



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

OCT - 9 2001

John Glenning
RD 5, Box 173
Montrose, PA 18801

RE: MUR 5075
John Glenning

Dear Mr. Glenning:

On September 25, 2001, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action against you and closed its file. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

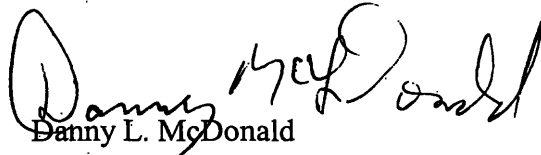
The Commission reminds you that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such communication, if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee. The Commission reminds you that the lack of such disclaimer is a violation of 2 U.S.C. § 441d(a)(3).

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

John Glenning
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If you have any questions, please contact Mary Taksar, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,


Danny L. McDonald
Chairman

Enclosure
Factual and Legal Analysis

21-04-405-3007

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: John Glenning

MUR: 5075

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

The Federal Election Campaign Act of 1971, as amended, ("the Act") states:

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, such communication—

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

2 U.S.C. § 441d(a). Commission regulations require the disclaimer to be presented in a clear and conspicuous manner to give the reader adequate notice of the identity of the person or committee who paid for, and, where required, that authorized the communication. 11 C.F.R. § 110.11(a)(5). "Person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons excluding the Federal government or any authority of the Federal government.

2 U.S.C. § 431 (11). Pursuant to 11 C.F.R. § 100.22, the term "expressly advocating" means any communication that uses phrases such as "vote for the President," "re-elect your Congressman," "support the Democratic nominee," "Smith for Congress," or "Bill McKay in '94" or communications of campaign slogans or individual word(s) which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates. The term "clearly identified" means that the name, photograph, or drawing of the candidate involved appears or the identity of the candidate is apparent by unambiguous reference. 2 U.S.C. § 431(18).

The Commission has information in its possession indicating that John Glenning is solely responsible for creating and financing a flyer titled "Do you want dumps in Susquehanna County?". The flyer, a one-page black and white document that criticizes Congressman Don Sherwood's position on dumping, concludes: "Elect Pat Casey to Congress before it is too late!!!" Because the flyer expressly advocates the election of a clearly identified candidate, Patrick Casey, with the words "Elect Pat Casey to Congress" and was not authorized by any candidate, any authorized committee or its agents, the flyer should have included a disclaimer that clearly stated the name of the person who paid for the communication and state that the communication was not authorized by any candidate or candidate's committee. The flyer contains no disclaimer. Therefore, there is reason to believe that John Glenning violated 2 U.S.C. § 441d(a)(3).