



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4579

DATE FILMED 9-23-97 CAMERA NO. 4

CAMERAMAN ImW

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Nov 4 10 20 AM '96

From The Desk Of
Timothy L. Hardy
414 Old Towne Road
Louisville, KY 40214

30 October 1996

FEDERAL ELECTION COMMISSION
Office of General Counsel
999 E. Street NW
Washington, DC 20463

ATTN: **MR. LAWRENCE NOBLE**, General Counsel

RE: Filing of an Official Complaint

SUBJECTS: Vice President; Albert Gore
KY 3rd District Congressman; Mike Ward
KY U.S. Senatorial Candidate; Steve Beshear

NOW COME Plaintiff Timothy L. Hardy by and through counsel, and complain against defendants as follows:

INTRODUCTION:

1. Plaintiff brings this action against defendants to enjoin the United States Internal Revenue Service (IRS) in violation of Federal Election Commission regulations, and the Constitution of the United States in which the First Amendment precludes the establishment of an religion and therein implies separation of church and state.
2. Plaintiff also brings this action to compel the FEC in conjunction with the IRS to declare the tax-exempt status of the New Zion Baptist Church with a current address of 3330 Southern Avenue, Louisville, KY 40211 to be nullified and void pursuant to IRS code 501(c)(3). Relevant to this section, the following is listed as a "Prohibited Activity": "The organization cannot engage in the dissemination of propaganda or other attempts to influence legislation, or participate in a political campaign on behalf of or in opposition to any candidate (Code section 501(h)). "
3. The concept of denying exempt status to a Code sec. 501(c)(3) organization due to its violation of public policy standards was introduced by the U.S. Supreme Court in a case which a university's exempt status was revoked because of its racist admission policy standards (Bob Jones University, SC, 83-1 USTC). A Code Sec. 501(c)(3) organization must demonstrably serve, and be in harmony with, the public interest. The organization's purpose must not be so at odds with the common community conscience as to undermine any public benefit that might otherwise be conferred.

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FACTUAL ALLEGATIONS:

4. On the 27th day of October, in the Year of our Lord, 1996, at or about 12:45 at the New Zion Baptist Church in Louisville, Kentucky, United States Vice President Al Gore addressed an overflow audience of approximately 1,000 people from behind the pulpit for a duration of approximately 15 minutes.

5. According to an article in the local newspaper, The Courier-Journal, Monday, 28 October 1996, front page of the Metro Section, paragraph 11, the Vice President issued "at the beginning and end of his remarks: Brief plugs for Democrats Mike Ward, the 3rd District congressman, and Steve Beshear, who is running for the U.S. Senate; and a coded reference near the end to affirmative action, which many prominent republican office-holders oppose."

6. In a recent (30 October 1996) phone call to the New Zion Baptist Church, a request was made by the plaintiff to obtain either a written transcript or an audio tape of the message delivered by Vice President Al Gore. Ms. Arnetta Bell informed the plaintiff that they were in the process of "editing the message" and that it's content would not be available for some time.

7. Relevant to paragraph (6) above; plaintiff further requests injunctive relief to ensure the integrity of the address in question, and that this information become an exhibit hereto.

CLAIMS FOR RELIEF COUNT I Statutory Action Against Defendants:

8. Plaintiff repeats and incorporates by reference herein the allegations of paragraphs 1 through 7.

WHEREFORE, Plaintiff prays this commission enter an order directing a full and formal investigation into the alleged and flagrant violations of the United States Tax Code, possible FEC violations associated therewith and not withstanding an investigation by the United States Senate Ethics Committee as it may relate to knowingly placing the tax exempt status of the New Zion Baptist Church in severe jeopardy.

Dated: 30 October 1996

NOTARIZED BY:

Timothy I. Hardy
Timothy I. Hardy
414 Old Towne Road
Louisville, KY 40214
(502) 893-2291 (Office)
(502) 893-2438 (Fax)

St. D. D. 10/30/96
Notary Public, State of Large, KY
My commission expires Feb. 10, 1997



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 8, 1996

Timothy L. Hardy
414 Old Towne Road
Louisville, KY 40214

Dear Mr. Hardy:

This is to acknowledge receipt on November 4, 1996, of your letter dated October 30, 1996. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter was not properly sworn to.

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

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

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

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

97043035505

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

Sincerely,

Retha Dixon

Retha Dixon
Docket Chief

Enclosure

cc: New Zion Baptist Church

9704335506

From The Desk Of

Timothy L. Hardy
414 Old Towne Road
Louisville, KY 40214

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Nov 22 12 11 PM '96

30 October 1996

FEDERAL ELECTION COMMISSION
Office of General Counsel
999 E. Street NW
Washington, DC 20463

MUR 4579

ATTN: MR. LAWRENCE NOBLE, General Counsel

RE: Filing of an Official Complaint

SUBJECTS: Vice President; Albert Gore
KY 3rd District Congressman; Mike Ward
KY U.S. Senatorial Candidate; Steve Beshear

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1. Plaintiff brings this action against defendants to enjoin the United States Internal Revenue Service (IRS) in violation of Federal Election Commission regulations, and the Constitution of the United States in which the First Amendment precludes the establishment of an religion and therein implies separation of church and state.
2. Plaintiff also brings this action to compel the FEC in conjunction with the IRS to declare the tax-exempt status of the New Zion Baptist Church with a current address of 3330 Southern Avenue, Louisville, KY 40211 to be nullified and void pursuant to IRS code 501(c)(3). Relevant to this section, the following is listed as a "Prohibited Activity": "The organization cannot engage in the dissemination of propaganda or other attempts to influence legislation, or participate in a political campaign on behalf of or in opposition to any candidate (Code section 501(h)). "
3. The concept of denying exempt status to a Code sec. 501(c)(3) organization due to its violation of public policy standards was introduced by the U.S. Supreme Court in a case which a university's exempt status was revoked because of its racist admission policy standards (Bob Jones University, SC, 83-1 USTC). A Code Sec. 501(c)(3) organization must demonstrably serve, and be in harmony with, the public interest. The organization's purpose must not be so at odds with the common community conscience as to undermine any public benefit that might otherwise be conferred.

FACTUAL ALLEGATIONS:

4. On the 27th day of October, in the Year of our Lord, 1996, at or about 12:45 at the New Zion Baptist Church in Louisville, Kentucky, United States Vice President Al Gore addressed an

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overflow audience of approximately 1,000 people from behind the pulpit for a duration of approximately 15 minutes.

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7. Relevant to paragraph (6) above; plaintiff further requests injunctive relief to ensure the integrity of the address in question, and that this information become an exhibit hereto.

CLAIMS FOR RELIEF COUNT I Statutory Action Against Defendants:

8. Plaintiff repeats and incorporates by reference herein the allegations of paragraphs 1 through 7.

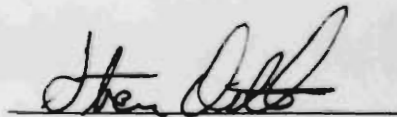
WHEREFORE, Plaintiff prays this commission enter an order directing a full and formal investigation into the alleged and flagrant violations of the United States Tax Code, possible FEC violations associated therewith and not withstanding an investigation by the United States Senate Ethics Committee as it may relate to knowingly placing the tax exempt status of the New Zion Baptist Church in severe jeopardy.

Dated: 30 October 1996

NOTARIZED BY:



Timothy L. Hardy
414 Old Towne Road
Louisville, KY 40214
(502) 893-2291 (Office)
(502) 893-2438 (Fax)



Notary Public, State of Large, KY
My commission expires Feb. 10, 1997

Subscribed and Sworn to before me on this
30th Day of October 1996

970436508



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 27, 1996

Timothy L. Hardy
414 Old Towne Road
Louisville, KY 40214

RE: MUR 4579

Dear Mr. Hardy:

This letter acknowledges receipt on November 22, 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.

Your letter seeks injunctive relief to prevent the respondents from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant your request for injunctive relief at this time.

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 4579. 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,

A handwritten signature in dark ink, appearing to read "F. Andrew Turley", is written over the typed name.

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosure
Procedures

970433509



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 27, 1996

Pastor
New Zion Baptist Church
3330 Southern Avenue
Louisville, KY 40211

RE: MUR 4579

Dear Pastor:

The Federal Election Commission received a complaint which indicates that New Zion Baptist Church 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 4579. 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 New Zion Baptist Church 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.

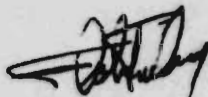
The complainant seeks injunctive relief to prevent New Zion Baptist Church from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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.

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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,



F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

9704335511



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 27, 1996

Honorable Mike Ward
1905 Deer Park Avenue
Louisville, KY 40205

RE: MUR 4579

Dear Mr. Ward:

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 4579. Please refer to this number in all future correspondence.

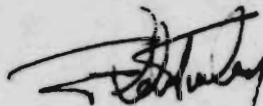
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under 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.

The complainant seeks injunctive relief to prevent you from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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,



F. Andrew Tarley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

97043835513



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 27, 1996

William Carl Fust, Treasurer
Ward for Congress
1250 Bardstown Road
Louisville, KY 40204

RE: MUR 4579

Dear Mr. Fust:

The Federal Election Commission received a complaint which indicates that Ward for Congress ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4579. 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.

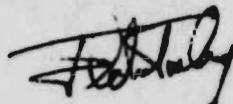
The complainant seeks injunctive relief to prevent the Committee and you, as treasurer, from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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.

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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,



F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

97043635515



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 27, 1996

Charles L. Stivers, Treasurer
Beshear for US Senate Committee
250 West Main Street Suite 2300
Lexington, KY 40507

RE: MUR 4579

Dear Mr. Stivers:

The Federal Election Commission received a complaint which indicates that Beshear for US Senate 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 4579. 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.

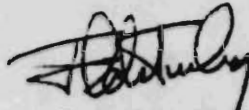
The complainant seeks injunctive relief to prevent the Committee and you, as treasurer, from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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.

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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,



F. Andrew Tyfley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

97043835517



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 27, 1996

Steve Beshear
250 West Main Street
Suite 2300
Lexington, KY 40507

RE: MUR 4579

Dear Mr. Beshear:

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 4579. 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.

The complainant seeks injunctive relief to prevent you from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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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,



F. Andrew Tunley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

97043035519



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 27, 1996

The Honorable Albert Gore, Jr.
Vice President of the United States
Old Executive Office Building
17th Street and Pennsylvania Avenue, NW
Washington, DC 20500

RE: MUR 4579

Dear Vice President Gore:

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 4579. Please refer to this number in all future correspondence.

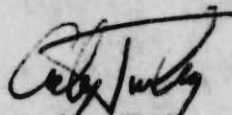
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under 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.

The complainant seeks injunctive relief to prevent you from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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Sincerely,



F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

97043835521



FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 27, 1996

Lynn Utrecht, Esquire
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Ave., NW
Suite 1100
Washington, DC 20036

Eric F. Kleinfeld, Esquire
Chief Counsel
Clinton/Gore '96
PO Box 19300
Washington, DC 20036

RE: MUR 4579

Dear Ms. Utrecht and Mr. Kleinfeld:

The Federal Election Commission received a complaint which indicates that the Clinton/Gore '96 Committee, Inc. and Joan Pollitt, 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 4579. 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 Clinton/Gore '96 Committee, Inc. and Joan Pollitt, 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.

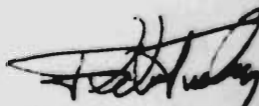
The complainant seeks injunctive relief to prevent the Clinton/Gore '96 Committee, Inc. and Joan Pollitt, as treasurer, from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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Sincerely,



F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures

97043835523

CLINTON GORE '96

December 16, 1996

Lawrence M. Noble, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, NW
6th Floor
Washington, DC 20463

DEC 16 3 59 PM '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

**Re: MUR 4579, The Honorable Al Gore, the Clinton/Gore '96
General Committee, Inc., and Joan Pollitt, Treasurer**

Dear Mr. Noble:

We represent the Honorable Al Gore, Vice President of the United States, and the Clinton/Gore '96 General Committee, Inc. (the "Committee") and Joan Pollitt, as treasurer, in the above captioned Matter Under Review ("MUR") and submit this response to the complaint filed in this matter. In short, the complaint completely fails to state a factual or legal basis for any Commission findings regarding the Vice President or the Committee and, accordingly, the Commission should find no reason to believe that either committed any violation of the Federal Election Campaign Act of 1971, as amended, (the "Act") and close the file.

Statement of the Case

The basis for complainant's accusations is a candidate appearance by the Vice President at the New Zion Baptist Church located in Louisville, Kentucky. The complaint relies solely on one newspaper's coverage of this appearance as the basis for the complaint, though no article or other evidence is attached thereto. Complainant concludes that the approximately fifteen minutes of remarks by the Vice President were political in nature and alleges violations of the Internal Revenue Service ("IRS") Code pertaining to non-profit organizations. Complainant fails to allege or even cite any section of the Act in complaining about the Vice President's remarks.

The Committee does not dispute that the Vice President appeared at the New Zion Baptist Church and made brief remarks to members of the congregation of that church. The church was celebrating the 24th anniversary of its minister and had put together a wide-ranging program for that purpose. The nature of these remarks is more fully discussed below. However, the Committee strongly contends that nothing about that appearance gives rise to any possible violation of the Act or of the Commission's regulations.

Legal Analysis

1. **Contrary to the requirements of the Act and Commission regulations, the complaint fails to allege a violation of any statute or regulation over which the Commission has jurisdiction.**

The Commission's regulations require a complaint, in order to be valid, to provide a "clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction . . ." 11 C.F.R. §111.4(d)(3). Complainant fails to meet this requirement, because he fails to provide *any* facts which might constitute a violation of the Act or FEC regulations.

The only statute cited by complainant is the IRS Code. In essence, he is complaining about political activities of a church which is tax exempt under tax law. Obviously, the Commission has long recognized that it lacks jurisdiction to enforce -- or even to investigate -- alleged violations of tax law. Where, as here, the only alleged statutory violation pertains to a statute outside the Commission's jurisdiction, the complaint should be immediately dismissed as insufficient under the Act.

Moreover, complainant does not cite to any provision of the Act or the Commission's regulations, and nowhere does complainant explain how the facts described violated the Act or Commission regulations. Quite simply, complainant leaves respondents guessing as to what the alleged violations of the Act may be. For the Commission to consider this matter, something more than a mere reference to a law outside the Commission's jurisdiction is required. An allegation that political remarks were made at a church falls far short of what is required to proceed as a valid complaint under section 111.4, regardless of the IRS implications of the allegations. The insufficiency of this complaint alone compels its immediate dismissal by the Commission.

2. **Even if the limited facts contained in the complaint are true, no violation of the Act or of the Commission's regulations has occurred.**

Even if the limited facts contained in the complaint are accepted as true, neither the Committee nor the Vice President has violated the Act. The only discernible facts from the complaint are that the Vice President made remarks to the congregation of the New Zion Baptist Church in Louisville, Kentucky and that these remarks included a brief reference to a House candidate and a Senate candidate from Kentucky. These facts, standing alone, do not constitute any violation of the Act or regulations.

Nowhere does the Act or the Commission's regulations restrict either the cite of political events or the content of political remarks. That is what complainant is seeking here. In addition,

nowhere does the Act or the Commission's regulations state -- or has the Commission ever determined -- that political remarks made at a church, in and of itself, constitutes a violation of the Act. No evidence of any kind has been submitted with this complaint to demonstrate that these remarks were in any way improper under the Act.

The Vice President was on a campaign-related trip during which the stop at the church occurred. All of the costs of travel for the Vice President to and from Louisville, Kentucky were paid for by the Committee, pursuant to the Commission's travel regulations at 11 C.F.R. §9004.7.¹ A variety of stops -- campaign events -- were conducted during this trip, one of which included the New Zion Baptist Church. Where, as here, a candidate pays for the costs of that candidate's travel for a particular trip, nothing in the Commission's travel regulations would prohibit that candidate from scheduling a stop at a church and making remarks there.²

Because the Committee paid for the Vice President's travel expenses, there are no limits, under the Act or Commission's regulations, placed on the content of the remarks which could have been made by the Vice President. A copy of the Vice President's prepared remarks is attached. As evidenced from the prepared remarks, the clear purpose of the appearance was to address an issue of major concern not only to the members of this congregation, but also to the general public -- the recent spate of horrible church burnings across this country. In addition, this appearance was planned as only one part of the church's program celebrating the 24th anniversary of its minister at the church. Nothing in the prepared remarks expressly advocates the election of the President, Vice President or any other candidate -- or the defeat of any candidate.³

The specific remarks complained of, albeit absent words of express advocacy, endorsed

¹Some of the costs have been paid by the Democratic National Committee pursuant to its authority under 2 U.S.C. §441a(d).

²Because the Committee paid all of the travel costs of this particular trip, the facts herein are distinguishable from a situation whereby a candidate makes appearance on corporate premises and the host corporation pays for the candidate's travel expenses. In the latter case, 11 C.F.R. part 114 would be applicable to the candidate appearance. Because the Committee had implemented a policy to scrupulously avoid the possibility of an improper corporate contribution through the payment of travel expenses for candidate appearances, the Committee paid for such travel expenses when scheduling appearances by Vice President on corporate or similar premises.

³The Committee makes this point to demonstrate the actual purpose of the event. However, the Committee does not concede that remarks of express advocacy would have been in any way improper or impermissible under the Act -- to the contrary, the Committee believes that FEC precedent permits remarks of any sort when the campaign is paying for the candidate's travel costs.

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the candidacies of Mike Ward and Steve Beshear. No limits are placed, under the Act and the Commission's regulations, on the endorsement of one candidate by another -- in fact, it is quite commonplace in political campaigns. Endorsements such as this do not involve the expenditure of funds by one campaign on behalf of another or in any other way implicate the limitations and prohibitions of the Act.⁴ Endorsements such as this are simply the exercise of free speech and have never been considered by the Commission to be improper under the Act.

Accordingly, even accepting the limited facts provided in the complaint as true, they give rise to no FEC violation. The Commission has never restricted the ability of one candidate to endorse another. For that reason, the Commission should find no reason to believe that any violation of the Act occurred and close this matter immediately.

Conclusion

For the reasons stated above, complainant's allegations with respect to both the Committee and the Vice President fail to demonstrate a factual or legal basis for any Commission finding against them. We respectfully request that the Commission find no reason to believe that the Clinton/Gore '96 General Committee, Inc. and Joan Pollitt, as treasurer, or the Honorable Al Gore violated any provision of the Act or Commission regulations and close this matter as it pertains to the.

Respectfully submitted,

Lyn Utrecht / Eric
Lyn Utrecht
Eric Kleinfeld

Attachment

⁴This matter is distinguishable from the case of one candidate expending funds to hold a campaign event for another candidate. The church appearance was part of a celebration by the church. Similarly, this matter is distinguishable from the case whereby a corporation or membership organization expends funds to make and announce a candidate endorsement by that organization. That did not occur here. The endorsement was made by the Vice President, and the only funds expended were the Vice President's travel expenses -- and those were paid for by the Committee.

Remarks by Vice President Al Gore

New Zion Baptist Church

Louisville, KY

October 27, 1996

Thank you very much, Reverend Awkard (AWK-urd).

I know that churches are places where we are all supposed to feel humble. But having to follow this great man on the pulpit of this great church takes humility to new levels. I am truly honored to be here to celebrate the 24th anniversary of your tenure as pastor of this church.

(Now, Reverend Awkard, I couldn't help but notice that you seem to favor names that begin with the letter "A." Your first name starts with A -- and then there's Miss Ann and Alma (AL-ma) and Alicia (ah-LEE-sha).

[NOTE: Miss Ann is Rev. Awkard's wife. Alma and Alicia are his two daughters.]

9 / 0 4 3 8 3 5 2 9
Could that have anything to do with why you asked a guy named Al to come and speak with you here today? Or maybe you invited me for another reason: because you knew my reputation for being such an animated, exciting, charismatic speaker.

[Stiff jokes]

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But seriously, I want to tell you why I am so proud to be here with you on this fourth Sunday in October. It is because I am proud to help celebrate the mighty contributions that Reverend A has made to this congregation . . . to this community . . . to this city . . . and even to neighbors in need all over the world.

Twenty-four years ago, Reverend A answered this church's call at its moment of greatest need. Reverend Cunningham, the man who breathed life into this church back in the 1920s, had just passed on. And then grief struck again: your house of worship burned to the ground.

Reverend A literally brought this church out of the ashes.
And even more important, he brought this congregation out of
its dispirit and despair.

When he assumed the pulpit of this church, New Zion
Baptist Church counted at most 200 families as its members.

As I think we all can see, you've grown a bit since then.

But the measure of this man's vision is not limited to what
he has done to build and empower this congregation alone.

Reverend A -- the Leader of the Land -- has reached out far
beyond these pews . . . far beyond the walls of this church.

*[NOTE: Rev. A is referred to within the congregation as the
"Leader of the Land."]*

Reverend A has made Louisville not just better off, but better. He has inspired you to care for the sick, teach the young, provide food for the hungry, share compassion with prisoners who have strayed, and respond to disasters here and abroad.

By reaching out so far and confronting challenges so great, this leader has shown that the secular world cannot be isolated from the world of faith. They're tightly linked.

I have learned that, too. As a Christian -- and as someone entrusted with public office -- I have discovered that faith cements what the secular world unglues.

Faith reminds us that while we are leaders, we are also led.

Faith reminds us that while we are looked to for answers, there is always a larger reality to embrace. Faith reminds us that while we must seek to lead with a cool head, we must also bring forth a warm heart and a compassionate soul.

And perhaps most important, our religious convictions remind us that in public life our highest obligation is to lift up those who have been left out.

The Bible teaches us that ideal -- perhaps nowhere more powerfully than in Ezekiel:

The hand of the LORD was upon me, and he brought me out by the Spirit of the LORD and set me in the middle of a valley; it was full of bones.

He led me back and forth among them, and I saw a great many bones on the floor of the valley, bones that were very dry.

He asked me, "Son of man, can these bones live?" I said, "O Sovereign LORD, you alone know."

Then he said to me, "Prophecy to these bones and say to them, 'Dry bones, hear the word of the LORD!

9 7 0 4 3 6 3 5 5 5 5 3 5

This is what the Sovereign LORD says to these bones:

I will make breath enter you, and you will come to life.

I will attach tendons to you and make flesh come upon you and cover you with skin; I will put breath in you, and you will come to life. Then you will know that I am the LORD.”

So I prophesied as I was commanded. And as I was prophesying, there was a noise, a rattling sound, and the bones came together, bone to bone.

I looked, and tendons and flesh appeared on them and skin covered them, but there was no breath in them.

Then he said to me, "Prophecy to the breath;
prophecy, son of man, and say to it, 'This is what the
Sovereign LORD says: Come from the four winds, O
breath, and breathe into these slain, that they may
live.'"

So I prophesied as he commanded me, and breath
entered them; they came to life and stood up on their
feet -- a vast army."

That is our obligation -- both as people of faith and as
citizens of a great nation. To breathe life into America's dry
bones.

When we stand with those who have been persecuted,
when we reach down to that man beside the road who has been
passed by for so long, we are called upon to lift him up, and
testify -- and with our faith, breathe life into the community and
into our country.

9 7 0 4 3 3 3 5 5 3 7
Because none of us . . . no father . . . no mother . . . no
child . . . can go it alone. President Bill Clinton understands
that. And he's been working give families a helping hand.
That's why President Clinton has fought to take guns off the
street and drugs out of our schools. God did not bless us with
children so that our sons and daughters have to live in fear --
forced to navigate the jagged rocks of drug-pushers and
gang-bangers when they walk to school each day.

This violence is a stain on our national soul. We must scrub it out. We must wipe it clean. And we must vow that it shall never return.

9 / 0 4 3 3 5 3 3
And we must, we must, open the path of opportunity to all Americans. That's why President Clinton has fought to expand Head Start. To open the doors of college. To reach out to those who want to reach up -- by mending affirmative action, not ending it. And he's stood up to those who are intent on kicking away the very props that families need to survive.

He and I have traveled many times to communities whose churches have been inflicted by cowardly acts of violence.

Those church-burnings were abhorrent. They sickened the decent and appalled the righteous. And while they have quieted a bit of late, we must be vigilant in ensuring that these horrible deeds are not repeated. Not today. Not tomorrow. Not ever.

Mark my words: we shall not let those who walk in the counsel of the wicked frighten those of us who delight in the law of the Lord.

Ladies and gentlemen, brothers and sisters, we live in extraordinary times. There is no limit to what we can achieve. No limit to how far we can travel when we work together . . . when we trust each other . . . and when we restore our faith in God.

That is a lesson taught here in this great church. And that is a lesson our country must heed if we are to cross that bridge to the 21st century.

Thank you. And God bless you all.

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STATEMENT OF DESIGNATION OF COUNSEL
OFFICE OF GENERAL COUNSEL

MUR 4579

DEC 16 4 05 PM '96

NAME OF COUNSEL: Lyn Utrecht Eric Kleinfeld

FIRM: Oldaker, Ryan, Phillips & Utrecht Clinton/Gore '96

ADDRESS: 818 Connecticut Ave., NW P.O. Box 19100
Suite 1100 Washington, D.C.
Washington, D.C. 20008 20036

TELEPHONE: (202) 728-1010 (202) 496-5051

FAX: (202) 466-2023 (202) 466-2023

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.

12-15-96

Date

Signature Al Gore

RESPONDENT'S NAME: Al Gore

ADDRESS: P.O. Box 19100

Washington, D.C. 20036

TELEPHONE: HOME ()

BUSINESS (202) 331-1996

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MULLOY, WALZ, WETTERER, FORE & SCHWARTZ

ATTORNEYS AND COUNSELORS AT LAW

FIRST TRUST CENTER

SUITE 700 NORTH

800 SOUTH FIFTH STREET

LOUISVILLE, KENTUCKY 40202

KARL M. WALZ
WILLIAM S. WETTERER, JR.
F. LARKIN FORE
DAN T. SCHWARTZ
B. MARK MULLOY
BRYAN J. DILLON*
WILLIAM S. WETTERER, III
DONALD J. LADUKE
J. GREGORY CLARE
RONDA M. HARTLAGE

TELEPHONE 502/589-5290
FACSIMILE 502/589-1637

OF COUNSEL
WILLIAM R. MULLOY, SR.
STEPHEN M. MILLER
LEE SISNEY

* ALSO ADMITTED INDIANA

December 16, 1996

The Honorable Lawrence Noble, Esquire
Office of the General Counsel
FEDERAL ELECTION COMMISSION
999 E Street NW, 6th Floor
Washington, D. C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Dec 17 10 01 AM '96

RE: MUR 4579, RESPONSE OF NEW ZION BAPTIST CHURCH
AND REV. A. RUSSELL AWKARD

Dear Mr. Noble:

We represent the New Zion Baptist Church, a voluntary association of Baptists located at 3330 Southern Avenue, Louisville, Kentucky 40211, and its Pastor, Rev. A. Russell Awkard. We herewith submit their response to the Complaint filed herein November 22, 1996, by one Timothy L. Hardy. The Complaint is dated October 30, 1996, but was stamped received by the Federal Election Commission November 22, 1996.

The letter from the Federal Election Commission to the Pastor of New Zion Baptist Church was dated November 27, 1996, but the postmark on the envelope is November 29, 1996, the day after Thanksgiving, 1996.

It was not received until December 2, 1996, by Mr. Harry Miller, Treasurer of New Zion Baptist Church, and then delivered to the Pastor of New Zion Baptist Church on December 2, 1996.

Now in Response to the Complaint, both the New Zion Baptist Church and its Pastor, Rev. A. Russell Awkard, specifically deny that either the Church or its Pastor violated any provision of the

Federal Election Campaign Act of 1971, nor is it in violation of any of the rules or regulations of the Internal Revenue Service, nor did it knowingly or intentionally violate any other law of the State of Kentucky, or the United States of America.

Both the Church and the Pastor specifically deny that it violated any of the prohibited activity concerning its tax-exempt status under the Internal Revenue Code, nor did either of them in any way, engage in the dissemination of propaganda or other attempts to influence legislation or participate in a political campaign on behalf of or in opposition to any candidate.

The Complaint fails to state a factual or legal basis for any finding that these respondents committed any violation of the Federal Election Campaign Act of 1971 as amended and we respectfully submit the Committee should so find.

By way of affirmative statements and response, both the Church and Rev. Awkard state that, Sunday October 27, 1996, marked the 24th Anniversary of Rev. A. Russell Awkard's Pastorate at the New Zion Baptist Church in Louisville, Kentucky. For sometime prior to that date, the Church had determined to have a celebration of the Pastor's 24th Anniversary, and had invited Rev. Gerald Thomas, Pastor of the Metropolitan Baptist Church, Philadelphia, Pennsylvania, and its choir to sing and preach at the Anniversary Celebration.

The program was planned several weeks before that date and it was not known nor was it planned that Vice President Albert Gore would either attend the service or play any part therein.

In fact, it was not until October 24, 1996, three days before the service, that a phone call was received by the Church advising that Vice President Gore would be in Louisville on Sunday, October 27, 1996, and wanted to know if the Pastor would allow the Vice President to come to New Zion Baptist Church for worship.

The caller was advised that October 27, 1996, would be the observance of the Pastor's anniversary and marked his 24th year at the Church. Then the caller was advised that the Church would consider it a high honor to have such a distinguished guest at its worship service.

The Church office was later that day advised by another phone call that the Vice President's advance team would be coming shortly to inspect the Church facilities.

During the visit, the Church was advised that this would not be in any wise a political rally, and that the Vice President

simply wanted the service to be as normal as possible, that he wanted to worship the Lord.

A request was made, and parts of the building were then designated for special use; the chapel for the press, the choir room for the Vice President's staff, the Sunday School office for the Secret Service, and the Pastor's study for the Vice-President's holding room.

The Church staff was asked to forward information about the Church and the Pastor. A copy of the order of service was also requested as it was already printed. There was nothing in it referring to the Vice President.

It is customary in this Church to have an 8:30 a.m. service on Sunday morning, Sunday School at 10:00 a.m., and then at 11:30 a.m. service. The 11:30 a.m. service usually lasts until 1:00 or 1:30 p.m. On this occasion a visiting minister, a Rev. Thomas, and choir from Philadelphia, Pennsylvania had for weeks previously been invited to celebrate the Pastor's 24th Anniversary.

This Church also has a 5:00 p.m. service on Sundays and originally it was advised that Vice President Gore would probably arrive somewhere in mid-afternoon and would be attending the last service of the day. Shortly thereafter, the Church was also further advised that the Vice President would probably be in the service around 12:30 or shortly thereafter.

In the course of planning the advance team of the Vice President reassured us over and over again that they did not want any special additions to the regular service and that they wanted our people to be responsible for the usual tasks in the service. Everything proceeded normally for this special day, and Rev. Thomas then spoke and the choir sang.

Everyone who planned to attend the 11:30 a.m. service was asked to remain in the dining room except the youth and the choir, who went upstairs for that hour or so. A security sweep was conducted by the Secret Service. The doors were then open for seating in the sanctuary. Persons in the dining room were the first ones admitted through the scanner and only Church members and visitors from Philadelphia were allowed either to enter at first.

We wanted to preserve the integrity of the service and the worship.

Former Lieutenant Governor Steve Beshear, Congressman Mike Ward, and the Mayor of Louisville, all came with the Vice President. None of them spoke or made any presentation. When the Vice President came in the choir sang. The Vice President spoke briefly. At the time, most of the Church was unaware that the Vice President had studied at the Vanderbilt Divinity School in his home

state of Tennessee.

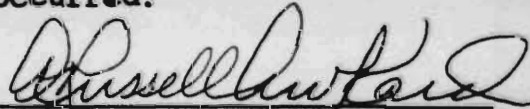
The Vice President made a brief sermonette wherein he paid tribute to Rev. A. Russell Awkard for his contribution to the Church and the Community for 24 years service, and told the story as a comparison of the Good Samaritan from the Bible. He cited the passage from Genesis of Joseph, being thrown into a pit by his brothers, and then emerging as a leader of Egypt. He told the story of Shadrach, Meshach, and Abednego and their place of service and closed with a reference to Ezekiel and in all these ways compared the service of Rev. Awkard and New Zion Church with these examples of service in the Bible.

In no way was his speech political. On the contrary, it exemplified his divinity training, spiritual and religious background as he joined in with the New Zion Church in worshipping that Sunday morning.

At the close of his remarks, the Vice President paused in front of the pulpit to greet some of the worshippers. He then exited just before the Benediction. The Pastor remained and closed the service.

The Pastor's 24th Anniversary Celebration concluded with an assemblage of New Zion Members and the service of music and tributes. Neither the Pastor nor the Church ever introduced anyone other than the Vice President.

WHEREFORE Reverend A. Russell Awkard and the New Zion Baptist Church of Louisville, Kentucky specifically request that the Complaint be dismissed and that the Commission find and declare that no violation of any provision of the Federal Election Campaign Act of 1971 or its regulations occurred.



REV. A. RUSSELL AWKARD
PASTOR OF NEW ZION BAPTIST CHURCH

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for the Commonwealth and County aforesaid, do hereby certify that on this

MULLOY, WALZ, WETTERER, FORE & SCHWARTZ

day the foregoing instrument was produced to me in said Commonwealth and County and was sworn to by REV. A. RUSSELL AWKARD to be true as he verily believes.

My commission expires: 6/1/97

William P. Mulloy, Sr.
NOTARY PUBLIC, KENTUCKY AT LARGE

William P. Mulloy, Sr.
WILLIAM P. MULLOY, SR.
ATTORNEY FOR REV. A. RUSSELL AWKARD
AND THE NEW ZION BAPTIST CHURCH
700 N. First Trust Centre
200 South Fifth Street
Louisville, Kentucky 40202
502-589-5250

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 4579

NAME OF COUNSEL: WILLIAM P. MULLOY, SR. & BRYAN MARK MULLOY

FIRM: MULLOY, WALZ, WETTERER, FORE & SCHWARTZ

ADDRESS: SUITE 700 N, FIRST TRUST CENTRE

200 SOUTH FIFTH STREET

LOUISVILLE, KENTUCKY 40202

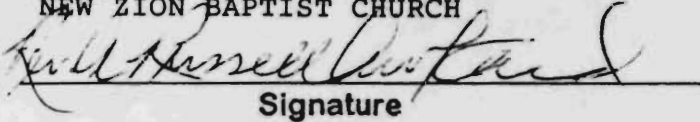
TELEPHONE: (502) 589-5250

FAX: (502) 589-1637

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.

NEW ZION BAPTIST CHURCH

12/16/96
Date


Signature

BY: REV. A. RUSSELL AWKARD

RESPONDENT'S NAME: PASTOR A. RUSSELL AWKARD, NEW ZION BAPTIST CHURCH

ADDRESS: 3330 SOUTHERN AVENUE

LOUISVILLE, KENTUCKY 40211

TELEPHONE: HOME

BUSINESS (502) 778-6002

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STITES & HARBISON

421 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601
(502) 223-3477
FACSIMILE (502) 223-4124

2000 LEXINGTON FINANCIAL CENTER

250 WEST MAIN STREET

LEXINGTON, KENTUCKY 40507

(606) 226-2300

FACSIMILE (606) 226-2144

COURT HOUSE PLAZA
323 EAST COURT AVENUE
POST OFFICE BOX 946
JEFFERSONVILLE, INDIANA 47131
(812) 282-7566
FACSIMILE (812) 284-5519

409 WEST MARKET STREET
SUITE 1800
LOUISVILLE, KENTUCKY 40202-3352
(502) 587-3400
FACSIMILE (502) 587-8391

STEVEN L. BESHEAR

DIRECT DIAL (606) 226-2370

December 16, 1996

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

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

DEC 17 9 59 AM '96

Re: Response to MUR 4579

Ladies and Gentlemen:

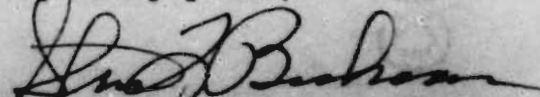
Please accept this letter as a response from Beshear for U.S. Senate Committee, Charles L. Stivers, its Treasurer, and Steve Beshear, candidate, to the Complaint filed by Timothy L. Hardy, assigned matter MUR 4579.

The Complaint alleges no violation of the Federal Election Commission Act of 1971, as amended.

Steve Beshear was the Democratic nominee for the United States Senate and was invited to attend this event. Steve Beshear did attend the event but did not participate in the event other than his presence as an invited guest.

Neither the Beshear for U.S. Senate Committee, Charles L. Stivers, its Treasurer, nor Steve Beshear has committed any violation of the Federal Election Campaign Act of 1971, as amended, by Steve Beshear's attendance at this event, and the facts stated in the Complaint state no alleged violation of said Election Commission laws by these parties. Therefore, the Complaint should be dismissed as against these parties.

Very truly yours,



Steven L. Beshear

SLB:cm

970433540

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4579

NAME OF COUNSEL: Steven L. Beshear

FIRM: Stites & Harbison

ADDRESS: 250 West Main Street, Suite 2300

Lexington, Kentucky 40507

TELEPHONE: (606) 226-2300

FAX: (606) 253-9144

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.

BESHEAR FOR U.S. SENATE

12/9/96
Date

BY: *Charles L. Stivers*
Signature

Charles L. Stivers
Charles L. Stivers, Its Treasurer

RESPONDENT'S NAME: Beshear For U.S. Senate Committee and
Charles L. Stivers, Treasurer

ADDRESS: 250 West Main Street, Suite 2300

Lexington, Kentucky 40507

TELEPHONE: HOME

BUSINESS (606) 226-2300

DEC 17 9 59 AM '96

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

97043835549

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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ENFORCEMENT PRIORITY

SENSITIVE

AUG 19 1997

**EXECUTIVE SESSION
SUBMITTED LATE**

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

II. CASES RECOMMENDED FOR CLOSURE.

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

EPS was created to identify pending cases which, due to the length of their pendency in inactive status or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria which results in a numerical rating of each case.

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified 34 cases which do not warrant further action relative to other pending matters.¹

¹ These cases are: MUR 4470 (Ward for Congress); MUR 4478 (Citizens for Tom Reynolds); MUR 4492 (Friends of Ken Poston); MUR 4498 (Darryl Roberts for Congress); MUR 4506 (The Hon. Ted Little); MUR 4512 (Friends of Lane Evans); MUR 4517 (Unknown Respondent); MUR 4518 (Kansans for Rathbun); MUR 4520 (Larry Lerner for

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Attachment 1 to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more distant in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more remote and consequently more difficult to develop. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of these facts, EPS also provides us with the means to identify those cases which, though earning a higher rating when received, remained unassigned due to a lack of resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources.

Congress); MUR 4522 (*Republican Party of Bexar County*); MUR 4523 (*Cong. Andrea Seastrand*); MUR 4524 (*Danny Covington Campaign Fund Committee*); MUR 4526 (*Hoeffell for Congress*); MUR 4528 (*Pete King for Congress*); MUR 4529 (*Pete King for Congress*); MUR 4532 (*Citizen's Committee for Gillman for Congress*); MUR 4535 (*Visclosky for Congress*); MUR 4537 (*Di Nicola for Congress*); MUR 4541 (*Ross Perot*); MUR 4548 (*Blagojevich for Congress*); MUR 4550 (*Friends of Wamp for Congress*); MUR 4551 (*John N. Hostettler*); MUR 4557 (*De La Rosa for Congress*); MUR 4559 (*Bill Baker for Congress*); MUR 4560 (*George Stuart Jr. for Congress*); MUR 4562 (*Wayne E. Schile*); MUR 4566 (*Al Gore*); MUR 4574 (*Danny Covington Campaign Fund Committee*); MUR 4576 (*Volunteers for Shimkus*); MUR 4579 (*New Zion Baptist Church*); MUR 4580 (*Friends of Mike Forbes*); MUR 4584 (*Bill Baker for Congress*); MUR 4588 (*Navarro for Congress*); and MUR 4613 (*Guy Kelley for Congress*).

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The U.S. District Court for the District of Columbia, however, held in *Democratic Senatorial Campaign Committee v. FEC*, Civil Action No. 95-0349 (D.D.C. April 17, 1996) that 24 months was too long a time in which to hold a case in an inactive status.

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Twenty one cases have remained on the Central Enforcement Docket for a sufficient period of time to render them stale, all of which are recommended for closure in this Report.⁴ This group includes four MURs that became stale several months ago, but were held pending criminal prosecution by the Department of Justice.⁵ DOJ obtained convictions in the two criminal cases related to these four MURs (*U.S. v. Jay Kim* and *U.S. v. Dynamic Energy Resources*) based upon guilty pleas by the key defendants, who are also the principal respondents in our pending matters. Pursuit of civil enforcement action in view of the satisfactory results obtained in the criminal cases would not be the most effective use of the Commission's scarce resources at this time.

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective August 29, 1997. Closing these cases as

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⁴ These cases are: MUR 4274 (GOPAC); MUR 4358 (Miller for Senate); MUR 4361 (ABC-TV); MUR 4368 (Citizens Business Bank); MUR 4380 (AFGE Local 2391 PAC); MUR 4385 (Dial for Congress); MUR 4386 (Zimmer for Senate); MUR 4396 (ABC); MUR 4404 (Friends of Steve Stockman); MUR 4410 (39th Legislative District); MUR 4417 (Our Choice II); MUR 4422 (Desana for Congress Committee); and Pre-MUR 336 (Park National Bank & Trust).

⁵ These cases are: MUR 3796 (Jay Kim for Congress); MUR 3798 (Jay Kim); MUR 4275 (Jay Kim); and MUR 4356 (Dynamic Energy Resources). In dismissing the Jay Kim cases, we also recommend closing Pre-MUR 352, which is the transmittal of the guilty plea agreement and related documentation in the criminal case against Congressman Kim forwarded by United States Attorney's office.

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of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

Pre-MUR 336

Pre-MUR 352

B. Take no action, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

MUR 3796	MUR 4396	MUR 4522	MUR 4559
MUR 3798	MUR 4404	MUR 4523	MUR 4560
MUR 4274	MUR 4410	MUR 4524	MUR 4562
MUR 4275	MUR 4417	MUR 4526	MUR 4566
	MUR 4422	MUR 4528	MUR 4574
MUR 4356	MUR 4470	MUR 4529	MUR 4576
MUR 4358	MUR 4478	MUR 4532	MUR 4579
MUR 4361	MUR 4492	MUR 4535	MUR 4580
MUR 4368	MUR 4498	MUR 4537	MUR 4584
	MUR 4506	MUR 4541	MUR 4588
MUR 4380	MUR 4512	MUR 4548	MUR 4613
MUR 4385	MUR 4517	MUR 4550	
MUR 4386	MUR 4518	MUR 4551	
	MUR 4520	MUR 4557	

8/14/97
Date

Lawrence M. Noble (712)
Lawrence M. Noble
General Counsel

Attachment:
Case Summaries

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Enforcement Priority) Agenda Document No. X97-55

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 19, 1997, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions with respect to Agenda Document No. X97-55:

- A. Decline to open a MUR, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:
1. Pre-MUR 336.
 2. Pre-MUR 352.
- B. Take no action, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:
1. MUR 3796.
 2. MUR 3798.
 3. MUR 4274.
 4. MUR 4275.
 5. MUR 4356.
 6. MUR 4358.
 7. MUR 4361.
 8. MUR 4368.
 9. MUR 4380.
 10. MUR 4385.
 11. MUR 4386.
 12. MUR 4396.
 13. MUR 4404.
 14. MUR 4410.
 15. MUR 4417.
 16. MUR 4422.
 17. MUR 4470.
 18. MUR 4478.

(continued)

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Federal Election Commission
Certification: Enforcement Priority
August 19, 1997

Page 2

19. MUR 4492. 20. MUR 4498. 21. MUR 4506.
22. MUR 4512. 23. MUR 4517. 24. MUR 4518.
25. MUR 4520. 26. MUR 4522. 27. MUR 4523.
28. MUR 4524. 29. MUR 4526. 30. MUR 4528.
31. MUR 4529. 32. MUR 4532. 33. MUR 4535.
34. MUR 4537. 35. MUR 4541. 36. MUR 4548.
37. MUR 4550. 38. MUR 4551. 39. MUR 4557.
40. MUR 4559. 41. MUR 4560. 42. MUR 4562.
43. MUR 4566. 44. MUR 4574. 45. MUR 4576.
46. MUR 4579. 47. MUR 4580. 48. MUR 4584.
49. MUR 4588. 50. MUR 4613.

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

Attest:

8-21-97
Date

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

9704383555



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Timothy L. Hardy
414 Old Towne Road
Louisville, KY 40214

RE: MUR 4579

Dear Mr. Hardy:

On November 22, 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 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 August 29, 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. § 437g(a)(8).

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

9704383556

MUR 4579

NEW BAPTIST ZION CHURCH

Complainant Timothy Hardy alleges in his complaint, based on a newspaper article, that the New Zion Baptist Church (the "Church") violated its 501(c)(3) status by permitting Vice President Gore to speak for approximately 15 minutes. Mr. Hardy alleges that the Vice President delivered brief messages supporting the candidacy of Mike Ward and Steve Beshear at the beginning and ending of his speech and made a "coded reference" regarding affirmative action "which many prominent Republican office-holders oppose."

The Church responds that the Vice President attended the church service as alleged, but did so primarily for the purpose of worship and delivered a purely non-political "sermonette." Respondent Clinton/Gore '96 (the "Committee") responds that the allegations do not constitute any FECA violation. The Committee further maintains that delivering even an overtly political speech in such circumstances would not violate the Act. On behalf of themselves and their committees, Mike Ward and Stephen Beshear responded that the fact that they accompanied the Vice President to the church did not constitute a violation of the FECA.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

William P. Mulloy, Sr., Esq.
Mulloy, Walz, Wetterer, Fore & Schwartz
Suite 700 N, First Trust Centre
200 South Fifth Street
Louisville, KY 40202

RE: MUR 4579
New Zion Baptist Church

Dear Mr. Mulloy:

On November 27, 1996, the Federal Election Commission notified Reverend A. Russel Awkard 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 August 29, 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 Henry on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

9704363558

MUR 4579

NEW BAPTIST ZION CHURCH

Complainant Timothy Hardy alleges in his complaint, based on a newspaper article, that the New Zion Baptist Church (the "Church") violated its 501(c)(3) status by permitting Vice President Gore to speak for approximately 15 minutes. Mr. Hardy alleges that the Vice President delivered brief messages supporting the candidacy of Mike Ward and Steve Beshear at the beginning and ending of his speech and made a "coded reference" regarding affirmative action "which many prominent Republican office-holders oppose."

The Church responds that the Vice President attended the church service as alleged, but did so primarily for the purpose of worship and delivered a purely non-political "sermonette." Respondent Clinton/Gore '96 (the "Committee") responds that the allegations do not constitute any FECA violation. The Committee further maintains that delivering even an overtly political speech in such circumstances would not violate the Act. On behalf of themselves and their committees, Mike Ward and Stephen Beshear responded that the fact that they accompanied the Vice President to the church did not constitute a violation of the FECA.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Honorable Mike Ward
1905 Deer Park Avenue
Louisville, KY 40205

RE: MUR 4579

Dear Mr. Ward:

On November 27, 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 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 August 29, 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 Henry on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

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

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

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MUR 4579

NEW BAPTIST ZION CHURCH

Complainant Timothy Hardy alleges in his complaint, based on a newspaper article, that the New Zion Baptist Church (the "Church") violated its 501(c)(3) status by permitting Vice President Gore to speak for approximately 15 minutes. Mr. Hardy alleges that the Vice President delivered brief messages supporting the candidacy of Mike Ward and Steve Beshear at the beginning and ending of his speech and made a "coded reference" regarding affirmative action "which many prominent Republican office-holders oppose."

The Church responds that the Vice President attended the church service as alleged, but did so primarily for the purpose of worship and delivered a purely non-political "sermonette." Respondent Clinton/Gore '96 (the "Committee") responds that the allegations do not constitute any FECA violation. The Committee further maintains that delivering even an overtly political speech in such circumstances would not violate the Act. On behalf of themselves and their committees, Mike Ward and Stephen Beshear responded that the fact that they accompanied the Vice President to the church did not constitute a violation of the FECA.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

William Carl Fust, Treasurer
Ward for Congress
1250 Bardstown Road
Louisville, KY 40204

RE: MUR 4579

Dear Mr. Fust:

On November 27, 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 has determined to exercise its prosecutorial discretion and to take no action against Ward for Congress and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on August 29, 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 Henry on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

A handwritten signature in dark ink, appearing to read "F. Andrew Turley", is positioned above the typed name.

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

MUR 4579

NEW BAPTIST ZION CHURCH

Complainant Timothy Hardy alleges in his complaint, based on a newspaper article, that the New Zion Baptist Church (the "Church") violated its 501(c)(3) status by permitting Vice President Gore to speak for approximately 15 minutes. Mr. Hardy alleges that the Vice President delivered brief messages supporting the candidacy of Mike Ward and Steve Beshear at the beginning and ending of his speech and made a "coded reference" regarding affirmative action "which many prominent Republican office-holders oppose."

The Church responds that the Vice President attended the church service as alleged, but did so primarily for the purpose of worship and delivered a purely non-political "sermonette." Respondent Clinton/Gore '96 (the "Committee") responds that the allegations do not constitute any FECA violation. The Committee further maintains that delivering even an overtly political speech in such circumstances would not violate the Act. On behalf of themselves and their committees, Mike Ward and Stephen Beshear responded that the fact that they accompanied the Vice President to the church did not constitute a violation of the FECA.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Stephen L. Beshear, Esq.
Stites & Harbison
250 West Main Street, Suite 2300
Lexington, KY 40507

RE: MUR 4579
Stephen Beshear
Beshear for U.S. Senate Committee, Charles L. Stiver, Treasurer

Dear Mr. Beshear:

On November 27, 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 has determined to exercise its prosecutorial discretion and to take no action against you or your clients. See attached narrative. Accordingly, the Commission closed its file in this matter on August 29, 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 Henry on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

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MUR 4579

NEW BAPTIST ZION CHURCH

Complainant Timothy Hardy alleges in his complaint, based on a newspaper article, that the New Zion Baptist Church (the "Church") violated its 501(c)(3) status by permitting Vice President Gore to speak for approximately 15 minutes. Mr. Hardy alleges that the Vice President delivered brief messages supporting the candidacy of Mike Ward and Steve Beshear at the beginning and ending of his speech and made a "coded reference" regarding affirmative action "which many prominent Republican office-holders oppose."

The Church responds that the Vice President attended the church service as alleged, but did so primarily for the purpose of worship and delivered a purely non-political "sermonette." Respondent Clinton/Gore '96 (the "Committee") responds that the allegations do not constitute any FECA violation. The Committee further maintains that delivering even an overtly political speech in such circumstances would not violate the Act. On behalf of themselves and their committees, Mike Ward and Stephen Beshear responded that the fact that they accompanied the Vice President to the church did not constitute a violation of the FECA.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Lyn Utrecht, Esq.
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, NW, 11th Floor
Washington, DC 20006

Eric F. Kleinfeld, Esq.
Chief Counsel, Clinton/Gore '96
818 Connecticut Avenue, NW, 10th Floor
Washington, DC 20006

RE: MUR 4579
The Honorable Albert Gore, Jr.

Dear Ms. Utrecht and Mr. Kleinfeld:

On November 27, 1996, the Federal Election Commission notified you and the Honorable Albert Gore, Jr., 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 Clinton/Gore '96 Committee, Inc. and Joan Pollitt, as treasurer, and The Honorable Albert Gore, Jr. See attached narrative. Accordingly, the Commission closed its file in this matter on August 29, 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 Henry on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

MUR 4579

NEW BAPTIST ZION CHURCH

Complainant Timothy Hardy alleges in his complaint, based on a newspaper article, that the New Zion Baptist Church (the "Church") violated its 501(c)(3) status by permitting Vice President Gore to speak for approximately 15 minutes. Mr. Hardy alleges that the Vice President delivered brief messages supporting the candidacy of Mike Ward and Steve Beshear at the beginning and ending of his speech and made a "coded reference" regarding affirmative action "which many prominent Republican office-holders oppose."

The Church responds that the Vice President attended the church service as alleged, but did so primarily for the purpose of worship and delivered a purely non-political "sermonette." Respondent Clinton/Gore '96 (the "Committee") responds that the allegations do not constitute any FECA violation. The Committee further maintains that delivering even an overtly political speech in such circumstances would not violate the Act. On behalf of themselves and their committees, Mike Ward and Stephen Beshear responded that the fact that they accompanied the Vice President to the church did not constitute a violation of the FECA.

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

THIS IS THE END OF MUR # 4579

DATE FILMED 9-23-97 CAMERA NO. 4

CAMERAMAN JMU

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