



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 26, 1999

Bobby Burchfield, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: MUR 4728
Gary Bauer

Dear Mr. Burchfield:

On March 18, 1998, the Federal Election Commission notified your client, Gary Bauer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

On January 12, 1999, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe that Mr. Bauer violated the Act on the basis of the complaint in this matter. Accordingly, the Commission closed its file in this matter as it pertains to Mr. Bauer. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Seth H. Row, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

Alingail G. Shami
for LGL

By: Lois G. Lerner
Associate General Counsel

Enclosures
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Gary L. Bauer

MUR: 4728

This matter was generated based on a complaint filed with the Federal Election Commission ("The Commission") by Kevin Arlt. See 2 U.S.C. § 437g(a)(2).

I. Complaint and Responses

The complaint alleges that Campaign for Working Families, ("CWF") and Gary L. Bauer, Chairman of CWF, failed to report the cost of two mailings, produced by CWF in support of Peter Roskam's campaign for the Republican nomination to the House of Representatives from the 13th District of Illinois, as an independent expenditure within 24 hours, in violation of 2 U.S.C. § 434(c)(2) and 11 C.F.R. § 104.4(c)(1). Complainant alleges, alternatively, that these expenditures were last-minute in-kind contributions to the Roskam for Congress Committee, ("the Committee") because both mailings expressly advocated the defeat of Judy Biggert and the election of Roskam and failed to mention any of the other candidates in the Republican primary. Complainant alleges that if the mailings were contributions, because these contributions were made within 20 days of the election, and the Committee did not report them within 48 hours, the Committee violated 11 C.F.R. § 104.5(f). Complainant also alleges that the cost of the two mailings exceeded the limit of \$5,000 on CWF's permissible contributions to the Committee, in violation of 2 U.S.C. § 441a(a)(2), and that the Committee violated 2 U.S.C. § 441a(f) by accepting these contributions.

Respondent Gary L. Bauer, Chairman of CWF, submitted a detailed response to Complainant's allegations. Mr. Bauer asserts that he is not a proper respondent in this

matter, because, although he signed both the letter and the pamphlet mailed to voters in the district, he is not responsible for maintaining CWF's records or filings with the Commission; nor did he make any of the expenditures out of his own pocket.

II. Analysis

Gary L. Bauer Should Not Be a Respondent in this Matter

Complainant has presented no evidence that Mr. Bauer was involved personally in any of the activity alleged in the complaint. In addition, it is not the Commission's usual practice to make findings against the Chairman of a political committee for a reporting violation. Therefore, the Commission finds no reason to believe that Gary L. Bauer, Chairman of CWF, violated any portion of the Act.

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