



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4122

DATE FILMED 11-24-95 CAMERA NO. 2

CAMERAMAN S.E.G.

95043695214

JOHN JAY HOOKER

**900 Nineteenth Avenue, South
Nashville, Tennessee 37212
615/254-3446**

October 31, 1994

MUR 4122

To: The Members of the Federal Election Commission and the Appropriate Staff

I, John Jay Hooker, am a duly qualified candidate for the United States Senate subject to the November 8, 1994, general election. I have contacted the Federal Election Commission and talked with Mr. Greg Scott and he has informed me of how to submit a complaint to the Commission. Accordingly, herein is my sworn, notarized affidavit.

STATE OF TENNESSEE)
) ss:
COUNTY OF DAVIDSON)

I, John Jay Hooker, being duly sworn herein, upon information and belief, make oath to the following allegations, to-wit:

1. The Tennessean is a subsidiary corporation of the Gannett Corporation, a corporation regulated under 2 U.S.C.A. §441b(a), as is The Young Broadcasting Company, the owner of WKRN in Nashville, Tennessee, and the First Amendment Center, which is a non-profit corporation likewise regulated under the same section.
2. That Frank Sutherland is the Editor of The Tennessean and that John Seigenthaler is the publisher emeritus of The Tennessean and, moreover, is the Chairman of the First Amendment Center. The Tennessean has editorially endorsed Senator James R. Sasser and Frank Sutherland and John Seigenthaler are known public supporters of Senator Sasser. That Kerry Brock, the daughter-in-law of John Seigenthaler, is a decision maker and director of broadcasting for the First

Amendment Center and, likewise, is a public supporter of the campaign of James R. Sasser.

3. That the aforesaid individuals, acting individually and through the above-named corporations, did conspire to, using corporate funds of said corporations, stage a state-wide town hall meeting and/or debate between the Democratic nominee and the Republican nominee. None of the three independent candidates in that race were permitted to participate in the town hall meeting and/or debate because the aforesaid, individually and corporately, agreed among themselves to limit the participants based upon a showing of their strength in the polls which they well knew could not be matched by any independent candidate unless said candidate had millions of dollars to expend which they well knew the candidates did not have available.

4. That Channel Two (WKRN), well knowing of the advocacy of The Tennessean and editorial support of Senator Sasser, proceeded to conspire with said corporations and the individuals named herein to stage a statewide town hall meeting and/or debate using all the ABC state-wide sister stations to get the maximum audience.

5. The affiant believes that an investigation by the Federal Election Commission will show conclusively that the aforesaid individuals and corporations were determined, notwithstanding the federal and state law, to stage this town hall meeting and/or debate, having been advised that such a use of corporate funds was in violation of Title 2, § 441b(a) with criminal sanctions provided as a part of said legislation as well as a violation of the Tennessee law contained in § 2-19-132 where § 2-19-133 also provides for criminal sanctions.

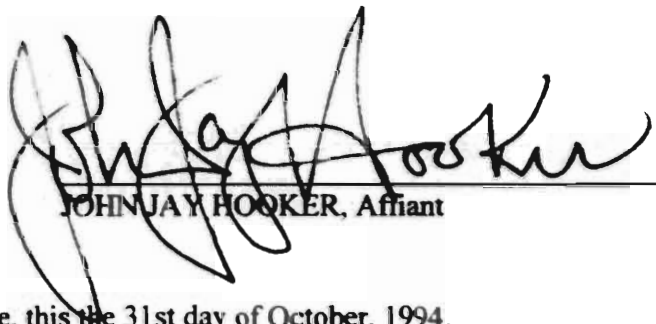
6. The affiant further believes and asserts that Senator James R. Sasser and Dr. William Frist were fully notified by the affiant by written communication that their appearance on an event sponsored by corporate funds was in violation of the election laws and of the rights of the affiant.

95043695216

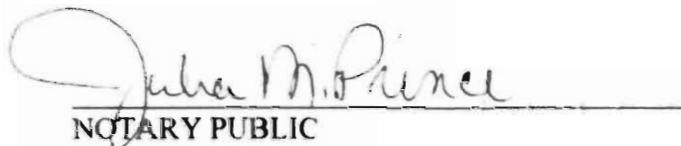
95043695217

WHEREFORE, the affiant therefore, as provided by the law authorizing The Federal Election Commission, hereby requests a full, fair and complete investigation of the aforesaid conduct in accordance with the law. The affiant asserts that said corporations and individuals were all put on notice before the town hall meeting and/or debate that to put on said town hall meeting and/or debates, under the facts, was not a non-partisan affair and that, consequently, there was express advocacy for the nominees of the two parties in contravention of the rights of the independents secured by the FECA legislation. Moreover, that the affiant, upon information and belief, asserts that the facts will show an injury to and an oppression of the rights of the affiant to a free and honest election guaranteed by the Constitution of the United States which are enforceable under 18 U.S.C.A. § 241.

Further, affiant saith not.


JOHN JAY HOOKER, Affiant

Sworn to and subscribed before me, this the 31st day of October, 1994.


NOTARY PUBLIC

My Commission Expires: 09/21/96.

Date: November 1, 1994

Nov 2 11 41 AM '94

From: Philip L. Kienlen, Independent Candidate, U.S. Senate, Tennessee

To: Federal Election Commission, Office of the General Counsel

Subject: Hooker & Kienlen complaint

Enclosed is the original document in which I join John Jay Hooker in his charges against the sponsors of the Senatorial debate held on October 28, 1994.

Philip L. Kienlen

95043695218

I, Philip L. Kienlen, a duly qualified candidate for the United States Senate, have read the affidavit filed by John Jay Hooker with the Federal Election Commission. I am attaching this affidavit to state, under oath, that I ascribe to the allegations made on information and belief; and moreover, I asked Mr. Hooker to speak for me in the negotiations with the individuals and corporations involved. Therefore, this affiant requests an investigation on the allegations contained in John Jay Hooker's affidavit.

Further, affiant saith not.

Philip L. Kienlen
Philip L. Kienlen, Affiant

Sworn to and subscribed before me, this the 31st day of October, 1994.

Yvonne Hill
NOTARY PUBLIC

My Commission Expires: 5-28-95

Kienlen
119 Westwood Lane
Oliver Springs TN 37840

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

Attn: Time-Sensitive Information

NOV 2 11 40 AM '94



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

November 10, 1994

Philip L. Kienlen
119 Westwood Lane
Oliver Springs, TN 37840

RE: MUR 4122

Dear Mr. Kienlen:

This letter acknowledges receipt on November 2, 1994, of your affidavit joining Mr. Hooker in his 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 4122. 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 (f28)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

95043695220



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

November 10, 1994

**Frank Sutherland, Editor
The Tennessean
1100 Broadway
Nashville, TN 37203**

RE: MUR 4122

Dear Mr. Sutherland:

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 4122. 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.

95043695221

If you have any questions, please contact Alva E. Smith 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 (HES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

95043695222



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 10, 1994

**Bill Frist
3823 Central Avenue
Nashville, TN 37205**

RE: MUR 4122

Dear Mr. Frist:

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 4122. 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.

95043695223

If you have any questions, please contact Alva E. Smith 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 (428)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

95043695224



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20461

November 10, 1994

**J. Barry Banker, Treasurer
Bill Frist for Senate
1922 West End Avenue
Nashville, TN 37203**

RE: MUR 4122

Dear Mr. Banker:

The Federal Election Commission received a complaint which indicates that Bill Frist for Senate ("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 4122. 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.

95043695225

If you have any questions, please contact Alva E. Smith 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 (Hes)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

95043695226



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 10, 1994

**The Honorable James R. Sasser
4810 32nd Street N.W.
Washington, D.C. 20008**

RE: MUR 4122

Dear Senator Sasser:

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 4122. Please refer to this number in all future correspondence.

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

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95043695227

If you have any questions, please contact Alva E. Smith 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 (HES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

95043695228



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 10, 1994

**Michael A. Nemeroff, Treasurer
Friends of Jim Sasser
1722 Eye Street, N.W.
Washington, D.C. 20006**

RE: MUR 4122

Dear Mr. Nemeroff:

The Federal Election Commission received a complaint which indicates that Friends of Jim Sasser ("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 4122. 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.

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95043695229

If you have any questions, please contact Alva E. Smith 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 (HES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

9504369520



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

November 10, 1994

Kerry Brock, Director
First Amendment Center
1207 18th Avenue South
Nashville, TN 37212

RE: MUR 4122

Dear Mr. Brock:

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 4122. Please refer to this number in all future correspondence.

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

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95043695251

If you have any questions, please contact Alva E. Smith 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 (JES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

9504369522



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

November 10, 1994

**John Seigenthaler, Chairman
First Amendment Center
1207 16th Avenue South
Nashville, TN 37212**

RE: MUR 4122

Dear Mr. Seigenthaler:

The Federal Election Commission received a complaint which indicates that the First Amendment Center and 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 4122. 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 First Amendment Center and 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.

9504369523

If you have any questions, please contact Alva E. Smith 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 (HES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

9504369524



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10, 1994

**Steven B. Parker, Registered Agent
The Young Broadcasting Company
101 Cumberland
Madison, TN 37115**

RE: MUR 4122

Dear Mr. Parker:

The Federal Election Commission received a complaint which indicates that Channel Two (WKRN) 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 4122. 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 Channel Two (WKRN) 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.

95043695235

If you have any questions, please contact Alva E. Smith 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 (LTS)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

95043695236



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

November 10, 1994

**Edward R. Parker, Registered Agent
Gannett Corporation
5511 Stables Mill Road
Richmond, VA 23228**

RE: MUR 4122

Dear Mr. Parker:

The Federal Election Commission received a complaint which indicates that The Tennessean, a subsidiary corporation of the Gannett Corporation, 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 4122. 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 Tennessean 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.

95043695237

If you have any questions, please contact Alva E. Smith 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 (H28)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 10, 1994

John Jay Hooker
900 Nineteenth Avenue, South
Nashville, TN 37212

RE: MUR 4122

Dear Mr. Hooker:

This letter acknowledges receipt on November 2, 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 4122. 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 (428)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

9504369529

LAW OFFICES

WILLIS & KNIGHT

TWO FIFTEEN SECOND AVENUE, NORTH
NASHVILLE, TENNESSEE 37201

WILLIAM K. WILLIS, JR.
ALFRED H. KNIGHT
FRANK GRACE, JR.
MARION F. HARRISON
ALAN D. JOHNSON
A. RUSSELL WILLIS
JEFFREY S. HARRISON
GREGORY S. SMITH
W. GENE WILLIS, JR.

TELEPHONE
(615) 259-3490
TELEFAX
(615) 259-3490

November 23, 1994
VIA FACSIMILE -- 802-219-3923

Ms. Alva E. Smith
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: Complaint of John Jay Hooker
MUR 4122

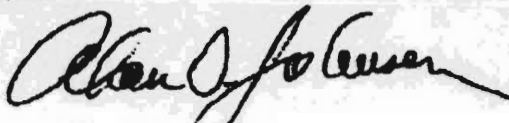
Dear Ms. Smith:

I represent The Tennessean and the Freedom Forum First Amendment Center in the above-referenced matter. Since both parties received the complaint on November 14, 1994, we calculate that the response will be due on November 29, 1994. I plan to send a copy of the response to your office via facsimile on November 28 and transmit the original via Federal Express on that same date.

Please contact me right away if these arrangements are not satisfactory.

Sincerely,

WILLIS & KNIGHT


Alan D. Johnson

ADJ:ng

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
NOV 23 11 11 AM '94

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SIDLEY & AUSTIN

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

CHICAGO
LOS ANGELES
NEW YORK

1722 EYE STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE 202: 736-8000
TELEX 80-483
FACSIMILE 202: 736-8711

LONDON
SINGAPORE
TOKYO

FOUNDED 1898

WRITER'S DIRECT NUMBER

(202) 736-8235

November 23, 1994

BY HAND

Alva E. Smith, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4122

Dear Ms. Smith:

We are in receipt of the complaint of John Jay Hooker regarding debates which occurred between Senator James R. Sasser and the Republican nominee for the Senate, Dr. William Frist. Mr. Hooker's complaint merits only a short response.

We are not able to substantiate the facts as described in the complaint. However, on its face, the complaint does not state a violation of the Federal Election Campaign Act. The activities described in the complaint are exempt under 11 C.F.R. § 110.13. Nothing in the complaint alleges that the organizations sponsoring the debate are not entitled to the exemption in section 110.13. Moreover, nothing in section 110.13 requires the participation of minor candidates such as Mr. Hooker. Thus, under the facts alleged by Mr. Hooker, the debates complied with the staging requirements of section 110.13(b). Accordingly, Mr. Hooker's complaint does not meet the "reason to believe" test, and it should be dismissed.

Sincerely yours,



Michael A. Nemeroff

MAN/11

NOV 23 2 25 PM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

95043695241

RECEIVED
FEDERAL
COMMISSION
OFFICE OF GEN.
COUNSEL

Nov 23 3 33 PM '94

JOHN JAY HOOKER
213 Third Avenue, North
Nashville, Tennessee 37201
615/254-3446

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Nov 23 11 01 AM '94

To: The Members of the Federal Election Commission and the Appropriate Staff

AMENDED COMPLAINT

STATE OF TENNESSEE)

) ss:

MUR 4122

COUNTY OF DAVIDSON)

I, John Jay Hooker, being duly sworn herein, upon information and belief, make oath to the following allegations, to-wit:

1. James R. Sasser was the Democratic Party nominee for the election held in the State of Tennessee November 8, 1994, for the United States Senate seat held by himself. Dr. William Frist was the nominee for the Republican Party and John Jay Hooker was an independent candidate for the same senate seat.

2. *The Tennessean* is a subsidiary corporation of the Gannett Corporation, and both corporations are regulated under 2 U.S.C.A. § 441b(a). The Young Broadcasting Company, the owner of WKRN (Channel Two) television station in Nashville, Tennessee, and the First Amendment Center, a non-profit corporation, are likewise regulated under the same section.

3. Frank Sutherland is the Editor of *The Tennessean*. John L. Seigenthaler is the publisher emeritus of *The Tennessean* and, moreover, is the Chairman of the First Amendment Center. John M. Seigenthaler is employed as an news anchorman for the said WKRN (Channel

Two). *The Tennessean* editorially endorsed Senator James R. Sasser, and Frank Sutherland and John L. Seigenthaler were known public supporters of Senator Sasser. Kerry Brock is the wife of John M. Seigenthaler and the daughter-in-law of John L. Seigenthaler, and is a decision maker and director of broadcasting for the First Amendment Center and, likewise, was a public supporter of the campaign of James R. Sasser and participated in the meetings to arrange for the aforesaid "town hall meeting."

4. The aforesaid individuals, acting individually and through the above-named corporations, did conspire, using corporate funds of said corporations, to stage a state-wide "town hall meeting" featuring a campaign appearance by the said Democratic nominee and the Republican nominee, which was televised throughout the State of Tennessee on October 28, 1994. None of the three independent candidates in that race were permitted to participate in the "town hall meeting" because the aforesaid, individually and corporately, agreed among themselves to limit the participants based upon a showing of their strength in the polls which they well knew could not be matched by any independent candidate unless said candidate had millions of dollars to expend which they well knew the candidates did not have available. Moreover and specifically, the aforesaid individuals did not want John Jay Hooker to appear in the said televised town meeting, having expressed themselves as believing that votes cast for Hooker would come off perspective votes from Senator Sasser and contribute to his defeat.

5. WKRN (Channel Two), well knowing of the advocacy of *The Tennessean* and editorial support of Senator Sasser, proceeded to conspire with said corporations and the individuals named herein to stage a state-wide telecast of the "town hall meeting," using all the ABC state-wide sister stations to get the maximum audience.

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6. Affiant believes that an investigation by the Federal Election Commission will show conclusively that the aforesaid individuals and corporations were determined, notwithstanding the federal and state law, to stage this "town hall meeting," having been advised that such a use of corporate funds was in violation of Title 2, § 441b(a) with criminal sanctions provided as a part of said legislation as well as a violation of the Tennessee law contained in § 2-19-132 where § 2-19-133 also provides for criminal sanctions.

7. Affiant further believes and asserts that Senator James R. Sasser and Dr. William Frist were fully notified by the Affiant by written communication that their appearance on an event sponsored by corporate funds was in violation of the election laws and of the rights of the Affiant.

8. Affiant asserts that the said corporations and individuals were all put on notice before the "town hall meeting" that to put on said "town hall meeting," under the facts, was not a non-partisan affair and that, consequently, there was express advocacy for the nominees of the two parties in contravention of the rights of the independents secured by the FECA legislation.

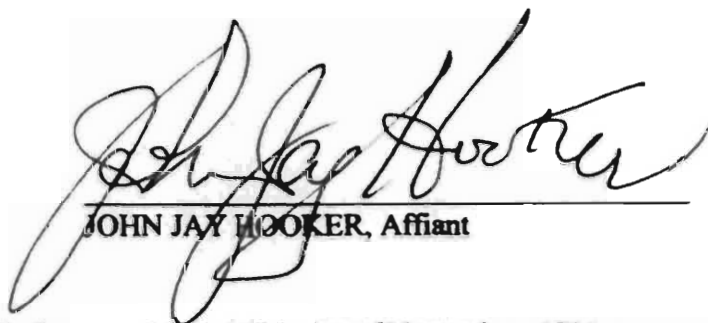
9. Further, the Affiant, upon information and belief, asserts that the facts will show an injury to and an oppression of the rights of the Affiant to a free and honest election guaranteed by the Constitution of the United States which are enforceable under 18 U.S.C.A. § 241.

10. As evidentiary support of the allegations set forth in this Amended Complaint, Affiant has attached as exhibits hereto, letters written by himself, or received by him from certain of the aforesaid individuals showing the circumstances preceding the occurrence of the televised broadcast of the "town hall meeting" and specifically acknowledging the nature of the televised broadcast as being a "town hall meeting." Consequently, the individuals and corporations who

provided the opportunity for the campaign appearances by Senator Sasser and Dr. Frist were not within the "debate" exemption provided by 11 CFR Ch. I, § 113.13(b).

WHEREFORE, the Affiant, as provided by the law authorizing The Federal Election Commission, hereby requests a full, fair, and complete investigation of the aforesaid conduct in accordance with the law.

Further, Affiant saith not.


JOHN JAY HOOKER, Affiant

Sworn to and subscribed before me, this the 18th day of November, 1994.


NOTARY PUBLIC

My Commission Expires: September 21, 1996.

JOHN JAY HOOKER
900 Nineteenth Avenue, South
Nashville, Tennessee 37212
615/321-2127

October 14, 1994

Frank Sutherland, Editor
The Tennessean
1100 Broadway
Nashville, Tennessee 37203

John Seigenthaler, Chairman
First Amendment Center
1207 - 18th Avenue, South
Nashville, Tennessee 37212

Gentlemen:

I have been excluded from the debates in the Senate race sponsored by the League of Women Voters and VIPPS. They are claiming that I am not a significant candidate because I do not have 15% in the polls. The fact is that Ross Perot was permitted to debate when he had only 7% in the polls and this arbitrary standard, in my judgment, deprives the people of their right to know and hear debated an issue that should be of primary importance in this campaign.

The debate sponsored by The Tennessean and the First Amendment Center is two weeks from today. The Tennessean has systematically excluded me from any meaningful coverage regarding the issue that I think is the most important political issue of our time. We must find a way in America, through a constitutional convention or otherwise, to keep the super rich from being able to buy political office under the guise of their First Amendment rights. Moreover, we must keep the incumbents from selling access to the office to the special interests and giving the special interests an unfair advantage over the ordinary citizen in the affairs of government.

It was astonishing to me that in the debate between Dr. Frist and Senator Sasser, put on by the League of Women Voters, the issue of campaign reform was not even addressed. I told the League of Women Voters beforehand that I thought this might occur and indeed it did and, in my view, to the great detriment of the debate. Likewise, last night in the debate between Jim Cooper and Fred Thompson, the issue was not discussed.

95043695246

Messrs. Sutherland and Seigenthaler
Page Two
October 14, 1994

I talked to Ms. Kerry Brock and she told me that she, on behalf of the First Amendment Center, had participated for hours in discussions, the conclusion of which was to not permit me to be on the debate. On the other hand, Frank, you told me that you alone made the decision to exclude me and then subsequently you said that you would reconsider provided I had a Perot-type strength in the polls; something around 20%.

I elected to qualify for the United States Senate knowing that I was not going to raise any money from anybody or spend any money of my own because it would be nonsense to do so if I couldn't raise four or five million dollars to become competitive with a chance to win. Why raise a million dollars for the purpose of buying enough recognition of you and your message in order to get 15% in the polls, if you couldn't raise enough to get the job done? It would be impossible to raise that kind of money without soliciting and accepting it from special interests outside the state. It is because I am opposed to that sort of thing that I am running in the first place. I know of no one in Tennessee, with the exception of Lamar Alexander, Howard Baker, or Ned McWherter, who could get 15% in the polls without spending more than a million dollars in a general election against the nominees of the major parties.

Consequently, the position taken by the League of Women Voters, VIPPS, and yourselves makes it impossible for anybody to be heard in the general election except the nominees of the Democratic party and the Republican party. Any independent voice is squelched by the requirement of these supposedly public-spirited institutions, and that is a disgrace and places the country firmly in the control of the super rich and the special interests.

I am formally asking you to be permitted to appear on your debate so that I can raise the issue of campaign reform as I am convinced that an overwhelming number of the people of Tennessee want that matter focused and thoroughly debated. While I have no chance to be elected, I am convinced that if I am on your debate I will go from 6% in the polls to above 15% of the votes on election day and that the winner of the election will have to deal meaningfully with the campaign reform issue.

I would appreciate an answer in writing at an early date so that I can decide what to do in the light of your answer.

Cordially,

JOHN JAY HOOKER

JHH/jmp

95043695247

THE TENNESSEAN

1100 BROADWAY
NASHVILLE, TENNESSEE 37203

FRANK SUTHERLAND
Vice President/News and Editor

Oct. 17, 1994 (Hand-delivered)

John Jay Hooker
900 19th Ave., South
Nashville, Tenn. 37212

Dr. Mr. Hooker:

I am concerned that you don't remember the details I have told you about how The Tennessean-Channel 2 Town Meetings came about. Your letter to John Seigenthaler does not reflect what has transpired. Once more, for the record:

I personally originated the idea of town meetings out of a concept called reader interaction, an internal term we use at The Tennessean regarding getting the readers interactive with the newspaper. I met Deb McDermott, the head of Channel 2, at a holiday party last year and discussed the concept with her. I then asked her if her station would be interested in broadcasting a series of town meetings in which The Tennessean would recruit readers to ask questions directly of newsmakers on any topic, ranging from such things as an arena vote in the council to spot news stories such as the child shot in school. She agreed, and I suggested we start with a town meeting on the elections in 1994. I suggested to her that we invite the "contenders" in various races. I suggested the contenders because there were at the time 11 candidates in the Democratic primary for the governor's race, and my town meeting concept would not work with several candidates.

You keep referring to our town meeting as a debate. It is not. It's a news show, such as Face the Nation, not a League of Women's Voters debate. We would not necessarily invite all the candidates in any particular race nor will we invite all 40 council members if we do a show on an important upcoming vote. If I were to invite you, with your low support in the polls at this point, I would in fairness have to invite the other two candidates in this race, Charles Johnson and Phillip Kienland, who have their own agendas for running just as you do. I told you that the town meetings were not set up for all candidates, especially one-issue candidates, to have a forum.

As I told you before, I made all these decisions with the subsequent agreement by Channel 2 before you announced your candidacy and months before the First Amendment Center was ever involved.



GANNETT
A WORLD OF DIFFERENT VOICES
WHERE FREEDOM SPEAKS

95043695248

9 5 0 4 3 6 9 5 2 1 9

We only invited the First Amendment Center to participate after The Tennessean and Channel 2 decided we wanted a place to hold the town meetings. The Tennessean did not have a space big enough. Channel 2's studio only held about 50 people. I thought of the First Amendment because their facility, with state-of-the-art conferencing facilities, would hold more people. I called Seigenthaler, and asked him if he would host the town meetings (not just elections but the continuing series on non-campaign issues), and he agreed. As a part of that agreement, Kerry Brock would be a host of the town meetings, and John Michael and I agreed to work the audience. As it turned out, just before our first town meeting, Channel 2's equipment did not match up with that of the First Amendment Center, and Channel 2 did not want to make the substantial financial outlay to produce a remote telecast from the First Amendment Center. We reluctantly moved the broadcast to Channel 2's smaller studio. We agreed that the First Amendment Center and Kerry would continue to be involved in the show, even though it had moved to Channel 2's studio.

Kerry began to participate in discussions only after she was invited to be the host. The commitment to invite only contending candidates was determined long before she was involved. She was involved in hours of discussion as she told you, but only in operational decisions and what to do if there was a tie in the polling. You continue to misrepresent the history as I told it to you. You say that I decided to exclude you. I told you that I decided to invite the top contenders to a town meeting and that I would make that decision after I got the polling results Oct. 24. I also told you that Channel 2 had delegated that decision to me, because we are doing the polling (a poll in conjunction with Channel 4, which is why The Tennessean is handling the invitations and not Channel 2). Again, the First Amendment Center may have heard me discuss the issues pertinent to the show, but you cannot assign any decision-making to Kerry or John as far as whom to invite. Yet, you continue to represent matters otherwise.

Once again: We do not have a debate format. It's a town meeting format that is used for non-election issues as well. It's a news show, and I don't plan to change the format to make it a debate. I will tell you the results of my polling which I am scheduled to get on the evening of Oct. 24 or early Oct. 25 from Mason Dixon. I will issue the formal invitations then, and until that poll is done, no one is excluded.

9 5 0 4 3 6 9 5 2 5 0

In an unrelated matter, you say "The Tennessean has systematically excluded me from any meaningful coverage regarding the issue that I think is the most important political issue of our time." You accusation is false. We have not systematically excluded you from anything. While you say you have no money and no chance of winning, you have not, to my knowledge, campaigned in any fashion with the exception of the telephone, which is difficult to cover in a newspaper. We have never seen a campaign schedule from you, something I am sure you are familiar with from previous campaigns. If you do plan to seriously campaign by canvassing neighborhoods and eliciting the help of volunteers--which serious candidates without money often do--I would be glad to re-evaluate any additional coverage of your candidacy.

Sincerely,


Frank Sutherland

cc: John Seigenthaler, Kerry Brock, Deb McDermott

**THE FREEDOM FORUM
FIRST AMENDMENT CENTER
AT VAN DERBILT UNIVERSITY**

October 17, 1994

Mr. John J. Hooker
900 19th Avenue South
Nashville, TN 37212

Dear Mr. Hooker,

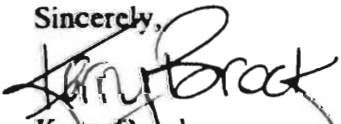
John Seigenthaler is in Boston. In his absence your letter has been forwarded to me because I am mentioned.

For the record, your statement on page two as it refers to me is only partially accurate. I did tell you I had participated for hours in discussions about the Town Meetings with representatives of WKRN and The Tennessean. During those hours we reached a number of conclusions regarding staging of the program, audience participation, videotape elements, building security, other press involvement and a laundry list of details. Certainly, you do not mean to give the impression in your letter that we spent hours discussing you. That was not the case.

During our planning we also concluded The Tennessean poll taken closest to the Town Meetings would determine who the participants would be. Frank Sutherland assumed responsibility for the polling results. To that end he speaks for all of us.

I hope that clarifies our position and sets the record straight.

Sincerely,


Kerry Brock
Broadcasting and Programming Director

KB/js

cc: John Seigenthaler
Frank Sutherland

JOHN JAY HOOKER
900 Nineteenth Avenue, South
Nashville, Tennessee 37212

October 18, 1994

Senator James R. Sasser
6027 Hillsboro Road
Nashville, Tennessee 37215

Dr. William H. Frist
411 Westview Avenue
Nashville, Tennessee 37219

Dear Senator Sasser and Dr. Frist:

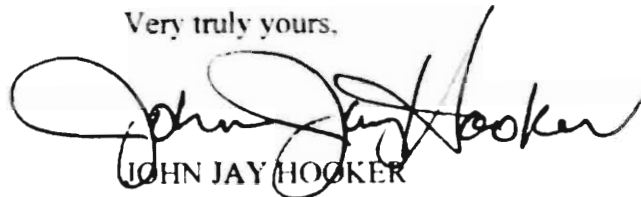
First let me ask you again to call upon the Tennessean and the First Amendment Center to include me in the October 28th debate. I think the people are entitled to hear the subject of campaign reform thoroughly debated.

The debate last weekend failed to crystalize the issues. You can be sure that if I was permitted to debate, we would have gotten down to it by dealing with the fundamental issues involved in *campaign reform*.

One, what are we to do about the super rich **buying public office** to represent their own economic interests, HCA or otherwise, and then, after the election, going to the special interests to recoup the money they have loaned to the campaign? Secondly, what are we going to do about the incumbents using their great power to raise money from the special interests who want to buy influence with them? Finally, what are we going to do to create a level playing field by getting rid of out-of-state contributions so that elections shall be free and equal and the choice shall be *by the people*?

I have an answer to each of these questions, so, again, please ask that I be included in the debates so we can debate our differences.

Very truly yours,


JOHN JAY HOOKER

JJH/jmp

cc: Frank Sutherland
John Seigenthaler
Phil West

95043695202

JOHN JAY HOOKER
900 Nineteenth Avenue, South
Nashville, Tennessee 37212

October 18, 1994
[Revised for Grammatical Errors]

Senator James R. Sasser
6027 Hillsboro Road
Nashville, Tennessee 37215

Dr. William H. Frist
411 Westview Avenue
Nashville, Tennessee 37219

Dear Senator Sasser and Dr. Frist:

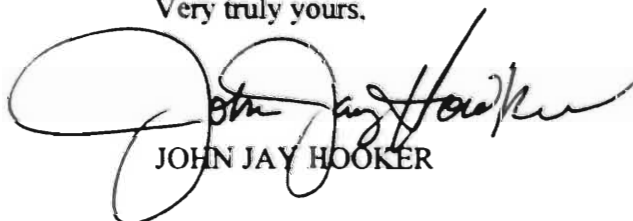
First let me ask you again to call upon the Tennessean and the First Amendment Center to include me in the October 28th debate. I think the people are entitled to hear the subject of campaign reform thoroughly debated.

The debate last weekend failed to crystalize the fundamental issues involved in campaign reform. You can be sure had I been permitted to debate, we would have *gotten down to it* by dealing with them.

Number one, what are we to do about the super rich *buying public office* to represent their own economic interests, HCA or otherwise, and then, after the election, going to the special interests to recoup the money they have loaned to the campaign? Secondly, what are we going to do about the incumbents using their great power to raise money from the special interests who want to buy influence with them? Finally, what are we going to do to create a level playing field by getting rid of out-of-state contributions so that elections are "*free and equal*" so that the "*choice*" can be made "*by the people of the sovereign states?*"

I have an answer to each of these questions, so, again, please ask that I be included in the debates so we can debate our differences.

Very truly yours,


JOHN JAY HOOKER

JJH/jmp

95043695203

JOHN JAY HOOKER

900 Nineteenth Avenue, South
Nashville, Tennessee 37212

October 21, 1994

Frank Sutherland, Editor
The Tennessean
1100 Broadway
Nashville, Tennessee 37203

Dear Frank and others:

Apparently, I take it from your letter, that you personally decided to create a "news event" for the commercial benefit of the Tennessean and its interaction with its readers. You decided that you would set the ground rules and you then recruited the First Amendment Center and Channel Two to help you bring to the public a *news event* designed to influence the voters in their selections for public office. Thereafter, you were able to syndicate "*this show*" statewide so as to have the maximum influence on public opinion. You have done this for several political races including the race for Senator Sasser's seat in the United States Senate.

As I understand it you personally, the Tennessean, John Seigenthaler(a) and John Seigenthaler(b) and Ms. Kerry Brock (Seigenthaler), wife of John Seigenthaler(b), are all supporting and intend to vote for Senator Sasser in his re-election bid. I believe that you are using the awesome power of the Tennessean, the First Amendment Center and Channel two to help him be reelected. *You may try* to interpret the facts differently, but don't they speak for themselves. John Seigenthaler(a) is publisher emeritus of the Tennessean, Chairman of the First Amendment Center wherein his daughter-in-law, Kerry Brock (Seigenthaler) is a public spokesperson and policy maker. And John Seigenthaler(b) is a spokesperson for Channel Two and claims to be involved in their news making decisions.

I have been told that you and John Seigenthaler(a) think that my candidacy hurts the candidacy of Senator Sasser in that you believe I will take votes away from Senator Sasser with the campaign reform issue which I am trying to raise for the benefit of the people of Tennessee. Politics is politics and it seems to me that you are in to it up to your eyeballs and trying hard to help Senator Sasser win but to exclude me from the town meeting violates the very concept of the First Amendment itself.

Frank Sutherland, Editor
Page Two
October 21, 1994

I therefore think that you have *"a motive and have conspired among yourselves"* to keep me off your town hall meeting albeit a debate between Senator Sasser and Dr. Frist.

The opportunity to appear on *"that debate"* would be worth at least a million dollars to my campaign due to the state-wide coverage and interest at this point in the election. I now, according to the polls, have 6% of the people who want to vote for me. If I am permitted to participate on *"your debate"* that 6% will go to 10 or 15%. Ross Perot was permitted to participate in the national debates when he had only 7% in the polls and he thereafter skyrocketed to 32% before he spent any money on advertising.

My participation will effect the result of the election and the winner would be determined by how Senator Sasser and Dr. Frist deal with the *"campaign reform issue"* which goes to the core of the democracy. I think *campaign reform* is the most important issue of our time since the people are being robbed of their sovereign rights by the super rich and the special interests.

John Seigenthaler(a) was made editor of the Nashville Tennessean by Amon Carter Evans with my all out support. I believe I was the difference between him getting the job and not getting it. Likewise, I was the go-between in the sale by Amon Evans of the newspaper to Gannett which created another career for John Seigenthaler and I believed then, as I do now, in the integrity of the Gannett Corporation.

"A world of different voices where freedom speaks" is the policy as well as the slogan of Gannett and you and your compatriots are trashing that policy. I therefore ask that you take this matter up with your senior management here and at the home office. You are making a joke of that policy as well as the great history of the Nashville Tennessean of which I was a small part as general counsel and, later, as part owner for a time..

It would be a fraud for the Tennessean to say I am not a "significant candidate" or use a poll to keep me out of the discussions that you are going to facilitate between Senator Sasser and Dr. Frist. The Tennessean has four times endorsed my candidacy for public office in the past. I, as you know, was once the Democratic nominee for Governor of Tennessee and received more than a half a million votes in the general election.

More importantly, I stood up, when it was unpopular to do so, for the minorities, against the war in Vietnam and against the death penalty. Approximately 95% of the African Americans voted for me every time I ran. The African Americans and other minorities have been excluded from this campaign issue wise. They are interested in campaign reform as a civil rights issue in the 90's and if you will ask Congressman Harold Ford, he will so tell you and suggest that I be permitted in the discussions.

Frank Sutherland, Editor
Page Three
October 21, 1994

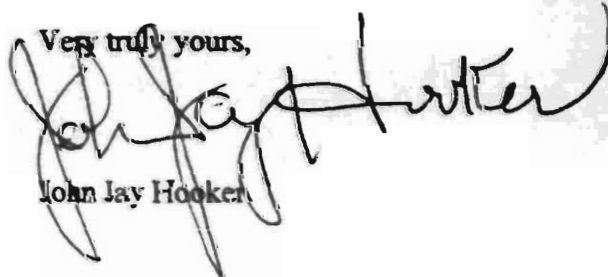
The way your letter is cast indicates to me that you are not consulting with your lawyers. I suggest that you read Joyner v. Browning (1938) in 30 Fed.Supp. and you will see you are "violating my property rights" and I think you are subject to suit both individually and corporately and the *property rights of the people* are entitled to know the facts.

Again I am formally asking to be included in the town hall meeting and the debate therein so that I can raise the proper questions regarding campaign reform which you and your newspaper are not raising to the detriment of your readers. The issue here should not be my standing in the polls or whether or not I can win. The issue here is whether you are going to permit a duly qualified candidate with an important message to be heard in this crucial election.

I have had lots of experience in the courtroom, some of which I got representing the Tennessean on matters regarding campaign reform and the First Amendment. I care deeply about "the campaign reform issue" and, if necessary, I will take you to court, you should make no mistake, in order to get the issue of campaign reform before the people of Tennessee which as aforesaid is my goal.

Please let me hear from you forthwith so, if necessary, I can file a lawsuit and have these constitutional and tort issues addressed by the courts.

Very truly yours,



John Jay Hooker

IJH/jmp

cc: John Seigenthaler, First Amendment Center

95043695206

THE TENNESSEAN1100 BROADWAY
NASHVILLE, TENNESSEE 37203FRANK SUTHERLAND
Vice President/Owner and Editor

Oct. 26, 1994 (by Fax)

John Jay Hooker
900 19th Ave. N.
Nashville, TN

Dear Mr. Hooker:

My attorney and I have reviewed the law, including FCC regulations, and cannot find any violation or potential violation. My attorney asks that you cite what provision of the law that applies to you and the other two independents in this race (and independents in the other race for Senate as well). Indeed, FCC regulations specifically provide for news shows to operate in our format.

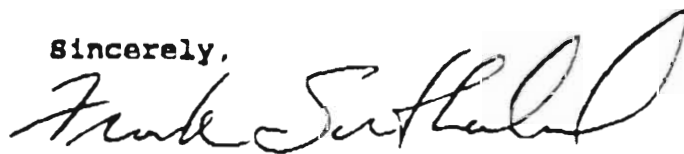
Again, our criteria for invitations to our town meetings is and has been to invite those who are contenders and have a chance to win. You have acknowledged to me in writing that you have no chance to win and that you want to be on the show to discuss your single issue, campaign reform. Our format does not work with single-issue candidates, and our criteria reflect that. We did not provide for a debate but gave a chance for our readers and listeners to question those leading contenders in each statewide race. We have never planned for a debate or for a forum in which each of the candidates--five in the case of your race--to appear. Neither you nor either of the other two independent candidates has actively campaigned statewide in this race.

Finally, as I have told you before, our criteria says we would invite guests by polling, using a firm hired by The Tennessean. Our most recent polling shows you with some 6% of the vote, which means you are not a contender in this race.

So, this is to inform you that we are inviting Jim Sasser and Bill Frist and none of the other three candidates in your race.

Again, if you have some citation I can provide my attorney that says I am in violation of the law, please let me know.

Sincerely,



Frank Sutherland

JOHN JAY HOOKER
900 Nineteenth Avenue, South
Nashville, Tennessee 37212

October 26, 1994

Frank Sutherland, Editor
The Tennessean
1100 Broadway
Nashville, Tennessee 37203

Dear Frank and others:

I have talked to your lawyer, Al Knight, and asked him to look at Code Section 2-19-132 and 2-1-102 in the context of Tennessee Constitution Article 1, Section 5 and Article 4, Section 1.

I firmly believe that it is unlawful for any corporation, and that would include Gannett, Young Broadcasting, and The First Amendment Center, to aid in the election or defeat of a candidate for the United States Senate by expending money or credits in that regard. It seems to me that the whole concept of a free and equal election denies corporations whose wealth could be a deciding factor from financially participating in Tennessee elections.

I hope you will talk to the General Counsel of Gannett and that John Seigenthaler will talk to Al Neuharth at the Freedom Forum. It seems to me that The Tennessean and the First Amendment Center should be the last to deny a citizen candidate for public office the podium to address one of the great evils of our society. The big money boys, the super rich, and the special interests have robbed the people of their sovereign power. All I want to do is to appear at your town hall meeting and make Senator Sasser and Dr. Frist come to grips with the awesome problem that exists and recommend a solution. They neither one have discussed this matter vigorously in the campaign and I think I can contribute on behalf of the hundreds and thousands of people in Tennessee who feel the way I do to a meaningful discussion of the matter. I have talked to lawyers and legislatures who strongly agree with me about my legal conclusions. I feel it is my duty to persevere in this matter.

Very truly yours,

John Jay Hooker

JJH/jmp

cc: John Seigenthaler, First Amendment Center
Deb McDermott, Channel Two

95043695208

Via 32-779
to John Seignathian

Nov 28 '94
Missed! Should have
been Oct 28 '94*

Dear John,

It's early in the morning and I
don't have access to a secretary so I
hope you can read my handwritten writing.

John Michael looks me in the face
and I tell me I am a has been but despite
the fact I do not have the money or power
that I once had I am nevertheless ready
for once more into the breach.

I ran for public office in the first
place, inspired by the Hemphills to
believe "One can can make a difference
and every man should try."

The core of our democracy is based on
the right to vote, the right to campaign
and the right to hold public office. The
democracy will die the day strong

Must ~~not~~ ^{start} by ~~let~~ ^{let} any
corporation or individual trample
on these sacred rights.

I have known for sometime that
"Campaign reform" in its broadest
sense is required if we are to keep
the Republic that George Washington
Benjamin Franklin and my own ancestor
after whom my son in ~~Washington~~ ^{Washington} carried us
by drafting the concluding of the United
States in the hot summer of 1787.

We must keep the super rich and the
special interests from robbing the people
of their sovereign power.

When I think of this task I know
I am not too old, too ^{too} weak or afraid to
try one more time in the memory of
my heroes to "make a difference."

The effect of ~~but~~ the First Amendment Center
to Tennessee. A Channel #2 is going is to
have a state-wide political forum and
systematically exclude me and the other
two independent candidates from having
a say.

Will your family has not given you
\$250,000 ~~in~~ amount of money
As has been given to Dr. Frist or you
are not an incumbent I do not believe
you with all your power and influence
could raise enough money to have a
competitive chance to beat either
Dr. Frist or Sen. Sasser. So you too would have
been excluded by the policy of these
three powerful corporations.

Therefore ^{in the name of the people} I request you not exclude
the independent from political debate
tonight. Do not lose the prestige of

5043695202
First Amendment Center to support
the arrogancy of power being exhibited
in the teeth of the law by Jack Sullivan
who believes he has the power to
exceed the requirements and
perpetuate the monopoly of the
two party system at the expense
of other dissenting voices. He says
I'm not a contender but he will see
that I'm going to fight him and all
others who are agents of the Cabal
that would rob the American people
their right to a free and fair electoral
process.

Will you law enforcement watch
you in a sense or you own law enforcement
such laws and I remember the great tradition
of the American who at all times your
leadership and I hope to fight that I am going
to make the day I die. Yours truly, Phyllis

LAW OFFICES

WILLIS & KNIGHT

TWO FIFTEEN SECOND AVENUE, NORTH
NASHVILLE, TENNESSEE 37204WILLIAM R. WILLIS, JR.
ALFRED H. KNIGHT
FRANK GRACE, JR.
WILLIAM F. HARRISON
ALAN E. JOHNSON
A. RUSSELL WILLIS
JEFFREY G. RAPPAPORT
GREGORY D. SMITH
W. REESE WILLIS, IIIRECEIVED
FEDERAL ELECTION
COMMISSION
GENERAL
4 23 PM '94
TELEPHONE
615 259-3498
TELECOM
615 259-3498

FACSIMILE TRANSMITTAL COVER SHEET

TO: Alva E. SmithFax Number: 202-219-3923 Telephone Number: _____FROM: Alan JohnsonDATE: 11/28/94RE: MUR 4122 / Hosken ComplaintPAGE(S) TO FOLLOW. 201 If you do not receive all of the pages,
please contact Nancy at the above number.Message: Final page of Exhibit 1PRIVILEGED AND CONFIDENTIAL

This facsimile contains CONFIDENTIAL INFORMATION, which may also be LEGALLY PRIVILEGED and which is intended only for the use of the individual or entity named above. If the reader of the facsimile is not the intended recipient, you are hereby on notice that you are in possession of confidential and privileged information. Any dissemination, distribution or copying of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify the sender by telephone (collect) and return the original facsimile to the sender to the above address via the United States Postal Service.

95043695203

Yeltsin leader warns against slicing handouts

By DAVID A. FOX
Staff Writer

The Chinese administration's push for veterans affairs was not lost yesterday at the convention of the Republican candidates' call for \$100 billion in federal outlays to be made to pay.

Speaking before the assembly in Vietnam War veterans in Leg. House Room, Jack Brown said the "Republican Contract for America" would lead to a reduction of 44,000 federal employees in veterans affairs and to the elimination of care for 100,000 veterans.

Brown took special aim at Dr. Phil, the Republican challenger of Gov. Jim Brown.

"I am limited... but as a veteran who has never seen the inside of a hospital, I am limited... but as a veteran who has never seen the inside of a hospital, I am limited... but as a veteran who has never seen the inside of a hospital, I am limited..."

In a Town Meeting Policy night on WJLA-TV Channel 2, Fox voiced support for shutting out-of-state spending — except for Social Security. He did not reveal the amount to be paid from specific programs despite a challenge from Brown.

Brown said his scenario was based on a remark from Rep. Newt Gingrich that there should be an across-the-board 20% cut in outlays. Calling 20% "a conservative," Brown predicted the Republican vote could reach 20% if Social Security is cut.

In his introduction of Brown yesterday, Brown called Phil for "not making one tough choice" on reducing federal spending.

"Dr. Phil, where are the cuts?" Brown repeated.

Brown next took aim at what he said was Phil's reversal on several issues, including abortion, TransCare and a much-talked about wind tunnel project in Baltimore.

Tennessee's 10-year veteran of the Senate punctuated his critique on Phil, a famed heart surgeon, by calling him "Dr. Phil."

Philips.

While denouncing the Republican proposal to cut spending, Brown pointed his own efforts to preserve health-care spending in Washington.

But after boasting of his efforts to kill funding for the \$10 billion-\$15 billion Superconducting Super Collider — a "boondoggle," he called it — he was asked if he hadn't supported the project when Tennessee was not in the running to get it.

"I always had very serious doubts about this project," Brown responded. "I became opposed to it when they started doing all this work in Texas that this project did not have a lot of merit."

"The project might have had more merit if it were in Tennessee, but since it wasn't coming to Tennessee, it was clear that it was a boondoggle and so we voted to defeat it."

One thing that could be coming to Tennessee is the headquarters of Columbia/ICA Healthcare Corp. Now based in Louisville, the 21-hospital chain said it would study where to expand headquarters — would be either Memphis, Nashville or Chattanooga.

In his campaign against Phil, Brown repeatedly has attacked Columbia/ICA for profiting from health care. Phil owns 50% of Columbia/ICA stock and his father and brother co-own Hospital Corporation of America.

Nashville Mayor Phil Brundage has said that he has spoken with the company about the headquarters, which could mean hundreds of new white-collar jobs for the area.

When asked how his public criticism of the company might affect Phil's chances to attract the headquarters, Brown said: "Quite frankly, I was unaware Mayor Brundage was trying to lure them back here. If they come here, then, if they don't, that's up to them."

WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D. C. 20006
(202) 428-7000

JAN WITOLD BARAN
(202) 428-7330

November 29, 1994

FACSIMILE
(202) 428-7049
TELEX 248348 WYRN UR

Mary L. Taksar, Esq.
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Ms. Alva E. Smith

Re: MUR 4122 (WKRN)

Dear Ms. Taksar:

This office represents WKRN, L.P., owner of WKRN-TV broadcasting station of Nashville, Tennessee (hereafter "WKRN"). Enclosed please find an executed Statement of Designation of Counsel form confirming our representation.

Your November 10, 1994, letter to Steven B. Parker, former Registered Agent for the Young Broadcasting Company, was referred to and received by our client on November 16, 1994. For your information, Young Broadcasting is an inactive corporation and Mr. Parker was its registered agent.

On Tuesday, November 22, 1994, I placed a call to Ms. Alva Smith who was unavailable. I left a message with the receptionist which has not been returned to date.

The purpose of my call to Ms. Smith and this letter is to 1) advise you of our representation of WKRN in the above-captioned matter, and 2) formally request an extension of twenty (20) days up to and including December 20, 1994, within which time we will file on behalf of WKRN a response to the complaint in MUR 4122. The extension is necessary in order for counsel to consult with their client and to obtain

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
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WILEY, REIN & FIELDING

Mary L. Taksar, Esq.
November 29, 1994
Page 2

information relevant to the response. Various national and religious holiday schedules also contribute to the need for an extension.

Your favorable timely reply to this request will be appreciated.

Sincerely,



Jan Witold Baran

Encl.
cc: Carl R. Ramey, Esq.

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STATEMENT OF DESIGNATION OF COUNSEL

NUR 4122

NAME OF COUNSEL: Jan Witold Baran

ADDRESS: Wiley, Rein & Fielding

1776 K Street, N.W.

Washington, D.C. 20006

TELEPHONE: (202) 429-7330

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.

Date

Deborah J. Maffernoff
Signature

RESPONDENT'S NAME: WKRN, L.P.

ADDRESS: 441 Murfreesboro Rd.

Nashville, TN 37210

HOME PHONE:

BUSINESS PHONE:

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BEFORE THE FEDERAL ELECTION COMMISSION

In Re the Complaint
of John Jay Hooker

)
)

M.U.R. 4122

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
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RESPONSE ON BEHALF OF
FRANK SUTHERLAND, THE TENNESSEAN,
JOHN SEIGENTHALER, AND THE FIRST AMENDMENT CENTER

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The televised "town meeting" which is the subject of Mr. Hooker's complaint was presented with a specific purpose in mind, and in accordance with specific criteria designed to accomplish that purpose. Its purpose was to conduct an audience participation discussion on the issues, involving those candidates for Tennessee's Senate seats who had a chance to be elected. Accordingly, it was determined that no candidate who had a position of less than fifteen percent in a current poll commissioned by *The Tennessean* would be invited. The only candidates for the Senate seat currently held by Jim Sasser who exceeded fifteen percent in the poll were Senator Sasser and Dr. William Frist. Both were invited to appear. Mr. Hooker, who had a standing in the poll of approximately six percent, and the other two independent candidates, who had lower standings, were not invited. It is submitted that it is appropriate to limit participants in a televised political discussion so as to present the views of the viable candidates in as sharply focused a manner as possible, and that the criteria used to achieve that result in this instance were appropriate.

The Tennessean did endorse Senator Sasser for re-election. The personal political views of the persons and entities involved in sponsoring the "town meeting" did not, however, have any effect upon the decision to limit the participants.

Applicable Law

1. No Right of Access.

Mr. Hooker's complaint is based solely upon his exclusion from the televised "town meeting". Other than denying him such access, he does not claim that the respondents have said or done anything constituting a violation of F.E.C. regulations or federal election law.

It is clear that neither Mr. Hooker, nor any other candidate for office, has a right of access to a privately sponsored televised event. Forbes v. Arkansas Educational Television Communications Network Foundation, 22 F.3d 1423 (8th Cir. 1994) (There is a qualified right of access to events sponsored by public television stations, whose actions are "fairly attributable to the state", but not to events staged by private television stations). Even when public television sponsors are involved, candidates may be excluded if the criteria for exclusion are reasonable. Ibid. It is clear that Mr. Hooker is asserting a right of access which he does not possess.

2. No "Express Advocacy".

The asserted statutory basis for this complaint is 2 U.S.C. §441(b)(a), which prohibits corporations from using general treasury funds to make "contribution[s] or expenditure[s] in connection with any [federal] election". The Supreme Court has held that the First Amendment requires limiting this statutory prohibition to "express advocacy" in political races. Buckley v. Valeo, 424 U.S. 1, 42, 43, 46 L.Ed.2d 659 (1976). The Court left no doubt as to what is meant by "express advocacy". According to Buckley, §441(b)(a) prohibits only the use of language which "in express

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terms advocates the election or defeat of a clearly identified candidate through the use of such phrases as 'vote for', 'elect', 'support', 'cast your ballot for', 'vote against', 'defeat' or 'reject'". Ibid. Neither by staging this event, nor by limiting the participants, did the respondents engage in such advocacy.

The strictness of the "express advocacy" requirement is illustrated by Faucher v. Federal Election Commission, 928 F.2d 468 (1st Cir. 1991). This was a declaratory judgment action brought by a pro-life group whose literature had been disapproved by the F.E.C., as constituting "partisan" expressions of political opinion paid for with corporate funds. Although the literature favored pro-life positions and implied that support should be given to candidates who held such positions, the Court held that the language used fell short of "express advocacy". In upholding the right of the plaintiffs to distribute such literature, the Court held invalid F.E.C. Regulation 114(b)(5)(i), which permits the use of corporate funds in a political context only to the extent that it is "nonpartisan and expresses no opinion on the issues." See also F.E.C. v. Central Long Island Tax Reform Committee, 616 F.2d 45, 53 (2d Cir. 1980) ("The words 'expressly advocating' mean exactly what they say," and do not include statements which only impliedly encourage the election or defeat of candidates).

Mr. Hooker contends that his exclusion rendered the event "not a nonpartisan affair" and consequently "there was express advocacy for the nominees of the two parties" who were permitted to participate. Whatever advocacy took place during the event was, of course, conflicting advocacy between Senator Sasser and Dr. Frist, with respect to which the sponsors took an entirely neutral position. The advocacy,

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in other words, was not theirs, and it was bipartisan rather than partisan. See Buckley v. Valeo, 424 U.S. 1, 80 (1976) ("Express advocacy" occurs only when the corporate entity makes statements "unambiguously related to the campaign of a particular federal candidate").

The exclusion of Mr. Hooker from the event, in accordance with objective criteria, was not "expression" of any kind, let alone "express advocacy". Not only did the respondents violate no provision of federal law when they staged the event, they were exercising First Amendment rights expressly protected by the United States Supreme Court. Buckley v. Valeo, *supra*.

If staging multi-candidate political discussions renders the sponsors "express advocates" of all of the views expressed, there can be no such discussions. If the act of excluding candidates from such discussions in accordance with objective criteria is "express advocacy", those words have no rational meaning.

3. Statutory Authorization for Staging Debate.

The Tennessean and its editor Frank Sutherland's roles in staging the town meeting were specifically permitted under FEC regulations and the U.S. Code. In a portion of the Federal Elections Law, 2 U.S.C. §431(9)(B)(i), Congress specifically exempted from the definition of "expenditure"

any news story, commentary, or editorial distributed through the facility of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate.

According to one federal court, the legislative history of this section "indicates that

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Congress meant for the exemption to be a broad one" when applied to activities of the press during political campaigns. Federal Elections Commission v. Phillips Publishing, Inc., 517 F.Supp. 1308 (D.D.C. 1981) (citing H.Rep.No. 93-943, 93d Cong., 2d Sess. a 4 (1974)).

Further, FEC-promulgated rules enacted pursuant to the U.S. Code even more specifically sanction the staging by newspapers of non-partisan political debates, and they furnish newspapers with wide latitude in organizing a debate's structure.

(2) Broadcasters, bona fide newspapers, magazines and other periodical publications may stage non-partisan candidate debates[.]

(d) *Debate's structure.* The structure of debates . . . is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are non-partisan in that they do not promote or advance one candidate over another.

11 CFR § 110.13(a)(2) and (b).

The Code and Federal Regulations have been interpreted to permit entities staging debates to exclude a political candidate. In Fulani v. Brady, 809 F.Supp. 1112 (S.D.N.Y. 1993), affirmed sub. nom., Fulani v. Bentsen, 35 F.3d 49 (2d Cir. 1994), the court rejected an effort from a presidential candidate, who was excluded from a Democratic Party presidential primary debate, to have revoked the tax-exempt status of the group that had staged the debate. The court noted Code of Federal Regulations Title 11 gave the group free reign to exclude the plaintiff. Fulani v. Brady, 809 F. Supp. 1112, 1116. The Second Circuit Court of Appeals, in affirming that decision, also relied on the Code of Federal Regulations. Fulani v. Bentsen, 35 F.3d

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49, 50, note 2.

Courts have also applied these U.S. Code and Federal Regulations provisions - in situations other than debates -- to a wide variety of press activities that have informed the public about candidates. For example, in Readers Digest v. Federal Election Commission, 509 F.Supp. 1210 (S.D.N.Y. 1981), another federal court concluded that dissemination of videotape re-enactment of the incident at Chappaquidick involving Senator Ted Kennedy fell within the press entity's legitimate function, and that activity therefore was permitted by the exemption of 2 U.S.C. §431(9)(B)(i). Similarly, in Phillips Publishing, supra, a court applied the exemption to hold that a publisher's distribution of a letter soliciting subscriptions, which contained a "Teddy Kennedy Opinion Poll" to be completed and returned to the newspaper, was a legitimate press function covered under the U.S. Code exemption.

Here, *The Tennessean* is neither owned nor controlled by any political party, political committee or candidate. See, ¶1, Affidavit of Frank Sutherland. Moreover, as reflected in *The Tennessean's* next-day coverage of the event, the town meeting was intended as an opportunity to provide voters information on the positions of and differences between the two major parties' senatorial candidates, and neither candidate was promoted or advanced over the other. See, ¶1, Affidavit of Frank Sutherland. Finally, neither candidate was paid any form of compensation for their appearance, nor did *The Tennessean* expend any sums sponsoring the town meeting. See, ¶2, Affidavit of Frank Sutherland. The debate thus was a part of the legitimate press function, and nothing more, and is exempt from the U.S. Code provisions.

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The Tennessean's actions not only were permitted under specific provisions of federal law, but -- as the decision in Phillips Publishing reflects -- the newspaper's staging of the debates was also protected under the First Amendment. As such, under the Constitution, *The Tennessean* was free to invite or exclude any candidate, in the exercise of editorial discretion, and that decision may not be challenged through this proceeding. Miami Herald v. Tornillo, 418 U.S. 241 (1974) (U.S. Supreme Court declares unconstitutional Florida statute which required newspapers to afford "right of reply" to political candidates criticized on editorial pages).

An analogous claim to this one was raised in Kay v. Federal Election Commission, 7 Med.L.Rptr. 1474 (D.D.C. 1981)(copy attached), in which plaintiff, a presidential candidate in the 1980 Ohio primaries, filed a complaint with the FEC after a newspaper declined to list his positions in a published chart which carried the views of the three major candidates at the time (Jimmy Carter, Ted Kennedy and Ronald Reagan). In rendering judgment for the newspaper, the court stated:

Plaintiff also claims that he did not receive reasonably equal coverage in the circulation area. No such newspaper has any duty under the Federal Elections Law to give "equal time" to candidates. To the extent that this "equal time" concern was an element of plaintiff's complaint, the Commission quite properly ignored it.

Kay, 7 Med.L.Rptr. 1474, 1475.

The Tennessean's participation in the town meeting is protected by specific act of Congress and previously has been sanctioned by the courts. The complaint herein thus is without merit and the investigation should proceed no further.

4. First Amendment Privilege for Campaign Coverage.

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The newspaper's participation in the town meeting also was a constitutionally protected newsgathering activity and, thus, may not be challenged in this action. Congress clearly did not intend, in regulating contributions to federal election campaigns, to impinge upon the press' First Amendment rights.

[I]t is not the intent of Congress in the present legislation to limit or burden in any way the First Amendment freedoms of the press and of association. Thus, the exclusion assures the unfettered right of the media to cover and comment on political campaigns.

Federal Election Commission v. Phillips Publishing, Inc., 517 F.Supp. 1308 (D.D.C. 1981) (emphasis is original) (citing H.Rep. No. 93-943, 93d Cong., 2d Sess. at 4 (1974)).

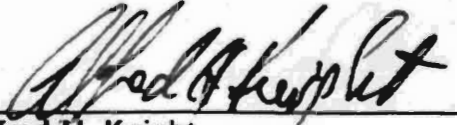
Citing "the importance of preserving a large measure of journalistic discretion" because of the First Amendment, the U.S. Court of Appeals for the District of Columbia held that the First Amendment rights of a broadcaster precluded a presidential candidate's action to enjoin a televised debate that excluded him. Johnson v. FCC, 829 F.2d 157, 163 (D.C.Cir. 1987). See also, Maher v. Sun Publications, Inc., 459 F.Supp. 353 (D.Kan. 1978), in which the court rejected a senatorial candidate's efforts to enjoin the televising of a debate being staged by a newspaper, finding the debate was a "'bona fide news event' worthy of presentation."

In this matter, the staging of the town meeting, which afforded the public an opportunity to contrast the two major parties' candidates' platforms, was part-and-parcel of *The Tennessean's* coverage of the campaign. The newspaper's role in the

meeting thus is protected under the First Amendment and may not be challenged in these proceedings.

Respectfully submitted,

WILLIS & KNIGHT

By: 

Alfred H. Knight

Alan D. Johnson

215 Second Avenue North
Nashville, Tennessee 37201
(615) 259-9600

Attorneys for Respondents

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7 Med. L. Rptr. 1474

Kay v. Federal Election Commission

Action by presidential candidate against Federal Election Commission for its dismissal of his complaint that newspaper had violated campaign laws. Upon cross motions for summary judgment.

Defendant's motion for summary judgment is granted.

Plaintiff's motion for summary judgment is denied.

Richard B. Kay, Rocky River, Ohio, pro

John C. Martin, assistant U.S. attorney, Washington, D.C., for defendants.

Full Text of Opinion

Obendorfer, J.:

MEMORANDUM

Plaintiff petitions, pro se, for a declaration that the Federal Election Commission's (FEC's) dismissal of his allegation against the Plain Dealer Publishing Co. of Cleveland and some of its officers and news people was contrary to law. See 28 U.S.C. §437g(a). The matter is before the Court on cross motions for summary judgment.

Plaintiff was a candidate for nomination for President in the 1980 primary election in Ohio. Before the election, the Plain Dealer, a large circulation newspaper, printed a full-page chart entitled:

KAY v. FEDERAL ELECTION COMMISSION

U.S. District Court
District of Columbia

RICHARD B. KAY v. FEDERAL ELECTION COMMISSION, No. 80-5081, April 21, 1981

REGULATION OF MEDIA CONTENT

Commercial speech/advertising —
Political advertising (§15.07)

Publication, prior to presidential primary by newspaper that is not owned or controlled by political committee or candidate, of chart outlining three major candidates' campaign positions constitutes news story in chart form and thus is not corporate political advertisement in violation of Federal Elections Act.

The Race to the White House Where They Stand

(Plaintiff's Exhibit B) The chart carried the pictures of President Carter, Senator Kennedy and then former Governor Reagan (who was on the Republican Primary ballot, without opposition). Below the pictures were illustrated columns recapitulating the positions of each of these major candidates on issues ranging from inflation to federal funds for abortion.

After the primary election, plaintiff complained to FEC that the chart was a political advertisement by a corporation for its chosen candidates and constituted an expenditure or an in-kind corporate contribution to them in violation of 2 U.S.C. §441b(a).

Upon receipt of the complaint, FEC carefully followed the procedures it had established for bona fide complaints alleging campaign law violations. It advised

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7 Med. L. Rptr. 1473

plaintiff of the procedures to be followed (Exhibit 2) and gave the Plain Dealer and its officers and employees, who were also charged by plaintiff, an opportunity to respond (Exhibits 3-8), which they did through counsel (Exhibit 9). The FEC then obtained and acted on a careful report of recommendations made by the Commission's General Counsel (Exhibit 10).

In the view of the General Counsel:

the contents of this chart merely constitute an effort on the part of *The Plain Dealer* to report in an orderly manner for the benefit of its readers the issue stands and activities of the major candidates in the Ohio primary. In essence, *The Plain Dealer* was printing a news story in chart form.

The General Counsel noted that the Federal Elections Act has been interpreted specifically to exclude from the definition of contribution "[a]ny cost incurred in covering or carrying a news story, commentary or editorial" by a newspaper which is "not owned or controlled by any political party, political committee, or candidate," and that there was no indication of such ownership or control of *The Plain Dealer*. 11 C.F.R. §100.7(b)(2). The General Counsel recommended that the Commission find that there is no reason to believe that any of those named by plaintiff violated the law. On October 7, 1990, the Commission followed the General Counsel's advice, found no reason to believe there had been any violation and closed the file.

Defendant's motion for summary judgment and plaintiff's opposition and cross-motion disclose no dispute about material facts. The Court's role in the circumstances is therefore the very limited one of determining whether the Commission's actions were "contrary to law." 2 U.S.C. §437g(a)(8)(C). In this case the law is quite clear. The Commission's action based on the General Counsel's recommendation that the publication be treated as a newspaper story was plainly consistent with the law. *The Plain Dealer* was doing the main business of a newspaper: in its own way, it informed the public about issues which the public would decide. There need be no concern here about refinements considered in other cases about the standard for review of a Commission decision to close its file on a citizen's allegation without prosecuting it. Compare *Hampton v. FEC*, (D.D.C. 1977), *aff'd*, No. 77-5146 (D.C.

Cir. 1978); *In re Federal Election Campaign Act Litigation*, 474 F.Supp. 1044 (D.D.C. 1978).

Plaintiff also claims that he did not receive reasonably equal coverage in the circulation area. No such newspaper has any duty under the Federal Elections Law to give "equal time" to candidates. To the extent that this "equal time" concern was an element of plaintiff's complaint, the Commission quite properly ignored it.

Accordingly, by accompanying order, the defendant's motion for summary judgment will be granted, plaintiff's cross-motion will be denied, and the complaint will be dismissed.

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AFFIDAVIT

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Being first duly sworn, the affiant Frank Sutherland states as follows:

1. I am the Editor of *The Tennessean* and held that position during all times relevant to this case. *The Tennessean* is a publication which is not publicly funded, nor is it owned or controlled by any political party, political committee or candidate. In sponsoring the televised town meeting which is the subject of the instant complaint, *The Tennessean* attempted to further its mission of informing voters of the candidates' stands on the issues involved in Tennessee's senatorial elections. (See Exhibit 1 hereto). In sponsoring this event, *The Tennessean* did not any way intend to urge voters to cast ballots for or against any particular candidate.

2. None of the candidates who appeared at the town meeting was paid any form of compensation for their appearance, nor did *The Tennessean* expend any sums for the event.

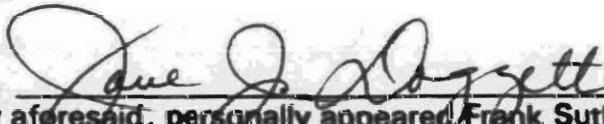
3. The participants in the town meeting were confined to the two leading senatorial contenders in each race, because a poll commissioned by *The Tennessean* indicated that only the two leading contenders had any realistic chance of being elected. The purpose of the debate was to focus attention on the contending candidates and to permit members of the audience to direct questions toward those candidates in order to provide the viewing audience information upon which they could make an electoral decision.

4. The decision to limit participation in the town meeting to candidates who had an opportunity to be elected was in no way motivated by partisan political

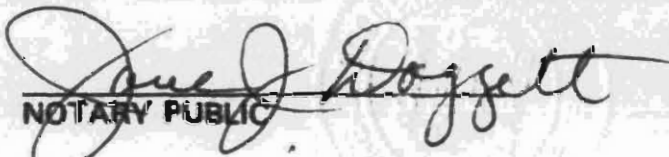
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considerations, and the Complainant's suggestion that it was so motivated is inaccurate and without factual basis.


Frank Sutherland

Before me, , a Notary Public of the State and County aforesaid, personally appeared Frank Sutherland, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who upon oath acknowledged himself to be the within named, and that he as such, being authorized to do so, executed the foregoing instrument for the purposes therein.

WITNESS, my hand and official seal at Nashville, Tennessee, this 23 day of November, 1997.


NOTARY PUBLIC
My Commission
Expires 1/4/97

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Verbal blows by Frist, Sasser

Debaters label each other as problem

By GAIL WHELAN
Staff Writer

The first televised showdown between Tennessee U.S. Sen. Jim Sasser and Republican challenger Bill Frist last night turned into a finger-pointing, fist-clenching, shouting match.

Frist jabbed at what he saw as Sasser's open contempt as 16-year congressional veteran that Republicans are trying to pick apart. Among the votes Frist mentioned over and over, Sasser voted against the Federal Child Care Act.

Frist declared, "You are Washington," and linked Sasser's name repeatedly with that of President Clinton and the "Sasser

credit leadership."

"It is Mr. Sasser who said, and I quote, 'Bill Clinton is the brightest star in the Democratic constellation.'" Frist said.

Sasser, on the other hand, went straight for Frist's failure to vote until 1997 and his lack of concern. Sasser dubbed Frist "part of the problem with health-care costs." And, he said.

"My opponent, Mr. Frist, didn't even bother to vote for 10 years. While he didn't have time to vote, he had time to write a book about himself."

The debate, sponsored by WWSN-TV in Knoxville and the League of Women Voters,

is on PAGE 16, Column 1.



ON THE TRAIL

• A new debate between candidates for governor and U.S. Senate, on 10.



Sen. Bill Frist, left, and Sen. Jim Sasser prepare for their first televised debate, put on by the League of Women Voters and WWSN-TV in Knoxville.

will not be the last look of Sasser and Frist. They will debate Sunday, on Oct. 14 and on Oct. 20 at a forum sponsored by the Tennessee and WWSN-TV Channel 3.

Sasser, 48, is chairman of the Senate Budget Committee and a strong contender to be majority leader in the Senate if re-elected.

Frist, 41, is on leave from Vanderbilt University Medical Center as a consultant surgeon.

Frist accused Sasser during the first part of the debate, shouting on facts and integrity looking down at his notes. Sasser accused Frist of not being into a hardy, independent-minded style of politics.

Sasser said Frist owns 100 million worth of General Corporation of American stock, a fortune that "has been made off of corporate success."

"I own less than four-tenths of one percent of a public company," Frist replied.

"Every day we're asking Americans to Tennessee to include their

checkbook. Why can't you get 117 people such a balanced budget amendment?"

Frist attacked Sasser's "13 million pension," prompting Sasser to accuse him of a "malicious falsehood."

Sasser said his pension is \$60,000 right now, not \$3 million, and said he has contributed half.

"You know, Dr. Frist, my father didn't give me less of thousands of dollars worth of hospital stock like your father did," Sasser said.

They were asked if they would support an end to gifts and trips from lobbyists. Frist never really answered.

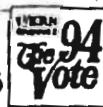
"I don't know very much about special interests, but I know it is something we need to reform," Frist said.

Sasser used that answer to sting Frist. "Well, you ought to know something about special interests because your campaign is being financed by special interests, the for-profit hospitals. I will vote, and have voted, in the Congress to put a ban on gifts."

Over divisions were apparent as



Ask the candidates



The Tennessee and WWSN, Channel 3, are giving readers an opportunity to ask the questions in this year's race for governor and U.S. Senate. Questions could be submitted to gubernatorial and senatorial candidates in a series of televised Town Hall meetings on Oct. 21 for governor nominees and Oct. 22 for the two Senate seats. You must be asked to pose your question to the candidates at one of these Town Hall meetings. Questions and answers also could be used in news stories.

Your name: _____ Telephone: _____
Your address: _____ Fax number: _____
City and ZIP: _____ Occupation: _____

Candidate(s) question is for: _____

Question: _____

Send questions to: Ask the Candidates, c/o Berna de la Cruz, The Tennessean, 1100 Broadway, Nashville, Tenn. 37203, or fax your response to 776-0888. (Mail questions must be postmarked by Oct. 15.)

labor-related issues. Frist said he would oppose any increases in the minimum wage. Sasser said he to cross the long overdue.
Frist said he would have voted for the North American Free Trade Agreement. Sasser voted against NAFTA.

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Frist, Sasser won't yank ads

Doctor explains comments on families' decisions on smoking

By GUY HARRIS
AP Wire

If debate teachers were grading last night's heated sparring between Jim Sasser and Bill Frist, they might make a notation on each man's report card: does not work and play well with others.

Sasser and Frist didn't resort to cut-and-out shoving and finger pointing as happened during their first debate. But last night's viewers could not see the animosity between the two with a knife.

Frist, a heart and lung transplant surgeon, complained that Sasser was getting to talk more than he was. Sasser complained about how much Frist's "out of state handler" has been to him in orchestrating Frist's television ads.

Sasser, an 18-year incumbent who stands first in line to become the Senate majority leader, said he would pull his negative advertising if Frist would. But Frist refused.

"If Dr. Frist will take his off, I'll consider it," Sasser said.

Frist's reply: "I have documented every statement I made. Which ads? Absolutely not. That's what this campaign is about."

The heating debate on the Capitol Hill Newsweek show, live on public television from Memphis, included an explanation from Frist about comments he made in that Tennessee last week that children should be allowed to smoke if their family permits it.

Sasser said Frist was "engaging in some political pondering in the tobacco interests in that part of the state."

Frist said, "I know that smoking is bad for your health. It is harmful to your health. I would never tell my children to smoke. I would never tell my patients to smoke. Let individuals make that decision. It's a matter of individual responsibility."

Frist argued that the federal government should stay out of a person's decision on whether to smoke, and that government

should not intervene in a family's decision to allow "a 17-year-old to smoke."

But he also conceded that the federal government "has a role" in educating children that smoking is harmful. And when Sasser said he does not favor cigarette taxes on tobacco farmers, Frist accused Sasser of "padding."

Frist hit hard at Sasser on patchwork taxes, saying the national deficit has "gone over a trillion dollars on your charge."

During Sasser's answer to a question on the appointment of Dr. Jocelyn Elders, Frist attempted one of his numerous interruptions.

"You've got to find out about these people before you vote for them," Frist said.

"Will you show me the common courtesy of letting me finish my answer, Dr. Frist?" Sasser replied.

"Well, I'm just amazed . . . Dr. Frist started to say . . ."

"I'm amazed by your discourtesy, Dr. Frist," Sasser said. ■

Hispanic residents want answers from candidates

By BONNA R. de la CRUZ

In Tennessee's Hispanic residents, sometimes estimated at as many as 20,000, want to get as much out of their government as their English-speaking neighbors.

Why Carmelo Perez Sweetman, a Puerto Rican, wants to be a candidate for the U.S. Senate will do to help Metro schools get federal grants as teachers can learn how to instruct Spanish-speaking children in American customs and English.

Mario Ramos, a Nashville attorney, wants to know where the candidates stand on immigration policies, helping Spanish speakers go through the court system and making driver's license testing more accessible by having the test in Spanish.



Sweetman and Ramos will SWEETMAN be among 90 Tennessee readers and WKRN-Channel 2 viewers on hand to pose questions to Sen. Jim Sasser, a Democrat, and his opponent, Republican Bill Frist, a heart-and-lung transplant surgeon on leave from Vanderbilt University, during a Town Meeting on Friday. The forum, which will be broadcast live on Channel 2, also will

include U.S. Rep. Jim Cooper, a Democrat, and his opponent, attorney Fred Thompson, a Republican. It is cosponsored by The Tennesseean, WKRN and the Freedom Forum First Amendment Center at Vanderbilt University.

"I want to know what their stance is on having another general amnesty," said Ramos, coordinator for Unamenes, which means "Let us unite." The group, an offshoot of Tying Nashville Together, is gathering information from the growing Hispanic community to find its needs and wants.

Unamenes took a particular interest in the Sasser-Frist race after Sasser's campaign used a political advertisement depicting men walking up a bank from a river and climbing over a wall.

The ad said illegal aliens are clogging the legal system and costing U.S. citizens a lot of cash.



7:30 p.m. Friday, WKRN-TV, Channel 2

Ramos said there is still a lot of anger among some Middle Tennessee Hispanics, but an apology from Sasser has eased bad feelings.

"His campaign workers said his voting records show he supports minorities," Ramos said. "But we want to talk to him to see what his beliefs are. Did he personally approve it or was his campaign on autopilot? Does he believe in portraying ethnic minorities as harmful to the way of life in Tennessee?" ■

Liberal longing

Town Meeting participant will ask Senate hopefuls about party loyalty

Dr. Barbara M. G. de CROM

By DONNA R. de la CRUZ
and Mike

The conservative cloud that hangs over the Nov. 3 election has left Louisiana, Texas, and New Mexico with no real choice for the vice president. At least not in the eyes of the voters.

94
Vote

It's almost like the year program is trying to run away from the President and the Democratic leadership.

—Mason, who works for a grocery warehouse company, wants to hear U.S. Rep. Jim Cooper. A statement signed by his associates

Chapman, the Republican opponent, lawyer
after 1904. Chapman, the Republican opponent, lawyer

Heart transplant surgeon Bill Fyfe face off in tonight's Town Meeting, 7:30 on WKYC-Channel 3.

The statewide meeting is sponsored by The Tennessee Wildlife Federation and the President Forum First Amendment Center at Vanderbilt University. Fifty Tennessee students and WFFN viewers will question Jones and First at 7:30 p.m. and Cooper and Thompson at 8:15.

"I've turned off my Cooper's communication," Mann said. "I feel like I have no one to rely on. They're not talking about anything I care about."

"The way it Cooper never has anything. It's turned away from the Democratic Party. It's not the way it was in the 1960s."

It will be the first time the committee will have such effect in a two-third format before the May 1 election. ■

94
Vote

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enough Social Security, what's left is cash. Where are you going to get \$100 billion worth of cash? Where are you going to cash? Where are you going to cash?"

James, laughing at Ford, says, "You would get much more in the 1980s. You can double out all you want to. Be Ford, but if you are going to cut 100 billion and

...the ... of ...

Candy almost always offers what I give for
cheese, would offer another vote to confirm them
as a judge today.

is getting them exposed to the truth. "Judge Phipps has been a disappointment. Judge Phipps was manipulated by a few office boys. He had no control

...and the judge, I would not vote for him."

"I'm going to take that responsibility very, very seriously," he said. "We cannot afford to make

Now this would not make any sense. "What you
are told by John Doe is nonsense."

Martha Craig Bouquigny, who is stationed in
the consulate in the U.S. Court of Appeals

standing on the Tennessee Supreme Court. She is a
respected leader and widely hailed as a change-agent.

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Sen. Jim Sasser in the attempt to determine Jones' point and scheduled debate with incumbent Sen. Jim on WKRP.

in Sen. Jim Sasser to the
Felt. Felt's statements
and from to make sure that
would balance the federal
budget.

"If you exempt Social Security, what's left to cut? Where are you going to get \$230 billion worth of cuts? Where are you going to cut? Where are you going to cut?"

in Felt to Sasser's role in Judge John Mena's appointment.

"I'm going to take that responsibility very, very seriously. My opponent either dropped that appointment. I would not."

But Sasser interrupted over and over to ask: "If you exempt Social Security, what's left to cut? Where are you going to get \$230 billion worth of cuts? Where are you going to cut? Where are you going to cut?"

Felt said, when Sasser returned to Tennessee, "he's going to have to go to church school, I think."

Sasser, laughing at Felt, said, "you would put Madison on the table. You can double talk all you want to Dr. Felt, but if you are going to cut \$230 billion and you exempt Social Security, Sasser's asking who he's."

But Sasser did a little better down at his own, demanding Mena's own father from Judge Mena, who the town area would have for several years working with people's approach.

Frank Smith, 21, who works in the Williamson County district attorney's office, asked if given the chance, would other candidates vote to confirm Mena as a judge today.

"In a word, no," said Sasser, who was a key figure in getting Mena appointed to the bench. "Judge Mena has been a disappointment. Judge Mena was recommended by a blue ribbon panel. He had an excellent record as a state judge. But Judge Mena has been a disappointment to me. If he ever before me for confirmation again, I would not vote for him."

Felt has been critical of Sasser's involvement with Mena's appointment, saying it indicates Sasser is not as strict.

"I'm going to take that responsibility very, very seriously," Felt said. "My opponent either dropped that appointment. I would not."

Sasser then turned and asked Felt, "Would you have voted for Judge Clay Dougherty?"

"No, sir," said Felt.

Martha Craig Dougherty, who is nicknamed Clay, was appointed to the U.S. Court of Appeals after serving on the Tennessee Supreme Court. She is a respected jurist and widely hailed as a disinterested



WKRN-Channel 2 anchor John Seligson, one of the moderators for last night's Town Meeting, takes a question for U.S. Senate candidates from Jackie Lewis of Murfreesboro.

for women in the legal field.
After the moderator thanked U.S. Rep. Jim Cooper, the Democrat, and attorney Fred Thompson, opened over who is better qualified and should be more trusted to represent the state. ■

"In a word, no," said Sasser, who was a key figure in getting Nixon appointed to the bench. "Judge Nixon has been a disappointment. Judge Nixon was recommended by a blue ribbon panel. He had an excellent record as a state judge. But Judge Nixon has been a disappointment to me. If he came before me for confirmation again, I would not vote for him."

Frist has been critical of Sasser's involvement with Nixon's appointment, saying it indicates Sasser is not on cruise.

"I'm going to take that responsibility very, very seriously," Frist said. "My opponent rubber stamped that appointment. I would not."

Sasser then turned and asked Frist, "Would you have voted for Judge Clay Dougherty?"

"No, sir," said Frist.

Martha Craig Dougherty, who is nicknamed Clay, was appointed to the U.S. Court of Appeals after serving on the Tennessee Supreme Court. She is a respected jurist and widely hailed as a doer-poser.

Oct 29, 1994



George L. Baker W & Staff

WKRN-Channel 2 anchor John Seligenthal, one of the moderators for last night's Town Meeting, takes a question for U.S. Senate candidates from Jackie Laws of Murfreesboro.

for women in the legal field.

After the Frist-Sasser standoff, U.S. Rep. Jim Cooper, the Democrat, and actor-lawyer Fred Thompson sparred over who is better qualified and should be more trusted to represent the state. ■

Frist backed off his earlier statement, embracing the wind tunnel as a wonderful thing.

"Then why did you call it pork?" Sasser asked.

Said Frist: "The project at Tullahoma is nationally, vitally important. I'm going to argue for that project on the merits. Mr. Sasser is going to be talking about clout. I'm going to talk about merits. It can stand on its own. It doesn't need this pork clout."

If Sasser becomes majority leader, Frist said the wind tunnel could become "a political football." But Sasser said his seniority, his position as chairman of the Senate Budget Committee, and the chance at the majority leader's post would enhance Tennessee's shot at the project.

"Using the leverage of those positions, I think I'll be in an excellent position to make sure Tullahoma is in the running," Sasser said.

After the television program, both Frist and Sasser spoke to reporters.

Frist said he has never called the wind tunnel pork, but Sasser said that because of that issue, he

outright guffaw from Sasser. "When I was riding home from church the other day, my son said what are we going to do about all these problems, and he said, 'what about a little voluntary school prayer?' I agree with my son."

Chad Gray, 21, a Franklin resident and a college senior, asked Sasser if he becomes majority leader, "how supportive will you be of President Clinton's agenda?"

"I think the majority leader of the Senate has an obligation to represent the Senate and to represent the senators and to do as the senators would want him to do, and not just be a rubber stamp for an administration or a president," Sasser said.

But Frist said he if becomes majority leader, he'll "vote with President Clinton 100% of the time."

"Now, Dr. Frist, that's just wrong," Sasser said. "I've voted with President Clinton when he was right, and I've voted against him when he was wrong. I have voted against him on a whole host of things." ■

Excerpts of Frist, Sasser Town Meeting comments

Here is a transcript of some of last night's Town Meeting between Sen. Jim Sasser and transplant surgeon Dr. Bill Frist.

The first question dealt with negative campaigning and whether the candidates should be examples to young people.

Frist: Yes, Tom. Our objective in our campaign has been two-fold. Number 1 is to define what Bill Frist is, where I've been the last 20 years of my life, what values I've had and that's being a surgeon, listening to people one on one, breaking them, making a diagnosis, and taking care of the problems thereafter. That is where I've been. Secondly, I've wanted to paint the vision of where I would like to go and bring issues to the table. And thirdly, to define as an — to define Jim Sasser. As an incumbent, I need to educate people, broadly where he has been the last 18 years. What vote he's taken.

Sasser: Tom, I couldn't agree with you more. This is the most negative campaign I think in the history of Tennessee politics. I think it's reached, frankly, a reprehensible level. My opponent began attacking

me back in June or July before he even had the Republican nomination. You'll recall as of he ran which put me on Mount Rushmore with Congressman Rostenkowski, who is under indictment. Now there's no reason in the world to put my face next to Congressman Rostenkowski's except guilt by association. And the campaign that my opponent has waged has deteriorated from that point.

Yes, I do think we have an obligation to young people to try to discuss the issues and to try to get them interested in government, interested in running for public office.

Question about whether Sasser's re-election and subsequent selection as Senate majority leader would mean he would always support President Clinton's agenda.

Sasser: ... I think the majority leader of the Senate has an obligation to represent the Senate and to represent the senators and do as the senators would wish him to do. And not simply to be a rubber stamp for an administration or president. Now, I've served under three or four majority leaders, both

Republicans and Democrats, and I've seen them take different approaches. For example, the present majority leader, Senator (George) Mitchell, seems to think that he needs to carry out the President's program. Senator (Howard) Baker seemed to think the same way about Ronald Reagan's program. But Senator (Robert) Byrd of West Virginia, when he was majority leader and Jimmy Carter was president, he told President Carter that he was a Senate man and he'd carry out the Senate's views. I think I fall in that category.

Then Frist was asked whether having a majority leader from Tennessee is an issue.

Frist: Oh, it is. First of all, Mr. Sasser's not going to have a chance to be majority leader. But what people tell me, it's interesting because as I travel across Tennessee as my listening tour, people tell me that majority leader, in this particular case, means three things. It means, No. 1, that Jim Sasser has to be liberal — at least as liberal as George Mitchell. No. 2 — it means he has to represent the Democratic Party. Be a leader of the Democratic Party, putting it

before the interest of Tennesseans. And No. 3 — it means that he does have to be very allegiant as Chad suggested to the president of the United States. In this case, it's Bill Clinton. Right now, Mr. Sasser votes with Bill Clinton about 88% of the time. As majority leader, he'll be voting with Bill Clinton 100% of the time. That's not what Tennesseans want.

Sasser: Now, Dr. Frist, that's totally inaccurate. I just told Chad that I was going to be representing the Senate and the senators. And I was going to be the Senate's man. Now, I voted with President Clinton when he was right. I voted against him when he was wrong. I opposed him on the Superconducting Super Collider. I opposed him when he wanted to increase the intelligence budget. I've opposed him when he wanted to pass NAFTA, a whole host of things that I've opposed him on. Even opposed him when he wanted to go into Haiti. So, I will support President Clinton just as I supported President Bush when he is correct. But I will oppose him when I disagree with him and most importantly, when I think that conflicts with the interests of Tennesseans. ■

●ets' leader●

warns against slicing handouts

By DAVID A. FOX

Staff Writer

The Clinton administration's point man for veterans affairs warned here yesterday of dire consequences if the Republican candidates' call for \$230 billion in federal entitlement cuts comes to pass.

Standing before the memorial to Vietnam War soldiers in Legislative Plaza, Jesse Brown said the "Republican Contract for America" would lead to a reduction of 44,000 full-time equivalent employees in veterans affairs and to the elimination of care for 250,000 veterans.

Brown took special aim at Dr. Bill Frist, the Republican challenger of Sen. Jim Sasser.

"I am insulted ... that an individual who has never worn this nation's uniform has the nerve to support proposals such as this," Brown said.

In a Town Meeting Friday night on WKRN-Channel 2, Frist voiced support for slashing entitlement spending — except for Social Security. He did not reveal the amounts to be pared from specific programs despite a challenge from Sasser.

Brown said his scenario was based on a remark from Rep. Newt Gingrich that there should be an across-the-board 20% cut in entitlements. Calling 20% "superconservative," Brown predicted the Republican cuts could reach 30% if Social Security is left alone.

In his introduction of Brown yesterday, Sasser chided Frist for "not making one tough choice" on reducing federal spending.

"Dr. Frist, where are the cuts?" Sasser repeated.

Sasser next took aim at what he said were Frist's reversals on several issues, including abortion, TennCare and a much-talked about wind tunnel project in Tullahoma.

Tennessee's 18-year veteran of the Senate punctuated his critique on Frist, a famed heart surgeon, by calling him "Dr.

Flippo."

While denouncing the Republican proposal to cut spending, Sasser lauded his own efforts to remove pork-barrel spending in Washington.

But after boasting of his efforts to kill funding for the \$15 billion-\$20 billion Superconducting Super Collider — a "beast-dog" he called it — he was asked if he hadn't supported the project when Tennessee was still in the running to get it.

"I always had very serious doubts about this project," Sasser responded. "It became apparent to me when they started doing all this work in Tennessee that this project did not have a lot of merit."

"The project might have had more merit if it were in Tennessee, but since it wasn't coming to Tennessee, it was clear that it was marifolous and so we worked to defeat it."

One thing that could be coming to Tennessee is the headquarters of Columbia/HCA Healthcare Corp. Now based in Louisville, the HII-hospital chain said it would study where its corporate headquarters would be after acquiring Nashville's HealthTrust Inc.

In his campaign against Frist, Sasser repeatedly has slammed Columbia/HCA for profiteering from health care. Frist owns \$13 million of Columbia/HCA stock and his father and brother co-founded Hospital Corporation of America.

Nashville Mayor Phil Bredesen has said that he has spoken with the company about the headquarters, which could mean hundreds of new white-collar jobs for the area.

When asked how his public criticisms of the company might affect Nashville's chance to attract the headquarters, Sasser said: "Quite frankly, I was unaware Mayor Bredesen was trying to lure them back here. If they come here, fine. If they don't, that's up to them."

95043695267

LAW OFFICES

WILLIS & KNIGHT

TWO FIFTEEN SECOND AVENUE, NORTH
NASHVILLE, TENNESSEE 37201

WILLIAM R. WILLIS, JR.
ALFRED H. KNIGHT
FRANK GRACE, JR.
MARIAN F. HARRISON
ALAN D. JOHNSON
A. RUSSELL WILLIS
JEFFREY G. RAPPUNN
GREGORY D. SMITH
W. REESE WILLIS, III

TELEPHONE
(615) 255-0600

TELECOPIER
(615) 255-3480

November 30, 1994
VIA FACSIMILE -- 202-219-3923
AND FEDERAL EXPRESS

Ms. Alva E. Smith
Office of the General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

Re: Complaint of John Jay Hooker
MUR 4122

Dear Ms. Smith:

Enclosed are the affidavits of John Seigenthaler and Kerry Brock in support of the response to the above-referenced complaint on behalf of *The Tennessean* and the Freedom Forum First Amendment Center which was sent to your office earlier this week.

Sincerely,

WILLIS & KNIGHT


Alan D. Johnson

ADJ:ng

Enclosures

Dec 1 9 51 AM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

95043695208

AFFIDAVIT

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Being first duly sworn, the affiant Kerry Brock states as follows:

1. I am Broadcasting and Programming Director of The Freedom Forum First Amendment Center at Vanderbilt University and was moderator of the town meeting cited in this complaint.
 2. I am a life-long Republican, the daughter of a Republican office holder in the State of Washington, but took no position for any candidate in the election campaign in question, contrary to the suggestion of the Complainant.
 3. I received no compensation for moderating the town meeting and The Freedom Forum expended no funds in lending its name as a sponsor of the event.
- In the past, I have served as an occasional news anchor for WKRN-TV, the station which also sponsored the town meeting and have been paid by the station for performing those duties.

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4. The town meeting was scheduled as a news event to inform the voters of the positions of the leading candidates. The two candidates who were participants were determined by a scientific poll to have a reasonable chance to be elected. All questions put to the candidates were asked by members of the audience and no questions were asked of the candidates by me as moderator.

Kerry Brock
Kerry Brock

Before me, Pamela J. VAUGHN, Notary Public of the State and County aforesaid, personally appeared Kerry Brock, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who upon oath acknowledged himself to be the within named, and that he as such, being authorized to do so, executed the foregoing instrument for the purposes therein.

WITNESS, my hand and official seal at Nashville, Tennessee, this 29th day of Nov., 1994.

Pamela J. Vaughn
NOTARY PUBLIC

5/23/1998
My Commission Expires

95043695290

AFFIDAVIT

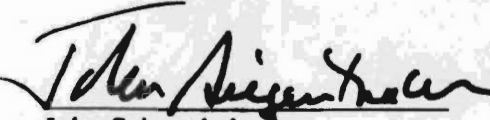
STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Being first duly sworn, the affiant John Seigenthaler states as follows:

1. I am the Chairman of The Freedom Forum First Amendment Center and held that position during all times relevant to this case. The Freedom Forum First Amendment Center is a private non-partisan foundation which is not owned or controlled by any political party, political committee or candidate. The Freedom Forum First Amendment Center agreed to become one of the sponsors of the televised town meeting, which is the subject of the instant complaint, for the purpose of informing voters of the positions of the leading, viable candidates on the issues involved in Tennessee's U. S. Senatorial elections, and not for the purpose of urging voters to cast ballots for or against any particular candidate.
2. The Freedom Forum First Amendment Center did not expend any sums for the event and the candidates who appeared at the town meeting were not paid any form of compensation for their appearance.
3. A poll commissioned by *The Tennessean*, a co-sponsor of the debate, indicated that only the two leading contenders in each senatorial race had any realistic chance of being elected; therefore, *The Tennessean* determined that the participants in the town meeting were to be limited to the two leading contenders and that decision by *The Tennessean* was acceptable to The Freedom Forum First Amendment Center. The purpose of the town meeting was to create a news event that would focus attention on the contending candidates and to permit members of the audience to direct questions toward those candidates in order to provide the viewing audience information upon which they could make an electoral decision.

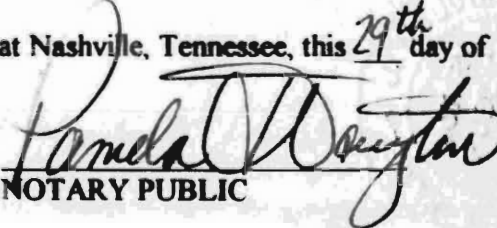
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4. The decision to limit participation in the town meeting to candidates who had an opportunity to be elected was in no way motivated by partisan political considerations, and the Complainant's suggestion that it was so motivated is inaccurate and without factual basis.


John Seigenthaler

Before me, Pamela J. Vaughn, a Notary Public of the State and County aforesaid, personally appeared John Seigenthaler, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who upon oath acknowledged himself to be the within named, and that he as such, being authorized to do so, executed the foregoing instrument for the purposes therein.

WITNESS, my hand and official seal at Nashville, Tennessee, this 29th day of Nov., 1994


NOTARY PUBLIC

5/23/1998
My Commission Expires

95043695292



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 2, 1994

Jan Witold Baran, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

RE: MUR 4122
WKRN

Dear Mr. Baran:

This is in response to your letter dated November 29, 1994, requesting an extension until December 20, 1994 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on December 20, 1994.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

95043695293



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 9, 1994

**John Jay Hooker
900 Nineteenth Avenue, South
Nashville, TN 37212**

RE: MUR 4122

Dear Hooker:

This letter acknowledges receipt on November 23, 1994, of the supplement to the complaint you filed on November 18, 1994. The respondent(s) will be sent copies of the supplement. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

95043695294



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1994

**Bill Frist
3823 Central Avenue
Nashville, TN 37205**

RE: MUR 4122

Dear Mr. Frist:

On November 10, 1994, you were notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 23, 1994, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

Enclosure

95043695225



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1994

J. Barry Banker, Treasurer
Bill Frist for Senate
1922 West End Avenue
Nashville, TN 37203

RE: MUR 4122

Dear Mr. Banker:

On November 10, 1994, you were notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 23, 1994, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure

95043695296



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 9, 1994

**The Honorable James R. Sasser
4810 32nd Street N.W.
Washington, D.C. 20008**

RE: MUR 4122

Dear Senator Sasser:

On November 10, 1994, you were notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

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

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

Enclosure

95043695297



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 9, 1994

Michael A. Nemeroff, Treasurer
Friends of Jim Sasser
1722 Eye Street, N.W.
Washington, D.C. 20006

RE: MUR 4122

Dear Mr. Nemeroff:

On November 10, 1994, you were notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 23, 1994, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure

95043695298



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

December 9, 1994

**Kerry Brock, Director
First Amendment Center
1207 18th Avenue South
Nashville, TN 37212**

RE: MUR 4122

Dear Ms. Brock:

On November 10, 1994, you were notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 23, 1994, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

Enclosure

95043695299



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 9, 1994

**John Seigenthaler, Chairman
First Amendment Center
1207 18th Avenue South
Nashville, TN 37212**

RE: MUR 4122

Dear Mr. Seigenthaler:

On November 10, 1994, you were notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 23, 1994, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

Enclosure

95043695300



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

December 9, 1994

Jan Witold Baran
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

RE: MUR 4122
Channel Two (WKRN)

Dear Mr. Baran:

On November 10, 1994, your client was notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time WKRN was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 23, 1994, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure

95043695301



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1994

**Edward R. Parker, Registered Agent
Gannett Corporation
5511 Stables Mill Road
Richmond, VA 23228**

RE: MUR 4122

Dear Mr. Parker:

On November 10, 1994, you were notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 23, 1994, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

Enclosure

95043695302



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 9, 1994

**Frank Sutherland, Editor
The Tennessean
1100 Broadway
Nashville, TN 37203**

RE: MUR 4122

Dear Mr. Sutherland:

On November 10, 1994, you were notified that the Federal Election Commission received a complaint from John Jay Hooker alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 23, 1994, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

Enclosure

95043695303

WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D. C. 20006
(202) 429-7000

JAN WITOLD BARAN
(202) 429-7330

December 20, 1994

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

Mary L. Taksar, Esq.
Central Enforcement Docket
Federal Election Commission
Washington, D.C. 20463

Via Hand-Delivery

Re: MUR 4122 Channel 2 (WKRN)

Dear Ms. Taksar:

Your notification of December 9, 1994, received December 13, states that the Commission has received "additional information," i.e., Amended Complaint, from the complainant in the above captioned matter. Please be advised that Channel 2 (WKRN) will take fifteen (15) days to respond, as provided by 2 U.S.C. § 437g(a)(1). Our response, therefore, will be filed on or before December 28.

Sincerely yours,


Jan Witold Baran

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COMMISSION
OFFICE OF GENERAL
COUNSEL

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DEC 21 12 14 PM '94

Alva E. Smith
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 4122 Bill Frist for Senate Committee and Barry J. Banker, Treasurer

Dear Ms. Smith:

This letter responds to the complaint sent by your office to the above named individuals in this Federal Election Commission matter. This committee is the principle campaign committee of Dr. William Frist, the Republican nominee for the United States Senate from Tennessee in the 1994 general election, who did participate in the debate cited in the complaint. Based on the FEC's Regulations, it does not appear that Dr. Frist's participation in this debate constituted a violation of any law or regulation.

Based on 11 C.F.R. Section 110.13(a)(2) and (b), no action should be taken against this committee. Those regulations state:

(2) Broadcasters, bona fide newspapers, magazines and other periodical publications may stage nonpartisan candidate debates in accordance with [citations omitted].

(b) *Debate structure.* The structure of debates staged in accordance with [citations omitted] is left to the discretion of the staging organization provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another.

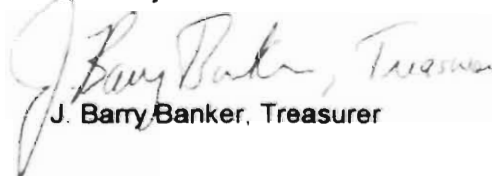
In addition, 11 C.F.R. Section 114.4(e) states that:

Nonpartisan candidate debates. (1) A nonprofit organization ... may use its own funds and may accept funds donated by corporations or labor organizations ... to defray costs incurred in staging nonpartisan debates held in accordance with 11 C.F.R. Section 110.13.

(2) A bona fide broadcaster, newspaper, magazine and other periodical publication may use its own funds to defray costs incurred in staging nonpartisan public candidate debates held in accordance with 11 C.F.R. 110.13.

We believe the debate cited in the complaint meets these criteria. Therefore, this complaint is without merit and we respectfully request that the Commission take no action and dismiss this complaint.

Sincerely,


J. Barry Banker, Treasurer

95043695305

Alva E. Smith
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 4122

Dear Ms. Smith:

This letter responds to the complaint sent to me by your office in this Federal Election Commission matter. As the Republican nominee for the United States Senate from Tennessee in the 1994 general election, I did participate in the debate cited in the complaint. However, I do not believe my participation in this debate constitutes a violation of any law or regulation.

I believe that any question concerning the propriety of this debate and the funds used to stage it are answered in 11 C.F.R. Section 110.13(a)(2) and (b), which state:

(2) Broadcasters, bona fide newspapers, magazines and other periodical publications may stage nonpartisan candidate debates in accordance with [citations omitted].

(b) *Debate structure.* The structure of debates staged in accordance with [citations omitted] is left to the discretion of the staging organization provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another.

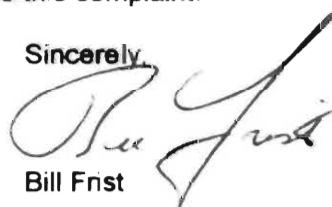
In addition, 11 C.F.R. Section 114.4(e) states that:

Nonpartisan candidate debates. (1) A nonprofit organization ... may use its own funds and may accept funds donated by corporations or labor organizations ... to defray costs incurred in staging nonpartisan debates held in accordance with 11 C.F.R. Section 110.13.

(2) A bona fide broadcaster, newspaper, magazine and other periodical publications may use its own funds to defray costs incurred in staging nonpartisan public candidate debates held in accordance with 11 C.F.R. 110.13.

The debate complained of here meets these criteria set forth in the regulations. For these reasons I believe the complaint is without merit and I respectfully request that the Commission take no action against me and dismiss this complaint.

Sincerely,


Bill Frist

95043695306

WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D. C. 20006
(202) 429-7000

December 21, 1994

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

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

Attention: Mary L. Taksar, Esq.

Re: MUR 4122 (WKRN-TV)

Dear Mr. Noble:

This Response, including the attached affidavit, is submitted on behalf of television station WKRN, Nashville, Tennessee ("WKRN"), in reply to a complaint filed by John Jay Hooker and Philip L. Kienlen and designated Matter Under Review ("MUR") 4122. For the reasons set forth herein, the Commission should find no reason to believe that WKRN violated the Federal Election Campaign Act of 1971, as amended ("FECA").

FACTS

WKRN is a television station located in Nashville, Tennessee. It is licensed by the Federal Communications Commission to WKRN, L.P., a limited partnership owned and controlled by Young Broadcasting Inc., a group owner of television stations

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OFFICE OF GENERAL
COUNSEL

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headquartered in New York, New York. WKRN is affiliated with the American Broadcasting Companies, Inc. ("ABC"). Affidavit at ¶ 2. The station is not owned or controlled by any political party, committee, or candidate. Id. As part of its daily programming, WKRN regularly reports on political events on both state and local levels. Id. at ¶ 3.

On October 28, 1994, WKRN, the newspaper The Tennessean, and the Freedom Forum First Amendment Center, a 501(c)(3) organization, (the "staging organizations") staged "94 Vote Town Meeting: The Senate Debate" ("the Debates"), a ninety minute program televising two consecutive debates between the leading candidates in the two Tennessee campaigns for U.S. Senate. Affidavit at ¶¶'s 4-5. These candidates were Democrat Jim Sasser and Republican Candidate Bill Frist in one campaign, and Democrat Jim Cooper and Republican Fred Thompson in the other. Id. at 5. The Debates were each broadcast from WKRN's studio and were hosted by three Nashville journalists, WKRN's News Anchor John Seignthaler, The Tennessean's Editor Frank Sutherland, and the Freedom Forum First Amendment Center's Kerry Brock. Id. at ¶¶'s 5, 7. Each debate was broadcast by satellite to four other ABC affiliates in Tennessee. Id. at 4. See also WKRN 10/25/94 Press Release (Exhibit 1).

In order to have a debate between the significant contenders in the Senatorial campaigns, the staging organizations chose to limit participation to qualified federal candidates with at least 15% support from Tennessee voters, as determined by a poll

conducted by The Tennessean. Affidavit at ¶ 6.¹ Only the four candidates listed above met the requirement. Id.

DISCUSSION

I. The Debates Were Conducted Pursuant to Commission Regulations

Commission regulations specifically authorize candidate debates, and WKRN, The Tennessean, and the Freedom Forum complied with those regulations which provide:

Broadcasters, bona fide newspapers, magazines and other periodical publications may stage nonpartisan candidate debates in accordance with 11 CFR 110.13(b) and 114.4(e).

11 C.F.R. § 110.13(a)(2). As demonstrated above (at 2), WKRN is a broadcaster. Affidavit at ¶ 2. Despite the Complainants' allegations otherwise, the Debates were nonpartisan as well.

The complaint alleges that, because Mr. Hooker and Mr. Kienlen were excluded from the Debate between Senator Sasser and Dr. Frist, the Debate was partisan and thus the exemption contained in § 110.13(a)(2) does not apply. Amended Complaint at ¶ 4. This is untrue for two reasons. First, neither of the two complainants were "candidates" as defined by FECA. Second, the Debate was conducted in a fair and impartial manner.

¹ There were five names on the Tennessee ballot for then Senator Sasser's seat: Senator Sasser, Dr. Frist, John Jay Hooker, Philip L. Kienlen, and Charles F. Johnson. With respect to the other seat, Senator Cooper, Mr. Thompson, and seven independent candidates competed against one another.

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Neither Mr. Hooker nor Mr. Kienlen was a "candidate" as defined by FECA. Under 2 U.S.C. § 431(2), the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over \$5,000. Once candidate status is achieved, an individual has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All such committees must then register and report under the Act. 2 U.S.C. §§ 433, 434.

Commission records show that neither complainant ever filed a statement of candidacy or designated a principal campaign committee. Presumably, neither was able to muster even the minimal level of support needed to qualify as a candidate under FECA. Therefore, the staging organizations did not fail to invite any qualified federal candidate to the debate. See MURs 1617 and 1629 (determining that debates were not rendered partisan by the exclusion of individuals who had not achieved candidate status under the Act).²

With respect to the nonpartisan nature of the Debates, the Commission has indicated that "the primary question in determining

² Even if the complainants were qualified candidates, there is no requirement in FECA or the Commission's regulations that all candidates be permitted to participate in a nonpartisan debate. See MUR 2516, General Counsel's Report, p. 3; MUR 2567, First General Counsel's Report, p. 7 ("The Commission has not taken the position that all individuals running in an election who are qualified as candidates under the Act must be invited to a debate among the candidates." (Citing MURs 1659 and 2516)).

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nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979). Where fair and impartial criteria are adopted in order to select those individuals with significant candidacies, then the debate is nonpartisan. MUR 1617, General Counsel's Report at 7; MUR 1629 First General Counsel's Report at 6; MUR 2567, First General Counsel's Report at 6-7. Here, the staging organizations adopted an objective test requiring a 15% showing of voter support to determine which candidates would participate in the Debates. All four qualified federal candidates who received such support were invited. Thus, the staging organizations were able to provide viewers with Debates featuring the significant contenders in the Senate races impartially selected.³

The Debates were also conducted in accordance with all other pertinent Commission regulations. Section 110.13(b) states:

Debate Structure. The structure of debates staged in accordance with 11 CFR 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another.

(emphasis added). As discussed above, at least two Senatorial candidates in each race participated in the Debates, and the Debates did not promote or advance any candidate's view over another's. Affidavit at ¶ 7.

³ None of the four candidates who participated in the debate complained about the format of the debate. Affidavit at ¶ 7.

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The Amended Complaint argues (at ¶ 10) that the "town hall" format selected by the staging organizations caused the Debates not to qualify for the debate exemption in § 110.13(a)(2). However, a failure to adhere to a classical debate format does not render the debate exemption inapplicable. The staging organizations chose the town meeting format in order to have meaningful voter participation. Affidavit at ¶ 8. As the Commission's Explanation and Justification for the debate regulations confirm, "the precise structure of candidate debates is left to the discretion of the staging organization." 44 Fed. Reg. 76,735. Thus, the staging organizations were merely exercising their discretion in choosing a format designed to benefit Tennessee voters, as provided for in 11 C.F.R. 110.13(b). Moreover, the format provided opportunities for lively exchanges between the candidates which any reasonable person would deem a "debate." For the Commission's viewing, a videotape copy of the Debates has been submitted. (Exhibit 2).

The Debates' format also follows that required by 11 C.F.R. 114.4(e), which provides:

A bona fide broadcaster, newspaper, magazine or other periodical publication may use its own funds to defray costs incurred in staging non-partisan public debates held in accordance with 11 CFR 110.13.

As a bona fide broadcaster, WKRN was free to use its own funds or resources to defray the costs associated with the Debates.⁴ All

⁴ The only funds or resources used to stage the debate were provided by WKRN, The Tennessean, or the Freedom Forum First Amendment Center. Any funds from The Tennessean would be

(continued...)

applicable Commission regulations were thus satisfied in connection with the Debates, and no violation of FECA was committed.

II. WKRN's Activities Are Protected By FECA's Press Exemption

Even if the Debates had not complied with Commission regulations, WKRN's activities would still not constitute a violation of FECA. As a media entity, WKRN is exempted from FECA for the purposes of any expenditures associated with staging the Debates. Section 431(9)(B)(i) of FECA exempts certain expenditures by press entities from the Commission's jurisdiction. That section provides:

any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate.

§ 431(9)(B)(i). The legislative history of FECA underscores the broad nature of this media exemption:

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

⁴(...continued)

permissible under 11 C.F.R. 114(e)(2) because it is a bona fide newspaper. Freedom Forum funds would be permissible under 11 C.F.R. 114(e)(1), as it is a non-profit organization exempt from federal taxation under 26 U.S.C. 501(c)(3). Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986, Internal Revenue Service (1994).

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H. Rep. No. 943, 93d Cong., 2d. Sess. at 4 (1974) (emphasis added).

Furthermore, the courts that have construed this media exemption have indicated that it must be read broadly in order to ensure a free press. See FEC v. Phillips Publishing, Inc., 517 F. Supp. 1308, 1312 (D.D.C. 1981) (legislative history of exemption indicates Congressional intent that it be applied broadly); Reader's Digest Ass'n. Inc. v. FEC, 509 F. Supp. 1210, 1214 (S.D.N.Y. 1981) (" . . . the statute, in creating an exemption for the press in its news and opinion dissemination function, commands the [Commission] not even to investigate such circumstances. . . .").

WKRN is not owned or controlled by any political party, political committee, or candidate. Affidavit at ¶ 2. The Debates were broadcast through its facilities, specifically its Nashville studio. Id. at ¶ 4. Moreover, such debates are news stories worthy of press coverage. See MUR 2567, First General Counsel's Report, p. 8 (determining that a presidential debate was a "news event" as required by the press exemption); See also Chisholm v. FCC, 538 F.2d 349, 358 n. 20 (D.C. Cir. 1976), cert. denied, 429 U.S. 890 (1976) (discussing how debates between major candidates are bona fide news stories). Indeed, the importance of the Debates as news events is underscored by the fact that they were between the major candidates in the campaigns, and thus provided an opportunity to compare the candidates in a "head to head" manner.

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Thus, WKRN's activities fall under the broad scope of FECA's press exemption. Therefore, any expenses incurred by WKRN in connection with the Debates were not prohibited corporate contributions or expenditures and the statute mandates that this matter be dismissed.

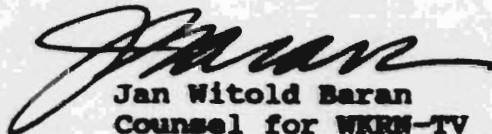
This result is consistent with prior treatment of candidate debates by the Commission. In MUR 2567, the Commission considered a similar complaint regarding a presidential debate. The complainant alleged illegal contributions by a broadcast network in staging the debate and alleged that the debate was partisan because all individuals running for the Presidency were not invited.

The Commission found no reason to believe that a violation had been committed by the broadcaster for two reasons. First, it found that the network satisfied the press exemption of § 431(9)(B)(i). MUR 2567, First General Counsel's Report at 8. Second, it recognized that the debate had complied with the pertinent regulations, specifically noting that excluding some candidates through objective criteria did not violate FECA. *Id.* at 6-7. Furthermore, the Commission indicated that requiring participation by all candidates "would seem inconsistent with the Commission's earlier statement on the need to provide a forum for significant candidates," as stated in the Commission's debate regulations. *Id.* (emphasis in the original). See 44 Fed. Reg. 76,734 (1979) (Explanation and Justification of debate regulations).

CONCLUSION

The Commission's regulations and its past rulings confirm that the Debates were in compliance with existing law. Moreover, WKRN is a media entity entitled to the press exemption provided by § 431(9)(B)(i) of FECA. Accordingly, the Commission should find no reason to believe that any provisions of FECA have been violated.

Sincerely yours,


Jan Witold Baran
Counsel for WKRN-TV

95043695316

BEFORE THE FEDERAL ELECTION COMMISSION

State of Tennessee)
Davidson County)

MUR 4122

AFFIDAVIT OF DEBORAH A. McDERMOTT

Deborah A. McDermott, first being duly sworn, deposes and says:

1. I am the General Manager of Television Station WKRN, Nashville, Tennessee. I have served in this position since 1990.

2. WKRN is licensed by the Federal Communications Commission to WKRN, L.P., a limited partnership owned and controlled by Young Broadcasting Inc., a group owner of television stations headquartered in New York, New York. WKRN is affiliated with the American Broadcasting Companies, Inc. ("ABC") and is not owned or controlled by any political party, committee, or candidate.

3. WKRN's programming includes detailed coverage of news events on both the national and local levels. As part of its news coverage, WKRN regularly reports on political campaigns, office-holders, and candidates.

4. On October 28, 1994, WKRN, along with the newspaper The Tennessean and the Freedom Forum First Amendment Center (the "staging organizations"), staged '94

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- 2 -

Vote Town Meeting: the Senate Debate." This ninety minute program was broadcast from WKRN's studio to WKRN's normal viewing audience and was also broadcast by satellite to four other ABC affiliates in Tennessee.

5. Four candidates for the U.S. Senate participated in "94 Vote Town Meeting: the Senate Debate." They were Democrat Jim Sasser and Republican Candidate Bill Frist, running against each other for one Senate seat and participating in one debate, and Democrat Jim Cooper and Republican Candidate Fred Thompson, opposing one another for the other Tennessee seat and participating in a second debate. These four candidates were the only candidates invited to participate in the program.

6. The staging organizations intended to provide Tennessee viewers with a chance to compare the significant contenders in the Senate races. Accordingly, the staging organizations only invited qualified federal candidates with at least 15% of potential voter support, as determined by a poll conducted by The Tennessean in October, 1994. Of the qualified federal candidates, only Senator Sasser, Dr. Frist, Senator Cooper, and Mr. Thompson received the requisite amount of voter support.

7. "94 Vote Town Meeting: the Senate Debate" was conducted in a nonpartisan manner. It was hosted by three Nashville journalists, WKRN's News Anchor John Seignthaler,

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- 3 -

The Tennessean's Editor Frank Sutherland, and the First Amendment Center's Kerry Brock, who moderated audience questions on a variety of public issues. No candidate was endorsed in connection with the program and the program did not advocate any particular candidate's views. All four of the participants agreed to the format prior to the broadcast, and none complained that they were treated unfairly during the broadcast.

8. The staging organizations agreed upon an open-discussion "town meeting" so that the participants could debate issues connected to the Senate races and voters could observe their responses. A formal debate structure was not adopted because the staging organizations wanted to allow voter participation and interaction with the candidates.

The above is and correct to the best of my knowledge.


Deborah A. McDermott

Signed and sworn to before me
this 20th day of December 1994


Notary Public

My Commission Expires: My Commission Expires JAN. 24, 1998

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FOR IMMEDIATE RELEASE

**WKRN-TV TEAMS UP WITH THE TENNESSEAN AND
THE FREEDOM FORUM FIRST AMENDMENT CENTER
FOR THE "94 VOTE TOWN MEETING"**

October 25, 1994, Nashville, TN -- Friday, October 28th, WKRN-TV will join forces with the THE TENNESSEAN and the Freedom Forum First Amendment Center to bring the state's senate candidates together for a live town meeting debate.

The "94 Vote Town Meeting: The Senate Debate" is a 90 minute forum, beginning at 7:30PM, and is designed to give voters another look at Democratic candidate Jim Sasser, Republican candidate Bill Frist, Democratic candidate Jim Cooper and Republican candidate Fred Thompson.

The program will originate from the WKRN-TV Studios and will utilize an audience of approximately 50 Middle Tennesseans. The audience will be pre-selected from a "pool of people" who submitted questions for the town meeting and the candidates. Our studio audience will have a chance to ask questions about the candidates throughout the town meeting.

The "94 Vote Town Meetings" will be hosted by three Nashville journalists: WKRN-TV News Anchor John Seigenthaler, TENNESSEAN Editor Frank Sutherland, and The First Amendment Center's Kerry Brock.

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In addition, the "94 Vote Town Meetings" will also be satellite fed to four ABC affiliates from around-the-state. WKPT-TV in Kingsport, TN; WTVN-TV in Chattanooga, TN; WATE in Knoxville, TN; and WHBQ-TV in Memphis, TN will all telecast the debates.

-30-

FOR MORE INFORMATION CONTACT: Carmela Stinson
WKRN-TV Marketing Dept.
(615) 248-7311

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ADDENDUM

If you are a member of the press and would like to be present for the 94 Vote Town Meeting, please contact Scott Brady by 5PM Thursday, October 27th at (615) 248-7257.

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WILLIAM R. WILLIS, JR.
ALFRED H. KNIGHT
FRANK GRACE, JR.
MARIAH F. HARRISON
ALAN D. JOHNSON
A. RUSSELL WILLIS
JEFFREY S. RAPPUNN
GREGORY D. SMITH
W. REESE WILLIS, III

LAW OFFICES
WILLIS & KNIGHT
TWO FIFTEEN SECOND AVENUE, NORTH
NASHVILLE, TENNESSEE 37201

TELEPHONE
(615) 255-8800

TELECOPIER
(615) 255-3490

December 22, 1994

Mary L. Taksar, Esq.
Central Docket Enforcement
Federal Election Commission
Washington, D.C. 20463

Re: MUR 4122

Dear Ms. Taksar:

My client *The Tennessean* of Nashville is in receipt of complainant John Jay Hooker's Amended Complaint in this matter, which the FEC served on the newspaper's registered agent on December 19.

On November 30, 1994, this office submitted to the FEC a response to Mr. Hooker's original Complaint, on behalf of *The Tennessean* and the First Amendment Center. Please accept this letter as a supplement to that response. We ask that you consider the response and this letter as you review the Amended Complaint.

As we asserted in the response and as is reflected in the supporting affidavits, *The Tennessean* did not expend any sums in staging the televised October 28, 1994 event attended by the Democratic and Republican senatorial nominees. Since no sums were expended for staging that event, no violations of federal law occurred. Thus, no further investigation of this matter is warranted.

Additionally, as the response and affidavits reflect, the election of neither candidate over the other was expressly advocated at any time during that event. For this reason as well, no violation of 2 USC §441(b)(a) occurred. The U.S. Supreme Court specifically has held this statute only proscribes "express advocacy," which the Court defined as speech that "advocates the election or defeat of a clearly identified candidate." Buckley v. Valeo, 424 U.S. 1, 42-43, 46 L.Ed.2d 659 (1976). See also, Faucher v. Federal Election Commission, 928 F.2d 468 (1st Cir. 1991); Federal Election Commission v. Central Long Island Tax Reform Committee, 616 F.2d 45, 53 (2d Cir. 1980).

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COUNSEL
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Mary L. Taksar, Esq.
December 22, 1994
Page 2

Further, as is demonstrated in the response to the original Complaint and its attachments -- and as is further reflected in the October 17, 1994 letter *The Tennessean's* vice-president/news and editor Frank Sutherland sent Mr. Hooker, which Mr. Hooker attached to the Amended Complaint -- *The Tennessean* participated in the staging of the "town meeting" as a news event. As it was a news event, the newspaper's participation in the town meeting specifically is exempt from federal election law by virtue of the exclusion from the definition of "expenditure" contained in 2 USC §431(9)(B)(i), and also is fully protected under the First Amendment. See, Federal Election Commission v. Phillips Publishing, Inc., 517 F.Supp. 1308 (D.D.C. 1981); Johnson v. FCC, 829 F.2d 157, 163 (D.C. Cir. 1987); Maher v. Sun Publications, Inc., 459 F.Supp. 353 (D. Kan. 1978).

We respectfully request that no further investigations be conducted in this matter.

Very truly yours,

WILLIS S. KNIGHT

Alfred H. Knight

AHK:ng
cc: John Jay Hooker

95043695324

BEFORE THE FEDERAL ELECTION COMMISSION

Oct 2 10 52 AM '95

In the Matter of

)
) Enforcement Priority
)

GENERAL COUNSEL'S REPORT

SENSITIVE

I. INTRODUCTION

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

II. CASES RECOMMENDED FOR CLOSING

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

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

Having evaluated incoming matters, this Office has identified 34 cases which do not warrant further pursuit relative to the other pending cases.¹ A short description of

1. These matters are: PM 309 (Attachment 1); RAD 95L-12 (Attachment 2); MUR 4118 (Attachment 3); MUR 4119 (Attachment 4); MUR 4120 (Attachment 5); MUR 4122 (Attachment 6); MUR 4123 (Attachment 7); MUR 4124 (Attachment 8); MUR 4125 (Attachment 9); MUR 4126 (Attachment 10); MUR 4130 (Attachment 11); MUR 4133 (Attachment 12); MUR 4134 (Attachment 13); MUR 4135 (Attachment 14); MUR 4136 (Attachment 15); MUR 4137

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each case and the factors leading to assignment of a relatively low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 1-34. As the Commission requested, this Office has attached the responses to the complaints for the externally-generated matters and the referral for the matter referred by the Reports Analysis Division because this information was not previously circulated to the Commission. See Attachments 1-34.

B. Stale Cases

Investigations are severely impeded and require relatively more resources when the activity and evidence are old. Consequently, the Office of General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 11 cases that

do not

(Footnote 1 continued from previous page)
(Attachment 16); MUR 4138 (Attachment 17); MUR 4140
(Attachment 18); MUR 4142 (Attachment 19); MUR 4143
(Attachment 20); MUR 4144 (Attachment 21); MUR 4145
(Attachment 22); MUR 4148 (Attachment 23); MUR 4149
(Attachment 24); MUR 4153 (Attachment 25); MUR 4155
(Attachment 26); MUR 4158 (Attachment 27); MUR 4163
(Attachment 28); MUR 4164 (Attachment 29); MUR 4169
(Attachment 30); MUR 4179 (Attachment 31); MUR 4195
(Attachment 32); MUR 4196 (Attachment 33); and MUR 4205
(Attachment 34).

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warrant further investment of significant Commission resources.² Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate narratives for these cases. As the Commission requested, in matters in which the Commission has made no findings, the responses to the complaints for the externally-generated matters and the referrals for the internally-generated matters are attached to the report because this information was not previously circulated to the Commission. See Attachments 35-45. For cases in which the Commission has already made findings and for which each Commissioner's office has an existing file, this Office has attached the most recent General Counsel's Report.

This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the cases listed below effective October 16, 1995. By closing the cases effective October 16, 1995, CED and the Legal Review Team will respectively have the additional time necessary for preparing the closing letters and the case files for the public record.

2. These matters are: PM 250 (Attachment 35); PM 272 (Attachment 36); MUR 3188 (Attachment 37); MUR 3554 (Attachment 38); MUR 3623 (Attachment 39); MUR 3988 (Attachment 40); MUR 3996 (Attachment 41); MUR 4001 (Attachment 42); MUR 4007 (Attachment 43); MUR 4007 (Attachment 43); MUR 4008 (Attachment 44); and MUR 4018 (Attachment 45).

III. RECOMMENDATIONS

A. Decline to open a MUR and close the file effective October 16, 1995 in the following matters:

- 1) PM 309
- 2) RAD 95L-12
- 3) PM 250
- 4) PM 272

B. Take no action, close the file effective October 16, 1995, and approve the appropriate letter in the following matters:

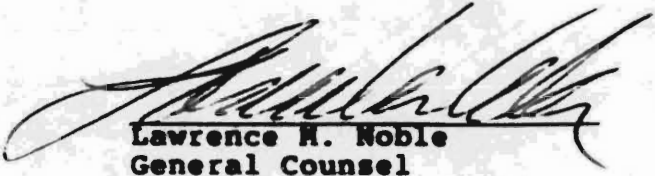
- 1) MUR 3554
- 2) MUR 3623
- 3) MUR 3988
- 4) MUR 3996
- 5) MUR 4001
- 6) MUR 4007
- 7) MUR 4008
- 8) MUR 4018
- 9) MUR 4118
- 10) MUR 4119
- 11) MUR 4120
- 12) MUR 4122
- 13) MUR 4123
- 14) MUR 4124
- 15) MUR 4125
- 16) MUR 4126
- 17) MUR 4130
- 18) MUR 4133
- 19) MUR 4134
- 20) MUR 4135
- 21) MUR 4136
- 22) MUR 4137
- 23) MUR 4138
- 24) MUR 4140
- 25) MUR 4142
- 26) MUR 4143
- 27) MUR 4144
- 28) MUR 4145
- 29) MUR 4148
- 30) MUR 4149

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- 31) MUR 4153
- 32) MUR 4155
- 33) MUR 4158
- 34) MUR 4163
- 35) MUR 4164
- 36) MUR 4169
- 37) MUR 4179
- 38) MUR 4195
- 39) MUR 4196
- 40) MUR 4205

C. Take no further action, close the file effective October 16, 1995 and approve the appropriate letter in MUR 3188.

9/29/95
Date


Lawrence M. Noble
General Counsel

950436953229

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) Agenda Document #X95-85
Enforcement Priority)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on
October 17, 1995, do hereby certify that the Commission
decided by votes of 5-0 to take the following actions:

- A. Decline to open a MUR and close the file
 effective October 17, 1995 in the following
 matters:
- 1) PM 309
 - 2) RAD 95L-12
 - 3) PM 250
 - 4) PM 272
- B. Take no action, close the file effective
 October 17, 1995, and approve the appropriate
 letter in the following matters:
- 1) MUR 3554
 - 2) MUR 3623
 - 3) MUR 3988
 - 4) MUR 3996
 - 5) MUR 4001
 - 6) MUR 4007
 - 7) MUR 4008
 - 8) MUR 4018
 - 9) MUR 4118

(continued)

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**Federal Election Commission
Certification: Enforcement Priority
October 17, 1995**

Page 2

9 5 0 4 3 6 9 5 3 3 1

- 10) MUR 4119
- 11) MUR 4120
- 12) MUR 4122
- 13) MUR 4123
- 14) MUR 4124
- 15) MUR 4125
- 16) MUR 4126
- 17) MUR 4130
- 18) MUR 4133
- 19) MUR 4134
- 20) MUR 4135
- 21) MUR 4136
- 22) MUR 4137
- 23) MUR 4138
- 24) MUR 4140
- 25) MUR 4142
- 26) MUR 4143
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- 29) MUR 4148
- 30) MUR 4149
- 31) MUR 4153
- 32) MUR 4155
- 33) MUR 4158
- 34) MUR 4163
- 35) MUR 4164
- 36) MUR 4169
- 37) MUR 4179
- 38) MUR 4195
- 39) MUR 4196
- 40) MUR 4205

C. Take no further action, close the file effective October 17, 1995 and approve the appropriate letter in MUR 3188.

(continued)

**Federal Election Commission
Certification: Enforcement Priority
October 17, 1995**

Page 3

Commissioners Aikens, Elliott, McDonald, McGarry, and
Thomas voted affirmatively for each of the decisions;
Commissioner Potter was not present.

Attest:

10-20-95
Date

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

95043695332



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

John Jay Hooker
900 Nineteenth Ave., South
Nashville, TN 37212

RE: MUR 4122

Dear Mr. Hooker:

On November 2, 1994, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

95043695333

9 5 0 4 3 6 9 5 3 3 4
MUR 4122
THE TENNESSEAN

John Jay Hooker and Philip Kienlen filed a complaint alleging that The Tennessean, a subsidiary corporation of the Gannett Corporation, WKRN (Channel Two), and the First Amendment Center used corporate funds to stage a state-wide town hall meeting/debate and did not permit the independent candidates to participate. Mr. Hooker filed an amended complaint reiterating the allegations made in the original complaint.

The Tennessean, Frank Sutherland, John Seigenthaler, and the First Amendment Center respond that the purpose of the televised town meeting was to conduct an audience participation discussion on issues involving those candidates who had a chance to be elected. According to the respondents, no candidate who had less than 15% voter support in a poll commissioned by The Tennessean was invited and Mr. Hooker and other independent candidates had six percent or less. Respondents state that neither Mr. Hooker nor any other candidate for office have a right of access to a privately sponsored event and that there was no express advocacy of candidates during the meeting/debate. Respondents indicate that The Tennessean is neither owned nor controlled by any political party, political committee or candidate and that they complied with Commission regulations regarding debates.

WKRN responds that Commission regulations specifically authorize candidate debates and that WKRN, The Tennessean, and the Freedom Forum complied with regulations regarding non-partisan debates. WKRN notes that neither of the two complainants meet the definition of candidate under FECA and states that the debate was conducted in a fair and impartial manner. According to WKRN, the staging organizations adopted an objective test requiring a 15% showing of voter support to determine which candidates would participate in the debates. WKRN states that it is not owned or controlled by any political party, political committee, or candidate and as a bona fide broadcaster, WKRN was free to use its own funds or resources to defray the cost associated with the debates.

The Bill Frist for Senate Committee responds that the debate complied with Commission regulations that allow broadcasters and bona fide newspapers to stage non-partisan candidate debates. The Friends of Jim Sasser Committee responds that the activities described in the complaint are exempted under 11 C.F.R. § 110.13 and nothing in that regulation requires the participation of minor candidates.

This matter is less significant relative to other matters pending before the Commission.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

Philip L. Klienlen
119 Westwood Lane
Oliver Springs, TN 37840

RE: MUR 4122

Dear Mr. Klienlen:

On November 2, 1994, the Federal Election Commission received your affidavit joining Mr. Hooker in his complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

Celebrating the Commission's 20th Anniversary

YESTERDAY TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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NUR 4122
THE TENNESSEAN

John Jay Hooker and Philip Kienlen filed a complaint alleging that The Tennessean, a subsidiary corporation of the Gannett Corporation, WKRN (Channel Two), and the First Amendment Center used corporate funds to stage a state-wide town hall meeting/debate and did not permit the independent candidates to participate. Mr. Hooker filed an amended complaint reiterating the allegations made in the original complaint.

The Tennessean, Frank Sutherland, John Seigenthaler, and the First Amendment Center respond that the purpose of the televised town meeting was to conduct an audience participation discussion on issues involving those candidates who had a chance to be elected. According to the respondents, no candidate who had less than 15% voter support in a poll commissioned by The Tennessean was invited and Mr. Hooker and other independent candidates had six percent or less. Respondents state that neither Mr. Hooker nor any other candidate for office have a right of access to a privately sponsored event and that there was no express advocacy of candidates during the meeting/debate. Respondents indicate that The Tennessean is neither owned nor controlled by any political party, political committee or candidate and that they complied with Commission regulations regarding debates.

WKRN responds that Commission regulations specifically authorize candidate debates and that WKRN, The Tennessean, and the Freedom Forum complied with regulations regarding non-partisan debates. WKRN notes that neither of the two complainants meet the definition of candidate under FECA and states that the debate was conducted in a fair and impartial manner. According to WKRN, the staging organizations adopted an objective test requiring a 15% showing of voter support to determine which candidates would participate in the debates. WKRN states that it is not owned or controlled by any political party, political committee, or candidate and as a bona fide broadcaster, WKRN was free to use its own funds or resources to defray the cost associated with the debates.

The Bill Frist for Senate Committee responds that the debate complied with Commission regulations that allow broadcasters and bona fide newspapers to stage non-partisan candidate debates. The Friends of Jim Sasser Committee responds that the activities described in the complaint are exempted under 11 C.F.R. § 110.13 and nothing in that regulation requires the participation of minor candidates.

This matter is less significant relative to other matters pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1995

Edward R. Parker, Registered Agent
Gannett Corporation
5511 Stables Mill Road
Richmond, VA 23228

RE: MUR 4122
The Tennessean

Dear Mr. Parker:

On November 10, 1994, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against The Tennessean. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

cc: Alan D. Johnson

95043695337

NUR 4122
THE TENNESSEAN

John Jay Hooker and Philip Kienlen filed a complaint alleging that The Tennessean, a subsidiary corporation of the Gannett Corporation, WKRN (Channel Two), and the First Amendment Center used corporate funds to stage a state-wide town hall meeting/debate and did not permit the independent candidates to participate. Mr. Hooker filed an amended complaint reiterating the allegations made in the original complaint.

The Tennessean, Frank Sutherland, John Seigenthaler, and the First Amendment Center respond that the purpose of the televised town meeting was to conduct an audience participation discussion on issues involving those candidates who had a chance to be elected. According to the respondents, no candidate who had less than 15% voter support in a poll commissioned by The Tennessean was invited and Mr. Hooker and other independent candidates had six percent or less. Respondents state that neither Mr. Hooker nor any other candidate for office have a right of access to a privately sponsored event and that there was no express advocacy of candidates during the meeting/debate. Respondents indicate that The Tennessean is neither owned nor controlled by any political party, political committee or candidate and that they complied with Commission regulations regarding debates.

WKRN responds that Commission regulations specifically authorize candidate debates and that WKRN, The Tennessean, and the Freedom Forum complied with regulations regarding non-partisan debates. WKRN notes that neither of the two complainants meet the definition of candidate under FECA and states that the debate was conducted in a fair and impartial manner. According to WKRN, the staging organizations adopted an objective test requiring a 15% showing of voter support to determine which candidates would participate in the debates. WKRN states that it is not owned or controlled by any political party, political committee, or candidate and as a bona fide broadcaster, WKRN was free to use its own funds or resources to defray the cost associated with the debates.

The Bill Frist for Senate Committee responds that the debate complied with Commission regulations that allow broadcasters and bona fide newspapers to stage non-partisan candidate debates. The Friends of Jim Sasser Committee responds that the activities described in the complaint are exempted under 11 C.F.R. § 110.13 and nothing in that regulation requires the participation of minor candidates.

This matter is less significant relative to other matters pending before the Commission.

95043895338



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 23, 1995

John Seigenthaler, Chairman
First Amendment Center
1207 18th Avenue South
Nashville, TN 37212

RE: MUR 4122

Dear Mr. Seigenthaler:

On November 10, 1994, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the First Amendment Center and you. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

cc: Alan D. Johnson

95043895339

NUR 4122
THE TENNESSEAN

John Jay Hooker and Philip Kienlen filed a complaint alleging that The Tennessean, a subsidiary corporation of the Gannett Corporation, WKRN (Channel Two), and the First Amendment Center used corporate funds to stage a state-wide town hall meeting/debate and did not permit the independent candidates to participate. Mr. Hooker filed an amended complaint reiterating the allegations made in the original complaint.

The Tennessean, Frank Sutherland, John Seigenthaler, and the First Amendment Center respond that the purpose of the televised town meeting was to conduct an audience participation discussion on issues involving those candidates who had a chance to be elected. According to the respondents, no candidate who had less than 15% voter support in a poll commissioned by The Tennessean was invited and Mr. Hooker and other independent candidates had six percent or less. Respondents state that neither Mr. Hooker nor any other candidate for office have a right of access to a privately sponsored event and that there was no express advocacy of candidates during the meeting/debate. Respondents indicate that The Tennessean is neither owned nor controlled by any political party, political committee or candidate and that they complied with Commission regulations regarding debates.

WKRN responds that Commission regulations specifically authorize candidate debates and that WKRN, The Tennessean, and the Freedom Forum complied with regulations regarding non-partisan debates. WKRN notes that neither of the two complainants meet the definition of candidate under FECA and states that the debate was conducted in a fair and impartial manner. According to WKRN, the staging organizations adopted an objective test requiring a 15% showing of voter support to determine which candidates would participate in the debates. WKRN states that it is not owned or controlled by any political party, political committee, or candidate and as a bona fide broadcaster, WKRN was free to use its own funds or resources to defray the cost associated with the debates.

The Bill Frist for Senate Committee responds that the debate complied with Commission regulations that allow broadcasters and bona fide newspapers to stage non-partisan candidate debates. The Friends of Jim Sasser Committee responds that the activities described in the complaint are exempted under 11 C.F.R. § 110.13 and nothing in that regulation requires the participation of minor candidates.

This matter is less significant relative to other matters pending before the Commission.

95043895340



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

Frank Sutherland, Editor
The Tennessean
1100 Broadway
Nashville, TN 37203

RE: MUR 4122

Dear Mr. Sutherland:

On November 10, 1994, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

cc: Alan D. Johnson
Willis & Knight

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

95043695341

NUR 4122
THE TENNESSEAN

John Jay Hooker and Philip Kienlen filed a complaint alleging that The Tennessean, a subsidiary corporation of the Gannett Corporation, WKRN (Channel Two), and the First Amendment Center used corporate funds to stage a state-wide town hall meeting/debate and did not permit the independent candidates to participate. Mr. Hooker filed an amended complaint reiterating the allegations made in the original complaint.

The Tennessean, Frank Sutherland, John Seigenthaler, and the First Amendment Center respond that the purpose of the televised town meeting was to conduct an audience participation discussion on issues involving those candidates who had a chance to be elected. According to the respondents, no candidate who had less than 15% voter support in a poll commissioned by The Tennessean was invited and Mr. Hooker and other independent candidates had six percent or less. Respondents state that neither Mr. Hooker nor any other candidate for office have a right of access to a privately sponsored event and that there was no express advocacy of candidates during the meeting/debate. Respondents indicate that The Tennessean is neither owned nor controlled by any political party, political committee or candidate and that they complied with Commission regulations regarding debates.

WKRN responds that Commission regulations specifically authorize candidate debates and that WKRN, The Tennessean, and the Freedom Forum complied with regulations regarding non-partisan debates. WKRN notes that neither of the two complainants meet the definition of candidate under FECA and states that the debate was conducted in a fair and impartial manner. According to WKRN, the staging organizations adopted an objective test requiring a 15% showing of voter support to determine which candidates would participate in the debates. WKRN states that it is not owned or controlled by any political party, political committee, or candidate and as a bona fide broadcaster, WKRN was free to use its own funds or resources to defray the cost associated with the debates.

The Bill Frist for Senate Committee responds that the debate complied with Commission regulations that allow broadcasters and bona fide newspapers to stage non-partisan candidate debates. The Friends of Jim Sasser Committee responds that the activities described in the complaint are exempted under 11 C.F.R. § 110.13 and nothing in that regulation requires the participation of minor candidates.

This matter is less significant relative to other matters pending before the Commission.

95043695342



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

Kerry Brock, Director
First Amendment Center
1207 18th Avenue South
Nashville, TN 37212

RE: MUR 4122

Dear Mr. Sutherland:

On November 10, 1994, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

95043695343

MUR 4122
THE TENNESSEAN

John Jay Hooker and Philip Kienlen filed a complaint alleging that The Tennessean, a subsidiary corporation of the Gannett Corporation, WKRN (Channel Two), and the First Amendment Center used corporate funds to stage a state-wide town hall meeting/debate and did not permit the independent candidates to participate. Mr. Hooker filed an amended complaint reiterating the allegations made in the original complaint.

The Tennessean, Frank Sutherland, John Seigenthaler, and the First Amendment Center respond that the purpose of the televised town meeting was to conduct an audience participation discussion on issues involving those candidates who had a chance to be elected. According to the respondents, no candidate who had less than 15% voter support in a poll commissioned by The Tennessean was invited and Mr. Hooker and other independent candidates had six percent or less. Respondents state that neither Mr. Hooker nor any other candidate for office have a right of access to a privately sponsored event and that there was no express advocacy of candidates during the meeting/debate. Respondents indicate that The Tennessean is neither owned nor controlled by any political party, political committee or candidate and that they complied with Commission regulations regarding debates.

WKRN responds that Commission regulations specifically authorize candidate debates and that WKRN, The Tennessean, and the Freedom Forum complied with regulations regarding non-partisan debates. WKRN notes that neither of the two complainants meet the definition of candidate under FECA and states that the debate was conducted in a fair and impartial manner. According to WKRN, the staging organizations adopted an objective test requiring a 15% showing of voter support to determine which candidates would participate in the debates. WKRN states that it is not owned or controlled by any political party, political committee, or candidate and as a bona fide broadcaster, WKRN was free to use its own funds or resources to defray the cost associated with the debates.

The Bill Frist for Senate Committee responds that the debate complied with Commission regulations that allow broadcasters and bona fide newspapers to stage non-partisan candidate debates. The Friends of Jim Sasser Committee responds that the activities described in the complaint are exempted under 11 C.F.R. § 110.13 and nothing in that regulation requires the participation of minor candidates.

This matter is less significant relative to other matters pending before the Commission.

95043695344



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

The Honorable James R. Sasser
4810 32nd Street, N.W.
Washington, D.C. 20008

RE: MUR 4122

Dear Mr. Sasser:

On November 10, 1994, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

95043695345

NUR 4122

THE TENNESSEAN

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The Tennessean, Frank Sutherland, John Seigenthaler, and the First Amendment Center respond that the purpose of the televised town meeting was to conduct an audience participation discussion on issues involving those candidates who had a chance to be elected. According to the respondents, no candidate who had less than 15% voter support in a poll commissioned by The Tennessean was invited and Mr. Hooker and other independent candidates had six percent or less. Respondents state that neither Mr. Hooker nor any other candidate for office have a right of access to a privately sponsored event and that there was no express advocacy of candidates during the meeting/debate. Respondents indicate that The Tennessean is neither owned nor controlled by any political party, political committee or candidate and that they complied with Commission regulations regarding debates.

WKRN responds that Commission regulations specifically authorize candidate debates and that WKRN, The Tennessean, and the Freedom Forum complied with regulations regarding non-partisan debates. WKRN notes that neither of the two complainants meet the definition of candidate under FECA and states that the debate was conducted in a fair and impartial manner. According to WKRN, the staging organizations adopted an objective test requiring a 15% showing of voter support to determine which candidates would participate in the debates. WKRN states that it is not owned or controlled by any political party, political committee, or candidate and as a bona fide broadcaster, WKRN was free to use its own funds or resources to defray the cost associated with the debates.

The Bill Frist for Senate Committee responds that the debate complied with Commission regulations that allow broadcasters and bona fide newspapers to stage non-partisan candidate debates. The Friends of Jim Sasser Committee responds that the activities described in the complaint are exempted under 11 C.F.R. § 110.13 and nothing in that regulation requires the participation of minor candidates.

This matter is less significant relative to other matters pending before the Commission.

95043695346



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

The Honorable Bill Frist
United States Senate
825 Hart Building
Washington, D.C. 20510

RE: MUR 4122

Dear Senator Frist:

On November 10, 1994, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

95043695347

MUR 4122
THE TENNESSEAN

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95043895348



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

J. Barry Banker, Treasurer
Bill Frist for Senate
1922 West End Avenue
Nashville, TN 37203

RE: MUR 4122

Dear Mr. Banker:

On November 10, 1994, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Bill Frist for Senate and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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

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Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

95043695349

MUR 4122
THE TENNESSEAN

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This matter is less significant relative to other matters pending before the Commission.

95043895350



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

Jan Witold Baran, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

RE: MUR 4122
Channel Two (WKRN)

Dear Mr. Baran:

On November 10, 1994, the Federal Election Commission notified your client, Channel Two (WKRN), of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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

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Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

95043695351

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NUR 4122
THE TENNESSEAN

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1995

Michael A. Nemeroff, Treasurer
Friends of Jim Sasser
1722 Eye Street, NW
Washington, D.C. 20006

RE: MUR 4122

Dear Mr. Nemeroff:

On November 10, 1994 the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Friends of Jim Sasser, and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on October 17, 1995.

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Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

Attachment
Narrative

9504389533

NOR 4122
THE TENNESSEAN

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4122

DATE FILMED 11-24-95 CAMERA NO. 2

CAMERAMAN S.E.G.

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