



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4053

DATE FILMED 5-14-96 CAMERA NO. 4

CAMERAMAN JmH

96043 / 33601



SEP 12 12 20 PM '94

Arizona State Democratic Committee

MUR 4053

September 9, 1994

Steve Owens
Chairman

Alison Hughes
First Vice Chairwoman

Winston Smith
First Vice Chairman

Vice Chairwomen:
Imogene Brazieal
Betty Liggins
Yvonne Ragland

Vice Chairmen:
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Stan Lubin
Richard Lupke

Marge McClanahan
Secretary

Burt Drucker
Treasurer

Joe Della Rocca
Affirmative Action
Coordinator

Kate Lehman
Educational
Coordinator

Lorraine W. Frank
National
Committeewoman

Martin Bacal
National Committeeman

2005 N. Central Ave.
Suite 310
Phoenix, Arizona
85004
Tel. (602) 257-9136
FAX (602) 257-8268

Melodee Jackson
Executive Director

Douglas Murphy
Political Director

Victoria Jaramillo
Administrative
Assistant

Lawrence E. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

TELECOPIED -and- FEDERAL EXPRESS

(202) 219-3923

(202) 219-3420

Complaint Against Susan Bitter Smith
and the Friends of Susan Bitter Smith Committee
(Arizona Congressional District 1)

Dear Mr. Noble:

The Arizona Democratic Party files this complaint against Susan Bitter Smith, a candidate for the Republican nomination for Congress in Arizona Congressional District 1, and the Friends of Susan Bitter Smith Committee and requests that the Federal Election Commission ("the Commission") investigate possible improper fundraising activities by Ms. Bitter Smith and her Committee to determine whether there have been violations of the Federal Election Campaign Act.

Recent media accounts have reported that Ms. Bitter Smith may have violated the "sale or use" restriction in 11 C.F.R. § 104.15 by soliciting campaign contributions from contributors listed on the campaign finance reports filed with the Commission by U.S. Representative Jon Kyl, currently a candidate for the U. S. Senate from Arizona. (See Tabs A & B) The reports state that a fundraising letter from Ms. Bitter Smith's campaign was sent to at least one of the fictitious names included on Representative Kyl's report under 11 C.F.R. § 104.3(e). Such a solicitation clearly would violate section 104.15, which provides that information from campaign finance reports "shall not be . . . used by any person for the purpose of soliciting contributions."

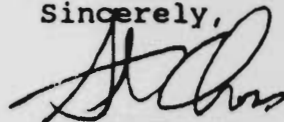
Lawrence E. Noble, Esq.

-2-

September 9, 1994

Because Arizona's primary election will be held next Tuesday, September 13 (and the November 8 general election is just two months away), we request an expedited investigation of this complaint to resolve this matter as quickly as possible.

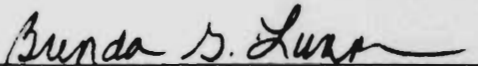
Sincerely,



Steve Owens
Chairman

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this 9th day of September, 1994, by STEVE OWENS.


Notary Public

My Commission Expires:

March 13, 1997



336033043960439

Tribune

Arizona

Valley and State News

Thursday, September 8, 1994

Bitter Smith may have broken rule

By Doug MacEachern
Tribune writer

The campaign of 1st Congressional District candidate Susan Bitter Smith may be in trouble with the Federal Elections Commission for allegedly using reports of a Republican congressman to solicit campaign contributions.

A letter that appeared to come from Bitter Smith's campaign was sent recently to a bogus name on the federal list of contributors to Rep. Jon Kyl, R-Ariz.

Federal campaign law explicitly forbids candidates soliciting contributions off FEC lists filed by other candidates. To discourage the practice, called salting, officeholders frequently list bogus names on their contribution disclosure forms to ensnare the solicitors.

According to an FEC spokesman in Washington, D.C., candidates caught using such FEC reports "knowingly and willingly" to raise campaign money risk



Bitter Smith

Denies soliciting others' contributors

fines of up to \$10,000 per violation.

Bitter Smith denies the letter came from her campaign. She suggests the letter may be an act of skullduggery by one of her opponents.

"Our campaign did not solicit inappropriately off an FEC list," said Bitter Smith Wednesday. "You don't do that. I've been around long enough to know that."

"I suspect another campaign is throwing bombs."

Including Bitter Smith, there are five Republicans vying in the District 1 primary contest. One of those candidates, Matt Salmon of Mesa, said he was alerted to the allegation when someone sent an anonymous fax to his campaign offices. The author of the fax suggested Bitter Smith also had used the FEC reports of Sen. John McCain, R-Ariz., and former U.S. Rep. Jay Rhodes.

McCain administrative assistant Deb Gullett confirmed she also received the fax Tuesday, but said no one has sent contribution solicitations to bogus names on McCain's reports.

A spokesman for Kyl, who is running

for the U.S. Senate, said they discovered the alleged Bitter Smith solicitation letter last week.

"We have confirmed that, because of names salted in our (FEC) lists, that she has used out lists for her campaign," said Scott Celley, a spokesman for Kyl.

Asked if the incident would be reported to the FEC, Celley said "it very well might be."

"At this point, we don't have plans to do so. My understanding is that (Bitter Smith) is investigating the situation and is going to provide us with an explanation," said Celley.

The three-page, undated letter is a lengthy plea for support that appears to have been sent on Bitter Smith's behalf by two of her top campaign workers, Diane McCarthy and Myron Deibel. The names of both McCarthy and Deibel appear at the top of the letter, and it appears to be signed by both.

"Susan's campaign needs your help today," the letter states. "She needs your generous contribution of \$50, \$100, \$250, \$500 or \$1,000 so her cam-

paign can place the critical radio and television advertising so necessary to win this race."

McCarthy did not immediately return a call Wednesday from the *Tribune*. Deibel said he and McCarthy did send out several hundred such solicitations around the end of July, but denied they used Kyl's campaign lists for their mailing.

"I have no idea how that could have happened," said Deibel. "We didn't use the Kyl mailing list."

According to Ian Stirton of the FEC, the commission forbids other candidates from using FEC reports without permission to protect contributors from being swamped by solicitors. Candidates, he said, should be well aware of the rule.

"(The prohibition) is on any list you get from the FEC," said Stirton.

A former Scottsdale city councilwoman, Bitter Smith is opposed in the GOP primary by Salmon, Linda Rawles of Mesa, Bev Hermon of Tempe and Bert Tollefson of Phoenix. The winner will meet Democrat Chuck Blanchard, a Phoenix state legislator who is unopposed in the primary.

Friday, September 9, 1994

Tribune

Opinion

Ritter



96043733605

THE PHOENIX GAZETTE

Friday, September 9, 1994

Dingo ate my campaign finance report ... Did 1st Congressional District Republican hopeful **Susan Bitter Smith** violate federal campaign finance laws?



Bitter Smith says no, but GOP foe **Matt Salmon** isn't so sure.

Salmon got an unsigned fax this week, saying Bitter Smith had used campaign finance reports to solicit donations.

■ BITTER SMITH The Federal Election Commission can fine candidates \$10,000 for such tactics because they disrupt the reporting system and expose contributors to mailing lists and other mischief.

Salmon said he checked it out, and sure enough, Bitter Smith campaign materials had been mailed to a bogus name planted in the campaign-finance reports of **Jon Kyl** for U.S. Senate.

Kyl spokesman **Scott Celley** said a message of concern was sent to Bitter Smith.

Asked about the alleged federal crime, Bitter Smith said, "We did not do that. It's very strange, and it's starting to be the silly season."

She was particularly intrigued by the fact that the fax surfaced in the campaign headquarters of Salmon, who is believed to be clinging to a narrow lead in a 5-way race.

960433606



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

SEPTEMBER 15, 1994

Steve Owens, Chairman
Arizona State Democratic Committee
2005 North Central Avenue, Suite 310
Phoenix, AZ 85004

RE: MUR 4053

Dear Mr. Owens:

This letter acknowledges receipt on September 12, 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 4053. 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

96043733607



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

SEPTEMBER 15, 1994

Karen Crotty, Treasurer
Friends of Susan Bitter Smith Committee
5806 East Lewis
Scottsdale, AZ 85257

RE: MUR 4053

Dear Ms. Crotty:

The Federal Election Commission received a complaint which indicates that the Friends of Susan Bitter Smith 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 4053. 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.

960433608

Karen Crotty, Treasurer
Friends of Susan Bitter Smith Committee
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, Attorney
Central Enforcement Docket

Enclosures

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

9604333609



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 15, 1994

Susan Bitter Smith
5806 East Lewis
Scottsdale, AZ 85257

RE: MUR 4053

Dear Ms. Smith:

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 4053. Please refer to this number in all future correspondence.

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

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

26043/33610

Susan Bitter Smith
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, Attorney
Central Enforcement Docket

Enclosures

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

9 6 0 4 3 7 3 3 6 1 1

OCT 5 '94 16:00

P. 1/3

**SUSAN BITTER SMITH
CONGRESSIONAL DISTRICT 1
CAMPAIGN '94**

P.O. Box 60542
Phoenix, AZ 85082-00542
(602) 957-0840 / Fax: (602) 994-0482

OCT 6 10 19 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Facsimile Transmission Cover Sheet

Date: 10-5-94

Fax#

TO: Joan McEnery

FROM: Susan Bitter Smith

Comments: Please see the following regarding MUR 4053

We recieved a copy of your notification only a few days ago, it
went the long way, we presume due to the slowness of mail - our attorney
is compiling a response and will have it to you on Friday or Monday. We hope
this meets with your approval. Thank you for returning my call, I will try to
reach you in the morning.

2 Pages to follow excluding this cover sheet.

If you do not receive all the page(s), please contact us at (602) 957-0840. Thank you.

96043733612

OCT 5 '94 16:00

P. 2/3

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4053

NAME OF COUNSEL: Tom Irvine

ADDRESS: 1419 N. 3rd St. #100
Phoenix, AZ 85004

TELEPHONE: 602-230 8080

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

10-5-94
Date

[Signature]
Signature

RESPONDENT'S NAME:

Susan Bitter Smith
and Friends of Susan Bitter Smith

ADDRESS:

5806 E. Lewis
Scottsdale, AZ 85257

HOME PHONE:

602-941-9739

BUSINESS PHONE:

602-957-3434

OCT 6 10 19 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

96043733613

OCT 5 '94 16:01

P. 3/ 3

Susan Bitter Smith for Congress

P.O. Box 60542
Phoenix, Arizona 85062-00542
Phone: (602) 957-6640 Fax: (602) 994-0482

October 5, 1994

Federal Elections Commission
Washington D.C.

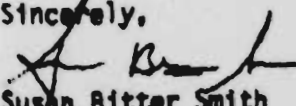
VIA FAX

RE: MU 4053

To Whom It May Concern:

Please be advised that our treasurer, Ms. Karen Crotty, has had no involvement with fundraising activities and has no knowledge of fundraising activities. She therefore should not be involved in the resolution of this case. I will be responding to the complaint with the appropriate information as quickly as possible.

Sincerely,


Susan Bitter Smith

96043733614

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

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

Aug 24 11 00 AM '95

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 4053
DATE COMPLAINT FILED:
September 15, 1994
DATE OF NOTIFICATION:
September 15, 1994
DATE ACTIVATED:
May 15, 1995
STAFF MEMBER:
Jose M. Rodriguez

COMPLAINANT: Steve Owens, Chairman
Arizona State Democratic Committee

RESPONDENTS: Susan Bitter Smith
Friends of Susan Bitter Smith
Karen Crotty, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 438(a)(4)
11 C.F.R. § 104.15

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed September 15, 1994 by Steve Owens, chairman of the Arizona State Democratic Committee ("Complainant"), alleging that Susan Bitter Smith and her campaign committee -- Friends of Susan Bitter Smith and Karen Crotty, as treasurer -- ("Respondents") violated 2 U.S.C. § 438(a)(4). See Attachment 1. On the same date, both Ms. Bitter Smith and her committee were notified of the complaint and provided with a copy of the complaint. On October 6, 1994, Respondents submitted a designation of counsel and informed this Office that a response would be filed by the

96043/33615

following Friday or Monday. To date, no response has been forthcoming.

II. FACTUAL AND LEGAL ANALYSIS

Based on information contained in two newspaper articles, Complainant specifically alleges that Respondents violated the "sale or use" restriction at 2 U.S.C. § 438(a)(4) by mailing a solicitation to names listed on Jon Kyl for U.S. Senate's disclosure reports.

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Section 438(a)(4) of the Federal Election Campaign Act, as amended ("the Act"), provides that the Commission shall, within 48 hours of receipt, make copies of reports and statements filed with the Commission available for public inspection and copying. This provision further states, however, that "any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for any commercial purposes." Id. For purposes of this provision the term "person" includes both natural persons and political committees. 2 U.S.C. § 431(11). Moreover, the term "soliciting contributions" includes soliciting any type of contribution or donation, such as political contributions. 11 C.F.R. § 104.15(b).

To protect against the illegal use of names and addresses of contributors, committees required to file reports with the Commission may submit up to ten pseudonyms on each report, provided such committee attaches a list of such pseudonyms to the appropriate report. 2 U.S.C. § 438(a)(4). The identity of these "salt" or "seeded" names, as they are referred to, are

excluded from the public record, thus providing a means of identifying and proving when names are copied from reports filed with the Commission.

Accompanying the complaint is a news article and satirical cartoon¹ appearing respectively in the September 8 and 9, 1994 editions of the Arizona Valley State News, and a separate news article appearing in the September 9, 1994 edition of The Phoenix Gazette. The article appearing in the Arizona Valley State News reports that Scott Celley, a spokesman for Senator Kyl's 1994 senatorial campaign, acknowledged that one of the fictitious names on the Jon Kyl for U.S. Senate's disclosure reports received a solicitation from the Bitter Smith campaign. Attachment 1, at 3. This article quotes Mr. Celley as stating: "We have confirmed that, because of names salted in our (FEC) lists, that she has used out [sic] lists for her campaign."

This article describes the solicitation as a "three-page, undated . . . plea for support." The article quotes from the solicitation: "'Susan's campaign needs your help today. She needs your generous contribution of \$50, \$100, \$250, \$500 or \$1,000 so her campaign can place the critical radio and television advertising so necessary to win this race.'" The article notes that the solicitation was signed by two top campaign workers, Diane McCarthy and Myron Deibel.

1. The satirical cartoon depicts the candidate fishing for contributions off a pier labeled "Kyl's Federal Contributors List." Posted at the entrance to the pier are two signs, one reading "Fishing is prohibited by law" and another reading "Keep Out." Attachment 1, at 4.

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This article further reports that the campaign office of Matt Salmon (one of the candidate's opponents in the primary) and the campaign office of Senator John McCain, both received a anonymous facsimile suggesting that the Bitter Smith campaign "also used the FEC reports of Sen. John McCain . . . and former U.S. Rep. Jay Rhodes."²

The second article, appearing in the September 9, 1994 issue of The Phoenix Gazette reports much of same information contained in the above article. Attachment 1, at 5. This article notes that primary opponent Matt Salmon received "an unsigned fax . . . saying Bitter Smith has used campaign finance reports to solicit donations." The article reports that Mr. Salmon had determined that the solicitation had been mailed to a fictitious name in the disclosure reports of Jon Kyl for U.S. Senate. The article reports Scott Celley, a spokesperson for Senator Kyl, as stating that "a message of concern was sent to Bitter Smith."

These articles also report general denials by the candidate and the campaign, including suggestions by the candidate that a rival campaign was responsible for the mailing to the Kyl campaign's pseudonym. However, contrary to their assurance that a response would be filed in this matter, Respondents have failed to file a response and therefore have provided no information or details substantiating the allegation of a rival

2. According to the news article, Senator McCain's administrative assistant Deb Gullett confirmed receiving the facsimile, but noted that "no one has sent contribution solicitations to bogus names on McCain's reports."

campaign's involvement in the mailing, nor any information supporting the reported denials.

If the information in these news articles is correct, particularly Scott Celley's confirmation that a solicitation for the Bitter Smith campaign was received by one of the fictitious names on Jon Kyl for U.S. Senate's disclosure reports, the committee has violated 2 U.S.C. § 438(a)(4). Accordingly, this Office recommends that the Commission find reason to believe Friends of Susan Bitter Smith and Karen Crotty, as treasurer, violated 2 U.S.C. § 438(a)(4). Additionally, although the complaint specifically alleges a violation by the candidate, there is presently no information suggesting Ms. Bitter Smith's personal involvement in the communication. Accordingly, this Office makes no recommendations at this time concerning the candidate.

While this matter concerns a significant issue, this Office does not believe it warrants an extensive use of the Commission's resources. Assuming Respondents are responsible for the mailing at issue, the candidate (although having a history of involvement in local and state politics) was a one-time unsuccessful federal candidate.³

3. Susan Bitter Smith placed second in the primary election with 22% of the vote in a five-way race. The victor, Matt Salmon, won the primary election with 39% of the vote and the general election with 56% of the vote. The balance of the primary election vote was split among the other three candidates (19%, 16% and 4%).

96043 / 33619

Moreover, a more limited investigation may suffice to resolve this matter. Specifically, this Office will seek from the campaign information concerning the solicitation at issue and all other Bitter Smith campaign mail solicitations bearing the same two signatures as the solicitation at issue. Because of Respondents' failure to respond to the complaint despite assurances that they would do so, and to assure a response to the Commission's discovery requests, this Office recommends that the Commission approve the attached Subpoena and Order to Friends of Susan Bitter Smith and Karen Crotty, as treasurer. Attachment 3. This Office will also contact at least one of the campaigns whose disclosure reports were allegedly used for the mailing seeking all communications concerning the Bitter Smith campaign, including all solicitation letters received by their pseudonyms and the accompanying mailing envelope. This information should identify the individual or entity responsible for the mailing. In the event this limited discovery does not produce the necessary evidence, before engaging in a broader investigation, this Office will re-evaluate the matter and make recommendations to the Commission on how to further proceed.⁴

4. If the limited discovery does not produce the desired results, resolution of all relevant issues could require an extensive investigation, including requests for copies of phone records for all the campaigns in the primary election (to determine the source of the anonymous facsimile) and inquiry into the involvement of the Bitter Smith campaign's mail vendors in the communication.

III. RECOMMENDATIONS

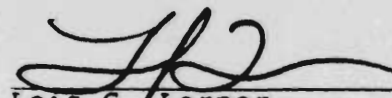
1. Find reason to believe that Friends of Susan Bitter Smith and Karen Crotty, as treasurer, violated 2 U.S.C. § 438(a)(4).
2. Approve the attached Factual and Legal Analysis, appropriate letter.
3. Approve the attached Subpoena and Order to Friends of Susan Bitter Smith and Karen Crotty, as treasurer.

Lawrence M. Noble
General Counsel

Date

8/23/95

BY:


Lois G. Lerner
Associate General Counsel

Attachment

- 1 - Complaint
- 2 - Factual and Legal Analysis (1)
- 3 - Subpoena and Order (1)

9604333621

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Susan Bitter Smith;
Friends of Susan Bitter Smith;
Karen Crotty, as treasurer.

)
)
) MUR 4053
)
)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 29, 1995, the Commission decided by a vote of 6-0 to take the following actions in MUR 4053:

1. Find reason to believe that Friends of Susan Bitter Smith and Karen Crotty, as treasurer, violated 2 U.S.C. § 438(a)(4).
2. Approve the Factual and Legal Analysis and appropriate letter, as recommended in the General Counsel's Report dated August 23, 1995.
3. Approve the Subpoena and Order to Friends of Susan Bitter Smith and Karen Crotty, as treasurer, as recommended in the General Counsel's Report dated August 23, 1995.

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

Attest:

8-30-95
Date

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

Received in the Secretariat: Thurs., Aug. 24, 1995 11:00 a.m.
Circulated to the Commission: Thurs., Aug. 24, 1995 4:00 p.m.
Deadline for vote: Tues., Aug. 29, 1995 4:00 p.m.

lrd



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 7, 1995

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Tom Irvine, Esq.
1419 N. 3rd St., #100
Phoenix, AZ 85004

RE: MUR 4053
Friends of Susan Bitter Smith and
Karen Crotty, as treasurer

Dear Mr. Irvine:

On September 15, 1994, the Federal Election Commission notified your clients, Friends of Susan Bitter Smith and Karen Crotty, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was enclosed with that notification.

Upon further review of the allegations contained in the complaint, the Commission, on August 29, 1995, found that there is reason to believe your clients violated 2 U.S.C. § 438(a)(4), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Order to Answer Questions and Subpoena to Produce Documents must be submitted to the General Counsel's Office within 30 days of your receipt of this letter. Any additional materials or statements you wish to submit should accompany the response to the order and subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

9604333693

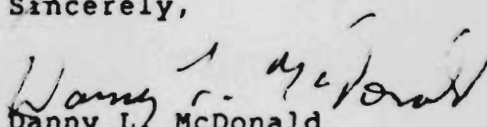
If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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 investigation to be made public.

If you have any questions, please contact Jose M. Rodriguez, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


Danny L. McDonald
Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis

960433624

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 4053
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Friends of Susan Bitter Smith and
Karen Crotty, as treasurer

c/o Tom Irvine, Esq.
1419 N. 3rd St., #100
Phoenix, AZ 85004

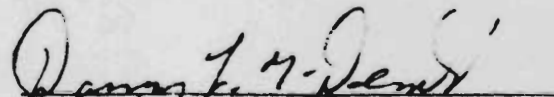
Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

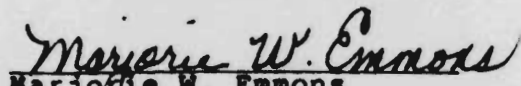
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WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set his hand in Washington, D.C. on this 7th day
of September, 1995.

For the Commission,


Danny L. McDonald
Chairman

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Attachments

Instructions (2 pages)

Questions and Document Requests (2 pages)

960433696

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from April 1, 1994 to September 30, 1994.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

SUBPOENA AND ORDER

1. With regard to the fundraising letter that is the subject of this matter, please:
 - a. Identify all persons who were involved in its preparation and dissemination. Describe, in full, each person's participation in the preparation and dissemination of the letter;
 - b. Provide the fundraising letter and all enclosures mailed with the letter;
 - c. State the total number of letters mailed and the date(s) of mailing, specifying the number of letters mailed on each separate mailing date;
 - d. List individually to whom the letters were mailed and the source of the recipients' name and mailing address. Except, if sent to names on a mailing list, identify the list by its name and owner;
 - e. For each separate mailing, list all costs associated with the mailing, including, but not limited to overhead, salaries, list rental and/or purchase, printing, mailing services, and postage. For each cost, include the amount, nature of good or service, date paid and payee.
2. Please identify all other mailings for Friends of Susan Bitter Smith containing the signature of both Diane McCarthy and Myron Deibel. For each of the identified mailings please provide the information requested at a through e above.
3. With respect to the fundraising letter that is the subject of this matter and any other mailings identified in response to question two, please produce separately for each mailing all documents referring or relating in any way to the mailing and the costs associated with the mailing, including but not limited to draft letters, proofs, notes, memoranda, electronic messages, invoices, checks (front and back), check registers, check authorization forms, and all other such documents.

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4. Produce all documents referring or relating in any way to the Reports of Receipts and Disbursements of any other Federal campaign committee, including but not limited to all such Reports of Receipts and Disbursements, notes, memoranda, electronic messages, invoices, checks (front and back), check registers, check authorization forms, and all other such documents.
5. Please identify all persons who provided information used in responding to this Subpoena and Order, and/or identify all persons who provided any other assistance in responding to this Subpoena and Order.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Friends of Susan Bitter Smith MUR: 4053
Karen Crotty, as treasurer

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This matter was generated by a complaint filed with the Federal Election Commission by Steve Owens, chairman of the Arizona State Democratic Committee ("Complainant"). See 2 U.S.C. § 437g(a)(1). The complaint alleges that Susan Bitter Smith and her campaign committee -- Friends of Susan Bitter Smith and Karen Crotty, as treasurer -- ("Respondents") violated 2 U.S.C. § 438(a)(4). On September 15, 1994, both Ms. Bitter Smith and her committee were notified of the complaint and provided with a copy of the complaint. On October 6, 1994, Respondents submitted a designation of counsel and informed this Office that a response would be filed by the following Friday or Monday. To date, no response has been forthcoming.

II. FACTUAL AND LEGAL ANALYSIS

Based on information contained in two newspaper articles, Complainant specifically alleges that Respondents violated the "sale or use" restriction at 2 U.S.C. § 438(a)(4) by mailing a solicitation to names listed on Jon Kyl for U.S. Senate's disclosure reports.

Section 438(a)(4) of the Federal Election Campaign Act, as amended ("the Act"), provides that the Commission shall, within

48 hours of receipt, make copies of reports and statements filed with the Commission available for public inspection and copying. This provision further states, however, that "any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for any commercial purposes." Id. For purposes of this provision the term "person" includes both natural persons and political committees. 2 U.S.C. § 431(11). Moreover, the term "soliciting contributions" includes soliciting any type of contribution or donation, such as political contributions. 11 C.F.R. § 104.15(b).

To protect against the illegal use of names and addresses of contributors, committees required to file reports with the Commission may submit up to ten pseudonyms on each report, provided such committee attaches a list of such pseudonyms to the appropriate report. 2 U.S.C. § 438(a)(4). The identity of these "salt" or "seeded" names, as they are referred to, are excluded from the public record, thus providing a means of identifying and proving when names are copied from reports filed with the Commission.

Accompanying the complaint is a news article and satirical cartoon¹ appearing respectively in the September 8 and 9, 1994

1. The satirical cartoon depicts the candidate fishing for contributions off a pier labeled "Kyl's Federal Contributors List." Posted at the entrance to the pier are two signs, one reading "Fishing is prohibited by law" and another reading "Keep Out." Mike Ritter, Opinion, Ariz. Valley State News, Sept. 9, 1994.

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editions of the Arizona Valley State News, and a separate news article appearing in the September 9, 1994 edition of The Phoenix Gazette. The article appearing in the Arizona Valley State News reports that Scott Celley, a spokesman for Senator Kyl's 1994 senatorial campaign, acknowledged that one of the fictitious names on the Jon Kyl for U.S. Senate's disclosure reports received a solicitation from the Bitter Smith campaign. See Doug MacEachern, Bitter Smith may have broken rule, Ariz. Valley State News, Sept. 8, 1994. This article quotes Mr. Celley as stating: "'We have confirmed that, because of names salted in our (FEC) lists, that she has used out [sic] lists for her campaign.'"

This article describes the solicitation as a "three-page, undated . . . plea for support." The article quotes from the solicitation: "'Susan's campaign needs your help today. She needs your generous contribution of \$50, \$100, \$250, \$500 or \$1,000 so her campaign can place the critical radio and television advertising so necessary to win this race.'" The article notes that the solicitation was signed by two top campaign workers, Diane McCarthy and Myron Deibel.

This article further reports that the campaign office of Matt Salmon (one of the candidate's opponents in the primary) and the campaign office of Senator John McCain, both received a anonymous facsimile suggesting that the Bitter Smith campaign

"also used the FEC reports of Sen. John McCain . . . and former U.S. Rep. Jay Rhodes."²

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The second article, appearing in the September 9, 1994 issue of The Phoenix Gazette reports much of same information contained in the above article. Dingo ate my campaign finance report, The Phoenix Gazette, Sept. 9, 1994. This article notes that primary opponent Matt Salmon received "an unsigned fax . . . saying Bitter Smith has used campaign finance reports to solicit donations." The article reports that Mr. Salmon had determined that the solicitation had been mailed to a fictitious name in the disclosure reports of Jon Kyl for U.S. Senate. The article reports Scott Celley, a spokesperson for Senator Kyl, as stating that "a message of concern was sent to Bitter Smith."

These articles also report general denials by the candidate and the campaign, including suggestions by the candidate that a rival campaign was responsible for the mailing to the Kyl campaign's pseudonym. However, contrary to their assurance that a response would be filed in this matter, Respondents have failed to file a response and therefore have provided no information or details substantiating the allegation of a rival campaign's involvement in the mailing, nor any information supporting the reported denials.

2. According to the news article, Senator McCain's administrative assistant Deb Gullett confirmed receiving the facsimile, but noted that "no one has sent contribution solicitations to bogus names on McCain's reports."

If the information in these news articles is correct, particularly Scott Celley's confirmation that a solicitation for the Bitter Smith campaign was received by one of the fictitious names on Jon Kyl for U.S. Senate's disclosure reports, the committee has violated 2 U.S.C. § 438(a)(4). Therefore, there is reason to believe Friends of Susan Bitter Smith and Karen Crotty, as treasurer, violated 2 U.S.C. § 438(a)(4).

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 11, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Leonard W. Huck, Treasurer
Jon Kyl for U.S. Senate
P.O. Box 10246
Phoenix, AZ 85064

RE: MUR 4053

Dear Mr. Huck:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached questions and document requests seeking information in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

This information is being sought as part of an investigation being conducted by the Commission into allegations that Friends of Susan Bitter Smith used the contributor names on the FEC disclosure reports of receipts and disbursements of other campaign committees, including Senator Kyl's committee, to solicit contributions for Susan Bitter Smith's 1994 primary race. See Enclosed copy of news articles. Please note that, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies to this investigation. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this discovery. However, you are required to submit the information within 30 days of your receipt.

Celebrating the Commission's 20th Anniversary

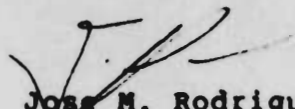
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043366

MUR 4053
Leonard W. Huck, Treasurer
Jon Kyl for U.S. Senate
Page 2

If you have any questions, please contact me at (800)
424-9530.

Sincerely,


Jose M. Rodriguez
Attorney

Enclosures
News Articles (2)
Questions and Document Requests
Designation of Counsel Form

96043133637

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 4053

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: Leonard W. Huck, Treasurer
Jon Kyl for U.S. Senate
P.O. Box 10246
Phoenix, AZ 85064

26043338
In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Originals of the requested documents must be produced; copies or duplicates of the documents may be produced only if the original documents are not available. All copies must be clear and legible and where applicable, must show both sides of the documents.

INSTRUCTIONS

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery requests shall refer to the time period from April 1, 1994 to September 30, 1994.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"Jon Kyl for U.S. Senate" shall mean the named witness to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Identify" with respect to a letter, communication or any other document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"Identify" with respect to a fictitious name appearing in a committee's Reports of Receipts and Disbursement shall mean state the full name, the address, and report in which it appeared.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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INTERROGATORIES AND
DOCUMENT REQUESTS

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1. State if the fundraising letter that is the subject of this matter (see enclosed copy of news articles) was received by any of the fictitious names on Jon Kyl for U.S. Senate's Reports of Receipts and Disbursements ("disclosure reports"). If so:
 - a - identify all fictitious names receiving the communication;
 - b - state the date the communication was received (if more than one mailing was received by a fictitious name, please state the separate dates the mailings were received and the number received per date);
 - c - provide the letter, the mailing envelope for each separate mailing received, and all enclosures accompanying the mailings (indicating which mailing contained the enclosure). If the letter, envelope and/or enclosure is not available, identify each, including the substance and source of each.
 2. State if any other communications from Friends of Susan Bitter Smith were received by any of the fictitious names on Jon Kyl for U.S. Senate's disclosure reports. For each of the mailings, please provide the information requested at a through c above.
 3. State if Jon Kyl for U.S. Senate received the anonymous facsimile reported in the accompanying news article. If so:
 - a - produce the facsimile, including the accompanying facsimile cover page and all enclosures;
 - b - if the facsimile, cover page and/or enclosure is not available, identify each, including the substance and source of each.
 4. Identify the "Message of Concern" from Jon Kyl for U.S. Senate to Friends of Susan Bitter Smith reported in the enclosed news articles, including the substance of the communication and how it was communicated (whether orally or in writing).

- a - If communicated orally, identify all persons who communicated the message and all persons to whom the message was communicated, as well as how it was communicated (i.e., via telephone, in person, etc.).
 - b - If communicated in writing, produce the communication and all enclosures, and also identify all persons who authored the communication and all persons to whom the communication was directed. If the communication and/or enclosure is not available, identify each, including the substance and source of each.
5. Identify all other communications Jon Kyl for U.S. Senate had with Friends of Susan Bitter Smith concerning that committee's use of names from other committees' disclosure reports, including the substance of each communication and if communicated orally or in writing. For each separate oral communication provide the information requested in a above. For each separate written communication provide the information requested in b above.
6. Identify all persons who provided information used in responding to these requests and/or all persons who provided any other assistance in responding to these requests.

960433733642



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 11, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jack Gibson, Treasurer
Matt Salmon for Congress
2131 E. Broadway
Suite 27
Tempe, AZ 85282

RE: MUR 4053

Dear Mr. Gibson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. This letter seeks information in connection with an investigation being conducted by the Commission. The Commission does not consider you a respondent in this matter, but rather a witness only.

This information is being sought as part of an investigation being conducted into allegations that Friends of Susan Bitter Smith used the contributor names on the disclosure reports of other campaign committees to solicit contributions for Susan Bitter Smith's 1994 primary race. See Enclosed copy of news articles. Please note that, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies to this investigation. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please state if Matt Salmon for Congress received the anonymous facsimile reported in the accompanying news article. If so, produce the facsimile, including the accompanying facsimile cover page and all enclosures. If the requested documents are not available, identify each, including the substance and source of each.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

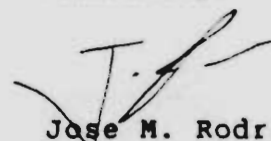
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Describe all communications you or any member of Matt Salmon for Congress had with Friends of Susan Bitter Smith concerning that committee's use of names from other committees' disclosure reports, including the substance of each communication and if communicated orally or in writing. If communicated orally, for each communication separately identify all individuals involved in the communication and state the method of communication (i.e., via telephone, in person, etc.). If communicated in writing, for each communication separately produce the communication, including all cover pages and all enclosures. Also, identify all persons involved in the communication. If the requested documents are not available, describe each, including the substance and source of each.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this discovery. However, you are required to submit the information within 30 days of your receipt. Originals of the requested documents must be produced; copies or duplicates of the documents may be produced only if the original documents are not available. All copies must be clear and legible and where applicable, must show both sides of the documents.

If you have any questions, please contact me at (800) 424-9530.

Sincerely,



Jose M. Rodriguez
 Attorney

Enclosures

News Articles (2)

Designation of Counsel Form

96043733644



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 11, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas R. Holtrup, Treasurer
McCain for Senate '98
P.O. Box 32128
Phoenix, AZ 85064

RE: MUR 4053

Dear Mr. Holtrup:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. This letter seeks information in connection with an investigation being conducted by the Commission. The Commission does not consider you a respondent in this matter, but rather a witness only.

This information is being sought as part of an investigation being conducted into allegations that Friends of Susan Bitter Smith used the contributor names on the disclosure reports of other campaign committees, including Senator McCain's committee, to solicit contributions for Susan Bitter Smith's 1994 primary race. See Enclosed copy of news articles. Please note that, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies to this investigation. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

Please state if the fundraising letter that is the subject of this matter (see enclosed copy of news articles) was received by any of the fictitious names on McCain for Senate '98's Reports of Receipts and Disbursements ("disclosure reports"). If so, identify all fictitious names receiving the communication, state the date the communication was received, and provide the letter, the mailing envelope and all enclosures accompanying the mailing. If the requested documents are not available, describe each, including the substance and source of each.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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State if any other communications from Friends of Susan Bitter Smith were received by any of the fictitious names on McCain for Senate '98's disclosure reports. For each of the mailings, please provide the information requested in the paragraph above.

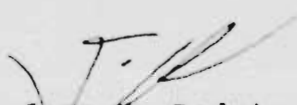
State if McCain for Senate '98 received the anonymous facsimile reported in the accompanying news article. If so, produce the facsimile, including the accompanying facsimile cover page and all enclosures. If the requested documents are not available, identify each, including the substance and source of each.

Describe all communications McCain for Senate '98 had with Friends of Susan Bitter Smith concerning that committee's use of names from other committees' disclosure reports, including the substance of each communication and if communicated orally or in writing. If communicated orally, for each communication separately identify all individuals involved in the communication and state the method of communication (i.e., via telephone, in person, etc.). If communicated in writing, for each communication separately produce the communication, including all cover pages and all enclosures. Also, identify all persons involved in the communication. If the requested documents are not available, describe each, including the substance and source of each.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this discovery. However, you are required to submit the information within 30 days of your receipt. Originals of the requested documents must be produced; copies or duplicates of the documents may be produced only if the original documents are not available. All copies must be clear and legible and where applicable, must show both sides of the documents.

If you have any questions, please contact me at (800) 424-9530.

Sincerely,


Jose M. Rodriguez
Attorney

Enclosures

News Articles (2)

Designation of Counsel Form

960433646

U.S. SENATOR JON KYL
POST OFFICE BOX 10246
PHOENIX, ARIZONA 85064

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

OCT 16 10 16 AM '95

October 12, 1995

Mr. Jose M. Rodriguez
Attorney
Federal Election Commission
Washington, D.C. 20463

RE: MUR 4053

Dear Mr. Rodriguez:

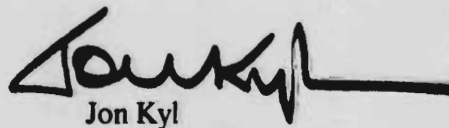
Persuant to your letter dated September 11, 1995, and received by Jon Kyl for U.S. Senate on September 15, 1995, I am pleased to comply with your request to submit answers to the interrogatories with regard to the investigation being conducted by the Commission into allegations that Friends of Susan Bitter Smith used Jon Kyl for U.S. Senate FEC disclosure reports to solicit contributions.

Pamela Barbey prepared the responses to the interrogatories. Pamela Barbey was the Jon Kyl for U.S. Senate Finance Director during the 1994 campaign cycle. Currently, Ms. Barbey is the State Director for my U.S. Senate office in Phoenix, Arizona. Ms. Barbey may be contacted at:

Office of Senator Jon Kyl
2200 East Camelback Road
Suite 120
Phoenix, AZ 85016
602-840-1891

If you have any questions, please do not hesitate to contact me at (202)224-4521.

Sincerely,


Jon Kyl
U.S. Senator

960433647

Response to FEC
RE: MUR 4053

**JON KYL FOR U.S. SENATE
RESPONSE TO INTERROGATORIES AND
DOCUMENT REQUESTS**

1. The fundraising letter referred to in the news articles enclosed with the FEC letter dated September 11, 1995, was received by one fictitious name on the Jon Kyl for U.S. Senate's Reports of Receipts and Disbursements.

a - The one fictitious name cannot be identified since the campaign did not save the letter or the envelope that was received by the campaign. When the Jon Kyl for U.S. Senate campaign office was closed following the November 1994 general election, many file folders and accompanying materials were thrown away. All of the individuals in the Jon Kyl for U.S. Senate campaign who were involved with the receipt of the letter have been contacted and none can positively identify the name of the individual to whom the letter was addressed. The individuals contacted were: Senator Jon Kyl, Clarence De Long, Robert Glazier, Ted Maness, Scott Celley, and Pamela Barbey

The Finance Director of Jon Kyl for U.S. Senate, Pamela Barbey, clearly remembers that the fictitious individual was an individual identified on the Reports of Receipts and Disbursements

b - The date of the receipt of the letter cannot be specified since the campaign did not save the letter or the envelope accompanying the letter. Only one mailing was received by the fictitious name. The individuals contacted were: Senator Jon Kyl, Clarence De Long, Robert Glazier, Ted Maness, Scott Celley, and Pamela Barbey.

c - Since the campaign did not save the mailing material, the information requested (letter, mailing envelope and enclosures) cannot be forwarded to you. The material from the Friends of Susan Bitter Smith was received at

The other individuals contacted were: Senator Kyl, Robert Glazier, Ted Maness, Scott Celley, and Pamela Barbey

2. Only one mailing was received from the Friends of Susan Bitter Smith by a fictitious name on the Jon Kyl for U.S. Senate's disclosure reports. The individuals contacted were: Senator Jon Kyl, Robert Glazier, Clarence De Long, Ted Maness, and Pamela Barbey.

3. According to Robert Glazier, the campaign manager, Jon Kyl's U.S. Congressional office received the anonymous facsimile reported in the news article supplied by the Commission with

the letter dated September 11, 1995. The Congressional office received the fax and forwarded it to the Jon Kyl for U.S. Senate campaign.

a - The facsimile was not saved by Jon Kyl for U.S. Senate.

b - Per Robert Glazier's recollection, the facsimile was a one-page typed note approximately 1 - 2 sentences in length. There was no cover sheet and no header on the memo from which to identify the source. The content of the message was either a question which asked why Jon Kyl for U.S. Senate was sharing a list with another campaign or a statement informing Jon Kyl for U.S. Senate that other campaigns were using a Jon Kyl for U.S. Senate list.

The individuals contacted were: Robert Glazier; Ted Maness; Scott Celley; Pamela Barbey; and Joan Skelly.

4. The "message of concern" from the Jon Kyl for U.S. Senate to Friends of Susan Bitter Smith that was reported in the Phoenix Gazette newspaper article dated September 9, 1994, was a series of verbal communications from the campaign manager, Robert Glazier, to Susan Bitter Smith in telephone conversations. The message delivered to Susan Bitter Smith indicated that Congressman Kyl was very concerned that her campaign would use the Jon Kyl for U.S. Senate FEC Reports of Receipts and Disbursements to solicit contributions without asking for the prior permission of the campaign. Robert Glazier told her that the campaign hoped she would look into the matter and report back to the campaign ensuring the campaign that it would not happen again.

Congressman Kyl did not communicate directly with Susan Bitter Smith with regard to this matter. Nor did any other staff members of the Jon Kyl for U.S. Senate campaign.

a - The message was communicated orally by Robert Glazier, Campaign Manager, Jon Kyl for U.S. Senate to Susan Bitter Smith. The message was communicated via telephone conversations. The dates of the conversations are unknown.

b - N/A

5. Since there was only one mailing received by the fictitious name, there were no other communications between Jon Kyl for U.S. Senate and Friends of Susan Bitter Smith concerning use of names from other committees' disclosure reports.

6. Persons who provided information used in responding to this request:

U.S. Senator Jon Kyl
702 Hart Senate Office Building
Washington, D.C. 20510

9604373619

Robert Glazier
former Campaign Manager
Jon Kyl for U.S. Senate
currently,
Chief of Staff
U.S. Congressman Matt Salmon
115 Cannon House Office Building
Washington, D.C. 20515

Clarence De Long
former Treasurer of the Jon Kyl Re-Election Committee, 1988, 1990, 1992
currently,
Assistant Treasurer
Jon Kyl for U.S. Senate
3811 E. Solano Drive
Paradise Valley, AZ 85253

Ted Maness
former Chief of Staff
U.S. Congressman Jon Kyl
currently,
Chief of Staff
U.S. Senator Jon Kyl
702 Hart Senate Office Building
Washington, D.C. 20510

Pamela Barbey
former Finance Director
Jon Kyl for U.S. Senate
currently,
State Director
U.S. Senator Jon Kyl
2200 E. Camelback Road
Suite 120
Phoenix, AZ 85016

Scott Celley
former Press Secretary
Jon Kyl for U.S. Senate
currently,
Regional Director
U.S. Senator Jon Kyl
2200 E. Camelback Road
Suite 120
Phoenix, AZ 85016

960433650

Joan Skelly
former Office Manager
U.S. Congressman Jon Kyl
currently,
Office Manager
U.S. Senator Jon Kyl
2200 E. Camelback Road
Suite 120
Phoenix, AZ 85016

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RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Oct 24 11 34 AM '96

Mr. Jose M. Rodriguez
Federal Elections Commission
Washington, D.C. 20463

RE: MUR 4053

Dear Mr. Rodriguez:

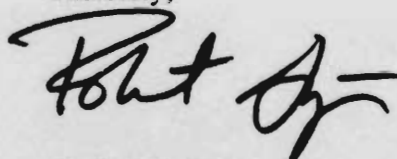
This letter is in response to your letter to Jack Gibson, the Treasurer for the Matt Salmon for Congress Campaign Committee. He has forwarded your request to me. I am the Chief of Staff to Congressman Matt Salmon.

Sometime in late August or early September, 1994, the Salmon campaign did receive the anonymous fax described in the news articles you sent. No one has yet been able to find the fax or a copy of it in any of the files or records leftover from the Salmon campaign. As we have gone through all of the files that were saved from the campaign, we believe that the fax must have been lost or thrown away in one of the many moves and/or clean-ups of the various campaign offices. To the best recollection of those involved, the fax was one page, no cover sheet, no headers or identification, and was sent to the campaign headquarters. The message was something to the effect that Susan Bitter Smith was using the campaign/FEC lists of Congressman Jon Kyl, Congressman Jay Rhodes, and Senator John McCain. No one really remembers very many other details, other than it was obviously accusatory and somewhat mysterious or suspicious.

The Salmon for Congress campaign did not have any communications with the Friends of Susan Bitter Smith campaign concerning this incident.

If you have any other questions, please feel free to call me. You may reach me at home at (703) 379-1229.

Sincerely,



Robert Glazier
Chief of Staff to Rep. Matt Salmon

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Senator John McCain

WASHINGTON, D.C. 20510

FEDERAL ELECTION
COMMISSION
MAIL ROOM

Nov 3 11 00 AM '95

October 30, 1995

Mr. Jose Rodriguez
Attorney
Federal Election Commission
Washington, D.C. 20463

RE: MUR 4053

Dear Mr. Rodriguez:

This letter is in response to your request for information concerning an investigation of Susan Bitter Smith's 1994 primary campaign for Congress.

I have no specific knowledge of the fundraising letter that is the subject of this matter.

I am not aware that any of Senator McCain's donors received the letter or any other communication from Susan Bitter Smith's campaign.

I received a copy of the anonymous facsimile, however I threw it away and have no memory of what it said specifically. After a newspaper story appeared concerning this issue I talked to Susan Bitter Smith on the telephone and told her what I've said in this letter -- I received the fax but did not know anything about the mailings.

If you have any more questions please feel free to contact me at (602) 953-2410.

Sincerely,

Deb Gullett

Deb Gullett
Administrative Assistant to
Senator John McCain



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 7, 1995

VIA FACSIMILE AND FIRST CLASS MAIL

Tom Irvine, Esq.
Suite 590
1419 North Third St.
Phoenix, AZ 85004

RE: MUR 4053

Friends of Susan Bitter Smith and
Karen Crotty, as treasurer

Dear Mr. Irvine:

I have been attempting without success to communicate with you over the past weeks concerning your clients' failure to respond to the Commission's Subpoena and Order of September 7, 1995. (See Enclosure.)

The Commission's Subpoena and Order was mailed on September 7, 1995 and a response was due within thirty days of receipt -- by approximately October 7, 1995. To date, this office has not received any response to the Subpoena and Order.

Moreover, during this period, on October 30, 1995 your client Susan Bitter Smith contacted this Office to discuss the case. Because you remained as counsel on the matter, this Office informed Ms. Bitter Smith that we could not directly discuss the case with her unless specifically authorized to do so by you. Ms. Bitter Smith informed us that she would contact you requesting that you provide us with written authorization to discuss the matter directly with her. To date we have received no such authorization.

While we understand that you are presently engaged in a trial, and realize the time restraints involved, we must request that you give this matter your immediate attention. We request within the week either responses on your clients' behalf to the Subpoena and Order or authorization in writing to seek responses from, and make communications with, your clients directly.

Celebrating the Commission's 20th Anniversary

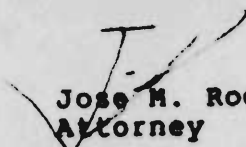
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

960433654

MUR 4053
Tom Irvine, Esq.
Page 2

I look forward to hearing from you. Should you have any questions, I can be reached at (202) 219-3690.

Sincerely,


Jose M. Rodriguez
Attorney

Enclosure
Photocopy of Subpoena and Order
Dated September 7, 1995.

96043 / 33655

Susan Bitter Smith
5806 E. Lewis
Scottsdale, Arizona 85257

November 8, 1995

Mr. Jose Rodriguez
Federal Election Commission
Washington, D.C. 20463

Nov 8 12 24 PM '95

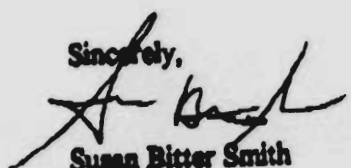
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Dear Mr. Rodriguez:

This is to formally notify you that Tom Irvine, Esq. is no longer my counsel in regards to MUR 4053. As I indicated to you on the phone, it was my understanding that he had responded to the Commission's first notification on September 15, 1994 indicating that our campaign has not violated the Federal Election Complaint of 1971 and that in fact, this allegation was filed in a typical partisan tactic by then Democratic State Party Chairman Steve Owens.

Mr. Irvine has been in trial for a number of months and has been unreachable by phone or letter. I understand you have had the same experience. Therefore, we will respond directly to your September 7, 1995 notification to further reiterate the Friends of Susan Bitter Smith campaign did not in any way violate campaign laws.

Sincerely,


Susan Bitter Smith

96043733656

Susan Bitter Smith
5806 E. Lewis
Scottsdale, Arizona 85257

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Nov 24 2 29 PM '95

November 22, 1995

Mr. Jose Rodriguez
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Rodriguez:

9 6 0 4 3 3 6 7
Please consider this my formal response to MUR 4053 on behalf of Friends of Susan Bitter Smith. As you know, we were under the belief that our response, which you will now see, had been sent by our pro bono counsel, Tom Irvine, a year ago upon receipt of the first notice from the Commission. Mr. Irvine apparently did not respond because of overwhelming trial responsibilities.

I will now repeat what you should have seen a year ago in response to this complaint and hopefully clear up the issue. The following information is true and accurate to the best of my knowledge and is sworn to under oath.

All fundraising materials, including the letter in question were prepared by myself and volunteers. No fundraising materials were sent to lists other than in-house lists of previous donors to my previous campaigns.

The mailing in question signed by Myron Deibel and Diane McCarthy, my finance co-chairmen, was a generic "Dear Friend" letter and was not personalized or individually identified to the recipient on the inside. (See Attachment 1)

The return card and envelope were the enclosures in the letter and were also generic to the campaign. (See Attachment 2 and 3)

The fundraising letter signed by Myron Deibel and Diane McCarthy was mailed in July to our list of donors to my previous city council campaigns (see Attachment 4). All letters were addressed with a mailing label run off the donor list in Attachment 4. The outer envelope contained the campaign return address of P.O. Box 60542, Phoenix, AZ 85082-00542.

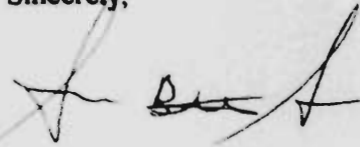
As I understand the complaint, which was filed by Steve Owens, then Chairman of the Arizona Democratic Party, the letter in question was received by a "salt name" on now Senator Jon Kyl's FEC Report in a plain, white envelope, hand addressed, with no return address. No piece of mail

was sent by the Friends of Susan Bitter Smith campaign without a return address and all fund raising mailings were done in a professional manner either addressed by labels or typed envelopes.

It is quite possible that someone could have taken the generic contents of one our mailings and remailed them to a known "salt name" in an effort to discredit our campaign. This primary was heavily contested and contentious for an open seat. In fact, several members of the "Jon Kyl for Senate" campaign were very active in one of my opponent's campaign. This mailing was mysteriously discovered by an "anonymous" fax in my opponent's office right before the primary election date. The fax was then "mysteriously" sent to several reporters.

Let me again reiterate that the Friends of Susan Bitter Smith campaign did not violate election law or the Federal Election Campaign Act of 1971. I would be happy to provide any additional information you might need.

Sincerely,



Susan Bitter Smith for
the Friends of Susan Bitter Smith

enc.

960433658

9 6 0 4 3 1 3 3 6 5 9

Dear Friend,

We wanted to thank you again for your support and let you know how much we appreciate your help.

We have a great opportunity now, but we have to act fast. We are going to ask you again for your help with our campaign. But first, here's a few thoughts.

In the next few years, the United States will be facing many new challenges and opportunities. In order to face these new frontiers, it is important to have quality people in leadership positions in our nation's capitol. We need to elect men and women with integrity and vision who can face tomorrow's challenges head on.

As you know, Susan Bitter Smith is a person who is willing and able to tackle this nation's future. She possesses the type of leadership skills that make her qualified to be a fantastic Congressman. The people of Arizona need to have Susan representing them so that we can have quality leadership charting the appropriate course of action for the challenges we will face.

How do we know that Susan is the leader we should support? There is only one way to know for certain and that is by looking at the record.

Susan's record is one of solid accomplishment, sound management, and caring for others. Her efforts on behalf of the people of Scottsdale, people involved in some of the many organizations in which she is actively serving, the people she employs in her own small business, and her loving family, will all attest to her character, sincerity and honesty. Susan Bitter Smith is one of the finest people we have ever known, and we strongly recommend her to be the next Congressman for District 1.

Susan's campaign has come a long way since we started. When most of the know-it-all "pundits" said she didn't have a chance because she should have gotten in the race earlier, well, so far, we have proven them wrong, thanks to Susan's many supporters, people like you.

Your support has been key to our success so far. If we keep working hard, we know we can return Congressional District 1 to the Republican column in November.

Susan has a solid base of grassroots support. Her supporters are not out-of-state, national special interest groups who want to buy access and influence -- they are people like you, who are worried about crime and drugs in Arizona. Susan's supporters are people who believe that people know better than the government how to run their lives.

Attachment 1

Susan has been very successful in garnering support from all facets of the community, and has been very thrifty on how she applied the generous contributions people have given to her.

We want to be right up front. We're writing this letter asking you to make another investment in our campaign. We cannot let down our guard ... we must keep working to make sure we have the resources to win in the final stretch.

Running a successful campaign is not cheap. Everything we do -- from writing this letter, to calling voters, to printing mailers, bumper stickers, and buying campaign advertising, -- costs money.

Susan is tight-fisted. She knows you work hard for your money and she wouldn't ask you for help if she really didn't need it.

Susan doesn't like spending money on things which are not absolutely essential. That is a major reason she is in this fight, because she believes that it is time the federal government operated like she does, and like you do. She believes with all her heart and soul that the government should only do what individuals cannot do for themselves.

That is why we are writing you this letter -- asking you one more time to contribute to our campaign. We believe we have the right message. The problem is getting that message to the nearly 500,000 people who live in the 1st Congressional District.

We estimate it will take another \$50,000 for us to win in September. This money will be used for radio and television advertisements that are essential in delivering Susan's message to the many Republicans who are looking for the right kind of leader.

But right now, we have some serious concerns.

With the August monsoons upon us, many people have already left for vacation. Summer is the most difficult time to raise money for a campaign. People are away from home, they spend more time outdoors with their families, they don't think about politics.... For whatever reason, I know it will be very hard to raise the money we need since summer is here. That is why Susan needs your help now.

You have been very generous in your support of Susan's campaign. Susan promises you that not a cent of campaign dollars has been wasted or spent foolishly - she won't allow it!

Susan's campaign needs your help today. She needs your generous contribution of \$50, \$100, \$250, \$500, or \$1,000 so her campaign can place the critical radio and television advertising so necessary to win this race.

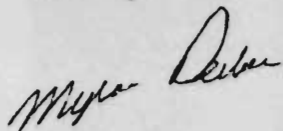
If you will make the contribution today, we know we can raise the funds now to beat Chuck Blanchard in November.

96043360

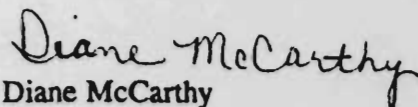
Your gift of \$50, \$100, \$250, \$500 or \$1,000 today will also help us show continued organizational strength when we file our next set of campaign financial reports in September.

Thank you for your previous generous support of our campaign. Together we can place Congressional District 1 back in the Republican column and elect a true representative of the voters of Arizona.

Sincerely,



Myron Deibel



Diane McCarthy

P.S. Please reply before August 31, 1994 so we can buy the critical advertising necessary to win this campaign and elect SUSAN BITTER SMITH to Congress! Please return your gift of \$50, \$100, \$250, \$500 or \$1,000 in the enclosed envelope today - THANK YOU!

9604373361

Friends of Susan Bitter Smith
5806 E. Lewis Ave. Scottsdale, Arizona 85257 (602)957-0840

- ☐ Yes, I will attend the reception. Enclosed is a contribution of \$ _____ for _____ tickets.
- ☐ I will be unable to attend, but am enclosing my check for \$ _____ to help elect Susan Bitter Smith for Congress.

Federal election law requires the following information:

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Principal place of business: _____

Occupation: _____

Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year.

Paid for by the Friends of Susan Bitter Smith Committee. Contributions to the Friends of Susan Bitter Smith Committee are not deductible as charitable contributions for Federal income tax purposes.

Friends of Susan Bitter Smith
5806 E. Lewis Ave. Scottsdale, Arizona 85257 (602)957-0840

- ☐ Yes, I will attend the reception. Enclosed is a contribution of \$ _____ for _____ tickets.
- ☐ I will be unable to attend, but am enclosing my check for \$ _____ to help elect Susan Bitter Smith for Congress.

Federal election law requires the following information:

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Principal place of business: _____

Occupation: _____

Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year.

Paid for by the Friends of Susan Bitter Smith Committee. Contributions to the Friends of Susan Bitter Smith Committee are not deductible as charitable contributions for Federal income tax purposes.

Friends of Susan Bitter Smith
5806 E. Lewis Ave. Scottsdale, Arizona 85257 (602)957-0840

- ☐ Yes, I will attend the reception. Enclosed is a contribution of \$ _____ for _____ tickets.
- ☐ I will be unable to attend, but am enclosing my check for \$ _____ to help elect Susan Bitter Smith for Congress.

Federal election law requires the following information:

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Principal place of business: _____

Occupation: _____

Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year.

Paid for by the Friends of Susan Bitter Smith Committee. Contributions to the Friends of Susan Bitter Smith Committee are not deductible as charitable contributions for Federal income tax purposes.

Attachment 2

9 6 0 4 3 7 3 3 6 6 3

Friends of Susan Bitter Smith
5906 East Lewis Ave.
Scottsdale, Arizona 85257

Attachment 3

Barry Aarons
4838 W. Beryl Avenue
Glendale, AZ 85302

Joe Abate
2712 N. 7th St.
Phoenix, AZ 85006

J. James Ahearne
824 N. 86th Place
Scottsdale, AZ 85257

Betty M. Akers
P.O. Box 4442
Scottsdale, AZ 85261

Donita R. Albright
9529 N. 52nd Street
Paradise Valley, AZ 85253

Robert Allen
P.O. Box 400
Phoenix, AZ 85001

Judith E. Allen
5002 E. Redrock Dr.
Phoenix, AZ 85018

T.C. (Skip) Anderson
P.O. Box 4041
Scottsdale, AZ 85261

Dale Anderson
8000 N. Mohave Rd.
Paradise Valley, AZ 85253

Lyle Anderson
7373 N. Scottsdale Road #226
Scottsdale, AZ 85253

Jill Andrews
4701 E. Exeter
Phoenix, AZ 85018

Sheri Armer
221 W. Linger Lane
Phoenix, AZ 85021

Joan Asadourian
5739 E. Joshua Tree Lane
Paradise Valley, AZ 85253

John W. Badal
1921 E. Caroline Lane
Tempe, AZ 85284

Alveda Faye Bandouveris
P.O. Box 927
Carefree, AZ 85377

Betsey Bayless
111 E. Ocotillo
Phoenix, AZ 85012

Ed Belt
420 W. Roosevelt St.
Phoenix, AZ 85003

John Bennett
9459 Camino Del Santo
Scottsdale, AZ 85260

John Berry
6537 N. 81st Place
Scottsdale, AZ 85253

David Berry
6135 North 16th Place
Phoenix, AZ 85016

Joseph Best
P.O. Box 295
Scottsdale, AZ 85252

Lynn Betka
3138 North 85th Way
Scottsdale, AZ 85251

Flora & Romano Biasatti
12049 N. 125th Place
Scottsdale, AZ 85260

William Billing
7610 Via De Lindo
Scottsdale, AZ 85258

Jack Blanchard
8124 E. Paraiso Dr.
Scottsdale, AZ 85255

Bryan Blow
4620 N. Flesha Dr.
Tucson, AZ 85321

Jim Boardman
821 E. Desert Park Lane
Phoenix, AZ

Harvey T. Boyd
6801 E. Mescal
Scottsdale, AZ 85254

Timothy Bray
8319 E. Via De Encanto
Scottsdale, AZ 85258

Sandy Brent
1717 E. Baseline
Tempe, AZ

Attachment 4

Michael C. Brinkley
6702 N. 16th Pl.
Phoenix, AZ 85016

Robert Briscoe
3434 W. Broadway
Phoenix, AZ 85030

Barbara Broderick
8301 E. Lewis Ave.
Scottsdale, AZ 85257

Lloyd Brown
5046 N. 81st St.
Scottsdale, AZ 85253

Robert Burns
3363 E. Glade Circle
Mesa, AZ 85204

Judi Butterworth
2531 E. Vogel Ave.
Phoenix, AZ 85028

Tom Camp
4715 N. 64th Ave.
Phoenix, AZ 85033

Bob Campbell
851 S. 27th Ave.
Phoenix, AZ 85009

Messrs. Wilford & Craig Cardon
15 E. Comstock Dr. - Suite #1
Chandler, AZ 85225

Vernon Carr
11610 N. 41st Lane
Phoenix, AZ 85029

Dan Cavanagh
1887 N. Linden Place
Tucson, AZ 85712

R.F. Chedester
5230 E. Wonderview
Phoenix, AZ 85018

Betty Cline
P.O. Box 1071
Prescott, AZ 86302

Susan Coady
5995 N. 78th St. - #1107
Scottsdale, AZ 85253

James Cockerham
16447 N. 54th Place
Scottsdale, AZ 85254

Alice A. Combs
9031 N. 125th Place
Scottsdale, AZ 85259

Joleen Coonrod
7549 E. Edgemont
Scottsdale, AZ 85257

Phil Corso
6991 E. Camelback Rd. #D220
Scottsdale, AZ 85251

Thomas Cosgrove
5140 E. Tunder Drive
Phoenix, AZ 85044

Sarkis Coury
5401 W. Dahlia Dr.
Glendale, AZ 85304

Robert Crawford
6201 E. Cactus Road
Scottsdale, AZ 85254

M.H. Cronberg
1821 N. 50th Street
Phoenix, AZ 85008

Brent Crosby
1037 E. Washington
Phoenix, AZ 85040

William G. Cycholl
2260 W. Highland
Chandler, AZ 85224

Ross & Susan Dean
29301 N. 114th St.
Scottsdale, AZ 85255

Gregory Dean
6611 N. 60th St.
Scottsdale, AZ 85253

Peggy Jane Decker
6021 E. Carnation Circle
Phoenix, AZ 85018

Kevin DeMenna
5423 S. Palm Lane
Tempe, AZ 85283

James Demetros
6823 E. Hubbell
Scottsdale, AZ 85257

James G. Derouin
10861 E. Fanfol Ln.
Scottsdale, AZ 85259

Chaim Diamond
610 5th Avenue
New York, NY 10020

Georgine Dickinson
12202 Doubletree Ranch
Scottsdale, AZ 85259

Clark Dierks
201 E. Indianola #275
Phoenix, AZ 85012

Mark Dioguardi
4647 N. 32nd Street - #115
Phoenix, AZ 85018

Dolly Donovan
7055 E. McDonald Drive
Scottsdale, AZ 85253

Lon Dorsay
7634 N. Via Elementel
Scottsdale, AZ 85258

Robert Edgar
7235 E. Cactus Wren
Scottsdale, AZ 85253

Robert T. Edgar
7235 E. Cactus Wren
Scottsdale, AZ 85253

Phillip Edlund
7100 N. 46th Pl.
Paradise Valley, AZ 85253

Barbara Elliott
11436 Arabian Park Dr.
✓ Scottsdale, AZ 85259

Mrs. A. H. Ely
10046 Calle De Las Brisas
Scottsdale, AZ 85255

Allie Evenson
1978 E. Los Arboles Dr.
Tempe, AZ 85284

✓ Ron Evjen
✓ 919 W. Claremont
✓ Phoenix, AZ 85013

Bill Ewing
340 Via Linda Vista
Redondo Beach, CA 90277

Jim K. Faircloth
201 E. Carribbean Lane
Phoenix, AZ 85022

✓ Mr. Stuart Feldstein
✓ 6361 Dockser Terrace
✓ Falls Church, VA 22041

James R. Feltham
5607 N. Camelback Canyon Place
Phoenix, AZ 85018

H.R. Fenstermacher
P.O. Box 10
Scottsdale, AZ 85252

✓ Mr. Aaron Fleischman
✓ 10 Kalorama Circle, N.W.
✓ Washington, D.C. 20008

Dan Forey
2930 E. 3rd Ave.
Denver, CO 80206

Ben Forte
944 E. Greenway Road
Phoenix, AZ 85022

Lourdes Fowler
8306 E. Welsh Dr.
Scottsdale, AZ 85258

Robert Frank
1824 North 11th Avenue
Phoenix, AZ 85007

W.A. Franke
7701 N. Saguaro Dr.
Paradise Valley, AZ 85253

J. Noland Franz
7115 N. 69th Place
Scottsdale, AZ 85253

Mark Fulton
1050 W. 8th Avenue
Mesa, AZ 85202

Hale Gammill
3534 E. Via Estrella
Phoenix, AZ 85028

Jo Ann Garcia
2211 E. Highland Ave. #110
Phoenix, AZ 85016

Ray Gardea
7531 E. Kalil Circle
Scottsdale, AZ 85260

Paul Gilbert
3200 N. Central #1000
Phoenix, AZ 85012

Robert Gjere
4850 W. Diana
Glendale, AZ 85302

Hal Glotzer
4702 N. 66th Street
Scottsdale, AZ 85251

Walt Godber
2525 E. Indian School Road
Phoenix, AZ 85016

Marino Godi
5927 N. 45th Place
Phoenix, AZ 85018

Phyllis Gojkovich
7832 E. Heatherbrae
Scottsdale, AZ 85251

Michael Preston Green
1700 FNBA Plaza
Phoenix, AZ 85003

Max Haechler
6116 E. Cactus Wren
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Phoenix, AZ 85021

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Scottsdale, AZ 85251

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3157 Waterside Circle
Las Vegas, NV 89117

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Scottsdale, AZ 85260

Doug Zimmerman
9881 E. Doubletree Ranch Rd.
Scottsdale, AZ 85258

960433673



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 7, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Susan Bitter Smith
5806 E. Lewis
Scottsdale, Arizona 85257

RE: MUR 4053
Friends of Susan Bitter Smith and
Karen Crotty, as treasurer

Dear Ms. Bitter Smith:

We are in receipt of your response dated November 22, 1995 to the Commission's Subpoena and Order of September 7, 1995. After review, it appears that your submission is not fully responsive and additional information is required. Specifically:

With respect to question 1(a) of the Commission's Subpoena and Order, identify (as instructed in the definitions accompanying the Subpoena and Order) all individuals involved in the preparation and dissemination of the letter at issue in this matter.

With respect to question 1(c) and 1(d), clarify if there were any additional mailings of the letter, apart from the July mailing to the names on the list provided with your response. If so, please provide the information -- separately for each mailing -- requested in those two questions. If not, affirmatively state that no other mailings occurred.

With respect to question 1(e), provide the requested cost information for each mailing identified above as well as the mailing identified in your response.

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With respect to question 2, clarify if your campaign mailed any other letters, apart from the fundraising letter submitted with your response, containing the signature of both Ms. McCarthy and Ms. Deibel. If so, provide the information as to these mailings requested in question 2. If not, affirmatively state that no such mailings occurred.

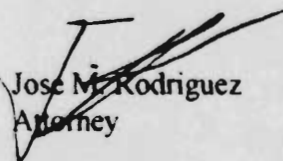
With respect to question 3, produce the requested documentation as to all mailings listed above as well as the mailing listed in your response. If no such documents exist, state so affirmatively.

With respect to question 4, produce the requested documentation. If no such documents exist, state so affirmatively.

Please also identify all individuals who helped in responding to the Commission's requests, as requested in question 5.

Further, your response of November 22, 1995 was not submitted under oath as required by the Commission's Subpoena and Order. Please submit a sworn copy of that response. Because the above information is being sought pursuant to the Commission's Subpoena and Order, the instructions and definitions accompanying the Subpoena and Order apply to these requests. Consequently, your response to this letter must also be under oath. Last, confirm that Mr. Tom Irvine is no longer counsel in this matter. We request a response within fifteen days of receipt of this letter. Should you have any questions, please contact me at (202) 219-3690.

Sincerely,


Jose M. Rodriguez
Attorney

960433675

Susan Bitter Smith
5806 E. Lewis
Scottsdale, Arizona 85257

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
DEC 31 10 29 AM '95

December 27, 1995

Mr. Jose Rodriguez
Federal Election Commission
Washington, D.C. 20463

RE: MUR 4053

Dear Mr. Rodriguez:

Please find the following information in response to your letter of December 7, 1995 in an effort to be fully responsive to your Subpoena and Order of September 7, 1995. Also attached is a copy of my November 8, 1995 letter faxed to you confirming that Mr. Tom Irvine is no longer my counsel since he was unable to provide any timely response and assistance to me in this matter. Please let me know if you need any further information.

1 (a) - Both myself and Paul Smith were involved in the preparation and dissemination of the subject letter.

1(c) and (d) - no other mailings of the subject letter were sent, apart from the July mailing. A total of 273 letters were sent.

1(e) - Cost of the mailing was \$87.36 for postage and approximately \$125 for printing

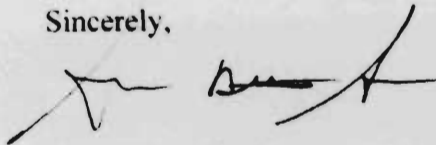
2 - This was the only mailing signed by both Myron Deibel and Diane McCarthy.

3- This campaign was run as a small, volunteer organization and was not sophisticated enough to have internal documentation, so therefore no other documents, other than what has already been produced exist in regards to this mailing.

4- There are no other documents that exist relating to the Reports of Receipts and Disbursements of any other Federal candidate.

5. This response was prepared totally by Susan Bitter Smith.

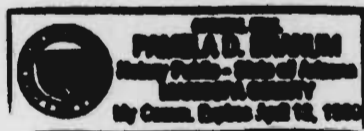
Sincerely,



Susan Bitter Smith

County of Maricopa
State of Arizona

Subscribed and sworn to before me this 27th day of December, 1995.



My Commission Expires


Notary Public

960433677

Susan Bitter Smith
5806 E. Lewis
Scottsdale, Arizona 85257

November 8, 1995

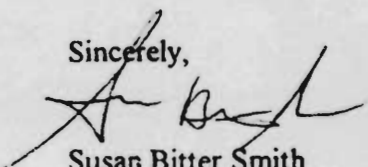
Mr. Jose Rodriguez
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Rodriguez:

This is to formally notify you that Tom Irvine, Esq. is no longer my counsel in regards to MUR 4053. As I indicated to you on the phone, it was my understanding that he had responded to the Commission's first notification on September 15, 1994 indicating that our campaign has not violated the Federal Election Complaint of 1971 and that in fact, this allegation was filed in a typical partisan tactic by then Democratic State Party Chairman Steve Owens.

Mr. Irvine has been in trial for a number of months and has been unreachable by phone or letter. I understand you have had the same experience. Therefore, we will respond directly to your September 7, 1995 notification to further reiterate the Friends of Susan Bitter Smith campaign did not in any way violate campaign laws.

Sincerely,


Susan Bitter Smith

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION APR 22 11 02 AM '96

In the Matter of)

Friends of Susan Bitter Smith and)
Karen Crotty, as treasurer, *et al.*)

MUR 4053

GENERAL COUNSEL'S REPORT

SENSITIVE

I. BACKGROUND

On August 29, 1995, the Federal Election Commission ("FEC") found reason to believe that Friends of Susan Bitter Smith and Karen Crotty, as treasurer, ("Bitter Smith Committee") violated the "sale/use" restriction at 2 U.S.C. § 438(a)(4), in connection with a solicitation letter received by a pseudonym disclosed on Jon Kyl for U.S. Senate's FEC Report of Receipts and Disbursements.

II. ANALYSIS

The allegations in this matter arose from a complaint based on information contained in two newspaper articles.¹ These articles reported that a three page solicitation letter seeking contributions to the Bitter Smith campaign and signed by two campaign workers (Diane McCarthy and Myron Deibel) was received by one of the fictitious names disclosed on Jon Kyl for U.S. Senate's disclosure reports. These articles further reported that an anonymous facsimile was circulated during the same period that the mailing was conducted, alleging that the disclosure reports of McCain for Senate '98 and the Rhodes for Congress Committee may also have been used for distribution of the solicitation. (For a full discussion of these newspaper accounts and the anonymous facsimile see the First General Counsel's Report in this matter

¹ The news articles appeared one each in the September 8, 1994 edition of the Arizona Valley State News and the September 9, 1994 edition of The Phoenix Gazette

dated August 23, 1995.) Based on the above information, and because Respondents did not respond to the complaint notification,² this Office recommended that the Commission find reason to believe the campaign and its treasurer violated section 438(a)(4).³ At the same time, this Office also apprised the Commission that we would engage in a limited investigation to determine the source of the solicitation and would report back to the Commission with our findings. (See First General Counsel's Report at 5-6.)

As part of this limited investigation, this Office sought under subpoena and order from the Bitter Smith Committee a copy of the solicitation letter at issue and all information concerning the creation and dissemination of the solicitation, including all costs. This Office also sought information concerning all other solicitations signed by the two campaign workers (including all related creation and dissemination information), as well as all information concerning or discussing the disclosure reports of other campaigns. (See Attachment 1 and 3.)

The candidate, on behalf of the campaign and its treasurer, responded that the letter at issue was only mailed once, in July 1994, to an in-house list containing 279 names, at a combined cost of \$212.36 (\$125 for printing + \$87.36 for postage).⁴ The candidate provided a copy of the solicitation and the list allegedly used for the one-time mailing. The candidate also noted that there were no other like solicitations distributed by the campaign and that the campaign had no information concerning other campaigns' disclosure reports. Lastly, the candidate denied the allegations in this matter and suggested that a rival campaign may have

² In response to the reason to believe notification, the candidate explained that she had been under the mistaken impression that counsel had filed a response to the complaint notification. The candidate further explained that counsel no longer represents Respondents. (See Attachment 2 and 4.)

³ Although the complaint also alleged violations by the candidate, because there was no evidence of her involvement in the solicitation, this Office made no recommendations at that time concerning Ms. Bitter Smith.

⁴ The in-house list is described as a "a list of donors to [the candidate's] previous city counsel campaigns" (Attachment 2, at 1.)

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been involved in the violative distribution, but did not provide any information supporting such involvement. (See Attachment 2 and 4.)

Review of the Bitter Smith Committee's disclosure reports, to confirm the described July 1994 mailing, shows two separate \$125 disbursements to the same vendor (on July 7 and 20, 1994).⁵ However, the committee does not disclose a \$87.36 disbursement for postage costs; instead, the committee reports disbursements for postage on July 12, 15, 20, and 21, 1994, and August 8 and 15, 1994, averaging \$276. It may be that the cost for the in-house list mailing was subsumed into one of these larger disbursements. The committee's disclosure reports also show 26 contributions received from July 1 through September 27, 1994 from the list allegedly used for the mailing. While the committee's reports support the candidate's contention regarding the mailing to the in-house list, this information is inconclusive as to whether there were other mailings of the solicitation at issue during this period.

This Office also contacted Jon Kyl for U.S. Senate ("Kyl Committee") and McCain for Senate '98 ("McCain Committee"), two of the campaigns whose disclosure reports were allegedly used for the mailing. (See Attachment 5 and 7.) Only the Kyl Committee acknowledged having received the Bitter Smith solicitation, explaining that one of its fictitious names had received the solicitation, but that they cannot recall exactly when it was received because they did not retain either the letter or the mailing envelope. (Attachment 6.)

Moreover, comparison of this address with the pseudonyms submitted by the Kyl Committee for the 1993-94 election cycle, fails to identify the alleged report used for the

⁵ The vendor is identified as Scott Cornelius and the purpose for the disbursement is only described as "subcontract services"

solicitation.

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it initially appears that the July Quarterly Report was the report used for the solicitation. However, comparison of the Bitter Smith Committee's receipts for the period from July to September 1994, with contributor names on the Kyl Committee's July Quarterly Report discloses no overlapping contributors. Conversely, comparison of the Bitter Smith campaign's receipts during the same period with the Kyl Committee's 1993 Year-End Report discloses six overlapping contributors, alternatively suggesting that this report, and not the July Quarterly Report, may have been used for solicitation purposes.⁶ Consequently, it is unclear which report if any was used for solicitation purposes. Moreover, because the Kyl Committee disclosed in excess of 1,000 contributions in its Year-End Report, and the Bitter Smith Committee received 137 contributions during the relevant period, the limited overlap in contributors is insufficient to establish that the Bitter Smith Committee did in fact use any of the Kyl Committee's disclosure reports for solicitation purposes.

⁶ Of the six overlapping contributors, one appears on the Bitter Smith Committee's in-house list, leaving only five contributions that may have been solicited from names on the Kyl Committee's Year-End Report. In fact, comparison of the two committees' reports for the entire 1993-94 election cycle discloses only eleven overlapping contributors, five of which can be discounted because they either appeared on the in-house list or contributed to the Bitter Smith campaign prior to contributing to the Kyl campaign, leaving six contributions, of a total 317 contributions received by the Bitter Smith Committee during the election cycle, which may have resulted from solicitation to names on the Kyl Committee's disclosure reports

A comparison of the McCain Committees'

disclosure reports with the Bitter Smith disclosure reports for the election cycle shows no overlapping contributors, suggesting that this campaign's 1993-94 election cycle disclosure reports were not used for solicitation purposes, as alleged in the anonymous facsimile.⁸

Lastly, this Office contacted Matt Salmon for Congress, one of the campaigns, along with the Kyl and McCain campaigns, who received a copy of the anonymous facsimile. (See Attachment 9.) All three campaigns acknowledged receiving the anonymous facsimile, and consistently describe it as a short message, transmitted without cover or heading, alleging that the Bitter Smith campaign was using other campaigns' disclosure reports for its solicitation mailing. (See Attachment 6, 8 and 10.) However, none of the three campaigns knew the source of the transmission or retained a copy of the facsimile. (See Id.)

While receipt of the solicitation by one of the fictitious names on the Kyl Committee's disclosure reports makes clear that a violation has occurred, it is still not clear who in fact committed the violation. The information from the three non-respondent witnesses does not establish a malefactor or provide any information concerning the scope of the solicitation. Most importantly, because no copies of either the solicitation mailing envelope or anonymous facsimile appear to exist, this initial round of investigation did not produce critical information, usually derived from such documents, identifying the source of the communications. Additionally, information derived from the various committees' disclosure report is

⁸ Similarly, comparison of the Rhodes Committee's disclosure reports with the Bitter Smith Committee's disclosure reports discloses no overlapping contributors during the election cycle

inconclusive. Although it appears that Bitter Smith Committee conducted a mailing to its in-house list sometime in July 1994, this obviously does not negate other mailings of the solicitation letter, nor does the limited overlap in contributors between the Bitter Smith and Kyl campaigns support or discount the allegations.

Consequently, further and more extensive investigation is necessary to conclusively determine the source and extent of the violative mailing. As discussed in the First General Counsel's Report (at n.4), such an investigation would at least entail contacting the Bitter Smith Committee's mail vendors, contacting all Bitter Smith campaign staff involved in the solicitation, requesting the phone records of all the campaigns in the primary election (to determine the source of the anonymous facsimile), and contacting all staff for the non-respondent witness committees identified as having knowledge of the solicitation and/or the facsimile. This Office, however, does not recommend such an approach.

Because the unavailability of the mailing envelopes and the anonymous facsimile indicates that even an intensive investigation may fail to identify the source of the solicitation, and because the Commission's resources are limited, this Office recommends that the Commission not devote any additional resources to this matter. Accordingly, this Office recommends that the Commission take no further action against Friends of Susan Bitter Smith and Karen Crotty, as treasurer, and close the file in this matter. As previously noted, although the complaint in this matter specifically alleged violations by the candidate, because there was no evidence of the candidate's involvement, and pending completion of this limited investigation, this Office did not make any recommendations concerning Susan Bitter Smith in the First General Counsel's Report. Because this limited investigation has not produced any

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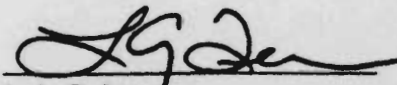
evidence of Ms. Bitter Smith's involvement in the violative activity, this Office now recommends that the Commission find no reason to believe Susan Bitter Smith violated 2 U.S.C. § 438(a)(4).

III. RECOMMENDATIONS

1. Take no further action against Friends of Susan Bitter Smith and Karen Crotty, as treasurer, in MUR 4053.
2. Find no reason to believe Susan Bitter Smith violated 2 U.S.C. § 438(a)(4), based on the limited investigation in MUR 4053.
3. Close the file and approve the appropriate letter.

Lawrence M. Noble
General Counsel

4/18/96
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Subpoena and Order to Friends of Susan Bitter Smith
2. Bitter Smith response dated November 22, 1995
3. Follow-up request to Bitter Smith dated December 7, 1995
4. Bitter Smith response dated December 27, 1995
5. Interrogatories and Document requests to Jon Kyl for U.S. Senate
6. Jon Kyl for U.S. Senate response dated October 12, 1995
7. Discovery requests to McCain for Senate '98
8. McCain for Senate '98 response dated October 30, 1995
9. Discovery requests to Matt Salmon for Congress
10. Matt Salmon for Congress response dated October 24, 1995

Staff assigned Jose M. Rodriguez

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Friends of Susan Bitter Smith and) MUR 4053
Karen Crotty, as treasurer, et al.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 25, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4053:

1. Take no further action against Friends of Susan Bitter Smith and Karen Crotty, as treasurer, in MUR 4053.
2. Find no reason to believe Susan Bitter Smith violated 2 U.S.C. § 438(a)(4), based on the limited investigation in MUR 4053.
3. Close the file and approve the appropriate letter, as recommended in the General Counsel's Report dated April 18, 1996.

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

Attest:

4-26-96
Date

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

Received in the Secretariat: Mon., April 22, 1996 11:02 a.m.
Circulated to the Commission: Mon., April 22, 1996 4:00 p.m.
Deadline for vote: Thurs., April 25, 1996 4:00 p.m.

mwd



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 2, 1996

Susan Bitter Smith
5806 E. Lewis
Scottsdale, Arizona 85257

RE: MUR 4053
Susan Bitter Smith
Friends of Susan Bitter Smith and
Karen Crotty, as treasurer

Dear Ms. Bitter Smith:

On September 15, 1994, the Federal Election Commission notified you of a complaint alleging violations by you, and your campaign committee and its treasurer, of certain sections of the Federal Election Campaign Act of 1971, as amended. On September 7, 1995, you were further notified that the Commission found reason to believe your campaign committee and its treasurer violated 2 U.S.C. § 438(a)(4).

On November 24, 1995 and January 2, 1996, you submitted responses to the Commission's reason to believe findings. After considering the information in the complaint, the information provided by you, and information derived through a limited investigation, the Commission determined on April 25, 1996 to take no further action against your campaign committee and its treasurer. On the same date, the Commission also found no reason to believe you violated 2 U.S.C. § 438(a)(4). Accordingly, the Commission closed its file in this matter.

The confidentiality provisions at 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

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
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MUR 4053
Ms. Susan Bitter Smith
Page 2

as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

Enclosure
GC Report

960433633



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 7, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Owens, Chairman
Arizona State Democratic Committee
2005 North Central Avenue, Suite 310
Phoenix, AZ 85004

RE: MUR 4303
Susan Bitter Smith
Friends of Susan Bitter Smith and
Karen Crotty, as treasurer

Dear Mr. Owens:

This is in reference to the complaint you filed with the Federal Election Commission on September 15, 1994, concerning Susan Bitter Smith and her campaign committee.

Based on that complaint, on August 29, 1995, the Commission found that there was reason to believe Friends of Susan Bitter Smith and Karen Crotty, as treasurer, violated 2 U.S.C. § 438(a)(4), a provision of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of this matter. However, based on evidence discovered through the investigation, and after considering the circumstances of this matter, on April 25, 1996 the Commission determined to take no further action against the committee and its treasurer. On the same date, the Commission also found that there is no reason to believe Susan Bitter Smith violated 2 U.S.C. § 438(a)(4). Accordingly, the Commission has closed the file in this matter.

Celebrating the Commission's 20th Anniversary

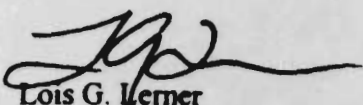
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MUR 4303
Steve Owens
Page 2

This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 4053

DATE FILMED 5-14-86 CAMERA NO. 4

CAMERAMAN JMK

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