



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MUR # 3681

DATE FILMED 10/29/93 CAMERA NO. 2

CAMERAMAN MC

93040992506



MICHIGAN REPUBLICANS

October 27, 1992



DAVID J. DOYLE
Chairman

RANDOLPH J. AGLEY
Finance Chairman

RONNA ROMNEY
National Committeewoman

CHARLES YOB
National Committeeman

LAURA REYES KOPACK
First Vice Chair

L. JAMES HALL
Second Vice Chair

RYAN AMBROZATTIS
Third Vice Chair

JONAS URBONAS
Fourth Vice Chair

C.W. "MAC" McCLELLAN
Fifth Vice Chair

THELMA CASTILLO
Sixth Vice Chair

HANK FUHS, JR.
Secretary

RONALD D. DAHLKE
Treasurer

ERIC E. DOSTER
Legal Counsel

ARTHUR F. SIPPOLA
Financial Counsel

2121 East Grand River
Lansing, MI 48912
517-487-5413
517-487-0090 FAX

Marquette Building
243 W. Congress
Suite 200
Detroit, MI 48226
313-963-9414

AIRBORNE EXPRESS

Mr. Lawrence Noble
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Noble:

RE: In the matter of: Committee to Re-Elect
Thomas E. Scott and Constance J. Scott,
Treasurer
MUR 3681

Enclosed for filing please find the original
and three (3) copies of the Complaint in the above-
referenced matter. If you have any questions, please
contact me.

Sincerely,

MICHIGAN REPUBLICAN STATE COMMITTEE

Eric E. Doster
Eric E. Doster
General Counsel

/clw
Enclosures

RECEIVED
FEDERAL ELECTION COMMISSION
COMMISSION
MAIN COPY ROOM
OCT 29 10 10 AM '92

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of:

Committee to Re-Elect Thomas E.
Scott and Constance J. Scott,
Treasurer

MUR

3681

COMPLAINT

NOW COMES the Michigan Republican State Committee, by its Chairman, David J. Doyle, hereinafter referred to as "MRSC" of 2121 East Grand River, Lansing, MI 48912, to file this Complaint pursuant to 2 U.S.C. 437g(a)(1) and 11 C.F.R. 111.4 against the Committee to Re-Elect Thomas E. Scott, Constance J. Scott, Treasurer, hereinafter referred to as "Scott" of 1237 Kra-Nur Drive, Burton, MI 48509.

MRSC does hereby state the following facts:

1. Thomas E. Scott is the Democratic nominee for the Michigan State House of Representatives in the 50th District of Michigan.
2. The Committee to Re-Elect Thomas E. Scott is the principal campaign committee for Thomas E. Scott.
3. Bill Clinton is the Democratic Nominee for President of the United States.
4. George Bush is the Republican Nominee for President of the United States.
5. The campaign account for the Committee to Re-Elect Thomas E. Scott contains contributions from labor unions. See Exhibit A.

ILLEGAL CONTRIBUTION

1. Scott produced and began airing a political commercial on broadcast stations serving the Michigan 50th State House District on or about October 24, 1992. The disclaimer on the commercial states "Paid for by Committee to Re-Elect Thomas E. Scott."
2. The commercial displays a visual image of George Bush in a negative fashion.
3. The text of the commercial advocates the defeat of George Bush by alleging that Michigan Governor John Engler

93040992508

desires to put "trickle down economics in place so he can do to Michigan what George Bush has done to America." See Exhibit B.

DISCUSSION OF LAW

Scott has made a prohibited contribution to the Clinton for President Campaign. A contribution is defined under the provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"):

. . .any gift, subscription, loan, advance, or deposit 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(8)(A)(i); 11 C.F.R. 100.7(a)(1). The definition of contribution includes any in-kind contributions. 11 C.F.R. 100.7(a)(1)(iii)(A).

The purpose of this commercial is to promote the candidacies of both Bill Clinton and Scott. It contains a negative visual image of George Bush. It criticizes George Bush's trickle down economic policies as what "George Bush has done to America".

Such an expenditure by Scott clearly violates the Act. 2 U.S.C. 441b expressly prohibits the use of labor union funds in Federal elections. The campaign account of the Committee to Re-Elect Thomas E. Scott contains labor union funds. See Exhibit A. Therefore, Scott has made an illegal contribution to the Clinton for President Committee.

The Clinton for President Committee has elected to accept public funding for the November 3 general election. Therefore, Scott is even prohibited from making any legal contribution, direct or in-kind, on behalf of the Clinton for President Committee. 11 C.F.R. 9003.3(a). The Clinton for President Committee has not shared in this expenditure as the disclaimer reads "Paid for by the Committee to Re-Elect Thomas E. Scott."

Moreover, Scott cannot assert that the expenditures made to support the election of Bill Clinton are exempt from the definition of "contribution". In this regard, the most applicable exemption provision, 11 C.F.R. 100.7(b) states:

The payment by a candidate for any public office. . .or by such candidate's authorized committee, of the costs of that candidate's campaign materials which include information on or any reference to a candidate for

93040992509

9 3 0 4 0 9 9 2 5 1 0

Federal office and which are used in connection with volunteer activities. . . is not a contribution to such candidate for Federal Office, provided that the payment is not for the use of broadcasting. . . or similar type of general public communication or political advertising. (emphasis added)

The production and airing of a television commercial which includes the image and an advocacy communication regarding George Bush is clearly prohibited by the Act. Scott has made an illegal in-kind contribution amounting to a share of the cost of production and placement of the commercial to the Clinton for President Committee in violation of 2 U.S.C. 441b and other provisions of the Act and/or the Commission's Regulations which prohibit the use of labor union funds in Federal elections.

PRAYER FOR RELIEF

Accordingly, the MRSC respectfully requests that the Federal Election Commission investigate this violation and determine as a matter of law:

The expenditures for general public advertising made by Scott constitute illegal in-kind contributions on behalf of the Clinton for President Committee pursuant to 2 U.S.C. 441b and other provisions of the Act and/or the Commission's Regulations which prohibit the use of labor union funds in Federal elections, and

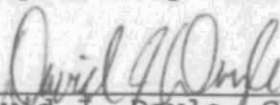
The expenditures by Scott are, in part, allocable to the Clinton for President Committee as in-kind contributions in violation of 11 C.F.R. 9003.3(a).

Further, the MRSC respectfully requests that the Federal Election Commission institute any action necessary to enjoin the use of the illegal advertising which is the subject of this Complaint.

Further, the MRSC respectfully requests the Federal Election Commission to assess all appropriate penalties for said violation in accordance with 2 U.S.C. 437g(a)(5)(A), or any other enforcement provisions of the Act.

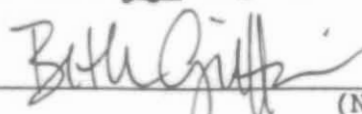
The above statements are true and accurate to the best of my knowledge, information and belief.

Respectfully Submitted,



David J. Doyle, Chairman
Michigan Republican State Committee

Subscribed and sworn to before me this 28th day of October, 1992.



(Notary Public)
Ingham County, Michigan
My Commission Expires: Aug 12, 1996

s:\239\eed-misc\scott.compl

93040992511

93040992512

EXHIBIT A



MICHIGAN DEPARTMENT OF STATE
Bureau of Elections

CANDIDATE COMMITTEE COVER PAGE

Report must be legible, typed or printed in ink, and signed by treasurer (or designated recordkeeper) and the candidate.

1. Committee I.D. Number

001247-6

2. Committee Name

Committee to Re-elect
THOMAS E. Scott

3. This Statement Covers

From: 12-31-90

To: 12-31-91

mo day yr

4. Name of candidate

THOMAS E. Scott

Office Sought

State Representative

County of Residence

Genesee.

5. Committee's Mailing Address

1237 KRA-NUR Dr.
Burton MI 48509

Area Code and Phone

6. Treasurer's Name and Residential Address

Constance J. Scott
1237 Kra-Nur Dr.
Burton MI 48509

Area Code and Phone 313-737-5900

7. Treasurer's Business Address

Same

Area Code and Phone

8. Designated Recordkeeper's Name and Mailing Address (If the committee has a Designated Recordkeeper)

Area Code and Phone

9. TYPE OF STATEMENT

a. ☒ Pre-election Campaign Statement

OR

b. ☐ Post-election Campaign Statement

Pre-election or Post-election Statement relates to:

☒ Primary ☐ Caucus ☐ School

☐ General ☐ Convention ☐ Special

Date of Election, Caucus or Convention

AUG - 4 - 92

c. ☐ Annual Statement

(19__ Coverage Year)

d. ☐ Amendment

(Complete Item 6a, 6b, 6c, or 6d to indicate which statement is being amended)

e. ☐ Dissolution of Committee

Date of Dissolution

mo day yr

By checking this box, I/we certify that the committee has no assets or outstanding debts. Residual funds were disposed of as follows:

* A committee that does not have a Reporting Waiver must file all required Campaign Statements. The Campaign Statements must include all applicable Schedules.

* If any of the information listed in Items 2, 4, 5, 6, 7 or 8 has changed since the information was shown on the committee's Statement of Organization, an amendment to the Statement of Organization must be filed.

10. Verification: I/we certify that all reasonable diligence was used in the preparation of this statement and attached schedules (if any) and to the best of my/our knowledge and belief the contents are true, accurate and complete.

Treasurer or Designated Recordkeeper

Constance J. Scott

Type or Print Name

Constance J. Scott

Signature

Date 7-22-92

mo day yr

Candidate

THOMAS E. Scott

Type or Print Name

Thomas E. Scott

Signature

Date 7-22-92

mo day yr

Authority granted under P.A. 388 of 1976.

9304092513



• MICHIGAN DEPARTMENT OF STATE
Campaign Finance Reporting

ITEMIZED RECEIPTS
SCHEDULE 1A
CANDIDATE COMMITTEE

1. Committee ID Number

001247

2. Committee Name

Committee to Re-elect
THOMAS E. SCOTT

3. Name and Address from whom received	4. Type of Contribution or Other Receipt	5. Date of Receipt	AMOUNT			7. Cumulative for election	8. If over \$200.00 cumulative, enter Contributor's Occupation, Employer and Business Address
			6a. Contribution of Money	6b. In-Kind Contribution Received	6c. Other Receipts		
AUGUST BEAUFORT 1066 Pine Ave SW FLINT MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	2-18-92	10.00			10.00	
JAMES WILSON CPA E 3162 Morris Rd Flushing MI 48423	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	2-2-92	75.00			75.00	
DAVID PICORE Second Ave FLINT MI 48503	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	2-3-92	75.00			75.00	
Dr. Gary Sully 1601 Wood Haven Pl Dr. FLINT MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	2-17-92	75.00			75.00	
MICHAEL WAC 2770 Jefferson Detroit MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	2-11-92	75.00	2		75.00	
Mich. Building Trades Educational Comm. Hse LANSING MI 48233	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	2-13-92	150.00	2		150.00	

Subtotal This Page

460.00

Total This Period (only complete on last page of this schedule)

898.47

Enter this total on line 16 of Summary Page

Enter this total on line 7a of Summary Page

Enter this total on line 2b of Summary Page

CANDIDATE COMMITTEE
Itemized Receipts
Schedule 1A

1. Committee I.D. Number

001247

2. Committee Name

Committee to Re-elect
THOMAS F. SCOTT

3. Name and Address from whom received	4. Type of Contribution or Other Receipt	5. Date of Receipt	AMOUNT			7. Cumulative for election	8. If over \$700.00 cumulative, enter Contributor's Occupation, Employer and Business Address
			6a. Contribution of Money	6b. In-Kind Contribution Received	6c. Other Receipts		
FLINT Firefighters Local 352 PAC P.O. Box 3706 Flint MI 48506	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe) _____ Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify) _____	6-27-92	40.00	Z		40.00	
Steve Hoffman 706 C. Third St Flint MI	Contributions: ☐ Direct ☐ Loan from a person ☐ In-Kind (describe) _____ Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify) _____	5-15-92	20.00			50.00	
Mich. License Bdr. Assn. PAC 5345 S. Walnut Lansing MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe) _____ Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify) _____	5-15-92	100.00	Z		100.00	
Lore Ha Mowang 5432 Calkins Rd. Flint MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe) _____ Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify) _____	5-15-92	30.00			30.00	
Dennis Owens 3102 Dearborn Flint	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe) _____ Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify) _____	5-15-92	40.00			40.00	
Iron Workers Local 25 PAC	Contributions: ☒ Direct ☐ Loan from a person ☐ In-Kind (describe) _____ Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify) _____	5-15-92	40.00	Z		40.00	

Subtotal This Page

300.00

Total This Period (only complete on last page of this schedule)

29816.47

Enter the total on line 1a of Summary Page

Enter the total on line 1b of Summary Page

Enter the total on line 1c of Summary Page



Michigan Department of State
Campaign Finance Reporting

ITEMIZED RECEIPTS
SCHEDULE 1A
CANDIDATE COMMITTEE

1 Committee ID Number

001247

2 Committee Name

Committee to Re-elect
Thomas E. Scott

3. Name and Address from whom received	4. Type of Contribution or Other Receipt	5. Date of Receipt	AMOUNT			7. Cumulative for section	8. If over \$200.00 cumulative, enter Contributor's Occupation, Employer and Business Address
			6a. Contribution of Money	6b. In-Kind Contribution Received	6c. Other Receipts		
Beverly Smider 3505 N. Martin Flint MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	6-2-92	200.00			200.00	
Mich State AFL-CIO Cope Contributions Fund 449 S. Washington Ave. Lansing MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	6-10-92	300.00	2		500.00	Cope Contributions Fund. AFL-CIO
Adolph Ogorek 5752 Richfield Rd. Flint MI 48506	Contributions: ☒ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	6-13-92	200.00			200.00	OGOREK Auto Sales 6573 2 Richfield Rd Flint MI
R. DUNN Mac Donald McKinnon Bldg. Ste 200 Flint MI 48502	Contributions: ☒ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	6-9-92	100.00			100.00	
AFSCME - 25 Council 1034 N. Washington Lansing MI 48906	Contributions: ☒ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	6-8-92	500.00	2		500.00	Council - 25 AFSCME 1034 N. Washington Lansing MI.
Robert or Verda Fay 10161 Gale Rd. Goodrich MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	6-1-92	100.00			100.00	

Subtotal This Page

1600.00

Total This Period (only complete on last page of this schedule)

29916.49

Enter this total on line 1a of Summary Page

Enter this total on line 2a of Summary Page

Enter this total on line 3a of Summary Page

CANDIDATE COMMITTEE
Itemized Receipts
Schedule 1A

1. Committee I.D. Number

00247

2. Committee Name

Committee to Re-elect
 Thomas E. Scott

3. Name and Address from whom received	4. Type of Contribution or Other Receipt	5. Date of Receipt	AMOUNT			7. Cumulative for election	8. If over \$200.00 cumulative, enter Contributor's Occupation, Employer and Business Address
			6a. Contribution of Money	6b. In-Kind Contribution Received	6c. Other Receipts		
TED MANSOUR 1106 N. Duane Trenton, NJ	Contributions: ☒ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	7-11-92	100.00			100.00	
MEA-PAC P.O. Box 2573 E. Lansing, MI	Contributions: ☒ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):	6-11-92	2,000.00				
		7-1-92	2,350.00	2		4,350.00	
	Contributions: ☐ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):						
	Contributions: ☐ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):						
	Contributions: ☐ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):						
	Contributions: ☐ Direct ☐ Loan from a person ☐ In-kind (describe): Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Other (specify):						

Subtotal This Page

4,450.00

Total This Period (only complete on last page of this schedule)

2,481.12

Enter the total on this page in Summary Page

Enter the total on this page in Summary Page

Enter the total on this page in Summary Page

36.36

9 3 0 4 0 9 9 2 5 1 7

93040992518

EXHIBIT B

Audio of Tom Scott T.V. Ad

Governor John Engler wants Republican control of the Michigan House because he wants a blank check to do the things the Democrats have stopped him from doing.

Like Trying to stop him from giving tax breaks to businesses that move our jobs out of Michigan.

Or putting trickle down economics in place so he can do to Michigan what George Bush has done to America.

Governor Engler is bankrolling Paula Zelenko's campaign for State Representative and he's counting on her to give him that blank check.

That's something Genesee county can't afford. Vote "No" on Paula Zelenko.

(Paid for by the Committee to Re-Elect Thomas E. Scott.)

93040992519



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 4, 1992

Michigan Republican State Committee
David J. Doyle, Chairman
2121 East Grand River
Lansing, MI 48912

RE: MUR 3681

Dear Mr. Doyle:

This letter acknowledges receipt on October 29, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Committee to Re-Elect Thomas E. Scott, and Constance J. Scott, as treasurer, and the Clinton for President Committee and Robert Farmer, as treasurer. 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 3681. 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.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

Enclosure
Procedures

93040992520



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 4, 1992

Constance J. Scott, Treasurer
Committee to Re-Elect Thomas E. Scott
1237 Kra-Nur Drive
Burton, MI 48509

RE: MUR 3681

Dear Ms. Scott:

The Federal Election Commission received a complaint which indicates that the Committee to Re-Elect Thomas E. Scott ("Committee") and you, as treasurer, 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 3681. 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 Committee and you, as treasurer, 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.

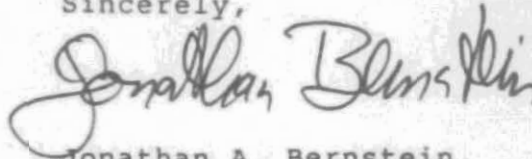
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed 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.

93040992521

Constance J. Scott, Treasurer
Committee to Re-Elect Thomas E. Scott
Page 2

If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

93040992522



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 4, 1992

Robert Farmer, Treasurer
Clinton for President Committee
P.O. Box 615
Little Rock, AR 72203

RE: MUR 3681

Dear Mr. Farmer:

The Federal Election Commission received a complaint which indicates that the Clinton for President Committee ("Committee") and you, as treasurer, 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 3681. 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 Committee and you, as treasurer, 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.

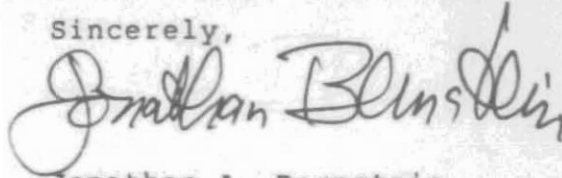
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed 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.

93040992523

Robert Farmer, Treasurer
Clinton for President Committee
Page 2

If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Jonathan A. Bernstein
Assistant General Counsel

Enclosures

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

9304099224

SACHS, WALDMAN, O'HARE, HELVESTON, HODGES & BARNES, P.C.

ATTORNEYS AND COUNSELORS AT LAW

1000 FARMER

DETROIT, MICHIGAN 48226

(313) 965-3464

FAX NO. (313) 965-0268

THEODORE SACHS
ROLLAND R. O'HARE
RONALD R. HELVESTON
BARRY P. WALDMAN
ROBERT G. HODGES
DAVID K. BARNES, JR.
RONALD S. WEINER
JOHN L. ZORZA II
EILEEN NOWIKOWSKI
KATHLEEN L. BOGAS
ANN E. HEYDON
I. MARK STECKLOFF
JAMES MICHAEL MONDRO
GREGORY M. JANKS
GRANNER S. RIES
MARY ELLEN GUREWITZ
GEORGE H. KRUSZEWSKI
GEORGE T. FISHBACK

JOHN R. RUNTAN, JR.
JOHN C. MCINTOSH
JOSEPH P. BUTTIGLIERI
MARK BREWER
ANDREW A. NICKELHOFF
DENISE L. MITCHAM
JOY A. TURNER
JOYCE M. OPPENHEIM
MARY KATHERINE NORTON
JOHN S. MISCH
MICHAEL D. McFERREN
JIM D. EDGAR
ALMA Y. HENLEY
BARBARA M. ROBINSON
REGINALD M. TURNER, JR.
EMILY C. HALL
ROBERTA H. PULLUM
MARC H. SOBLE

PONTIAC OFFICE
28 N. SAGINAW, SUITE 1200
PONTIAC STATE BANK BLDG. (NBD)
PONTIAC, MICHIGAN 48342
(313) 334-0562
FAX NO. (313) 334-9436

FLINT OFFICE
6-1388 W. BRISTOL ROAD
SUITE 105
BRISTOL WEST CENTER
FLINT, MICHIGAN 48507
(313) 233-4202
FAX NO. (313) 235-7239

LANSING OFFICE
419 S. WASHINGTON
LANSING, MICHIGAN 48233
(517) 482-4163

November 18, 1992

Tony Buckley, Esq.
Federal Election Commission
Washington, D.C. 20463

RE: MUR 3681

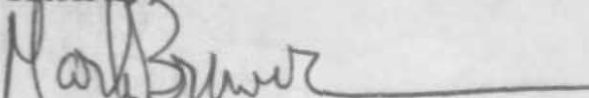
Dear Mr. Buckley:

This is to enter our appearance in the above matter on behalf of the Committee to Re-Elect Thomas E. Scott and Constance J. Scott, Treasurer. Enclosed please find completed Statement of Designation of Counsel.

Confirming our telephone conversation, respondents request until December 3, 1992 to respond to the complaint.

Thank you for your assistance.

Sincerely,


Mark Brewer

MB/plm
opeiu42af1-cio
Enclosure

cc: Theodore Sachs, Esq.
State Representative Thomas Scott

92 NOV 23 PM 3:09

RECEIVED
FEDERAL ELECTION
COMMISSION

NOV 23 10 37 AM '92

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM

93040992525

NOV. 18 1992

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3681

NAME OF COUNSEL: MARK Brewer

ADDRESS: SACHS, WALDMAN etc.

1000 FARMER

Detroit, MI, 48226

TELEPHONE: (313) 965-3464

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.

11-16-92
Date

Constance J. Scott
Signature

RESPONDENT'S NAME: Committee to ReElect Scott and Constance Scott

ADDRESS: Committee to ReElect Scott

1237 Kra-Nur Dr.

BURTON, MI. 48509

TELEPHONE: HOME (313) 742-3879

BUSINESS (313) 733-5900

9304092526

RECEIVED
FEDERAL ELECTION COMMISSION
92 NOV 23 PM 3:09



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 1, 1992

BY TELECOPY

Mark Brewer
Sachs, Waldman, O'Hare, Helveston,
Hodges & Barnes, P.C.
1000 Farmer
Detroit, Michigan 48226

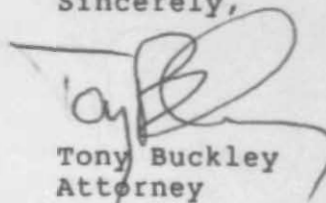
RE: MUR 3681

Dear Mr. Brewer:

This is in response to your letter dated November 18, 1992, which we received on November 23, 1992, requesting an extension until December 3, 1992 to respond to the complaint. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on December 3, 1992.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tony Buckley", is written over a horizontal line.

Tony Buckley
Attorney

930409922527

RECEIVED
FEDERAL ELECTION COMMISSION
MAIN COPY ROOM
DEC 2 10 26 AM '92

SACHS, WALDMAN, O'HARE, HELVESTON, HODGES & BARNES, P.C.
ATTORNEYS AND COUNSELORS AT LAW
1000 FARMER
DETROIT, MICHIGAN 48226
(313) 965-3464
FAX NO. (313) 965-0268

THEODORE SACHS
ROLLAND R. O'HARE
RONALD R. HELVESTON
BARRY F. WALDMAN
ROBERT G. HODGES
DAVID K. BARNES, JR.
RONALD S. WEINER
JOHN L. ZORZA II
EILEEN NOWIKOWSKI
KATHLEEN L. SOGAS
ANN E. HEYDON
I. MARK STECKLOFF
JAMES MICHAEL MONDRO
GREGORY M. JANKS
GRANTER S. RIES
MARY ELLEN GUREWITZ
GEORGE H. KRUSZEWSKI
GEORGE T. FISHBACH

JOHN R. RUNYAN, JR.
JOHN C. MCINTOSH
JOSEPH P. BUTTIGLIERI
MARK BREWER
ANDREW A. NICKELHOFF
DENISE L. MITCHAM
JOY A. TURNER
JOYCE M. OPPENHEIM
MARY KATHERINE NORTON
JOHN S. MISCH
MICHAEL D. McFERREN
JIM D. EDGAR
ALMA T. HENLEY
BARBARA M. ROBINSON
REGINALD M. TURNER, JR.
EMILY C. HALL
ROBERTA H. PULLUM
MARC H. SOBLE

December 1, 1992

VIA AIRBORNE EXPRESS

PONTIAC OFFICE
28 N. SAGINAW, SUITE 1200
PONTIAC STATE BANK BLDG. (N801)
PONTIAC, MICHIGAN 48342
(313) 334-0882
FAX NO. (313) 334-9436

FLINT OFFICE
G-1388 W. BRISTOL ROAD
SUITE 105
BRISTOL WEST CENTER
FLINT, MICHIGAN 48507
(313) 233-4202
FAX NO. (313) 233-7239

LANSING OFFICE
419 E. WASHINGTON
LANSING, MICHIGAN 48933
(517) 482-4163

Tony Buckley, Esq.
Federal Election Commission
Washington, D.C. 20463

RE: MUR 3681

Dear Mr. Buckley:

This letter is submitted pursuant to 2 U.S.C. §437g(a)(1) and 11 C.F.R. §111.6 in response to the complaint in this matter and demonstrates that no action should be taken against either of the respondents based on that complaint. The complaint lacks merit on numerous factual and legal grounds, as more fully set forth below, and the General Counsel should recommend to the Commission that it find no reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act (hereinafter "FECA" or "Act") and that the Commission should close its file in this matter.

STATEMENT OF FACTS

The complaint's factual allegations are not accurate or complete - it contains a number of omissions and erroneous legal conclusions. The relevant facts are as follows.

The factual allegations numbered 1-5 on page 1 under the heading "Complaint" are accurate as is the factual allegation numbered 1 under the heading "Illegal Contributions," except that they fail to disclose that Mr. Scott's Republican opponent was Paula Zelenko and that 50th State Representative District is located in Genesee County, Michigan. However, the factual allegations numbered 2 and 3 under the heading "Illegal Contributions" are inaccurate and they are denied. Neither the audio text nor the video portion of the commercial advocates the "defeat of George Bush," nor does the "commercial display[]" a visual image of George Bush in a negative fashion."

The accurate facts as to the commercial are as follows. The 30-second TV commercial advocates solely the defeat of Mr. Scott's Republican opponent, Paula Zelenko, in a state election. The audio text of the commercial read by a narrator

is as follows:

Governor John Engler wants Republican control of the Michigan House because he wants a blank check to do the things the Democrats have stopped him from doing.

Like trying to stop him from giving tax breaks to businesses that move our jobs out of Michigan.

Or putting trickle down economics in place so he can do to Michigan what George Bush has done to America.

Governor Engler is bankrolling Paula Zelenko's campaign for State Representative and he's counting on her to give him that blank check.

That's something Genesee County can't afford. Vote "No" on Paula Zelenko.

Paid for by the Committee to Re-Elect Thomas E. Scott.

As the text reveals, George Bush is mentioned once in a 30-second text in an issues discussion expressly linked to the advocacy of the defeat of a state candidate, Ms. Zelenko.

The video portion of the commercial consists primarily of a series of color pictures, except for a black and white picture of Ms. Zelenko and some on-screen text at the end. The sequence is as follows: a picture of Governor John Engler with a "blank check" superimposed (7 seconds); followed by pictures of Michigan workers at work (5 seconds); then a picture of Governor Engler next to which a picture of George Bush drops into place (5 seconds); followed by pictures of Governor Engler and Ms. Zelenko alongside one another with a blank check superimposed (8 seconds); and, finally, on-screen text urging a "no" vote on Ms. Zelenko with the Scott disclaimer (5 seconds).

The color picture of George Bush (dressed in a suit) appears side-by-side with a picture of Governor Engler approximately halfway into the commercial and is on-screen for 4 seconds while the narrator discusses the issue of "trickle down economics." There is no reference to a federal election and there is no advocacy of the election or defeat of any federal candidate.

93040992529

ARGUMENT

THERE IS NO REASON TO BELIEVE THAT THE COMPLAINT SETS FORTH A VIOLATION OF THE ACT AND THE COMMISSION SHOULD CLOSE ITS FILE IN THIS MATTER.

I. THE COMMERCIAL WAS NOT A PROHIBITED CONTRIBUTION USING LABOR ORGANIZATION FUNDS OR TO THE PUBLICLY FUNDED CLINTON FOR PRESIDENT CAMPAIGN.

The complaint alleges that the airing of the TV commercial at issue constituted a prohibited contribution to the Clinton for President campaign in violation of 2 U.S.C. §441b(a), barring contributions or expenditures by labor organizations in connection with federal elections, and in violation of 11 C.F.R. §9003.2(a)(2) prohibiting the publicly funded Clinton for President Committee from accepting private contributions.^{1/}

Because the TV commercial was not a "contribution" as defined in the Federal Election Campaign Act (FECA), its airing was not a prohibited contribution as alleged by the complaint.^{2/}

The United States Supreme Court has repeatedly held that "[t]he starting point in every case involving construction of a [federal] statute is the language itself." Ernst & Ernst v. Hochfelder, 425 U.S. 185, 197; 96 S. Ct. 1375, ___; 47 L.Ed.2d 668, 679 (1976). If the statutory language is clear, it is conclusive and the statute admits of no further construction. See, e.g., United States v. Clark, 454 U.S. 555, 560; 102 S. Ct. 805, ___; 70 L.Ed.2d 768, 773 (1982). The instant inquiry starts and ends with the language of §431(8)(A)(1), the definition of "contribution." Under the clear meaning of the language of §431(8)(A)(i), the

^{1/}The complaint mistakenly cited 11 C.F.R. §9003.3(a), which covers allowable contributions, but the complaint alleged an improper contribution to a publicly funded presidential candidate in violation of, inter alia, 11 C.F.R. §9003.2(a)(2).

^{2/}Respondents believe that the commercial at issue is properly characterized as an alleged "expenditure" rather than an alleged "contribution" because the commercial involved an alleged "purchase" or "payment" under 2 U.S.C. §431(9)(A). See Buckley v. Valeo, 421 U.S. 1, 19-21; 96 S. Ct. 612, ___; 46 L.Ed.2d 659, 687-89 (1976) (per curiam). However, because the statutory definitions of "contribution" and "expenditure" are largely parallel, compare 2 U.S.C. §431(8)(A) with 2 U.S.C. §431(9)(A), and the First Amendment principles underlying the "express advocacy" requirement, see infra, are the same whether the commercial is characterized as an alleged "contribution" or an alleged "expenditure," respondents do not, without waiving it and without prejudice, pursue that argument any further here.

93040992530

commercial at issue did not violate either 2 U.S.C. §441b(a) or 11 C.F.R. §9003.2(a)(2).

The FECA defines a "contribution" as:

any gift, subscription, loan, advance, or deposit 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(8)(A)(i). This general definition is not superseded by other definitions of "contribution" in the FECA which must be interpreted as including it. See, e.g., FEC v. NOW, 713 F. Supp. 428, 433 (D.D.C., 1989), app. dismiss'd (1991).

2 U.S.C. §431(8)(A)(i) has an intent requirement - that the conduct be "for the purpose of influencing" a federal election. All of the facts and circumstances must be reviewed to ascertain whether the requisite "intent" existed. There was no such intent in this case.

Here, there was a 30-second TV commercial paid for solely by a state candidate committee which related exclusively to a state election. There was no reference to a federal election and only a single, brief mention of George Bush in the context of an issues discussion relating to that state election. The Commission has repeatedly held that the mere criticism of a federal candidate or officeholder does not constitute a "contribution" or "expenditure." See, e.g., AO 1981-44, Fed. Election Campaign Finance Guide (CCH) ¶5628 (Nov. 9, 1981) (expenditure must aid a candidate in order to be a contribution; advertising campaigns against an officeholder not a contribution); MUR 1191 (Oct. 4, 1982) (leaflets attacking a candidate not express advocacy since they do not mention any election or endorse an opponent).

Moreover, the Commission has also held that the appearance of a federal candidate in a commercial endorsing a non-federal candidate does not constitute a contribution, and the converse should be true as well - the appearance of a federal candidate in a commercial attacking a non-federal candidate, as here, should not constitute a contribution either. See AO 1982-56, Fed. Election Campaign Finance Guide (CCH) ¶5695 (Oct. 29, 1992); see also pre-MUR 127 (Sept. 20, 1984) (Commission declined to open MUR because local party committee did not make "expenditure" where its communication related to local election, even though communication advocated against election of the complaining committee's presidential candidate).

For all these reasons, the TV commercial does not fall within the statutory definition of "contribution."

93040992531

II. THE TV COMMERCIAL DID NOT EXPRESSLY ADVOCATE
THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED
CANDIDATE FOR FEDERAL OFFICE.

Even if the TV commercial at issue met the statutory definition of "contribution" - and it does not - when that definition is applied, as it must be, consistent with the First Amendment, the commercial is not a "contribution."

In Buckley v. Valeo, 424 U.S. 1; 96 S. Ct. 612; 46 L.Ed.2d 659 (1976) (per curiam), the Supreme Court addressed, inter alia, the validity under the First Amendment of expenditure regulations in federal candidate elections. In addressing that issue the Court recognized that because the distinction between issue discussion and candidate election advocacy is not clearcut, the First Amendment requires that issue discussion be protected by narrowly and precisely defining the federal candidate election advocacy subject to federal regulation. The standard enunciated was the "express advocacy" standard:

[T]he distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest.^{50/} In an analogous context, this Court in Thomas v. Collins, 323 U.S. 516, 89 L.Ed. 430, 65 S. Ct. 315 (1945), observed:

"[W]hether words intended and designed to fall short of invitation would miss that mark is a question both of intent and of effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning.

Such a distinction offers no security for

93040992532

free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim." Id., at 535, 89 L Ed 430, 65 S Ct 315.

See also United States v. Auto Workers, 352 U.S. 567, 595-596, 1 L. Ed.2d 563, 77 S. Ct. 529 (1957) (Douglas, J., dissenting); Gitlow v. New York, 268 U.S. 652, 673, 69 L. Ed. 1138, 45 S. Ct. 625 (1925) (Holmes, J., dissenting).

The constitutional deficiencies described in Thomas v. Collins can be avoided only by reading §608(e)(1) as limited to communications that include explicit words of advocacy of election or defeat of a candidate, much as the definition of "clearly identified" in §608(e)(2) requires that an explicit and unambiguous reference to the candidate appear as part of the communication. This is the reading of the provision suggested by the nongovernmental appellees in arguing that "[f]unds spent to propagate one's views on issues without expressly calling for a candidate's election or defeat are thus not covered." We agree that in order to preserve the provision against invalidation on vagueness grounds, §608(e)(1) must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office. 52/

50. In connection with another provision containing the same advocacy language appearing in §608(e)(1), the Court of Appeals concluded:

"Public discussion of public issues which also are campaign issues readily and often unavoidably draws in candidates and their positions, their voting records and other official conduct. Discussions of those issues, and as well more positive efforts to influence public opinion on them, tend naturally and inexorably to exert some influence on voting at elections." ___ U.S. App. D.C., at ___, 519 F.2d, at 875.

93040992533

. . . .

52. This construction would restrict the application of §608(e)(1) to communications containing express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject."

424 U.S. at 42-44; 96 S. Ct. at ___; 46 L.Ed. 2d at 701-02 (one footnote omitted; emphasis added).

The Supreme Court subsequently reaffirmed and applied the Buckley "express advocacy" standard to the interpretation of §441b's definitions of "contribution" and "expenditure." See FEC v. Massachusetts Citizens For Life, 479 U.S. 238, 248-49; 107 S. Ct. 616, ___; 93 L.Ed.2d 539, 550-51 (1986). Thus it is clear that §441b applies only to the "express advocacy" of the election or defeat of a clearly identified candidate for federal office.

No such express words of advocacy or similar Buckley-permitted express terms, e.g., "return," "re-elect," or "retain," relating to a federal candidate are found anywhere in the commercial at issue. Instead, the commercial contains extensive issue discussion, precisely the type of discussion the Court in Buckley sought to protect and to exclude from federal statutory coverage by its adoption of the "express advocacy" standard, even if such discussion could arguably have an incidental effect on a federal election. See 424 U.S. at 42-44 & nn.50, 52; 96 S. Ct. at ___ & nn. 50, 52; 46 L.Ed.2d at 700-02 & nn.50, 52.

If more be needed to demonstrate that the commercial at issue is not a "contribution" under the required "express advocacy" standard, in FEC v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir., 1980) (*per curiam*), the en banc Second Circuit held, in an analysis equally applicable here, that a leaflet which criticized a Congressman's record did not constitute "express advocacy" under §441d(a) and rejected the addition of the words "implied" or "encourage" to Buckley's strict "express advocacy" standard:

The history of §§424(e) and 441d thus clearly establish that . . . the words "expressly advocating" mean exactly what they say. . . . [T]he [plaintiff] would apparently have us read "expressly advocating the election or defeat" to mean for the purpose, express or implied, of encouraging election or defeat. This would, by statutory interpretation, nullify the change in the statute ordered in Buckley v. Valeo and adopted by Congress in the 1976

93040992534

amendments. The position is totally meritless.

The [communication at issue] contains nothing which could rationally be termed express advocacy. . . . There is no reference anywhere in the [communication at issue] to the congressman's party, to whether he is running for re-election, to the existence of an election or the act of voting in any election; . . .

616 F.2d at 53 (first emphasis original). As in CLITRIM, so, too, here - "express advocacy" of the election or defeat of George Bush is missing. He is mentioned only as part of a discussion of a public issue - "trickle down economics" that "by [its] nature invokes the names of certain politicians." FEC v. NOW, *supra*, 713 F. Supp. at 435. There is no reference to his reelection or to voting for or against him, and therefore no "express advocacy."

Similarly does FEC v. Furgatch, 807 F.2d 857 (9th Cir., 1987), *cert. denied*, 484 U.S. 850; 108 S. Ct. 151; 98 L.Ed.2d 106 (1987), - even if it represented a correct interpretation of "express advocacy" and it does not because it improperly deviates from the strict Buckley and MCFL standard - support the conclusion that the commercial at issue is not a "contribution" here. Even under Furgatch's less stringent (than Buckley) test of "express advocacy," the commercial at issue was not "express advocacy" because it fails Furgatch's three-part test:

First, even if it is not presented in the clearest, most explicit language, speech is "express" for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning. Second, speech may only be termed "advocacy" if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act. Finally, it must be clear what action is advocated. Speech cannot be "express advocacy of the election or defeat of a clearly identified candidate" when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the readers to take some other kind of action.

We emphasize that if any reasonable alternative reading of speech can be suggested, it cannot be express advocacy subject to the Act. . . .

807 F.2d at 864 (emphasis added). The advertisement at issue in Furgatch contained clear express words advocating action by its readers - "don't let him" according to the court constituted a direct, simple command to the voters to act

93040992535

by voting against the candidate.

There is no such clear command or plea to vote for or against any federal candidate in the commercial at issue - the speech relating to George Bush is purely informative. Indeed, the only clear plea for action by the viewers in the commercial is not to elect a state candidate, Ms. Zelenko. That plea to vote against a state candidate is a "reasonable alternative reading" which renders the commercial not subject to the FECA under Furgatch. See FEC v. NOW, supra, 713 F. Supp. at 435; see also FEC v. AFSCME, 471 F. Supp. 315 (D.D.C., 1979) (Nixon-Ford poster concerning pardon of Nixon by Ford circulated to union members during 1976 held not to constitute "express advocacy," but "communication on a public issue widely debated during the campaign").

Thus, after Buckley, MCFL, CLITRIM, and Furgatch, it is clear that "express advocacy" is a requirement in order for a "contribution" or "expenditure" to be regulated under the FECA, see, e.g., Faucher v. FEC, 928 F.2d 468, 470-71 (1st Cir., 1991), cert. denied, ___ U.S. ___; ___ S. Ct. ___; 116 L.Ed.2d 52 (1991); FEC v. NOW, supra, 713 F. Supp. at 435, that the TV commercial at issue does not constitute "express advocacy," and therefore no "contribution," whether legal or illegal, occurred.

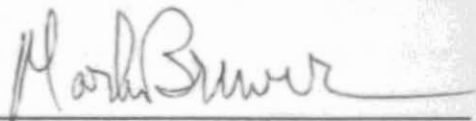
CONCLUSION AND RELIEF SOUGHT

For the reasons stated, the General Counsel should recommend to the Commission that it find no reason to believe that the complaint sets forth a possible violation of the Act and that the Commission should close its file in this matter.

Respectfully submitted,

SACHS, WALDMAN, O'HARE,
HELVESTON, HODGES & BARNES, P.C.

BY:


MARK BREWER (P35661)

MB/plm
opeiu42afl-cio

cc: Theodore Sachs, Esq.
State Representative Thomas Scott

93040992536

MUR # 3681

ADDITIONAL DOCUMENTS WILL BE ADDED TO THIS FILE AS THEY
BECOME AVAILABLE. PLEASE CHECK FOR ADDITIONAL MICROFILM
LOCATIONS.

93040992537



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20461

THIS IS THE End of MUR# 3681

DATE FILMED 10/29/93 CAMERA NO. 2

CAMERAMAN MC

930409925338



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

☒ Microfilm
☐ Public Records
☐ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3681.

12/10/93

23043543500

THE READER IS REFERRED TO ADDITIONAL MICROFILM LOCATIONS
FOR THE FOLLOWING DOCUMENTS PERTINENT TO THIS CASE

1. Memo, General Counsel to the Commission, dated September 22, 1992, Subject: Priority System Report.
See Reel 354, pages 1590-94.
2. Memo, General Counsel to the Commission, dated April 14, 1993, Subject: Enforcement Priority System.
See Reel 354, pages 1595-1620.
3. Certification of Commission vote, dated April 28, 1993.
See Reel 354, pages 1621-22.
4. General Counsel's Report, In the Matter of Enforcement Priority, dated December 3, 1993.
See Reel 354, pages 1623-1740.
5. Certification of Commission vote, dated December 9, 1993.
See Reel 354, pages 1741-1746.

23043543501



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

DEC 10 1992

**CERTIFIED MAIL -
RETURN RECEIPT REQUESTED**

David J. Doyle, Chairman
Michigan Republican State Committee
2121 East Grand River
Lansing, MI 48912

RE: MUR 3681

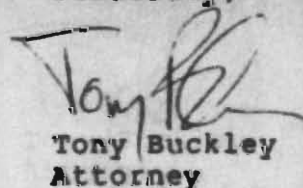
Dear Mr. Doyle:

On October 29, 1992, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Committee to Re-Elect Thomas E. Scott and Constance J. Scott, as treasurer, and the Clinton for President Committee and Robert Farmer, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter. This matter will become part of the public record within 30 days.

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).

Sincerely,


Tony Buckley
Attorney

Attachment
Narrative

Date the Commission voted to close the file:

DEC 09 1992

23043543502

MUR 3681

COMMITTEE TO RE-ELECT THOMAS SCOTT

The Michigan Republican State Committee complains that state legislative candidate Thomas Scott illegally promoted the candidacy of Bill Clinton by picturing George Bush negatively in a late October 1992 30-second TV ad paid for by his state house campaign, which aired in his state legislative district. The ad mentions George Bush and pictures him for 4 seconds in an attack on Michigan Governor Engler, who purportedly wants to "put[] trickle down economics in place so he can do to Michigan what George Bush has done to America." The response argues that the ad advocated the defeat of Scott's opponent, made no reference to a federal election, related exclusively to a state election, and only mentioned George Bush in an issue discussion relating to that state election. (The tag line on the commercial states: "Vote 'No' on Paula Zelenko.")

The activity at issue here demonstrates no indication of any serious intent by Respondents to violate the FECA, no significant issue, a limited amount of money at issue, and a state candidate possibly inexperienced in federal campaigns.

23043543503



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

DEC 10 1993

Robert Farmer, Treasurer
Clinton for President Committee
P.O. Box 615
Little Rock, AR 72203

RE: MUR 3681

Dear Mr. Farmer:

On November 4, 1992, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Clinton for President Committee and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,


Tony Buckley
Attorney

Attachment
Narrative

Date the Commission voted to close the file:

DEC 09 1993

23043543504

NUR 3681

COMMITTEE TO RE-ELECT THOMAS SCOTT

The Michigan Republican State Committee complains that state legislative candidate Thomas Scott illegally promoted the candidacy of Bill Clinton by picturing George Bush negatively in a late October 1992 30-second TV ad paid for by his state house campaign, which aired in his state legislative district. The ad mentions George Bush and pictures him for 4 seconds in an attack on Michigan Governor Engler, who purportedly wants to "put[] trickle down economics in place so he can do to Michigan what George Bush has done to America." The response argues that the ad advocated the defeat of Scott's opponent, made no reference to a federal election, related exclusively to a state election, and only mentioned George Bush in an issue discussion relating to that state election. (The tag line on the commercial states: "Vote 'No' on Paula Zelenko.")

The activity at issue here demonstrates no indication of any serious intent by Respondents to violate the FECA, no significant issue, a limited amount of money at issue, and a state candidate possibly inexperienced in federal campaigns.

23043543505



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

DEC 10 1993

Mark Brewer, Esq.
Sachs, Waldman, O'Hare, Helveston,
Hodges & Barnes, P.C.
1000 Farmer
Detroit, MI 48226

RE: MUR 3681
Committee to Re-Elect Thomas E.
Scott and Constance Scott, as
treasurer

Dear Mr. Brewer:

On November 4, 1992, the Federal Election Commission notified your clients, the Committee to Re-Elect Thomas E. Scott and Constance Scott, as treasurer, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your clients. See attached narrative. Accordingly, the Commission closed its file in this matter.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as

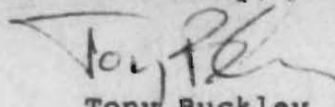
23043543506

Mark Brewer, Esq.
MUR 3681
Page 2

possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,


Tony Buckley
Attorney

Attachment
Narrative

Date the Commission voted to close the file:

DEC 09 1993

23043543507

MUR 3681
COMMITTEE TO RE-ELECT THOMAS SCOTT

The Michigan Republican State Committee complains that state legislative candidate Thomas Scott illegally promoted the candidacy of Bill Clinton by picturing George Bush negatively in a late October 1992 30-second TV ad paid for by his state house campaign, which aired in his state legislative district. The ad mentions George Bush and pictures him for 4 seconds in an attack on Michigan Governor Engler, who purportedly wants to "put[] trickle down economics in place so he can do to Michigan what George Bush has done to America." The response argues that the ad advocated the defeat of Scott's opponent, made no reference to a federal election, related exclusively to a state election, and only mentioned George Bush in an issue discussion relating to that state election. (The tag line on the commercial states: "Vote 'No' on Paula Zelenko.")

The activity at issue here demonstrates no indication of any serious intent by Respondents to violate the FECA, no significant issue, a limited amount of money at issue, and a state candidate possibly inexperienced in federal campaigns.

23043543508