



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4563

DATE FILMED 1/16/98 CAMERA NO. 2

CAMERAMAN SES

930438551/9

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
TOUNCEL

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

FEDERAL ELECTION COMMISSION

Nov 4 10 20 AM '96

Nov 4 9 21 AM '96

-----X

In the Matter of a Complaint against

ALPHONSE M. D'AMATO,
RENEW NEW YORK COMMITTEE,
and RENEW NEW YORK
ENVIRONMENTAL BOND ACT
COMMITTEE

Verified Complaint of Judith Hope

MUR 4563

-----X

STATE OF NEW YORK)

.SS

COUNTY OF New York)

Judith Hope, being sworn, says:

1. I am the chair of the New York State Democratic Committee and a registered voter in the State of New York. I make this complaint against U.S. Senator Alfonse M. D'Amato for violating federal limits on campaign contributions. The statements set forth below are based on personal knowledge or on information that I believe to be accurate.

2. Senator D'Amato is currently orchestrating a television advertising campaign the only plausible explanation of which is to promote Senator D'Amato's re-election to the U.S. Senate in 1998. Although the pretense of the advertising is support for a referendum on issuing State-backed bonds, the advertising primarily concerns, and its only genuine purpose is to advance, Senator D'Amato's

3. Even more alarming -- and clear evidence of the improper purpose behind the advertising -- are certain of the contributors to Renew New York, principal among them a foreign national, Hushang Ansary, former Iranian Minister of Economy and Finance and onetime chairman of the National Iranian Oil Company. Mr. Ansary, who is listed as having contributed \$25,000 to Renew New York, has no apparent connection to New York or to the bond referendum. He does, however, have any obvious and direct interest in federal legislative matters that come before Senator D'Amato as chairman of the U.S. Senate Banking Committee.

4. Specifically, Mr. Ansary is a well-known advocate of normalized relations between the United States and Iran. To this end, Mr. Ansary has proposed the so-called "Ansary Plan," the object of which would be to relax or suspend existing U.S. sanctions against Iran, including the release of frozen assets for the benefit of Mr. Ansary and others. The U.S. Senate Banking Committee in general, and Senator D'Amato in particular, have been directly involved in the issue of Iranian sanctions. The inference is inescapable that Mr. Ansary's sudden and inexplicable interest in New York's bond referendum is in fact an impermissible contribution to Senator D'Amato's re-election effort.


5. A copy of the text of one of the two television ads in question is attached as Exhibit A. Attached as Exhibit B is an excerpt from Renew New York's disclosure statement on file with the New York State Board of Elections showing Mr. Ansary's \$25,000 contribution. Attached as Exhibit C is a story in *The New York Times* of October 22, 1996, in which the ad is described "as a clear effort to bolster [Senator D'Amato]." Attached as Exhibit D is a copy of a *Newsday* editorial page story noting that the "commercial is really telling voters to love Al D'Amato."

6. Common sense attests that promotion of Senator D'Amato's re-election campaign is the sole object of the ads. No person genuinely interested in promoting the bond referendum would make a rational decision to feature Senator D'Amato in advertising for the referendum. To begin with, Senator D'Amato's National Environmental Scorecard from the League of Conservation Voters shows that his recent ratings have been 0% in 1994, 7% in 1995, and 0% in 1996. Equally odd, Senator D'Amato is currently experiencing the lowest poll ratings of his career, and, according to the Mason-Dixon Political/Media Research Tracking Poll, now has the lowest ratings of any U.S. Senator among his or her own constituents. Hence, the association of Senator D'Amato with the bond referendum can only injure its prospects with the voters of this State. In these circumstances, no one could plausibly suggest that the purpose of the ad is to promote the bond referendum rather than Senator D'Amato's campaign for re-election.

7. That most of the ad is devoted to a (misleading) discussion of Senator D'Amato's (non-existent) environmental record, rather than any issues bearing

on the bond referendum, only confirms as much. The bond referendum is only incidentally mentioned in the ads and then only at the end, after Senator D'Amato or members of his family make claims about Senator D'Amato's ostensible support of and as a "fighter" for federal legislation relating to environmental issues.

8. Accordingly, I respectfully request that the Commission investigate this matter and enter appropriate sanctions against Senator D'Amato and Renew New York for promoting Senator D'Amato's re-election using funds not permitted by federal law for such purposes.


Judith Hope

Signed and sworn before me
this 31 day of October 1996

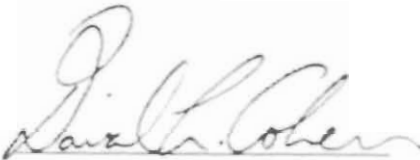

Notary Public
DAVID L. COHEN
Notary Public, State of New York
No. 6007588
Qualified in Nassau County
Commission Expires February 1, 1997

Exhibit A

AL D'AMATO "BOND ACT" ISSUE AD

Voice Over by Lorraine D'Amato (D'Amato's Daughter):

(Scene: Lorraine standing in front of a house.)

Good neighbors always help each other. My Dad taught me that, Al D'Amato.

(Scene: D'Amato on a Boardwalk surrounded by children,
then close-ups with children.)

That's why he's done so much for so many. And why he's fighting now to shut down that incinerator plant in Long Beach -- the one throwing poisonous toxins into our air and water. That plant may be partially responsible for the high rate of breast cancer here on Long Island.

It's also why Dad's fighting to pass the Environmental Bond Issue this November.

My Dad's a fighter. Join him. Vote like the health and safety of you and your neighbors depends on it.

Final panel: Head shot of Lorraine D'Amato, with Bold and Large "Vote Yes" and "Environmental Bond Act," as well as "Paid for by "Renew New York" -- a state (but not federal) registered PAC.

9304135134

STATE OF NEW YORK

BOARD OF ELECTIONS DISCLOSURE STATEMENT — COVER PAGE

Exhibit B

ELECTION YEAR 1996	FILE NO. A05911	STATEMENT NUMBER FROM BELOW 4	STATEMENT PERIOD DATES FROM 9, 17, 96 TO 9, 30, 96
-----------------------	--------------------	-------------------------------------	---

A05911

NT LEGIBLY IN BLACK OR BLUE INK

Renew New York/Bond Act
Committee

300 Garden City Plaza

Mailing Address of Treasurer — number and street

Garden City, NY 11530

City State Zip

JASPER, ARTHUR W.

Committee Treasurer Name (Last First)

IS THIS COMMITTEE AUTHORIZED BY THE CANDIDATE? ☐ YES ☒ NO
☐ CHECK BOX IF MAILING ADDRESS HAS CHANGED SINCE LAST REPORT

OFFICE/DISTRICT/CANDIDATE BEING SUPPORTED

TYPE OF REPORT

— STATEMENT IS BEING FILED BY:

- | | |
|--|---|
| <input type="checkbox"/> Party Committee | <input type="checkbox"/> Constituted Committee |
| <input type="checkbox"/> Candidate | <input checked="" type="checkbox"/> Political Committee |
| <input type="checkbox"/> Housekeeping Account Only | |

" CHECK ONE BOX AND INDICATE STATEMENT NUMBER ABOVE

- | | |
|--|--|
| 1 <input type="checkbox"/> 32 day Pre Primary | 7 <input type="checkbox"/> 32 day Pre Special |
| 2 <input type="checkbox"/> 11 day Pre Primary | 8 <input type="checkbox"/> 11 day Pre Special |
| 3 <input type="checkbox"/> 10 day Post Primary | 9 <input type="checkbox"/> 27 day Post Special |
| 4 <input type="checkbox"/> 30/32 day Pre General | 10 <input type="checkbox"/> Periodic Jan. 15, 19__ |
| 5 <input type="checkbox"/> 11 day Pre General | 11 <input type="checkbox"/> Periodic July 15, 19__ |
| 6 <input type="checkbox"/> 27 day Post General | 12 <input type="checkbox"/> 24 hour notice |

* Campaign material or a disclaimer must be submitted with Post-Election statements.

- ☐ Termination Report (you cannot terminate if any funds or debts remain)
- ☐ Amendment Report Date of original report _____
- ☐ Treasurer Resignation Report Copy of letter of resignation attached.

VERIFICATION

Must have original signature — sign in black or blue ink only

I state that the information contained in this statement is in all respects true and complete to the best of my knowledge, information and belief

ARTHUR W. JASPER

Name — Print or type

Treasurer

Title

Signature

10/3/96

(516) 746-8000

Date Signed

Phone Number

ANY FALSE INFORMATION IN THIS STATEMENT MAY BE A CLASS A MISDEMEANOR, PUNISHABLE BY A FINE AND/OR UP TO ONE YEAR IMPRISONMENT, PURSUANT TO SECTION 210.40 OF THE PENAL LAW. FOR FURTHER INFORMATION, CONTACT THE NEW YORK STATE BOARD OF ELECTIONS OR YOUR COUNTY BOARD OF ELECTIONS.

FOR INFORMATION ON COMPLETING THIS FORM CALL 1-800-458-3453

OFFICIAL USE

STATEMENT INVENTORY		NUMBER OF PAGES	SCHEDULE NUMBER
INDIVIDUAL/PARTNERSHIP CONTRIBUTIONS (SCH. A)		1	
CORPORATE CONTRIBUTIONS (SCH. B)		1	
ALL OTHER CONTRIBUTIONS (SCH. C)		1	
IN-KIND CONTRIBUTIONS/OTHER RECEIPTS (SCH. D/E)		0	
EXPENDITURE PAYMENTS (SCH. F)		0	
TRANSFERS IN/OUT (SCH. G/H)		0	
LOANS RECEIVED/PAID (SCH. I/J)		0	
BILLS/LOANS FORGIVEN (SCH. K)		0	
EXPENDITURE REFUNDS/CONTRIBUTIONS REFUNDED (SCH. L/M)		0	
OUTSTANDING LIABILITIES (SCH. N)		0	
PARTNERS/SUBCONTRACTS (SCH. O)		0	
HOUSEKEEPING RECEIPTS (SCH. P)		0	
HOUSEKEEPING EXPENSES (SCH. Q)		0	
SUMMARY/STATUS REPORT		1	

RECEIVED

OCT - 7 1996

IN-STATE OF STATEMENT

- ☐ I state that I am a candidate or a treasurer of an authorized committee which supports only one candidate, and neither the total of receipts nor the total of expenditures has exceeded or will exceed one thousand dollars in connection with this campaign.

Schedule A

ELIGIBLE YEAR	FILE #	RECEIVED PERIOD	DATE	FILE
1996	A05203	PERIOD	127, 96 to 9, 30, 96	1996
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/12/96	Hushang Ansary	1000 Louisiana Street	HOUSTON, TX	77002
CASE	END	AMOUNT	PERCENT	
		268	25,000	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/12/96	Edward W. Gibbons	1115 Fifth Avenue	NEW YORK, NY	10128
CASE	END	AMOUNT	PERCENT	
		3140	10,000	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/12/96	Kramer, Dillof, Tessel, Duffy & Moore	233 Broadway	NEW YORK, NY	10279
CASE	PART	AMOUNT	PERCENT	
		1759	10,000	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/13/96	George S. Kaufman	117 East 79th Street	NEW YORK, NY	10021
CASE	END	AMOUNT	PERCENT	
		3384	5,000	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/16/96	Linda J. Wachner	90 Park Avenue	NEW YORK, NY	10016
CASE	END	AMOUNT	PERCENT	
		1007	25,000	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/17/96	Westbury Property Investment Company	70 Charles Lindbergh Blvd.	UNIONDALE, NY	11553
CASE	PART	AMOUNT	PERCENT	
		703695	2,500	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/18/96	Leonard A. Lauder	767 Fifth Avenue	NEW YORK, NY	10153
CASE	END	AMOUNT	PERCENT	
		3403	25,000	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/18/96	Nancy Li	1335 Chicken Valley Road	UPPER BROOKVILLE, NY	11771
CASE	END	AMOUNT	PERCENT	
		1	50,000	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/19/96	Leon D. Black	1301 Avenue of the Americas	NEW YORK, NY	10019
CASE	END	AMOUNT	PERCENT	
		1595	25,000	
DATE RECEIVED	NAME	STREET	CITY - STATE	ZIP
9/23/96	Simon Pelman	140 St. Edwards St.	BROOKLYN, NY	11201
CASE	END	AMOUNT	PERCENT	
		157	490.00	
TOTAL THIS PAGE			177,990	

CODE:

- CAN • CANDIDATE/CANDIDATE SPOUSE
 IND • INDIVIDUAL
 FAM • FAMILY MEMBER SEE INSTRUCTIONS
 PART • PARTNERSHIP: Partnerships which contribute over \$2500.00 total must further define in Schedule G.

Complete this summary
 on your last page only!

①	TOTAL CONTRIBUTIONS	
②	TOTAL UNPAID CONTRIBUTIONS	
③	Schedule Total	

Democrat Attacks Ad for Bond Act as an Illegal Plug for D'Amato

By RAYMOND HERNANDEZ

ALBANY, Oct. 24 — The 30-second television spot shows Senator Alfonse M. D'Amato and his family strolling on a beach, running on the sand, sipping from a water fountain and hugging. His daughter, Lorraine, tells what her dad has taught her and describes him as a "fighter."

But it is not a campaign advertisement for the Senator. Instead, it is Mr. D'Amato's pitch to persuade New Yorkers to vote yes for a \$1.7 billion bond act to preserve open spaces, clean up waterways, close landfills, improve drinking water and pay for other environmental projects across the state.

Democrats also support the bond act. But not Mr. D'Amato's commercial. And today, the state Democratic Party chairwoman began attacking it as nothing more than a self-promotional tool to shore up the Senator's standing among voters.

She also charged that he had circumvented stringent Federal campaign finance laws

of the difference between the two laws by setting up Renew New York, a state political action committee that spent more than \$500,000 to produce the television commercials that tout the Senator's support for the bond proposition.

In August and September alone, the committee raised nearly \$700,000, including contributions of \$25,000 each from Ronald S. Lauder, Donald Trump and Peter S. Kalkow.

The contributions also came from out-of-state companies that do not necessarily have an interest in state issues like the bond act but could benefit from Mr. D'Amato's influence in Washington. Among the corporate contributors were the Travelers Group, of Hartford, which gave \$3,000; the Travelers Insurance Company, a division of the Travelers Group, \$1,000; the Commercial Credit Management Corporation of Baltimore, \$4,000, and Primerica Life Insurance

Continued on Page B1

Bond Act Ad Is Attacked As Illegal Plug for D'Amato

Continued From Page B1

Company of Duluth, Ga., \$4,000.

Ms. Hope said that the committee had essentially become a fund-raising vehicle to bolster the image of Mr. D'Amato, who had an approval rating of 30 percent in the most recent poll conducted by the Marist College Institute for Public Opinion.

She said that the state Democratic party planned to file a formal complaint with the Federal Election Commission next week. "Such contributions to a D'Amato campaign would be illegal under Federal election law," she said.

Mr. D'Amato dismissed the charges through a spokesman and said he was committed to environmental issues. "It's ridiculous," he said. "I've been involved in the issue for year and I'm proud of my record. I've always fought for clean drinking water and breast cancer research. This is about my children and grandchildren."

A spokesman for the Federal Election Commission, Ian Stirton, said that the commission did not comment on pending cases. But he added that Federal campaign donation limits often did not apply if money was being used to advocate a particular issue rather than a candidate. Generally, he said, ads that do not specifically ask the viewer to vote for a candidate or against his opponent have been judged to be separate from the candidate's re-election campaign.

The environmental bond act was proposed by Gov. George E. Pataki, a political protégé of Mr. D'Amato. It has gained support from a diverse coalition of groups, from environmentalists and labor leaders to business executives.

To that degree, it was a good issue for Mr. D'Amato, who like other New York Republicans has been seeking to soften his image and distance himself from the Republican agenda promoted by House Speaker Newt Gingrich.

But Mr. D'Amato's decision to

A Senator hugging at the beach? What's being sold here?

campaign on behalf of the measure has also raised concern among environmentalists, and even some Pataki aides, that his unpopularity among voters could end up hurting chances for the measure to be approved by voters in November.

"We're certainly concerned about that," said Jeff Jones, a spokesman for Environmental Advocates. "But we're asking people to remember that this bond act is about clean water and clean air, not Al D'Amato."

Even some government groups that have lobbied for changes in campaign finance reform acknowledged that the Senator was probably within the law. "As far as I can tell, the ads are clearly promoting Senator D'Amato and his family," said Blair Horner, the legislative director for the New York Public Interest Research Group. "But he's probably not violating any laws. He's found a clever way to get around them."

by paying for the ads with money from a state political action committee he established here about a year ago.

"These bond act promotions have become re-election campaign ads for Senator D'Amato," Judith Hope, the chairwoman of the New York State Democratic Party, said. "This is not about the environment. This is an attempt by Al D'Amato to clean up his image and set himself apart from the Republicans' sinking national campaign."

Federal campaign finance laws limit contributions from individuals to senators to no more than \$1,000 for each election. The law also limits the amount a corporate political action committee can contribute to a senate campaign to \$5,000 per election.

But campaign finance laws are not nearly as stringent in New York State, setting the maximum contribution at \$28,000 for individual and \$5,000 for corporations for each election.

Mr. D'Amato, who is not up for re-election until 1998, has been able to take advantage

Exhibit D

NEWSDAY

EDITORIAL

PAGE

10-20-96

A37

CURRENTS

Asides

WHO'S HELPING whom in the barrage of TV ads promoting Gov. George Pataki's environmental bond issue? You've seen them: Against a backdrop of beach and sky, U.S. Sen. Alfonse D'Amato (R-N.Y.) cavorts in the sunshine with his mom, daughters and granddaughters, who describe him as a fighter against both breast cancer and air-polluting incinerators. The script tells voters to support the bond issue to clean up the air and water, but it seems to me the commercial is really telling voters to love Al D'Amato.

A recent poll shows D'Amato to be the senator least respected by his own constituents. If he wants to be re-elected or seek other office when his term expires in two years, he has a big repair job to do — and Pataki did D'Amato a big favor by using him as his environmental poster boy.

I just hope the ads accomplish their stated goal: encouraging "yes" votes for a bond issue that will accelerate the cleanup of Long Island Sound.

Carol Richards

I'M JUST GLAD to hear a politician speak with zeal about anything, remarked the man sitting next to

930485518

HOW TO USE:



- 1. COMPLETE ADDRESS LABEL AREA**
Type or print required return address and addressee information in customer block (white area) or on label (if provided).



- 2. PAYMENT METHOD**
Affix postage or meter strip to area indicated in upper right hand corner.



- 3. ATTACH LABEL (if provided)**
Remove label backing and adhere over customer address block area (white area).

30 E. 24 St.
New York, NY 10017

Federal Elections Commission
Office of Public Records
999 E. Street NW
Washington, D.C. 20163



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 12, 1996

Judith Hope, Chair
New York State Democratic
Committee
30 E 29th Street
New York, NY 10017

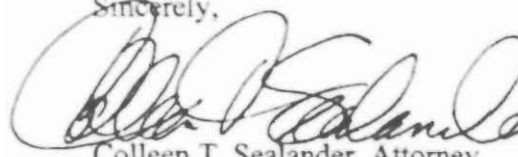
RE: MUR 4563

Dear Ms. Hope:

This letter acknowledges receipt on November 4, 1996, of the complaint you filed 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 4563. 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,


Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

9304855100



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 12, 1996

Honorable Alfonse D'Amato
14 Southard Drive
Island Park, NY 11558

RE: MUR 4563

Dear Senator D'Amato:

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 4563. 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.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Colleen T. Sealander".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

2394855102



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 12, 1996

Linda J. Schwantner, Treasurer
Friends of Senator D'Amato (1998 Committee)
PO Box 888
Mineola, NY 11501

RE: MUR 4563

Dear Ms. Schwantner:


The Federal Election Commission received a complaint which indicates that Friends of Senator D'Amato (1998 Committee) ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4563. 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.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Colleen T. Sealander", written in a cursive style.

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

030485514



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 12, 1996

Arthur W. Jaspan, Treasurer
Renew New York/Bond Act
Committee
300 Garden City Plaza
Garden City, NY 11530

RE: MUR 4563

Dear Mr. Jaspan:

The Federal Election Commission received a complaint which indicates that the Renew New York/Bond Act ("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 4563. 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.

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

Sincerely,

A handwritten signature in dark ink, appearing to read 'Colleen T. Sealander', written over a light background.

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

0301855106



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 12, 1996

Hushang Ansary
1000 Louisiana Street
Houston, TX 77002

RE: MUR 4563

Dear Mr. Ansary:

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 4563. 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Colleen T. Sealander', written in a cursive style.

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

20090855108



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 12, 1996

John V. Scaduto, Treasurer
Renew New York Political Action Committee
990 Stuart Avenue
Garden City, NY 11530

RE: MUR 4563

Dear Mr. Scaduto:

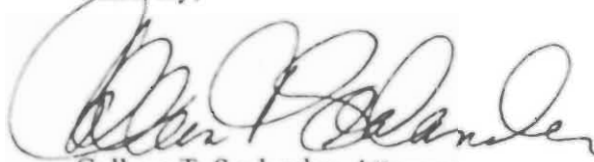
The Federal Election Commission received a complaint which indicates that the Renew New York Political Action Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4563. 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.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Colleen T. Sealander".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

03043520

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
CLERK

Nov 32 9 33 AM '96

PATTON BOGGS, L.L.P.
2550 M STREET, N.W.
WASHINGTON, D.C. 20037-1350
(202) 457-6000
FACSIMILE (202) 457-6315

WRITER'S DIRECT DIAL

(202) 457-6405

November 26, 1996

Colleen T. Sealander, Esquire
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4563
Friends of Senator D'Amato (1988 Committee) and
Linda J. Schwantner, Treasurer

Dear Ms. Sealander:

This will respond to your letter of November 12, 1996 to Friends of Senator D'Amato (1988 Committee) and Linda J. Schwantner, Treasurer, informing them that a complaint had been filed against them. Due to the Thanksgiving holiday and the fact that I have only recently been retained, we would request that the date for a response be extended until December 20, 1996, which is 35 days from the date the complaint was received.

Thank you for your consideration.

Sincerely,



Benjamin L. Ginsberg

BLG:jmt

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4563

NAME OF COUNSEL: Benjamin L. Ginsberg

FIRM: Patton Boggs LLP

ADDRESS: 2550 M. Street N.W.
Washington, D.C. 20037-1350

TELEPHONE: (202) 457-6405

FAX: (202) 457-6315

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

11-25-96
Date

Linda Schwantner
Signature

RESPONDENT'S NAME: Friends of Senator D'Amato +
Linda Schwantner, as Treasurer

ADDRESS: P.O. Box 888
Mineola, New York 11501

TELEPHONE: HOME

BUSINESS (516) 294-7180

Nov 26 10 05 AM '96

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

03043855202

JASPAN SCHLESINGER SILVERMAN & HOFFMAN LLP

ATTORNEYS AT LAW

300 GARDEN CITY PLAZA

GARDEN CITY, NEW YORK 11530-3324

516 746-8000

FACSIMILE 516 393-8282

JANET F. BRUNELLI
STANLEY A. CAMBI
EUGENE P. CIMINI JR.
STEPHEN P. EPSTEIN
STEPHEN B. HAND
JAMES J. HASKEL
GARY F. HERBST
CAROL M. HOFFMAN
ARTHUR W. JASPAN
HOLLY JUSTER
LAUREL R. KRETZING
SALVATORE LAMONICA
WILLIAM W. LANCASTER, III
ALLEN PERLSTEIN
STEVEN R. SCHLESINGER
KENNETH P. SILVERMAN
GERARD TERRY
MICHAEL E. WHITE
GARY M. SCHWARTZ (1945-1985)

* ALSO ADMITTED IN CO
* ALSO ADMITTED IN CT
* ALSO ADMITTED IN DC
* ALSO ADMITTED IN DC, GA & VA
* ALSO ADMITTED IN DC, MD, NJ & VA
* ALSO ADMITTED IN FL
* ALSO ADMITTED IN NJ

JOSEPH JASPAN
STANLEY HARWOOD
HAROLD D. BERGER
ANTHONY C. ACAMPORA
LEO L. HOFFMAN
HARRY J. WINICK (1899-1988)
HORACE Z. KRAMER (1918-1988)
COUNSEL

MARCUS S. ZINN
LAWRENCE J. TENENBAUM
RANDI-SUE WEINBERG
ANDREW S. MULLER II
CAROL A. MELNICK
SHALINI VOHRA
ROBERT M. BODER
JAY S. HELLMAN
LINA G. TELESE
WARREN J. SHARE
MITCHELL T. BORKOWSKY
SCOTT B. FISHER II
JOSEPH S. MANISCALCO
STEPHEN C. WIDOM

November 27, 1996

Via Telecopier and Mail (202) 219-3923

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

Re: **MUR 4563**

Gentlemen:

I am the Treasurer of Renew New York Bond Act Committee. I have also been designated as counsel for John V. Scaduto, Treasurer, of Renew New York Political Action Committee. A statement of designation of counsel is attached from Mr. Scaduto.

Additional time is needed to respond to the complaint on behalf of both Committees. The extra time is needed to gather and review the campaign material used by the Committees and to prepare an appropriate reply. The intervening Thanksgiving Holiday makes it impossible to complete the reply prior to the due date.

We hereby request a two-week extension to December 17, 1996.

Very truly yours,

ARTHUR W. JASPAN

AWJ\md
Enclosure
D39409
F20183

Dec 3 11 33 AM '96
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4563

NAME OF COUNSEL: Arthur W. Jaspan, Esq.

FIRM: Jaspan, Schlesinger Silverman & Hoffman, LLP

ADDRESS: 300 Garden City Plaza

Garden City, NY 11530

TELEPHONE: (516) 746-8000

FAX: (516) 393-8282

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

11/26/96
Date

John V. Scaduto
Signature

RESPONDENT'S NAME: Renew New York Political Action Committee
John V. Scaduto, Treasurer

ADDRESS: 990 Stewart Avenue, 3rd Floor

Garden City, NY 11530

TELEPHONE: HOME

BUSINESS (516) 832-7500

DEC 3 11 33 AM '96

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

9804855204



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 4, 1996

Benjamin L. Ginsberg, Esq.
Patton Boggs, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037-1350

RE: MUR 4563
Friends of Senator D'Amato (1988 Committee)
and Linda J. Schwantner, Treasurer

Dear Mr. Ginsberg:

This is in response to your facsimile dated November 26, 1996 which we received on that same day requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your facsimile, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on December 20, 1996.

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Morrison".

Erik Morrison, Paralegal
Central Enforcement Docket

98047855205



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 4, 1996

Arthur W. Jaspan, Esq.
Jaspan, Schlesinger, Silverman & Hoffman L.L.P.
300 Garden City Plaza
Garden City, NY 11530-3324

RE: MUR 4563
Renew New York Bond Act Committee
and John V. Scaduto, Treasurer

Dear Mr. Jaspan:

This is in response to your facsimile dated November 27, 1996 which we received on that same day requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your facsimile, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on December 17, 1996.

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Morrison".

Erik Morrison, Paralegal
Central Enforcement Docket

9804855206

DEC 5 2 34 PM '96

FEDERAL ELECTION COMMISSION

-----X

In the Matter of a Complaint against

ALPHONSE M. D'AMATO,
RENEW NEW YORK COMMITTEE,
and RENEW NEW YORK
ENVIRONMENTAL BOND ACT COMMITTEE

Affidavit of
Hushang Ansary

-----X

MUR 4563

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

Hushang Ansary, being duly sworn, deposes and says:

1. I submit this Affidavit in response to the November 12, 1996 letter of the Federal Election Commission (the "Commission") to me. With that letter the Commission forwarded to me the Complaint in this matter and stated that the Complaint "indicates that [I] may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). In its letter the Commission invited me to submit any materials which I believe are relevant to the Commission's analysis of this matter.

2. I respectfully suggest to the Commission that there is no basis set forth in the Complaint or otherwise for the Commission to proceed against me.


3. First of all, the Complaint itself is not in compliance with the requirements of the Act and should thereby be deemed null and void. Specifically, the Act requires that a complaint pursuant to it "be made under penalty of perjury and subject to the provisions of Section 1001 of Title 18, United States Code". 2 U.S.C. Section 437 g(a)(1). The Complaint in this matter was not made in accordance with those requirements.

4. Secondly, I note that the complainant, Ms. Judith Hope, made her complaint against United States Senator Alphonse M. D'Amato and two committees. Despite the references to me in the Complaint she did not assert any claims or make the complaint against me.

5. In addition, certain factual statements made by the complainant, upon which she bases the allegations concerning me, are simply false. She categorically states that I am "a foreign national" and have "no apparent connection to New York". The fact is that I am and have been for many years a United States citizen and I reside and have resided for 16 years in Long Island, New York.

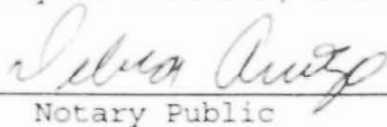
6. Most fundamentally, the "inescapable inference" that the complainant purports to rely upon in making statements concerning me is not based on any actual facts or evidence. Indeed, nothing in the complainant's statements establishes, or indicates any probability of, a violation of the Act by me. The fact is that I made a contribution to "Renew New York" and not to Senator D'Amato or a D'Amato committee. Raw speculation aside, upon which the Commission cannot properly predicate any action,

there is simply no credible proof suggesting that my contribution
to "Renew New York" was anything other than proper.



HUSHANG ANSARY

Sworn to before me this
4th day of December, 1996.



Notary Public

DEBRA ARROYO
Notary Public, State of New York
No. 24-4742650
Qualified in Kings County
Commission Expires Feb. 28, 1998

93047865209

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4563

NAME OF COUNSEL: William F. Henze II, Esq.

FIRM: Jones, Day, Reavis & Pogue

ADDRESS: 599 Lexington Avenue


New York, New York 10022

TELEPHONE: (212) 326-3603

FAX: (212) 755-7306

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.

12/4/96
Date


Signature

RESPONDENT'S NAME: Hushang Ansary

ADDRESS: 306 Centre Island Road

Oyster Bay, New York 11771

TELEPHONE: HOME

BUSINESS()

9894285210

JASPAN SCHLESINGER SILVERMAN & HOFFMAN LLP

ATTORNEYS AT LAW

300 GARDEN CITY PLAZA

GARDEN CITY, NEW YORK 11530-3324

516 746-8000

FACSIMILE 516 393-8282

JANET F. BRUNELLI
STANLEY A. CAMRY
EUGENE P. CIMINI JR.
STEPHEN P. EPSTEIN
STEPHEN B. HAND
JULES J. HASKEL
GARY F. HERBST
CAROL M. HOFFMAN
ARTHUR W. JASPAN
HOLLY JUSTER
LAUREL R. KRETZING
SALVATORE LAMONICA
WILLIAM W. LANCASTER, III
ALLEN PERLSTEIN
STEVEN R. SCHLESINGER
KENNETH P. SILVERMAN
GERARD TERRY
MICHAEL E. WHITE
GARY M. SCHWARTZ (1945-1985)

JOSEPH JASPAN
STANLEY HARWOOD
HAROLD D. BERGER
ANTHONY C. ACAMPORA
LEO L. HOFFMAN
HARRY J. WINICK (1899-1988)
HORACE Z. KRAMER (1918-1988)
COUNSEL

MARCI S. ZINN
LAWRENCE J. TENENBAUM
RANDI-SUE WEINBERG
ANDREW S. MULLER II
CAROL A. MELNICK
SHALINI VOHRA
ROBERT M. BODER
JAY S. HELLMAN
LINA G. TELESE
MITCHELL T. BORKOWSKY
SCOTT B. FISHER II
JOSEPH S. MANISCALCO
STEPHEN C. WIDOM
ROBERT J. ANSELL

* ALSO ADMITTED IN CO
* ALSO ADMITTED IN CT
* ALSO ADMITTED IN DC
* ALSO ADMITTED IN DC, GA & VA
* ALSO ADMITTED IN DC, MD, NJ & VA
* ALSO ADMITTED IN FL
* ALSO ADMITTED IN NY

December 16, 1996

Via Federal Express
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: **MUR 4563**

Gentlemen:

Submitted herewith is my Affidavit in Reply to the complaint in the above matter on behalf of Renew New York Political Action Committee and John V. Scaduto, its Treasurer, and Renew New York/Bond Act Committee and myself, as Treasurer. A Statement of Designation of Counsel by John V. Scaduto on behalf of Renew New York Political Action Committee was previously submitted.

Enclosed with the Reply Affidavit are two video tapes containing the commercials sponsored by the Committees.

Would you please acknowledge receipt of the Reply and the videotapes on the copy of this letter and return same to us in the self-addressed stamped envelope enclosed.

Very truly yours,

ARTHUR W. JASPAN

RECEIVED:

/Date

AWJ:md
Enclosures

Dec 17 10 05 AM '96
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

FEDERAL ELECTION COMMISSION

- - - - - X

In the Matter of the Complaint Against

AFFIDAVIT IN REPLY
TO COMPLAINT OF
JUDITH HOPE

ALFONSE M. D'AMATO, RENEW NEW YORK
COMMITTEE, AND RENEW NEW YORK
ENVIRONMENTAL BOND ACT COMMITTEE

MUR 4563

- -

- X

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

ARTHUR W. JASPAN being duly sworn, deposes and says:

1. I am a member of the law firm of Jaspan Schlesinger Silverman & Hoffman LLP, admitted to practice law in the Courts of the State of New York and am the Treasurer of Renew New York/Bond Act Committee. The statements set forth herein are based on personal knowledge or on information I believe to be accurate.

2. This affidavit is submitted on behalf of Renew New York/Bond Act Committee and Renew New York Political Action Committee/(Committees) in reply to the complaint of Judith Hope to the Federal Election Commission.

3. Renew New York Political Action Committee was organized in 1995 under Article 14 of the Election Law of the State of New York. It has, since being organized, contributed to political committees that supported candidates for state and local office and other political committees. To the best of my knowledge, none of the committees supported by Renew New York Political Action Committee were organized to support candidates

for Federal office and none have supported candidates for Federal office. Renew New York Political Action Committee has registered with the New York State Board of Elections and filed all required forms and Disclosure Statements detailing its receipts and disbursements as required by the Election Law of the State of New York. A copy of the Committee Designation of Treasurer and Depository, filed with the New York State Board of Elections is attached hereto.

4. In 1996 Renew New York Political Action Committee, in addition to its contributions to several state and local political committees, paid for television commercials supporting a \$1.75 billion Clean Water, Clean Air Bond Act proposed by the New York State Legislature and signed by the Governor, that appeared on the November 5, 1996 ballot in the State of New York (Environmental Bond Act).

5. Renew New York/Bond Act Committee was organized in September 1996 solely for the purpose of supporting the Environmental Bond Act. Prior to the election on November 5, 1996 it sponsored television commercials supporting the Environmental Bond Act. The Committee has registered with the New York State Board of Elections and filed all required forms and Disclosure Statements detailing its receipts and disbursements, as required by the Election Law of the State of New York. A copy of the Committee Designation of Treasurer and Depository filed with the New York State Board of Elections is attached hereto.

6. Television commercials supporting the Environmental Bond Act sponsored by both Committees feature Senator D'Amato

and members of his family. The commercials did not mention Senator D'Amato as a candidate for any office, Federal or State nor did they solicit support for Senator D'Amato's reelection to the U.S. Senate in 1998 nor did they seek campaign contributions or other support for Senator D'Amato's campaign committee. The sole purpose of the commercials was to encourage the voters of the State of New York to vote for the Environmental Bond Act. They contained no Federal electioneering message. Video tapes of the commercials sponsored by each of the Committees are submitted with this Reply.

7. Senator D'Amato is a leading figure in the State of New York. His public support of the initiative helped its passage on election day.

8. The Environmental Bond Act was supported by public officials, environmental organizations, business representatives and labor organizations. Many of these leaders and organizations sponsored and contributed to other television commercials not sponsored by the Committees and radio, newspaper and other advertising in support of the Environmental Bond Act.

9. Financial disclosure requirements and regulations as to contributors and limits on contributions to committees that support or oppose ballot proposals and otherwise participate in non Federal elections in the State of New York are subject to the Laws of the State of New York. Renew New York Political Action Committee and Renew New York/Bond Act Committees have fully complied with those requirements and regulations. The contributions received by the respective committees are proper and legal under the laws of the State of New York.

10. The complaint verified on October 31, 1996, and the announcement by complainant on October 24, 1996, that the Democratic Party planned to file a complaint with the Commission as described in the New York Times article, attached to the complaint, of October 25, 1996 is merely an attempt by his political opponents to publicly criticize Senator D'Amato and is without merit. The complaint's reference to Hushang Ansary is without merit. Mr. Ansary is a naturalized citizen of the United States, eligible to contribute to political campaigns.

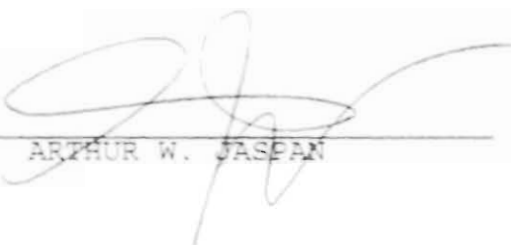
11. The Commission has frequently considered whether particular activities involving the participation of a Federal candidate or communications referring to a Federal candidate result in a contribution to or expenditure on behalf of such a candidate under the Act. The Commission has held that a Federal officeholder or candidate for Federal office may participate and appear on behalf of another candidate or in support of or against a ballot issue without the funds used to pay for such participation being considered as contributions to or expenditures by the Federal Candidate's campaign, providing that such activity will not occur in circumstances involving the solicitation, making or acceptance of campaign contributions for his campaign committee and will not include any communication expressly advocating his nomination or the defeat of another candidate for Federal Office. Advisory Opinions 1994-15, 1992 5, 1982-56 and 1977-54.

12. The Commission has further recognized the distinction between a candidate-related election to any political office and issue-related ballot initiatives. The Commission has stated

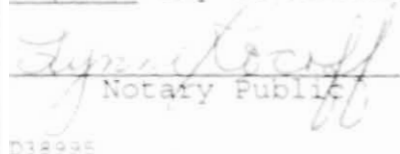
that contributions or expenditures relating only or exclusively to ballot issues and not to elections to any political office do not fall within the purview of the Federal Election Campaign Act. Advisory Opinions 1989-32 and 1980-95.

13. The contributions received and expenditures made by the Committees in their support of the Environmental Bond Act were not contributions or expenditures under the Federal Election Campaign Act and Regulations. They did not advocate Senator D'Amato's election, take place in a year when he was on the ballot or involve his campaign materials or his Campaign Committee.

14. In view of all of the foregoing, it is respectfully requested that the Commission find no reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act and that the file be closed


ARTHUR W. JASPAN

Sworn to before me this
16 day of December 1996


Notary Public

D38995
F20183

Q-1

STATE OF NEW YORK
STATE BOARD OF ELECTIONS

COMMITTEE DESIGNATION OF TREASURER AND DEPOSITORY
Section 14-118 of the Election Law
(See instructions on reverse side)

New Registration ☒
Amended Registration ☐
Continued Registration ☐

Election year of campaign
1996

Committee identification
(to be assigned by board)

A. NAME OF COMMITTEE: RENEW NEW YORK/BOND ACT COMMITTEE

B. TREASURER: Full Name Arthur W. Jaspan
Res. Address 4030 Greentree Drive
Oceanside, New York Zip 11572
Mailing Address 300 Garden City Plaza (5th Floor)
(if different) Garden City, New York Zip 11530
Res. Tel. No. Bus. Tel. No. (516) 746-8000
C. DEPOSITORY: Name of Bank The Chase Manhattan Bank
Address Roosevelt Field Shopping Center
Garden City, New York Zip 11530

D. CANDIDATE(S) TO BE SUPPORTED:

OFFICE AND DISTRICT	FIRST NAME AND MIDDLE INITIAL OF CANDIDATE	LAST NAME OF CANDIDATE
1. NONE		
2.		
3.		
4.		
5.		

E. BALLOT ISSUE(S) TO BE SUPPORTED OR OPPOSED:

1. Clean Water, Clean Air Bond Act
2.

F. PERSON(S) OTHER THAN TREASURER AUTHORIZED TO SIGN CHECKS:

Full Name 1. NONE 2.
Res. Address
Zip Zip
Signature

The above information is true to the best of my knowledge and belief.

September 17, 1996

Date

Signature of Treasurer

STATE OF NEW YORK
STATE BOARD OF ELECTIONS

COMMITTEE DESIGNATION OF TREASURER AND DEPOSITORY

Section 14-118 of the Election Law

(See instructions on reverse side)

New Registration ☒
Amended Registration ☐
Continued Registration ☐

Election year of campaign
1995

Committee identification
(to be assigned by board)

A. NAME OF COMMITTEE: Renew New York Political Action Committee

B. Section Must Be Completed in Full

B. TREASURER: Full Name John V. Scaduto
Res. Address 610 East Bay Drive
Long Beach, New York Zip 11561
Mailing Address 990 Stewart Avenue
(if different) Garden City, New York Zip 11530
Res. Tel. No. Bus. Tel. No. (516) 832-7500
C. DEPOSITORY: Name of Bank Bank of New York
Address 1401 Franklin Avenue
Garden City, New York Zip 11530

D. CANDIDATE(S) TO BE SUPPORTED: Not yet determined.

OFFICE AND DISTRICT	FIRST NAME AND MIDDLE INITIAL OF CANDIDATE	LAST NAME OF CANDIDATE
1.		
2.		
3.		
4.		
5.		

E. BALLOT ISSUE(S) TO BE SUPPORTED OR OPPOSED: Not yet determined.

1.
2.

F. PERSON(S) OTHER THAN TREASURER AUTHORIZED TO SIGN CHECKS: None.

Full Name 1. 2.
Res. Address
Zip Zip
Signature

The above information is true to the best of my knowledge and belief.

February 8, 1995
Date

Signature of Treasurer

PATTON BOGGS, L.L.P.
2550 M STREET, N.W.
WASHINGTON, D.C. 20037-1350
(202) 457-6000
FACSIMILE (202) 457-6315

WRITER'S DIRECT DIAL

(202) 457-6405

December 20, 1996

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

DEC 20 3 45 PM '96

FEDERAL
ELECTION
COMMISSION
OFFICE

RE: MUR 4563 -- Friends of Senator D'Amato and Senator Alphonse D'Amato

Dear Ms. Sealander:

On behalf of Respondents in the above-captioned matter, this answers the complaint filed by the chair of the New York Democratic Party in the week before the 1996 election. As is shown below, the complaint is frivolous under the precedents established by the Federal Election Commission ("Commission") and should be dismissed.

FACTS

Alphonse D'Amato is the United States Senator from the State of New York and one of the state's leading elected officials and political leaders. He was reelected to the United States Senate in 1992 for a six-year term. He was not a candidate on the New York ballot in 1996.

The complaint at issue argues that advertisements urging New York voters to approve a \$1.75 billion Clean Water, Clean Air Bond Act ("Bond Act") that was on the 1996 New York ballot constituted an impermissible contribution to Senator D'Amato's 1998 campaign. Senator D'Amato appeared in the ads sponsored by the Renew New York/Bond Act Committee.

PATTON BOGGS, L.L.P.

Colleen T. Sealander, Esquire
December 20, 1996
Page 2

Renew New York Political Action Committee was organized in 1995 under the laws of the State of New York and supports candidates for state and local office, as well as New York political committees. Renew New York/Bond Act Committee was organized in 1996 under New York law to support the Environmental Bond Act.

The ads at issue, which are attached as Exhibit 1 of this response, include Senator D'Amato and members of his family urging support for passage of the Bond Act. The commercials do not identify or mention Senator D'Amato as a candidate for any office and do not solicit funds for any purpose, including contributions to Senator D'Amato's 1998 reelection. The ads contain no electioneering message for any candidate, including Senator D'Amato. The ads do urge New York voters to approve the Bond Act on the November 5, 1996 New York ballot.

The Bond Act passed successfully on election day. A previous attempt to pass the initiative in 1994, in which Senator D'Amato did not participate, failed.

LAW

In a series of Advisory Opinions, the Commission has frequently considered whether particular activities involving the participation of a federal candidate, or communications referring to a federal candidate, result in a contribution to or expenditure on behalf of that candidate. To answer this question, the Commission has determined that such activities can result in a contribution or expenditure under the Act if the activities involve: (1) the solicitation, making or acceptance of contributions to the candidate's campaign, or (2) communications

PATTON BOGGS, L.L.P.

Colleen T. Sealander, Esquire
December 20, 1996
Page 3

expressly advocating the nomination, election or defeat of any candidate. AO 1994-15, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 6118 (1994) (citations omitted).

Specifically, the Commission has ruled that contributions or expenditures do not result when a candidate serves as chairperson of a political, charitable or issue advocacy organizations. AO 1978-5, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5299 (1978); AO 1978-15, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5304 (1977); AO 1977-54, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5301 (1978), a candidate appears endorsing a candidate for local office in television advertisements, AO 1982-56, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5695,¹ or a candidate appears as a speaker in a college speakers program. AO 1992-6, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 6043 (1992).

Furthermore, the Commission has permitted a candidate for federal office to form a state committee in the same election cycle as he is seeking federal office to raise funds and contribute to candidates for state and local campaigns. AO 1985-38, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5839 (1986). The Commission further permitted the federal candidate to use his name in the name of the state committee. Id.

In Advisory Opinion 1982-56, the Commission concluded that a Congressman on the ballot could appear in television advertisements endorsing a candidate for local office. In the advertisement, the Congressman candidate appeared for 7 seconds in a 30 second ad and stated: "I think Ann Delaney is one of the best courtroom prosecutors we've ever had in this country." The Commission noted that the purpose of the advertisement was to endorse and influence the local election, and that the ad itself did not mention the federal candidate's campaign for re-election.

Colleen T. Sealander, Esquire
December 20, 1996
Page 4

Similarly, the Commission has previously recognized "the distinction between a candidate-related 'election to any political office,' as used in 2 U.S.C. § 441e and other provisions of the Federal Election Campaign Act ("Act"), and issue-related ballot initiatives. The Commission has stated that contributions or expenditures relating only or exclusively to ballot referenda issues, and not to elections to any political office, do not fall within the purview of the Act." AO 1989-32, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5989 at 11,629 (1990), citing AO 1984-62 n.2, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5813 (1984); AO 1980-95, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5547 (1980).²

Contributions do result, however, when the purpose and message of the ad or activity is influencing the election of a candidate for office. See AO 1990-5, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5982 (1990). Factors cited in determining that the activity did result in contributions or

Other advisory opinions have permitted appearances in publicly broadcast programs, AO 1992-5, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 6049 (1992) (Congressman may participate in public affairs forums televised on local cable channels within his district since there was to be no mention of the Congressman's campaign, nor any solicitation of funds); AO 1990-5, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5982 (1990) (Congressional candidate's issue-oriented non-partisan newsletter, funded by the candidate, would only trigger expenditures under the Act if (1) direct or indirect reference was made to the candidacy, campaign or qualifications for public office of either candidate; (2) articles or editorials were published referring to the views of the candidates or issues raised in the campaign; or (3) distribution of the newsletter was expanded in a manner that indicated utilization of the newsletter as a campaign communication.); AO 1977-54, Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5301 (Congressman candidate could participate in a statewide petition drive, funded by public contributions, to stop ratification of the Panama Canal Treaty without triggering the Act's contribution expenditure provisions, even though Congressman candidate's name appeared on all mailings, in newsletters, and in news stories); see also AO 1980-25, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5481 (letter writing campaign in opposition to a state initiative); AO 1978-88, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5377 (participation in public service announcements to raise money for diabetes research); AO 1978-15, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5304 (participation in cancer society fundraising campaign); AO 1977-42, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5313 (participation in issue-oriented radio program).

Colleen T. Sealander, Esquire
December 20, 1996
Page 5

expenditures under the Act include: the political committee is actively engaged in making contributions or expenditures on behalf of candidates; the content of the ads made reference to the candidate's previous election to the office and the voters' role in electing a praiseworthy officeholder; the ads were run just prior to the election in which the candidate mentioned was on the ballot; and "the activity in question did not appear to have any specific and significant non-election related aspects that might distinguish it from election influencing activity." Id. at 11,611.³

DISCUSSION

Under the rulings of the Commission, this complaint must be dismissed.

The ads at issue support a New York State bond issue, the Environmental Bond Act. It received bi-partisan support. The Commission has recognized that contributions to or expenditures by issue-related ballot questions (as compared to elections to federal office), do not fall under the Act. AOs 1989-32, 1980-95.

The Commission has found the Act's contribution and expenditure provisions triggered when a PAC proposed producing and broadcasting a series of 30-second ads congratulating voters from certain states for electing certain Senators who maintained certain voting records during their term. AO 1983-12. In reaching this conclusion, the Commission noted that "the spots include eight verbal references to the State represented by the Senator and make explicit, complimentary comments congratulating the electorates in those states for electing the Senator in a prior election. The fact of a previous election is mentioned three times. These specific references to the Senator's identity, home state, past election, and commendable service to the state are in marked contrast to the cryptic, generalized mention of issues that occurs in the spots." Moreover, the Commission found that "the activity in question does not appear to have specific and significant non-election related aspects that might distinguish it from election influencing activity." See also, AO 1977-31. Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5262 (public messages read by candidate and sponsored by corporation would constitute a contribution to the candidate).

PATTON BOGGS, L.L.P.

Colleen T. Sealander, Esquire
December 20, 1996
Page 6

Senator D'Amato, as a leading political and governmental figure, appeared in ads supporting the Bond Act. As the Commission has made clear, but complaintants do not wish to accept, this does not constitute a contribution or disbursement under the Act and Commission's regulations. See e.g., AO 1982-56.

Under the standard set by the Commission's advisory opinions, this matter must be dismissed since an examination of the ads demonstrates that they:

- contain no electioneering message for Senator D'Amato;
- there is no communication advocating the election or defeat of Senator D'Amato, or any other candidate;
- the ads do not discuss in any way the 1998 election campaign, the next time Senator D'Amato will appear on the ballot (he was not on the ballot in 1996);
- there is no attempt to solicit contributions for Senator D'Amato or any other federal candidate or committee.

Senator D'Amato appeared in the ads because he is a leading figure in New York and can command a large number of votes. The Almanac of American Politics, a highly regarded non-partisan publication about all federal elected officials, noted the value of Senator D'Amato's support: "As one shrewd New York politico put it, 'The lesson of 1994 is never get in the way between Al D'Amato and what he wants.'" Id. p. 899 (1995). In 1996, Senator D'Amato wanted

PATTON BOGGS, L.L.P.

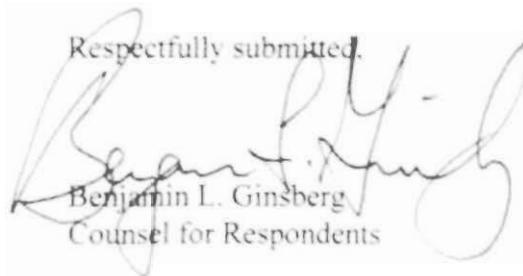
Colleen T. Sealander, Esquire
December 20, 1996
Page 7

the Bond Act to pass. In its previous try, the Bond Act failed. But with the help of Senator D'Amato, who was not on the ballot as a candidate in 1996, it passed.

The complaint insinuates that because Senator D'Amato was involved with the Bond Act committee, the ads must be contributions or expenditures under the Act. This is contrary to the Commission's specific rulings permitting candidates to be the chairpersons of such organizations, even in the very same cycles in which the candidates appear on the ballot. E.g. AOs 1989-32, 1980-95, 1978-5. The Commission has even permitted a federal candidate to form a state committee that bears his name in the same cycle in which he is a candidate for federal office. AO 1985-38.

Since the ads at issue featuring Senator D'Amato discuss a state issue; do not even mention a federal election; Senator D'Amato was not on the ballot in 1996, and the ads are about a referendum and not a federal campaign, this complaint must be dismissed.

Respectfully submitted,



Benjamin L. Ginsberg
Counsel for Respondents

BLG:jmt



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

DEC 9 1997

MEMORANDUM

TO The Commission

FROM Lawrence M. Noble
General Counsel

BY Lois G. Lerner *[Signature]*
Associate General Counsel

RE EPS Closings of Major 96 Cases

DATE 12/5/97

EXECUTIVE SESSION

SUBMITTED LATE

At the December 2, 1997 Executive Session, the Commission considered the Enforcement Priority System (EPS) Closing Report recommendations. After discussion, the Commission decided to hold over consideration of four MURs until the December 9, 1997 meeting. The following information may be useful to the Commission, in conjunction with its consideration of those remaining four MURs contained in Agenda Document X97-77.

1. MUR 4491-Sherman for Congress--Allegations that Citizen 5 for Fair Representation (CFR) put out a flyer expressly advocating for Rick Sybert for Congress without including a disclaimer. CFR responded that it did not put the flyer out. Rick Sybert for Congress responded that it had no knowledge of or participation in CFR activity and had no knowledge of the flyer prior to its dissemination. There is no additional information regarding who else might have put out the flyer.

2. MUR 4519-Al Salvi for Senate--Allegations that Family Taxpayer's Foundation (FTF) coordinated with Al Salvi for Congress with regard to a voter guide. FTF and the Salvi campaign deny coordination. The Salvi campaign and FTF responded that FTF contacted the campaign after the voter guides were prepared and asked whether the Salvi Campaign would like some copies. According to respondents, a Salvi volunteer went to

98012855296

FTF and used a publicly available fax machine to send the documents to other Salvi volunteers. Salvi campaign also argues that voter guides are not a thing of value under the Act and do not contain express advocacy, so there can be no violation.

3. MUR 4563-Al D'Amato Campaign--Allegations that D'Amato's appearance in ads put out by the New York State Democratic Committee (NYSDC) purportedly in support of a bond issue was really a ruse to support his campaign. Also, there were allegations that a foreign national contributed to a D'Amato PAC supporting this effort. The response from the alleged foreign national states that he has been a naturalized citizen for many years, and that his support was for the bond issue. D'Amato campaign and NYSDC deny that there was any intent to promote D'Amato's reelection and state that D'Amato was asked to appear because he is the Senator from New York. Nothing in the ads mentioned D'Amato's candidacy or the election.

9 3 0 4 3 8 5 5 2 2 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Enforcement Priority

Agenda Documents
No. X97-77 and X97-77-A

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 9, 1997, do hereby certify that the Commission took the following actions with respect to Agenda Documents No. X97-77 and No. X97-77-A:

1. Failed in a vote of 3-2 to pass a motion to activate MUR 4491.

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

2. Failed in a vote of 3-2 to pass a motion to activate MUR 4519.

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

3. Failed in a vote of 3-2 to pass a motion to activate MUR 4563.

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

continued)

98943855228

Federal Election Commission
Certification: Agenda Documents
No. X97-77 and No. X97-77-A
December 9, 1997

Page 2

4.

5. Decided by a vote of 5-0 to close the
files with respect to MUR 4491, MUR 4519,
and MUR 4563.

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

Attest:

12-9-97
Date

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

98043855229



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Judith Hope, Chair
New York State Democratic Committee
30 E 29th Street
New York, NY 10017

RE: MUR 4563

Dear Ms. Hope:

On November 4, 1996, 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 exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997. 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. § 437(g)(a)(8).

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Tuttle".

F. Andrew Tuttle
Supervisory Attorney
Central Enforcement Docket

0804385200



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

William F. Henze II, Esq.
Jones, Day, Reavis & Pogue
599 Lexington Avenue
New York, NY 10022

RE: MUR 4563
Hushang Ansary

Dear Mr. Henze:

On November 12, 1996, the Federal Election Commission notified your client of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your client. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 15, 1997

Arthur W. Jaspan, Esq., Treasurer
Renew New York/Bond Act Committee
Jaspan, Schlesinger, Silverman & Hoffman, LLP
300 Garden City Plaza
Garden City, NY 11530

RE: MUR 4563
Renew New York/Bond Act Committee, and John V.
Scaduto, Treasurer

Dear Mr. Jaspan:

On November 12, 1996, the Federal Election Commission notified you and your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against Renew New York/Bond Act Committee, you, as treasurer, and your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

The confidentiality provisions of 2 U.S.C. § 437g(a)(2) 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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Turley
Supervisor, Attorney
Central Enforcement Docket



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Honorable Alfonse D'Amato
14 Southard Drive
Island Park, NY 11558

RE: MUR 4563

Dear Mr. D'Amato:

On November 12, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against you. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Benjamin L. Ginsberg, Esq.
Patton Boggs, L.L.P.
2550 M Street, NW
Washington, DC 20037-1350

RE: MUR 4563
Friends of Senator D'Amato (1988 Committee), and
Linda J. Schwantner, Treasurer

Dear Mr. Ginsberg:

On November 12, 1996, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997.

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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Tarley".

F. Andrew Tarley
Supervisory Attorney
Central Enforcement Docket

090478524



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4563

DATE FILMED 1/16/98 CAMERA NO. 2

CAMERAMAN EJS

9304785525



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

Date: 1/26/58

☒ Microfilm

☐ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4563

28043873824




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM

TO: Commissioners
Staff Director Surina
General Counsel Noble
Press Officer Harris

FROM: Marjorie W. Emmons/Lisa R. Davis 
Secretary of the Commission

DATE: January 26, 1998

SUBJECT: Statement of Reasons for MURs 4491, 4519
and 4563.

Attached is a copy of the Statement of Reasons in MURs 4491, 4519 and 4563 signed by Vice Chairman Scott E. Thomas, Commissioner Danny Lee McDonald and Commissioner John Warren McGarry. This was received in the Commission Secretary's Office on January 23, 1998 at 2:42 p.m.

cc: V. Convery

93043873825



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

SENSITIVE

In the matters of)
)
Citizens for Fair Representation, et al.)
) MURs 4491, 4519, and 4563
Family Taxpayers' Foundation, et al.)
)
Renew New York PAC, et al.)

STATEMENT OF REASONS

**VICE CHAIRMAN SCOTT E. THOMAS
COMMISSIONER DANNY LEE MCDONALD
COMMISSIONER JOHN WARREN MCGARRY**

9 8 0 4 3 8 7 3 8 2 6

We opposed the staff recommendation to close the three above-captioned cases. In our view, these matters should have been slated for activation as soon as resources became available in the General Counsel's Office. They presented special or aggravating circumstances warranting immediate action. Even if not activated as soon as resources became available, these cases should have been kept on the docket along with other similar 1996 or 1998 election cycle matters involving allegations of "express advocacy" ads masquerading as "issue" ads or coordinated ads masquerading as independent ads. These types of cases involve perhaps the greatest potential for evasion of the current statutory scheme and have been targeted as a class under the FEC's current Enforcement Priority System (EPS). Only by keeping all such similar cases on the docket can we commissioners retain the ability to exercise judgment as to which targeted matters should be activated and which ultimately dismissed.

Our colleagues, Commissioners Aikens and Elliott, pressed to close MURs 4491, 4519, and 4563. During the meeting discussion we were told, in essence, based purely on the date the complaints were filed, these cases had become "stale" under EPS and there would be chaos if commissioners tried to decide which of the many cases raising similar issues ought to be pursued. Beyond that, our colleagues made clear, even without the benefit of analysis by the General Counsel's staff, they did not see any allegations in these cases that warranted pursuit. Given this, it was pointless to let these cases languish on the docket with no expectation that any findings would be made. Thus, in order to make a record, we supported a motion to activate these matters; only when that failed 3-2 (Aikens and Elliott opposed) did we support a motion to close the files.

I.

The FEC has experienced an explosion in its enforcement workload over the last few election cycles. The number of complaints has increased, the number of apparent violations flagged internally by staff has increased, and the complexity of allegations has increased. In an effort to meet this challenge, the commissioners have worked with the staff to develop several responses such as: reducing the number of enforcement matters referred internally from the Reports Analysis Division and Audit Division, using technology to speed legal research and writing and to eliminate duplicative paper processing, adopting more flexible investigative techniques that do not require formal Commission approval at each step, and streamlining other internal procedures as much as possible.

In late 1991, commissioners urged the staff to develop the EPS. It was approved in early 1993. It is designed to rate cases objectively and allow the staff to focus limited resources on cases that most warrant pursuit. These include cases presenting the most serious violations and cases in certain target areas presenting potential for evasion of the law or the fundamental requirement of disclosure. Under EPS, cases periodically are reviewed and recommended for dismissal either because they have remained inactive on the docket for a certain period of time or because they simply do not rate high enough on the objective point system. With only about 30 line attorneys to work cases, and (as of December 1 of this year) 281 cases pending involving 2,255 respondents, inevitably many cases simply must be dropped with no findings by the Commission.

The EPS, however, was not designed to turn commissioners into human automatons blindly rubber-stamping the recommendations of the General Counsel's Office. It was not structured so that when the staff recommends closing particular cases because they have been on the docket for a certain length of time the commissioners must mechanically say, "Aye." Commissioners retain the ability to analyze the cases recommended for closure and to disagree with the recommendation to close based on factors indicating, for example, that the cases raise allegations of serious violations or allegations that fall in a target area. Indeed, commissioners have voted to reject such staff recommendations in the past, and did so on one occasion the same day MURs 4491, 4519, and 4563 were considered.

II.

In our view, any objective analysis of the three cases at issue would conclude they involve serious allegations. Beyond that, we believe these cases should have been retained on the docket for a reasonable time to compare them against other cases raising similar allegations. While we can say nothing about the other cases pending on the docket, these three cases clearly warranted pursuit if resources became available.

9 3 9 4 3 8 7 3 8 2 8

The first, MUR 4491, involved allegations that an organization called Citizens for Fair Representation distributed a flyer saying in its headline, "Organized Labor Behind Sherman Campaign," referring to Sherman as "a completely different person than the candidate he would like the voters to believe he is," and concluding with "Who do you think Brad Sherman will answer to if we send him to Washington, the pro-business voters of the 24th Congressional District, or the East Coast Labor Bosses who financed his campaign?" At a minimum, this case presented a clear case of "express advocacy" under the FEC's regulation at 11 CFR 100.22(b). Even if the group could have escaped the prohibition applicable to corporations (2 U.S.C. §441b), there appears to have been no disclosure of who funded this activity and whether permissible funds were used. Moreover, this case presented aggravating circumstances. The treasurer of the group formally registered with the FEC as Citizens for Fair Representation responded the group had disbanded long ago. Thus, someone appears to have been hiding behind the name Citizens for Fair Representation in order to thoroughly escape any disclosure or detection. Given these facts, it is baffling our colleagues would not at least want to retain this case on the docket to see if resources would permit investigation.


MUR 4519 involved admitted coordination between the Salvi Senate campaign and an organization called the Family Taxpayers' Foundation regarding the distribution of 80,000 voter guides in October of 1996. The Salvi campaign admitted in its response that its employee requested the voter guides and the guides were as a result delivered to the candidate's committee. Even if the voter guides were not "express advocacy" (an unlikely claim given the slanted description of Salvi's opponent), the actions of the Family Taxpayers' Foundation and the Salvi campaign were not disclosed, involved a clear corporate in-kind contribution, and should have been subjected to further review.

Finally, MUR 4563 involved allegations that in the Fall of 1996, through state-registered political action committees controlled by Sen. Alphonse D'Amato, extensive advertising was run in the State of New York which indirectly promoted Sen. D'Amato's campaign for reelection in 1998. The ads were described as containing images of Sen. D'Amato strolling the beach with his family and a comment by his daughter describing him as a "fighter." As this case involves allegations of a carefully crafted effort to make an in-kind contribution using funds not regulated under federal election law, it presents a serious allegation. More than anything, however, we objected to closing out this case on the ground it was "stale" when it involves charges about an upcoming election. Surely, commissioners should not permit the enforcement priority system to force such contortions.

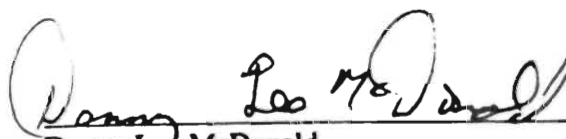
III.

In sum, we think the cases cited above warranted further analysis by the staff and commissioners. To simply drop them now, rather than wait to see if they present better cases to pursue than others involving the same or similar targeted issues, belittles our role as supervisory officials.

1/23/98
Date


Scott E. Thomas
Vice Chairman

1/23/98
Date


Danny Lee McDonald
Commissioner

1/23/98
Date


John Warren McGarry
Commissioner

98047873829