.C. § 441d. (The same statutory provision also requires disclosure, where appropriate, of the fact that a candidate, his committee or agents, has authorized and/or paid for such communication. See 2 U.S.C. §§ 441d(a)(1) and 441d(a)(2).) In the present matter, the advertisement did not solicit contributions. (In form, the advertisement was addressed to Senator Dole, not to the public.) Accordingly, respondents' failure to include the appropriate disclaimer would result in a violation only if the advertisement it paid for expressly advocated the election or defeat of a clearly identified candidate; more particularly, a finding of a violation of 2 U.S.C. § 441d would depend upon whether Common Cause expressly

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advocated the defeat of Senator Dole for President. (Complainant alleges Mr. Wertheimer violated the same statutes as Common Cause, in his role as president of that corporation.)

In determining whether respondents violated any of the aforesaid statutory provisions based upon the above-described legal standards, it is necessary to begin by examining the advertisement's reference to Senator Dole's campaign for president in its context. "A passage or phrase is not to be understood absolutely as if it stood by itself, but is to be read in whole of 'context'; that is, in its connection with the general composition of the instrument." State v. Heyer, 98 A. 413, 414, 89 N.J.L. 187 (1918). In this instance, the advertisement concerns the campaign finance reform bill, known as S2. The advertisement's headline reads: "Senator Dole, don't just take Common Cause's word for it." In the format of a letter to Senator Dole, the text of the advertisement began as follows:

Dear Senator Dole:

As more than 270 newspapers across the nation have made clear in their editorials, it is widely recognized that we must clear up our corrupt congressional campaign financing system. It is also widely recognized that you, Senator Dole, are playing the key role in blocking Senate action on S2, the comprehensive campaign reform legislation that would accomplish this goal.

The advertisement concludes: "Stop protecting a corrupt campaign financing system."

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The advertisement was by no means an isolated effort by Common Cause to lobby on behalf of S2. Several months earlier, Congressional Quarterly reported that Common Cause had launched an all-out campaign on behalf of the proposed legislation.

If there is a newspaper in the nation that does not know the U.S. Senate is debating campaign-finance reform, Common Cause is certainly not to blame.

The self-styled citizens' lobby has fought for more than a decade for changes in the way congressional elections are financed, a system it calls "a national scandal." It is a vehement critic of political action committees (PAC's), arguing that their contributions to campaigns represent something close to legalized bribery of members of Congress.

Sensing that Congress may at last be ready to make changes in the election law, the group has intensified its longstanding anti-PAC effort with a multifaceted lobbying drive in favor of S2, a campaign-finance bill now under debate in the Senate.

Gaunt, Common Cause's Lobbying War on PACs, 45 CONG.Q 1258 (1987). The same article outlined respondent's "multifaceted lobbying drive in favor of S2," a bill that would establish public financing of Senatorial elections through a matching fund system, similar to that now used in Presidential elections. Among Common Cause's efforts on behalf of the bill, Congressional Quarterly reported that its:

media campaign extends to paid advertising. On June 7, [1987], three days after S2 was brought to the floor, Common Cause placed full-page advertisements in newspapers in South

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Dakota, Minnesota, Delaware, Arizona and Massachusetts, targeted at senators the group considers potential swing votes.

Id.

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In the context of this campaign, the advertisement appears to be another in a series of efforts to lobby Senators to support S2. In view of the substance of that bill, moreover, the reference to Senator Dole's acceptance of matching funds in his Presidential campaign appears to be legitimate argument on behalf of extending public financing to Senatorial elections, rather than disguised opposition to Senator Dole's Presidential candidacy. The fact that Senator Dole is a candidate for president should not prevent Common Cause from using an argument it considers persuasive on behalf of S2; namely, that if public financing is desirable in Presidential elections, it is equally so in the Senatorial context.

As with the other advertisements referred to by Congressional Quarterly, the purpose of the advertisement was to lobby on behalf of S2. The advertisement made no statement concerning Senator Dole's merits as a candidate for President, and does not mention his candidacy, except to argue that his acceptance of matching funds in the Presidential campaign appears inconsistent with his opposition to the public financing provision of S2 for Senatorial campaign. Respondent's mere mention of Senator Dole and his Presidential campaign does not by itself transform lobbying into electioneering. The absence of

any language in the advertisement exhorting the reader to take action with regard to a clearly identified candidate, moreover, leads to the conclusion that the language involved in this matter does not meet the standard of "express advocacy" necessary to find a violation of 2 U.S.C. § 441d. See F.E.C. v. Massachusetts Citizens for Life, 107 S. Ct. 616, 623 (1986). The mere mention of Senator Dole and his campaign for president in the context of lobbying on behalf of a particular bill does not constitute express advocacy. "Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions." Id. 623, quoting Buckley v. Valeo, 424 U.S. 1, 42 (1977). Accordingly, a distinction must be drawn between "a mere discussion of public issues that by their nature raise the names of certain politicians" and express advocacy. Massachusetts Citizens for Life at 623. Since respondent did not make an expenditure for a communication containing express advocacy, it did not violate 2 U.S.C. § 441d.

Where the sole purpose of a communication is to influence political figures to support a particular position, or to agree with an organization's "positions on the issues it selects, and to enlist the assistance of the public in this endeavor," moreover, then such communications should be considered "a 'grass roots' lobbying or issue advocacy effort." AO 1987-7. Such communications would not be regarded as having the purpose of influencing, a federal election. Id. Accordingly, respondent

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did not make an expenditure, as defined at 2 U.S.C.

§ 431(9)(A)(i), and therefore had no legal obligation to register and report as a political committee under 2 U.S.C. §§ 432, 433, and 434. The fact that the context of the advertisement was issue-oriented, and not in connection with a federal election, indicates that respondent did not make an illegal expenditure of corporate funds, under the standard of 2 U.S.C. § 441b.

Not only the content, but the timing, and to some extent placement of the advertisement also indicate that its purpose was lobbying and not electioneering. On January 25, 1988, when the advertisement appeared, the focus of the Presidential election was on Iowa, where caucuses were to be held February 8th, and on New Hampshire, where the nation's first primary would be held on February 16, 1988. It seems unlikely that the Washington Post would be an effective medium through which to reach voters in these states. (Virginia and Maryland, states in which the Washington Post is widely circulated, did not hold primaries until March 8, 1988.) However, the newspaper is a logical choice in which to advertise in order to lobby Members of Congress. The fact that the advertisement ran on January 25, 1988, is especially significant, because the 100th Congress convened on that date to begin its second session. The legislation in which Common Cause was interested, S2, would be on the agenda during that session. It was entirely logical for Common Cause, in pursuit of its issue-oriented activities, to react to the return

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to Washington of Members of Congress by running an ad in the Washington Post urging the end of the filibuster and the passage of S2.

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In contrast, the advertisement that gave rise to the present matter focused on S2 and the need to stop the filibuster against it. While the advertisement did take issue with Senator Dole over his opposition to S2, it should be stressed that opposition to S2 was not a major plank in Senator Dole's presidential campaign, as trade policy was for Representative Gephardt. The only reference to the Presidential campaign came by way of questioning Senator Dole's consistency in opposing S2.

Rather, Common Cause apparently ran the advertisement in the Washington Post on the day Congress reconvened precisely to influence Congress to vote to end the filibuster and pass S2.

In light of the issue-oriented character of the advertisement, it does not appear that Common Cause paid for the advertisement for the purpose of influencing a federal election. Common Cause therefore was not required to register and report as a political committee. Likewise, the advertisement was not paid for in connection with a federal election. Finally, as was stated above, the advertisement contained no language expressly advocating the election or defeat of a clearly identified candidate. Accordingly, this Office recommends that the Commission find no reason to believe Common Cause, and its president, violated 2 U.S.C. §§ 432, 433, 434, 441b(a), and 441d(a), and close the file.

III. RECOMMENDATIONS

1. Find no reason to believe Common Cause and Fred Wertheimer violated 2 U.S.C. §§ 432, 433, 434, 441b(a) and 441d(a).
2. Approve the attached letter.
3. Close the file.

Lawrence M. Noble
General Counsel

Date

5/24/88

By:

Lois G. Lerner

Lois G. Lerner
Associate General Counsel

Attachments

1. Response to the Complaint
2. Proposed letters (2)

Staff Person: Charles Snyder

38040710935



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/KAREN E. TRACH *MT*
COMMISSION SECRETARY

DATE: MAY 26, 1988

SUBJECT: OBJECTIONS TO MUR 2580 - First General Counsel's
Report
Signed May 24, 1988

The above-captioned document was circulated to the
Commission on WEDNESDAY, MAY 25, 1988, at 11:00 A.M..

Objection(s) have been received from the Commissioner(s)
as indicated by the name(s) checked below:

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> </u>

This matter will be placed on the meeting agenda
for JUNE 7, 1988.

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

38040710936

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Common Cause)
Fred Wertheimer)
) MUR 2580

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of June 14, 1988, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2580:

1. Find no reason to believe Common Cause and Fred Wertheimer violated 2 U.S.C. §§ 432, 433, 434, 441b(a) and 441d(a).
2. Approve the letter attached to the General Counsel's report dated May 24, 1988.
3. Close the file.

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

Attest:

6-15-88

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

38040710937



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Roger M. Witten, Esquire
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

RE: MUR2580
Common Cause and Fred Wertheimer

Dear Mr. Witten:

On February 19, 1988, the Federal Election Commission notified your client, Common Cause and Fred Wertheimer of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 14, 1988, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Common Cause and Fred Wertheimer violated 2 U.S.C. §§ 432, 433, 434, 441b(a) and 441d(a). 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

38040710933



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mary Zalar
3365 Rittenhouse Street
Washington, D.C. 20015

RE: MUR 2580

Dear Ms. Zalar:

On June 14, 1988, the Federal Election Commission reviewed the allegations of your complaint dated February 4, 1988, and found that on the basis of the information provided in your complaint and information provided by Common Cause there is no reason to believe Common Cause and Fred Wertheimer violated 2 U.S.C. §§ 432, 433, 441b(a) and 441d(a). Accordingly, on June 14, 1988, the Commission closed the 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).

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

Sincerely,

Lawrence M. Noble
General Counsel

By: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2580

DATE FILMED 7/15/88 CAMERA NO. ____

CAMERAMAN K.A.U.

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