

THIS IS THE BEGINNING OF MUR # 4045

26043723687

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 1 12 51 PM '94

July 28, 1994

Federal Elections Commission
999 "E" Street NW
Washington, D.C. 20463

To whom it may concern:

On Monday, July 25, while listening to KVI radio (570 AM) in Seattle, Washington, I heard what I believe to be a violation of Federal Election Commission regulations.

On the John Carlson program, in the late afternoon, a fundraiser for a congressional candidate (Steve Largent, Republican, running in Oklahoma) was promoted. Time, location, and donation amount, as well as statements endorsing the candidate were aired.

I hereby wish to make a formal complaint and ask for a determination on this matter.

Thank you in advance for your consideration of this issue.

Sincerely,

Kathleen F. Cado

Kathleen F. Cado
213 W. Comstock
Seattle, WA 98119
(206) 284-4240

NOTARY for WA. STATE - KING County
7-28-94

Judith L. Sauer

96043723688



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 8, 1994

Kathleen F. Cado
213 W. Comstock
Seattle, WA 98119

Dear Ms. Cado:

This is to acknowledge receipt on August 1, 1994, of your letter dated July 28, 1994. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this _____ day of _____, 19__." A statement by the notary that the complaint was sworn to and subscribed before her also will be sufficient. We regret the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

Enclosed is a Commission brochure entitled "Filing a Complaint." I hope this material will be helpful to you should you wish to file a legally sufficient complaint with the Commission.

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Please note that this matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. The respondents will then have an additional 15 days to respond to the complaint on the merits. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

If you have any questions concerning this matter, please contact me at (202) 219-3410.

Sincerely,

Retha Dixon

by ED

Retha Dixon
Docket Chief

Enclosure

cc: KVI Radio

96043723690

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUL 22 9 51 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE DIVISION

JUL 22 9 00 AM '94

July 28, 1994

Federal Elections Commission
999 "E" Street NW
Washington, D.C. 20463

MUR 4045

To whom it may concern:

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On the John Carlson program, in the late afternoon, a fundraiser for a congressional candidate (Steve Largent, Republican, running in Oklahoma) was promoted. Time, location, and donation amount, as well as statements endorsing the candidate were aired.

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Thank you in advance for your consideration of this issue.

Sincerely,

Kathleen F. Cado

Kathleen F. Cado
213 W. Comstock
Seattle, WA 98119
(206) 284-4240

cc: Federal Communications Commission

State of Washington

County of King

Signed and sworn to (or affirmed) before me

on 8/16/94 by Kathleen F. Cado

Mae J. Taylor

Notary Public

My appointment expires 2-15-98

96043723691



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

AUGUST 25, 1994

Kathleen F. Cado
213 W. Comstock
Seattle, WA 98119

RE: MUR 4045

Dear Ms. Cado:

This letter acknowledges receipt on August 22, 1994, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) 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 4045. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

96043723692



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 25, 1994

Stephen A. Jay, Treasurer
Largent for Congress
124 E. 4th Street, Suite 100
Tulsa, OK 74103

RE: MUR 4045

Dear Mr. Jay:

The Federal Election Commission received a complaint which indicates that Largent for Congress ("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 4045. 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.

96043723693

Stephen A. Jay, Treasurer
Largent for Congress
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar
Central Enforcement Docket

Enclosures

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

96043723694



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 25, 1994

**Stephen M. Largent
6150 S. Louisville
Tulsa, OK 74136**

RE: MUR 4045

Dear Mr. Largent:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4045. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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96043723695

Stephen M. Largent
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar
Central Enforcement Docket

Enclosures

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

96043723696



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 25, 1994

**Brian Jennings, Program Director
KVI-AM
Tower Building, Suite 200
Seventh Ave. and Olive Way
Seattle, WA 98101**

RE: MUR 4045

Dear Mr. Jennings:

The Federal Election Commission received a complaint which indicates that KVI-AM 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 4045. 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 KVI-AM 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.

96043723697

Brian Jennings, Program Director
KVI-AM
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar
Central Enforcement Docket

Enclosures

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

9 6 0 4 3 7 2 3 6 9 8

LAW OFFICES

FISHER WAYLAND COOPER LEADER & ZARAGOZA LLP.

2001 PENNSYLVANIA AVENUE, N.W.

SUITE 400

WASHINGTON, D. C. 20006-1851

TELEPHONE (202) 659-3494

TELECOPIER (202) 296-6518

WRITER'S DIRECT NUMBER

(202) 775-3541

September 2, 1994

BEN E. FISHER

(1950-1984)

CHARLES V. WAYLAND

(1910-1980)

OF COUNSEL

JOHN O. HEARNE

BEN C. FISHER
GROVER C. COOPER
MARTIN R. LEADER
RICHARD R. ZARAGOZA
CLIFFORD M. HARRINGTON
JOEL R. KASWELL
KATHRYN R. SCHMELTZER
DOUGLAS WOLOSIN
DAVID D. OXENFORD
BARRY H. GOTTFRIED
ANN K. FORD
BRUCE D. JACOBS
ELIOT J. GREENWALD
CARROLL JOHN YUNG
GLENN S. RICHARDS
BARRIE D. BERMAN
BRUCE F. HOFFMEISTER
SCOTT R. FLICK
FRANCISCO R. MONTERO
GREGORY L. MASTERS*
ROBERT C. FISHER
LAUREN ANN LYNCH
SHARON L. TASMAN*
THERESA A. SMYTH
JULIE ARTHUR GARCIA
LAUREN SCHAEFER DRAKE*
HOWARD C. GRIBOFF*
GUY T. CHRISTIANSEN*

*NOT ADMITTED IN D.C.

SEP 2 2 45 PM '94
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

VIA MESSENGER

Joan McEnery, Esquire
General Counsel's Office
Federal Election Commission
Washington, D.C. 20463

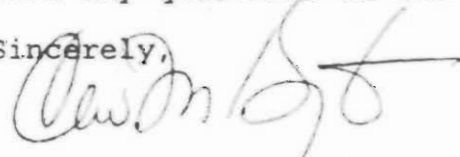
RE: MUR 4045

Dear Ms. McEnery:

Attached is the Federal Election Commission form notifying the Commission that our firm will be representing Fisher Broadcasting, Inc. and KVI-AM in case MUR 4045. We will respond formally to the complaint filed against KVI-AM within the statutory time frame.

Please contact me if you have any questions in the interim.

Sincerely,



Clifford M. Harrington

96043723699

NUR 4045

NAME OF COUNSEL: Clifford M. Harrington, Esq.

ADDRESS: Fisher, Hayland Cooper Leister & Zaragoza L.L.P.
2001 Pennsylvania Avenue, NW, Suite 400
Washington, DC 20006-6518

TELEPHONE: (202) 659-3494

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

SEP 2 2 48 PM '94

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.

9-1-94
Date

Patrick M. Scott
Signature

RESPONDENT'S NAME: Patrick M. Scott, President, CEO

ADDRESS: Fisher Broadcasting, Inc.
100 Fourth Avenue North
Seattle, WA 98109

TELEPHONE: HOME()

BUSINESS(202) 443-4014

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RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE DIVISION
SEP 12 11 46 AM '94

September 7, 1994

JAY &

ASSOCIATES, P.C.

Certified Public Accountants

4312 East 51st Street
P.O. Box 54550
Tulsa, Oklahoma 74155
(918) 492-0106
FAX (918) 496-8133

Federal Election Commission
Office of the General Counsel
999 E. Street, NW
Washington, DC 20463

Re: MUR 4045

To whom it may concern:

This letter is in response to a complaint filed by Kathleen F. Cado against Steve Largent for Congress (MUR 4045). The pertinent part of the complaint states:

On the John Carlson program, in the late afternoon, a fundraiser for congressional candidate (Steve Largent, Republican, running in Oklahoma) was promoted. Time, location, and donation amount, as well as statements endorsing the candidate were aired.

Mr. Carlson did, indeed, air such a piece. However, pursuant to 11 C.F.R. Sec. 100.7 (b) (2) this activity is not a contribution as the broadcasting station (KVI Radio, Seattle, Washington) is neither owned nor controlled by any political party, political committee, or candidate.

We therefore request that the Commission find the aforementioned complaint sets forth no possible violation of the Act.

Yours truly,


Stephen A. Jay, Treasurer
Largent for Congress Committee

SAJ/lmk

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 12 12 25 PM '94

96043723

LAW OFFICES

ORIGINAL

FISHER WAYLAND COOPER LEADER & ZARAGOZA LLP.

2001 PENNSYLVANIA AVENUE, N.W.

SUITE 400

WASHINGTON, D. C. 20006-1881

TELEPHONE (202) 659-3494

TELECOPIER (202) 296-6518

WRITER'S DIRECT NUMBER

(202) 775-3541

September 12, 1994

BEN C. FISHER
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JOHN G. HEARNE

SEP 12 5 13 PM '94
FEDERAL ELECTION
COMMISSION
RECEIVED

SEP 13 9 37 AM '94
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

VIA HAND DELIVERY

RE: MUR 4045

Joan McEnery, Esquire
General Counsel's Office
Federal Election Commission
Washington, D.C. 20463

Dear Ms. McEnery:

Fisher Broadcasting Inc. ("Fisher"), by its counsel and pursuant to Section 111.6(a) of the Commission's Rules, 11 C.F.R. § 111.6(a), hereby responds to the complaint, referenced above, filed against station KVI-AM, Seattle, Washington. Fisher, as licensee of KVI-AM, asserts that the complaint against KVI-AM should be dismissed for the following procedural and substantive reasons:

First, the General Counsel's Office appears to have violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and its own procedures in handling case MUR 4045. Under Section 437g(a)(1) of the Act, 2 U.S.C. § 437g(a)(1),¹ the General Counsel's Office was required to notify Fisher and KVI-AM (hereinafter referred to collectively as "KVI-AM") that a

¹The regulation issued pursuant to Section 437g(a)(1) of the Act can be found at Section 111.5(a) of the Commission's Rules, 11 C.F.R. § 111.5(a).

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complaint had been filed against KVI-AM within five days after receipt of the complaint. According to documents attached to the complaint and bearing the dated "receipt stamp" of the General Counsel's Office, the General Counsel's Office first received the complaint against KVI-AM on August 1, 1994. See Exhibit A. However, the General Counsel's Office failed to timely notify KVI-AM about the complaint as required by the Act. Indeed, the General Counsel's Office did not notify KVI-AM about the complaint until August 26, 1994--18 days beyond the statutory deadline.

On August 22, 1994, the General Counsel's Office received a second, substantially identical complaint against KVI-AM from the complainant.^{2/} See Exhibit B. It is unclear what prompted the complainant to refile the complaint. It appears that the second complaint was filed to enable the General Counsel's Office to attempt to comply with the required, five-day response time as detailed in Section 437g(a)(1) of the Act or to cure some other defect in the August 1st filing. Any action by the General Counsel's Office to prompt such a refiling would be wholly inappropriate. The General Counsel's Office's August 25, 1994, notification that the second complaint had been filed was procedurally defective and of no effect. A federal agency cannot waive or otherwise fail to abide by procedural requirements mandated by Congress. Failure of the General Counsel's Office to comply with the Act by notifying KVI-AM within five days that a complaint had been filed against it on August 1st makes the August 25th notification a nullity. The General Counsel's Office and the Commission are now barred from further pursuing this matter.

Second, the complaint against KVI-AM should be dismissed for substantive reasons. The complainant claims that KVI-AM violated the Commission's Rules during a broadcast of the John Carlson program. Although no specific rule has been cited,^{3/} it appears

^{2/}Both complaints bear the same date--July 28, 1994. The only apparent differences between the complaint received by the General Counsel's Office on August 1st and the complaint received on August 22nd are the dates the complaints were notarized and the absence of the "cc" request on the first complaint.

^{3/}The failure of either the complainant or the Commission to specify a statutory or regulatory basis is itself a bar to further consideration of the instant matter. Without being apprised of the provision it is alleged to have violated, KVI-AM must face the daunting and inappropriate task of proving a negative--that it has never violated any provision of the Act or Commission regulations. The law places no such burden on persons facing FEC complaints, and the imposition of such a burden on entities such as KVI-AM has no legal foundation.

that the complainant believes that KVI-AM violated Section 110.1(b), 11 C.F.R. § 110.1(b), a rule that limits contributions to political candidates to \$1,000. As discussed below, the complainant's allegation is without merit.

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KVI-AM, as a Federal Communications Commission licensee, utilizing a "news-talk" format broadcasts programs that address issues facing its listeners on a daily basis. One of these programs is the John Carlson program, a daily (Monday - Friday) talk show featuring local political commentator John Carlson, guests and callers. The July 25, 1994, broadcast of the John Carlson program featured a telephone interview with Steve Largent, a candidate for the Republican nomination to run for the United States Congress from Oklahoma. The interview was of great local interest, as Mr. Largent is perhaps the most famous and most liked person to ever play for the Seattle Seahawks football club. In addition to holding numerous football records and being a member of the NFL Hall of Fame, Mr. Largent earned great respect in the Seattle area for his civic involvement. During the interview, Mr. Carlson asked candidate Largent about his election plans and other campaign-related issues. Mr. Carlson told his listeners that candidate Largent was in Seattle for a fund raiser and provided them news information about the location and cost of the event and gave out a telephone number for listeners to obtain more information. Mr. Carlson then engaged in further commentary and expressed his own personal view that, while he had no knowledge of Mr. Largent's opponent(s), Congress could use more members like Steve Largent.^{4/}

Clearly, the Largent interview was not aired to influence his election. Seattle is far from Mr. Largent's electoral district, and the KVI-AM signal falls at least 1,000 miles short of providing a quality signal to Oklahoma. Rather, the interview was aired because of its newsworthy value to Seattle listeners in view of Mr. Largent's local popularity as a former Seattle Seahawks star.

As noted supra, contributions to political candidates generally are limited to \$1,000. Section 100.7(a)(1) of the Commission's Rules, 11 C.F.R. § 100.7(a)(1), generally defines contributions as "anything of value." It appears from the extremely vague complaint that the complainant is arguing that KVI-AM exceeded the limit on campaign contributions by broadcasting the aforementioned John Carlson show. The allegation is misplaced.

^{4/}Mr. Carlson's statement of support of candidate Largent was precisely that--Mr. Carlson's view. Fisher and KVI-AM remain uncommitted on who is the better-qualified candidate for the U.S. congressional seat in Oklahoma.

Under Section 431(9)(B) of the Act, 2 U.S.C. § 431(9)(B), and Sections 100.8(b)(2) and 100.7(b)(2) of the Commission's Rules, 11 C.F.R. §§ 100.8(b)(2), 100.7(b)(2), expenditures or campaign contributions do not include any cost incurred in covering any "news story, commentary, or editorial by any broadcasting station...unless the facility is owned or controlled by any political party, political committee, or candidate..." In the case at bar, KVI-AM is not owned or controlled by any political party, political committee or politician. The costs, if any, that KVI-AM and the John Carlson program incurred during the broadcast interview of candidate Largent clearly are not forbidden expenditures or campaign contributions. Rather, any costs incurred during the Largent interview were incurred as part of the station's coverage of the news and/or commentary by Mr. Carlson's regular news/commentary program and are within the Act's and regulation's press exemption. Therefore, even assuming arguendo that a portion of the John Carlson program constituted an expenditure or campaign contribution, it would be expressly exempted under the Act and the Commission's Rules.

Finally, any attempt to hold KVI-AM or the John Carlson program liable for the aforementioned broadcast would violate the First Amendment. See FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986) (holding unconstitutional spending limits on organization formed for the basis of promoting political ideas). The United States Constitution guarantees broadcasters the unfettered right to cover and comment on political campaigns. See id. at 251. Any attempt by the FEC to impinge on the First Amendment freedoms of KVI-AM or John Carlson would necessarily result in a "chilling effect" on the free exercise of political speech and association--something Congress clearly intended to avoid when it provided for the press exemption.^{5/}

Courts have unquestionably recognized a "First Amendment distaste for government investigations of press functions." Reader's Digest Association, Inc. v. Federal Election Commission, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981). As long as KVI-AM and the John Carlson program are not owned or controlled by a political party or candidate--as is clearly the case--any

^{5/}The legislative history of the press exemption, found in 2 U.S.C. § 431(8)(I) and promulgated by the Commission in 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2), states:

(It) is not the intent of the Congress in the present legislation to limit or burden in any way the first amendment freedoms of the press and of association. Thus the [press] exclusion assures the unfettered right of the...media to cover and comment on political campaigns.

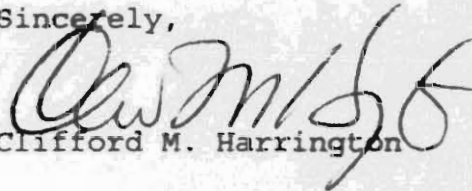
H.R. Rep. No. 943, 93rd Cong., 1st Sess., at 4 (1974).

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investigation by the FEC into the complaint against KVI-AM must be limited to whether the station and the John Carlson program were acting within their press function during the Largent broadcast. See Federal Election Commission v. Phillips Publishing, Inc., 517 F. Supp. 1308 (D.D.C. 1981). Mr. Carlson's interview with candidate Largent and corresponding commentary indisputably fall within the press exemption of the Act and the Commission's Rules. Therefore, the complaint against KVI-AM must be dismissed.

Please feel free to contact me if you have any questions or comments.

Sincerely,



Clifford M. Harrington

96043723706

EXHIBIT A

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 1 12 52 PM '94

July 28, 1994

Federal Elections Commission
999 "E" Street NW
Washington, D.C. 20463

To whom it may concern:

On Monday, July 25, while listening to KVI radio (570 AM) in Seattle, Washington, I heard what I believe to be a violation of Federal Election Commission regulations.

On the John Carlson program, in the late afternoon, a fundraiser for a congressional candidate (Steve Largent, Republican, running in Oklahoma) was promoted. Time, location, and donation amount, as well as statements endorsing the candidate were aired.

I hereby wish to make a formal complaint and ask for a determination on this matter.

Thank you in advance for your consideration of this issue.

Sincerely,

Kathleen F. Cado

Kathleen F. Cado
213 W. Comstock
Seattle, WA 98119
(206) 284-4240

Notary for WA. STATE - KING County
7-28-94

James L. Sauer

96043723707

EXHIBIT B

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

AUG 22 9 51 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE

AUG 22 9 00 AM '94

July 28, 1994

Federal Elections Commission
999 "E" Street NW
Washington, D.C. 20463

MUR 4045

To whom it may concern:

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On the John Carlson program, in the late afternoon, a fundraiser for a congressional candidate (Steve Largent, Republican, running in Oklahoma) was promoted. Time, location, and donation amount, as well as statements endorsing the candidate were aired.

I hereby wish to make a formal complaint and ask for a determination on this matter.

Thank you in advance for your consideration of this issue.

Sincerely,

Kathleen F. Cado

Kathleen F. Cado
213 W. Comstock
Seattle, WA 98119
(206) 284-4240

cc: Federal Communications Commission

State of Washington

County of *King*

Signed and sworn to (or affirmed) before me

on *8/16/94* by *Kathleen F. Cado*

[Signature]

Notary Public
My commission expires *2-15-98*

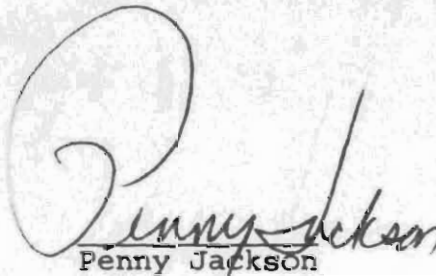
96043723708

CERTIFICATE OF SERVICE

I, Penny Jackson, secretary at Fisher, Wayland, Cooper, Leader and Zaragoza, do hereby certify that on this 12th day of September, 1994, the foregoing letter was served by United States mail, postage prepaid, or by hand delivery to the following persons:

Joan McEnery, Esquire*
General Counsel's Office
Federal Election Commission
999 E Street, N.W., 6th Floor
Washington, D.C. 20463

Ms. Kathleen F. Cado
213 W. Comstock
Seattle, Washington 98119


Penny Jackson

* Denotes hand delivery

96043723709

BEFORE THE FEDERAL ELECTION COMMISSION FEB 6 12 10 PM '96

In the Matter of

)
) Enforcement Priority
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SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

This report is the General Counsel's Report to recommend that the Commission no longer pursue the identified lower priority and stale cases under the Enforcement Priority System.

II. CASES RECOMMENDED FOR CLOSING

A. Cases Not Warranting Further Pursuit Relative to Other Cases Pending Before the Commission

A critical component of the Priority System is identifying those pending cases that do not warrant the further expenditure of resources. Each incoming matter is evaluated using Commission-approved criteria and cases that, based on their rating, do not warrant pursuit relative to other pending cases are placed in this category. By closing such cases, the Commission is able to use its limited resources to focus on more important cases.

Having evaluated incoming matters, this Office has identified 10 cases which do not warrant further pursuit relative to the other pending cases.¹ A short description of each case and the factors leading to assignment of a relatively

1. These matters are: MUR 4165 (Attachment 2); MUR 4187 (Attachment 3); MUR 4188 (Attachment 4); MUR 4199 (Attachment 5); MUR 4211 (Attachment 6); MUR 4212 (Attachment 7); MUR 4216 (Attachment 8); MUR 4224 (Attachment 9); MUR 4243 (Attachment 10); MUR 4245 (Attachment 11).

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low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 2-11. As the Commission requested, this Office has attached the responses to the complaints for the externally-generated matters and the referrals for matters referred by the Reports Analysis Division in instances where this information was not previously circulated. See Attachments 2-11.

B. Stale Cases

Investigations are severely impeded and require relatively more resources when the activity and evidence are old. Consequently, the Office of General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 33 cases that

do not
warrant further investment of significant Commission resources.²

2. These matters are: PM 308 (Attachment 12); RAD 94L-29 (Attachment 13); RAD 94L-34 (Attachment 14); RAD 94NF-10 (Attachment 15); RAD 94NF-13 (Attachment 16); MUR 4027 (Attachment 17); MUR 4028 (Attachment 18); MUR 4033 (Attachment 19); MUR 4042 (Attachment 20); MUR 4045 (Attachment 21); MUR 4047 (Attachment 22); MUR 4049 (Attachment 23); MUR 4057 (Attachment 24); MUR 4059 (Attachment 25); MUR 4062 (Attachment 26); MUR 4065 (Attachment 27); MUR 4066 (Attachment 28); MUR 4067 (Attachment 29); MUR 4069 (Attachment 30); MUR 4070 (Attachment 31); MUR 4077 (Attachment 32); MUR 4079 (Attachment 33); MUR 4086 (Attachment 34); MUR 4089 (Attachment 35); MUR 4095 (Attachment 36); MUR 4099 (Attachment 37); MUR 4102 (Attachment 38); MUR 4104 (Attachment 39); MUR 4111 (Attachment 40); MUR 4113 (Attachment 41); MUR 4117 (Attachment 42); MUR 4127 (Attachment 43); and MUR 4132 (Attachment 44).

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Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate narratives for these cases. As the Commission requested, the responses to the complaints for the externally-generated matters and the referrals for the internally-generated matters are attached to the report in instances where this information was not previously circulated. See Attachments 12-44.

This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the cases listed below in Section III.A and III.B effective February 13, 1996. By closing the cases effective February 13, 1996, CED and the Legal Review Team will respectively have the additional time necessary for preparing the closing letters and the case files for the public record.

III. RECOMMENDATIONS

A. Decline to open a MUR and close the file effective February 13, 1996 in the following matters:

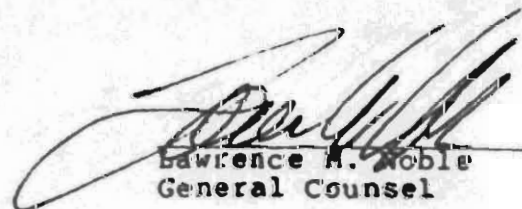
- 1) PM 308
- 2) RAD 94L-29
- 3) RAD 94L-34
- 4) RAD 94NF-10
- 5) RAD 94NF-13

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B. Take no action, close the file effective February 13, 1996, and approve the appropriate letter in the following matters:

- 1) MUR 4027
- 2) MUR 4028
- 3) MUR 4033
- 4) MUR 4042
- 5) MUR 4045
- 6) MUR 4047
- 7) MUR 4049
- 8) MUR 4057
- 9) MUR 4059
- 10) MUR 4062
- 11) MUR 4065
- 12) MUR 4066
- 13) MUR 4067
- 14) MUR 4069
- 15) MUR 4070
- 16) MUR 4077
- 17) MUR 4079
- 18) MUR 4086
- 19) MUR 4089
- 20) MUR 4095
- 21) MUR 4099
- 22) MUR 4102
- 23) MUR 4104
- 24) MUR 4111
- 25) MUR 4113
- 26) MUR 4117
- 27) MUR 4127
- 28) MUR 4132
- 29) MUR 4165
- 30) MUR 4187
- 31) MUR 4188
- 32) MUR 4199
- 33) MUR 4211
- 34) MUR 4212
- 35) MUR 4216
- 36) MUR 4224
- 37) MUR 4243
- 38) MUR 4245

2/6/96
Date


Lawrence M. Noble
General Counsel

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CORRECTED CERTIFICATION

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10) MUR 4062
11) MUR 4065
12) MUR 4066
13) MUR 4067
14) MUR 4069
15) MUR 4070
16) MUR 4077
17) MUR 4079
18) MUR 4086
19) MUR 4089
20) MUR 4095
21) MUR 4099
22) MUR 4102
23) MUR 4104
24) MUR 4111
25) MUR 4113
26) MUR 4117
27) MUR 4127
28) MUR 4132
29) MUR 4165
30) MUR 4187
31) MUR 4188
32) MUR 4199
33) MUR 4211
34) MUR 4212
35) MUR 4216
36) MUR 4224
37) MUR 4243
38) MUR 4245

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Commissioners Aikens, Elliott, McDonald, and Thomas
voted affirmatively on the above-noted decisions.
Commissioner McGarry was not present.

Attest:

3/7/96
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 7, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kathleen F. Cado
213 W. Comstock
Seattle, WA 98119

RE: MUR 4045

Dear Ms. Cado:

On August 22, 1994, the Federal Election Commission received the complaint you filed alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 5, 1996. 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,

Mary L. Taksar (704)

Mary L. Taksar, Attorney
Central Enforcement Docket

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Stephen A. Jay, Treasurer
Largent for Congress (1994)
P.O. Box 54550
Tulsa, OK 74155

RE: MUR 4045

Dear Mr. Jay:

On August 25, 1994, 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 exercised its prosecutorial discretion to take no action against Largent for Congress and you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 5, 1996.

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 the Central Enforcement Docket at (202) 219-3400.

Sincerely,

Mary L. Taksar

(JFH)

Mary L. Taksar, Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Stephen M. Largent
6150 S. Louisville
Tulsa, OK 74136

RE: MUR 4045

Dear Mr. Largent:

On August 25, 1994, 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 exercised its prosecutorial discretion to take no action against you. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 5, 1996.

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 the Central Enforcement Docket at (202) 219-3400.

Sincerely,

Mary L. Taksar (784)
Mary L. Taksar, Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 7, 1996

Clifford M. Harrington, Esquire
Fisher, Wayland, Cooper,
Leader & Zaragoza L.L.P.
2001 Pennsylvania Ave., N.W.
Suite 400
Washington, D.C. 20006-6518

RE: MUR 4045
KVI-AM

Dear Mr. Harrington:

On August 25, 1994, the Federal Election Commission notified your client 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 exercised its prosecutorial discretion to take no action against KVI-AM. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 5, 1996.

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 the Central Enforcement Docket at (202) 219-3400.

Sincerely,

Mary L. Taksar (734)
Mary L. Taksar, Attorney
Central Enforcement Docket

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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THIS IS THE END OF MUR # 4045

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4075
DATE FILMED 3/10/90 CAMERA NO. 2
CAMERAMAN MRS

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4049

DATE FILMED 3/10/96 CAMERA NO. 2

CAMERAMAN mes

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