

Trimble & Associates, Ltd.

Attorneys at Law

11700 Wayzata Boulevard
Minneapolis, Minnesota 55305
Telephone: 763-797-7477 Facsimile: 763-797-5858

Offices also in:
Stillwater, Minnesota and
Auckland, New Zealand

Tony P. Trimble
Matthew W. Haapoja
763-797-7477

March 29, 2001

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Attn: Jeff S. Jordan / Alva E. Smith / Elizabeth Williams
Central Enforcement Docket
Federal Election Commission
999 E Street N.W.
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAR 29 9 59 AM '01

Re: MUR No. 5181 / Spirit of America

The undersigned represents Spirit of America, a Federal Election Commission ("FEC") registered multi-candidate committee ("Committee"). This correspondence is submitted in response to a complaint (the "Complaint") dated March 8, 2001 filed with your office requesting FEC investigation of potential violations of the Federal Elections Campaign Act (the "Act"), 2 U.S.C. §441, *et. seq.*

Enclosed please find the following:

1. Statement of Designation of Counsel; and
2. Response of Spirit of America.

The Committee believes that the Complaint is false in its claims as to matters of fact and would appear to be a politically-motivated effort to create negative press coverage, not a good faith attempt to inform the FEC of a potential violation of the Act. The Committee states unequivocally that it did not make any direct or in-kind contributions to Ashcroft 2000 except as reported on the Committee's FEC Reports. The Complaint's only factual allegation, that an undisclosed illegal in-kind contribution occurred, is wholly false.

The Committee requests that this matter remain confidential in accordance with 2 U.S.C. §437g(a)(4)(B) and §437g(a)(12)(A). The Committee also does not desire to participate in the FEC's Alternative Dispute Resolution program.

We look forward to a prompt and expeditious resolution of this matter. The Committee is dedicated to complying with the Act in all respects and is ready, willing and able to provide any further

March 29, 2001

assistance the FEC may request on this matter. Please direct all further correspondence in this matter to the undersigned at the address indicated on the first page of this letter. Thank you.

Very truly yours,



Tony P. Trimble
Matthew W. Haapoja

✓mh

enc.

cc: Garrett Lott, Executive Director, Spirit of America (w/enc.)

STATEMENT OF DESIGNATION OF COUNSEL

MUR 5181

NAME OF COUNSEL: Tony P. Trimble / Matthew W. Haapoja

FIRM: Trimble & Associates, Ltd.

ADDRESS: 11700 Wayzata Boulevard

Minneapolis, MN 55305

TELEPHONE: (763) 797-7477

FAX: (763) 797-5858

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.

03-22-01
Date

Garrett M Lott
Signature

NAME: Garrett Lott, Deputy Treasurer, Spirit of America

ADDRESS: 8229 Clayton Road, Suite 200

St. Louis, MO 63117

TELEPHONE: HOME (314) 918-1788

BUSINESS (314) 863-6112

03 "01" "4-06" "2145"

BEFORE THE FEDERAL ELECTION COMMISSION

Alliance for Democracy,
Common Cause,
National Voting Rights Institute,
Hedy Epstein and
Ben Kjelshus

MUR No. 5181

v.

RESPONSE OF SPIRIT OF AMERICA

Ashcroft 2000
Spirit of America Political Action Committee

Spirit of America, a Federal Election Commission ("Commission") registered multi-candidate committee ("Committee") submits this response pursuant to 11 C.F.R. §111.6, in MUR No. 5181 to a complaint (the "Complaint") dated March 8, 2001 filed with the Federal Election Commission requesting investigation of potential violations of the Federal Elections Campaign Act (the "Act"), 2 U.S.C. §441, *et. seq.* For the reasons set forth herein, the Committee respectfully requests that the Commission take no further action on the Complaint.

SUMMARY

The Committee believes that the Complaint is false in its claims as to matters of fact and would appear to be a politically-motivated effort to create negative press coverage, not a good faith attempt to inform the Commission of a potential violation of the Act. The Committee states unequivocally that it did not make any direct or in-kind contributions to Ashcroft 2000 except as reported on the Committee's FEC Reports. The Complaint's only factual allegation, that an undisclosed illegal in-kind contribution occurred, is wholly false.

Furthermore, as explained in detail below, the Committee notes that at no time did it own or control any mailing lists or donor lists; rather, all fundraising activities occurred through outside, professional vendors utilizing lists owned and compiled by those vendors. Therefore, the allegation in the Complaint could not have occurred as a factual matter, and the politically-motivated Complaint should be dismissed by the Commission as lacking any factual or legal basis.

FACTUAL BACKGROUND

On information and belief, based on media reports and a press release issued March 8, 2001, Common Cause and several other complainants filed with the FEC Enforcement Division a written request for investigation alleging certain violations of the Act. Upon close review, however, the Complaint does not provide any evidence justifying any further Commission action or investigation.

The Committee believes that the Complaint was filed with a political motive, not as a good faith effort to notify the Commission of potential violations of the Act. First and foremost, the Complaint makes allegations that date as far back as 1997, (*see* Complaint ¶9), raising questions as to the Complaint's timing. Additionally, the Complaint apparently relies entirely on an otherwise unverified newspaper article in the *Washington Post*, which article contains factual misstatements and falsehoods. Therefore, the Committee believes that this Complaint is designed to create negative publicity and is not a good faith effort to notify the Commission about potential violations of the Act.

Based on the suspicious timing of the Complaint and the lack of evidentiary basis for an investigation, the Committee respectfully requests expeditious resolution of this matter and that the Commission dismiss the allegations and take no further action on the Complaint. This correspondence will address the allegations raised in the Complaint.

ARGUMENT

The Complaint raises one factual allegation, namely that the Committee made an in-kind contribution of certain "fundraising lists" to Ashcroft 2000, an FEC-registered principal campaign committee ("Campaign"), allegedly violating the Committee's contribution limits to the Campaign. See Complaint, ¶¶ 8, 10. The Committee unequivocally states that at no time did the Committee make any direct or in-kind contributions to the Campaign except as reported on the Committee's FEC Reports.¹

As an initial matter of fact, the Committee conducted all fundraising activities through outside, professional vendors. The vendors selected fundraising prospects based on proprietary lists owned or compiled by them. All such prospect data was proprietary to the vendors as a matter of vendor policy and was not available to the Committee. Therefore, no prospecting information related to the Committee's fundraising efforts was ever owned, controlled, disclosed to, or made available to the Committee.

Because the Committee from time to time used the name of then-Senator John Ashcroft, it was mutually agreed in writing that Senator Ashcroft would own any "work product" derived from such use, including lists of contributors and potential contributors. Senator Ashcroft supported the Committee's efforts by serving as "Honorary Chairman." Because this position was honorary only, it did not confer on him any authority, express or implied, to bind or direct the Committee, and he did not control or direct its efforts.

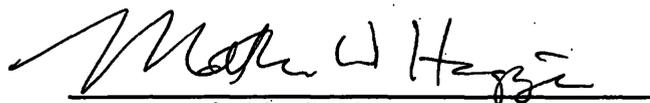
¹The Committee contributed \$5,000 per election to the Campaign during the 2000 election cycle, which contributions were legal and in full compliance with the Act. Such contributions were the only direct or in-kind contributions from the Committee to the Campaign.

CONCLUSION

The Committee unequivocally denies making any in-kind contribution of any nature to the Campaign. As is shown above, the Committee did not own or have access to any fundraising information that could have been provided to the Campaign. Therefore, the Complaint's allegations on their face are factually impossible to have occurred. Based on the foregoing, the allegation that the Committee violated federal law should be dismissed in its entirety. The Complaint provides no basis for further consideration by the Commission of any of the issues raised, and the Committee requests the Commission to take no further action on this politically motivated request.

Dated: March 23, 2001

TRIMBLE & ASSOCIATES, LTD.



Tony P. Trimble, #122555
Matthew W. Haapoja, #268033
11700 Wayzata Boulevard
Minneapolis, MN 55305
(763) 797-7477

Attorneys for Spirit of America PAC

Trimble & Associates, Ltd.

Attorneys at Law

11700 Wayzata Boulevard
Minneapolis, Minnesota 55305
Telephone: 763-797-7477 Facsimile: 763-797-5858

Offices also in:
Stillwater, Minnesota and
Auckland, New Zealand

Tony P. Trimble
Matthew W. Haapoja
763-797-7477

March 16, 2001

General Counsel's Office
Central Enforcement Docket
Federal Election Commission
999 E Street N.W.
Washington, DC 20463

Re: Spirit of America

Dear Sir/Madam:

The undersigned represents Spirit of America, a Federal Election Commission ("FEC") registered multi-candidate committee ("Committee"). This correspondence is submitted in response to a complaint (the "Complaint") dated March 8, 2001 filed with your office, by, *inter alia*, Common Cause (copy attached hereto for reference) requesting FEC investigation of potential violations of the Federal Elections Campaign Act (the "Act"), 2 U.S.C. §441, *et. seq.* For the reasons set forth herein, the Committee respectfully requests that the FEC *expeditiously* dismiss this Complaint. We look forward to fully cooperating with the FEC in providing any and all information necessary to bring this matter to a close.

Summary

The Committee believes that the Complaint is false in its claims as to matters of fact and would appear to be a politically-motivated effort to create negative press coverage, not a good faith attempt to inform the FEC of a potential violation of the Act. The Committee states unequivocally that it did not make any direct or in-kind contributions to Ashcroft 2000 except as reported on the Committee's FEC Reports. The Complaint's only factual allegation, that an undisclosed illegal in-kind contribution occurred, is wholly false.

Furthermore, as explained in detail below, the Committee notes that at no time did it own or control any mailing lists or donor lists; rather, all fundraising activities occurred through outside, professional vendors utilizing lists owned and compiled by those vendors. Therefore, the allegation in the Complaint could not have occurred as a factual matter, and the politically-motivated Complaint should be dismissed by the FEC as lacking any factual or legal basis.

VIA FACSIMILE AND
CERTIFIED MAIL

MAR 16 02 PM '01

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL

Federal Election Commission

Page 2

March 16, 2001

Factual Background

On information and belief, based on media reports and a press release issued March 8, 2001, Common Cause and several other complainants filed with the FEC Enforcement Division a written request for investigation alleging certain violations of the Act. Upon close review, however, the Complaint does not provide any evidence justifying any further FEC action or investigation.

The Committee believes that the Complaint was filed with a political motive, not as a good faith effort to notify the FEC of potential violations of the Act. First and foremost, the Complaint makes allegations that date as far back as 1997, (see Complaint ¶9), raising questions as to the Complaint's timing. Additionally, the Complaint apparently relies entirely on an otherwise unverified newspaper article in the *Washington Post*, which article contains factual misstatements and falsehoods. Therefore, the Committee believes that this Complaint is designed to create negative publicity and is not a good faith effort to notify the FEC about potential violations of the Act.

Based on the suspicious timing of the Complaint and the lack of evidentiary basis for an FEC investigation, the Committee respectfully requests expeditious resolution of this matter and that the FEC dismiss the allegations and take no further action on the Complaint. This correspondence will address the allegations raised in the Complaint.

Discussion

The Complaint raises one factual allegation, namely that the Committee made an in-kind contribution of certain "fundraising lists" to Ashcroft 2000, an FEC-registered principal campaign committee ("Campaign"), allegedly violating the Committee's contribution limits to the Campaign. See Complaint, ¶¶ 8, 10. The Committee unequivocally states that at no time did the Committee make any direct or in-kind contributions to the Campaign except as reported on the Committee's FEC Reports.¹

As an initial matter of fact, the Committee conducted all fundraising activities through outside, professional vendors. The vendors selected fundraising prospects based on proprietary lists owned or compiled by them. All such prospect data was proprietary to the vendors as a matter of vendor policy and was not available to the Committee. Therefore, no prospecting information related to the Committee's fundraising efforts was ever owned, controlled, disclosed to, or made available to the Committee.

Because the Committee from time to time used the name of then-Senator John Ashcroft, it was mutually agreed in writing that Senator Ashcroft would own any "work product" derived from such

¹The Committee admits that it contributed \$5,000 per election to the Campaign during the 2000 election cycle, which contributions were legal and in full compliance with the Act. However, such contributions were the only direct or in-kind contributions from the Committee to the Campaign.

Federal Election Commission

Page 3

March 16, 2001

use, including lists of contributors and potential contributors. Senator Ashcroft supported the Committee's efforts by serving as "Honorary Chairman." Because this position was honorary only, it did not confer on him any authority, express or implied, to bind or direct the Committee, and he did not control or direct its efforts.

Conclusion

The Committee unequivocally denies making any in-kind contribution of any nature to the Campaign. As is shown above, the Committee did not own or have access to any fundraising information that could have been provided to the Campaign. Therefore, the Complaint's allegations on their face are factually impossible to have occurred. Based on the foregoing, the allegation that the Committee violated federal law should be dismissed in its entirety. The Complaint provides no basis for FEC consideration of any of the issues raised, and the Committee requests the FEC to take no further action on this politically motivated request.

We look forward to a prompt and expeditious resolution of this matter. The Committee is dedicated to complying with the Act in all respects and is ready, willing and able to provide any further assistance the FEC may request on this matter. Please direct all correspondence in this matter to the undersigned at the address indicated on the first page of this letter. Thank you.

Very truly yours,



Tony P. Trimble
Matthew W. Haapoja
vmh

cc: Garrett Lott, Executive Director, Spirit of America (w/o encl.)