



607 Fourteenth Street N.W.
Washington, DC 20005-2011
PHONE 202 628 6600
FAX 202 434 1690
www.perkinscoie.com

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 NOV 22 P 4: 56

Karl J Sandstrom
Phone 202 434 1639
Fax 202 654 91114
Email ksandstrom@perkinscoie.com

November 22, 2004

BY HAND DELIVERY

Mr. Lawrence H. Norton
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: **MUR 5578**

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FEC MAIL
OPERATIONS CENTER
2004 NOV 22 P 3: 15

Dear Mr. Norton:

On behalf of Patty Wetterling for Congress and Al W. Patton as Treasurer ("Respondents"), this letter is submitted in response to the complaint filed by the National Republican Congressional Committee ("the Complaint") and subsequently labeled MUR no. 5578. A designation of counsel is on file with your office. Because this complaint does not contain "facts which describe a violation of a statute or regulation," 11 C.F.R. § 111.4(d)(3), it should be dismissed and the file should be closed.

The complaint describes a television advertisement sponsored by the Wetterling campaign in which John Walsh appeared, and in which Walsh was identified as "Host, AMERICA'S MOST WANTED." Because "America's Most Wanted" is a registered mark of a STF Productions, Inc., complaint argues that this identification constitutes a prohibited corporate contribution to the campaign.

These facts do not describe a violation of federal election law. The Commission has repeatedly blessed the use of endorsers in campaign commercials who are identified by their corporate positions, so long as there is no indication that the corporation itself is supporting or endorsing the candidate. For instance, in Advisory Opinion 1978-77, the Commission considered the appearance of an officer of American Motors Corporation ("AMC") in a campaign radio commercial. The officer "would be identified by name and title as an AMC official." The Commission held that the official's appearance in the ad

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was within the "volunteer services" exception to the definition of "contribution," and approved the ad so long as the campaign paid for all advertising expenses.

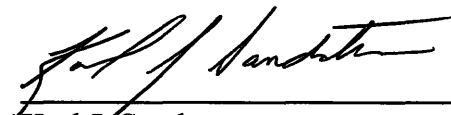
In Advisory Opinion 1984-53, the Commission was asked whether the general manager of the Zebco Division of Brunswick Corporation could appear in a campaign advertisement. In this advertisement, the general manager would be introduced and would name the corporation for which he worked. The Commission again approved this scenario as the use only of volunteer services, so long as the advertisement "does not indicate that Zebco is supporting or endorsing Congressman Jones," and so long as the endorser was not directed to appear in the advertisement by the corporation.

The Commission has, in the past, proposed a rule that would regulate the use of corporate names and logos in campaign advertisements. *See* Independent Expenditures; Corporate and Labor Organization Expenditures, 57 Fed. Reg. 33,548, 33,554 (July 29, 1992). However, the Commission was unable to reach a majority decision. *See* Corporate and Labor Organization Activity; Express Advocacy and Coordination with Candidates, 60 Fed. Reg. 64,260, 64,268-69 (Dec. 14, 1995). Respondents are therefore left with only the above-referenced advisory opinions for guidance.

Respondents complied with the Commission's precedent. The advertisement identified Mr. Walsh's position as host of America's Most Wanted, but it did not indicate that America's Most Wanted or STF Productions, Inc. endorsed or supported Patty Wetterling's candidacy. Mr. Walsh was speaking purely as an individual and a volunteer. The campaign paid all expenses associated with the advertisement. In short, the advertisement complied in all respects with the available guidance. If the Commission wishes to alter its treatment of this issue, it should promulgate a rule on the subject, or include further guidance in an advisory opinion.

Because the complaint does not describe a violation of a statute or a regulation, Respondents respectfully request that the Commission dismiss the complaint.

Very truly yours,



Karl J. Sandstrom
Counsel to Patty Wetterling for Congress
Al W. Patton, Treasurer

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