



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20461

THIS IS THE END OF TMR # 804

Date Filmed 9/11/81 Camera No. --- 2

Cameraman SPC

MUR 804

PS Form 3811, Apr. 1977

1. The following service is requested (check one).
☐ Show to whom and date delivered.
☒ Show to whom, date, and address of delivery.
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.
☐ RESTRICTED DELIVERY
 Show to whom, date, and address of delivery.
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 Ken Hurd - Common Cause
 2030 M St, N.W.
 D.C. 20036

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 943977 CERTIFIED NO. INSURED NO.
 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☐ Addressee ☒ Authorized agent
 X 2. Carpenter

4. DATE OF DELIVERY 11/8/78
 POSTMARK 11/8/78

5. ADDRESS (Complete only if requested):
 2030 M ST NW

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

☆GPO 1977-0-249-595

MUR 804

PS Form 3811, Apr. 1977

1. The following service is requested (check one).
☐ Show to whom and date delivered.
☒ Show to whom, date, and address of delivery.
☐ RESTRICTED DELIVERY
 Show to whom and date delivered.
☐ RESTRICTED DELIVERY
 Show to whom, date, and address of delivery.
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 Steven Champlin
 2300-1st Natl. St. Bldg.
 Minn. Union 55402

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 94398 CERTIFIED NO. INSURED NO.
 (Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☐ Addressee ☒ Authorized agent
 BOISH

4. DATE OF DELIVERY 10-11-78
 POSTMARK 10-11-78

5. ADDRESS (Complete only if requested):
 2300-1st Natl. St. Bldg.
 Minn. Union 55402

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

☆GPO 1977-0-249-595



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

November 3, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steven K. Champlin, Esq.
DORSEY, WINDHORST, HANNAFORD,
WHITNEY & HALLADAY
2300 First National Bank Building
Minneapolis, Minnesota 55402

Re: MUR 804(78)

Dear Mr. Champlin:

On November 3, 1978, the Commission voted to terminate its inquiry into the alleged violation of 2 U.S.C. § 437g(a)(3)(B). The Commission determined that there was no reason to believe that the Federal Election Campaign Act of 1971, as amended, had been violated. Accordingly, the Commission intends to close its file in this matter.

If you have any questions, please contact Anne Cauman (telephone no. 523-4178), the attorney assigned to this matter.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "W. O. Oldaker", is written over the typed name.

William O. Oldaker
General Counsel

81040292896



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

November 3, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ken Guido, Esq.
Common Cause
2030 M Street, N.W.
Washington, D.C. 20036

Re: MUR 804 (78)

Dear Mr. Guido:

I am forwarding the enclosed complaint for your information. The Commission believes that on the basis of the information in the complaint, there is no reason to believe that a violation of § 437g(a)(3)(B) of the Federal Election Campaign Act of 1971, as amended, has been committed. Accordingly, the Commission does not intend to investigate the matter any further.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

81040292897

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Common Cause)
Ken Guido)

MUR 804

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on November 3, 1978, the Commission determined by a vote of 6-0 to approve the recommendations, as set forth in the First General Counsel's Report dated November 3, 1978, to find no reason to believe that the respondents violated 2 U.S.C. §437g(a)(3)(B) since they did not make public "any notification or investigation" by the Commission. The file in this matter is closed.

Attest:

11/3/78

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Report received in Office of Commission Secretary: 11-3-78, 11:01
Circulated on 48 hour vote basis: 11-3-78, 11:30

810492898

November 2, 1978

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 804

Please have the attached First General Counsel's
Report on MUR 804 distributed to the Commission on a
48 hour tally basis.

Thank you.

81010292899

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463
RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

78 NOV 3 All: 00

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION NOV 3 1978

MUR NO. 804
DATE COMPLAINT RECEIVED
BY OGC
STAFF
MEMBER Cauman

SOURCE: Minnesota Medical Political Action Committee ("MINNPAC")

RESPONDENT'S NAME: Common Cause
Ken Guido

RELEVANT STATUTE: 2 U.S.C. § 437g(a)(3)(B)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

BACKGROUND

Steven K. Champlin, attorney for MINNPAC, asserts on behalf of the complainant that Common Cause and Ken Guido, an attorney for Common Cause, have violated the confidentiality provision of 2 U.S.C. § 437g(a)(3)(B) by giving information to the press in September, 1978, about a complaint filed by Common Cause with the Commission on June 13, 1978 (known internally as MUR 618). The complainant's assertion is based on a newspaper article about this complaint appearing in the "Minnesota Daily" on September 26, 1978. (The article is attached to the complaint).

PRELIMINARY LEGAL ANALYSIS

8 1 0 4 3 2 9 2 9 0 1

The language in 2 U.S.C. § 437g(a)(3)(B) refers to "any notification or investigation." This reference is to action on the part of the Commission pursuant to 2 U.S.C. § 437g(a)(2). The legislative history of the Federal Election Campaign Act ("FECA") emphasises the statutory language. The Conference Report on the 1976 amendments to the FECA, House Rpt. No. 94-1057, 94th Cong., 2d Sess., p. 50 (1976) states, "[t]he conferees' intent is that a violation within the meaning of Section [437g(c)] occurs when publicity is given to a pending investigation...." However, the report further states at p. 47:

Subsection (a)(3) prohibits the Commission and any person from making public any investigation or any notification made under subsection (a)(2) without the written consent of the person receiving the notification or the person under investigation. (Emphasis added).

Moreover, in explaining the bill Congressman Hays stated, "[d]etails of the investigation are not to be made public without the written consent of the person being investigated." 122 CONG. REC. H2532 (1976) (Emphasis added).

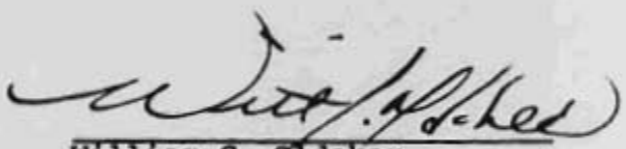
While Common Cause and Ken Guido may have publicized the complaint filed by Common Cause with the Commission, they have not made public action taken by the Commission with regard to the complaint; they have not made public

the Commission's "notification or investigation" of the complaint. Comment by Mr. Guido and Common Cause on the complaint filed by them appears to be within a first amendment right^{1/} and is not within the prohibition of the statute.

RECOMMENDATION

Since the respondents have not made public "any notification or investigation" by the Commission, the Commission should not find reason to believe that they violated 2 U.S.C. § 437g(a)(3)(B); the file should be closed.

11/3/78
DATE


William C. Oldaker
General Counsel

Attachments

letter from S. Champlin to D. Spiegel with attached complaint
letter from William C. Oldaker to K. Guido
letter from William C. Oldaker to S. Champlin

^{1/} See generally, Landmark Communications, Inc. v. Virginia, 46 U.S.L.W. 4389 (U.S., May 1, 1978).

81040292902

MUR 804
DORSEY, WINDHORST, HANNAFORD, WHITNEY & HALLADAY

2300 FIRST NATIONAL BANK BUILDING
MINNEAPOLIS, MINNESOTA 55402

1400 W-FIRST NATIONAL BANK BUILDING
ST. PAUL, MINNESOTA 55101
(612) 227-8017

(612) 340-2600
CABLE: DOROW
TELEX: 29-0805
TELECOPIER: (612) 340-2668

115 THIRD STREET SOUTHWEST
ROCHESTER, MINNESOTA 55901
(607) 266-3118

STEVEN K. CHAMPLIN
(612) 340-2913

October 5, 1978

Mr. David Spiegel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

806749

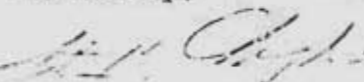
Re: New Complaint and MUR 618 (78)

Dear Dave:

81040292903
Enclosed herewith for filing with the FEC is a complaint concerning a newspaper article appearing during the FEC document inspection in Minnesota. I have heard that Mr. Guido of Common Cause was in Minnesota at about the same time. In any event, I trust the complaint is in a satisfactory form and that the FEC will act expeditiously to investigate the matters set forth therein.

Additionally, when Bill Oldaker and I discussed the future of the FEC investigation in Minnesota, he indicated that my clients would have an opportunity for some input in the decision-making process before the Commission determined whether or not there is "reasonable cause" in this matter. I was not clear, however, on what form that input would take. If possible, I would like to have some clarification on that point.

Sincerely,



Steven K. Champlin

SKC/jcs

Enclosure

P.S. Once again, it was nice seeing you again. I'm sorry your stay in Minneapolis couldn't have been a little longer.

COMPLAINT
OF THE
MINNESOTA MEDICAL POLITICAL ACTION COMMITTEE
TO THE
FEDERAL ELECTION COMMISSION

The Minnesota Medical Political Action Committee hereby submits this complaint to the Federal Election Commission pursuant to 2 U.S.C. 437g.

The Complainant is the Minnesota Medical Political Action Committee ("MINNPAC"), P. O. Box 30292, St. Paul, Minnesota 55165, a political action committee under the Federal Election Campaign Act.

The respondents are at present unknown, but, on information and belief, are Common Cause, 2030 M Street, N.W., Washington, D.C. 20036, and Mr. Ken Guido, attorney, Common Cause, 2030 M Street, N.W., Washington, D.C. 20036, and other persons who have caused publicity to be disseminated concerning a complaint filed by Common Cause pending before the Commission.

This complaint is not being filed on behalf of or at the request or suggestion of a candidate for Federal office.

It is Complainant's belief that Common Cause, and possibly others, have violated the Federal Election Campaign Act, as Amended, by giving information to the press in September, 1978 concerning its complaint to the Federal Election Commission, which accuses the

8104029204

Minnesota Medical Political Action Committee and others of violations of the Act. The primary basis for this complaint is an article appearing in the September 26, 1978 edition of the Minnesota Daily, a student newspaper of the University of Minnesota, a copy of which is attached.

MINNPAC believes the FEC should act on this complaint because:

(1)

2 U.S.C. 437g (a) (3) (B) provides:

"Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made." (emphasis added)

This provision of the law relates to any complaint received by the Federal Election Commission in connection with an alleged violation of the Act if the complaint has been properly filed under the Act as provided in 2 U.S.C. 437g (a).

(2)

The legislative history of the Act evidences a clear intent of Congress to maintain fair-play in connection with the complaint, notification and investigation procedures to be used for or against candidates or committees. In fact, one of the impelling reasons for Congress to enact this legislation emanated from

Volume 80, Number 35
Tuesday, September 26, 1978

minnesota daily

Minneapolis-St. Paul, Minnesota

Illegal AMA money for Mattson charged

By DAVID HENRY

State Auditor Robert Mattson, Jr. and the American Medical Association (AMA) have been named in a complaint filed by Common Cause, a citizens' lobbying group, with the Federal Election Commission (FEC). The complaint alleges that in 1976 Mattson and 45 other candidates for federal office received illegal campaign contributions from the AMA's state and national political action committees.

Common Cause Senior Vice President Fred Wertheimer stated in the complaint that "on at least 45 occasions, (the AMA's political action committees) have contributed an aggregate in excess of \$5,000 to a candidate for federal office in violation of the Federal Election Campaign Act, Amended, of 1976."

The complaint alleges the AMA violated federal law by contributing \$2,500 to Mattson's unsuccessful 1976 DFL primary bid for the U.S. 4th Congressional District House

seat. Mattson ran against Rep. Bruce Vento and St. Paul businessman John Connolly.

Campaign contribution reports reveal that the American Medical Political Action Committee (AMPAC) gave Mattson \$5,000 on August 31, 1976 while the Minnesota Medical Political Action Committee (Minnpac) contributed \$2,500 to his campaign on September 8, 1976.

Common Cause maintains AMPAC and Minnpac, because they are both political arms of the AMA, must be considered as one source of campaign funds. Therefore, since the aggregate total given Mattson exceeds \$5,000, Common Cause believes the AMA is in violation of federal campaign laws.

Lee Ann Elliott, Associate Executive Director of AMPAC in Chicago, refused to comment on the complaint, as did Steven Champlin, Minnpac's attorney.

"I am not free to comment because of the law, which says that we cannot confirm or deny that the FEC is conducting an investigation

and our counsel has advised us not to comment," Elliott said.

Champlin echoed Elliott's comments, saying, "The matters before the FEC are confidential by statute and the confidentiality is backed up by civil penalties so it is not permissible for me to say anything about it."

However, Mattson said he was aware of the allegations leveled by Common Cause.

The contributions made by the AMA "don't violate any law, it's my understanding, in every respect. Proper as filed, proper as received," Mattson said.

"Everybody who received those (campaign contributions) knew those were legal, so did Common Cause."

Common Cause Attorney Ken Guido disagreed. "If your state auditor thinks that what AMPAC did is legal, he is misinformed," Guido said. "It's a clear violation of the law."

Guido also expressed concern

Mattson from 1

that the FEC has not yet acted on the complaint, which was filed on June 13, 1978. Common Cause is considering taking the matter to court, he said, if the FEC fails to act on the complaint within the next week.

"It's either that the AMA is being very uncooperative (with the FEC) or else the FEC isn't pushing hard enough," Guido said.

Penalties for violation of the act include a civil penalty not to exceed a \$5,000 fine or the amount of the violation. If the FEC believes there is a "knowing and willful violation" of the law it can ask the Justice Department for criminal action. Violators are subject to a fine of up to \$10,000 or twice the amount of the contributions exceeding the \$5,000 federal ceiling.

Mattson to 21

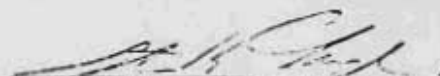
national incidents where the mere charges of wrong doing were as damaging to the reputation and future of individuals involved in national election processes as any conviction could possibly be.

(3)

Confidentiality is essential from the very moment a complaint is filed. It can be enforced only by the Commission, (2 U.S.C. 437d (3)), and statutory provisions providing for it cannot be protective unless the Commission takes prompt enforcement action. It should be of special interest to the FEC to investigate and stop use or misuse of the complaint procedure for the publicity value attendant to it because the complaint procedure is one of the primary tools available to the FEC for carrying out its legislatively authorized purposes.

DORSEY, WINDHORST, HANNAFORD, WHITNEY
& HALLADAY

By

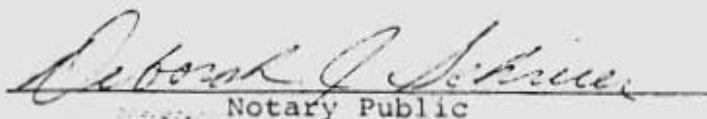


Steven K. Champlin

2300 First National Bank Building
Minneapolis, Minnesota 55402
Telephone: (612) 340-2913

Attorneys for MINNPAC

Subscribed and sworn to me this
5th day of October, 1978.


Notary Public

Attachments -- See next page.

more-

81040292907



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steven K. Champlin, Esq.
DORSEY, WINDHORST, HANNAFORD,
WHITNEY & HALLADAY
2300 First National Bank Building
Minneapolis, Minnesota 55402

Re: MUR 804(78)

Dear Mr. Champlin:

On November , 1978, the Commission voted to terminate its inquiry into the alleged violation of 2 U.S.C. § 437g(a) (3)(B). The Commission determined that there was no reason to believe that the Federal Election Campaign Act of 1971, as amended, had been violated. Accordingly, the Commission intends to close its file in this matter.

If you have any questions, please contact Anne Cauman (telephone no. 523-4178), the attorney assigned to this matter.

Sincerely yours,

William C. Oldaker
General Counsel



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20064

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ken Guido, Esq.
Common Cause
2030 M Street, N.W.
Washington, D.C. 20036

Re: MUR 804 (78)

Dear Mr. Guido:

I am forwarding the enclosed complaint for your information. The Commission believes that on the basis of the information in the complaint, there is no reason to believe that a violation of § 437g(a)(3)(B) of the Federal Election Campaign Act of 1971, as amended, has been committed. Accordingly, the Commission does not intend to investigate the matter any further.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure



FEDERAL ELECTION COMMISSION

1325 K STREET, N.W.
WASHINGTON, D.C. 20463

November 1, 1978

Steven K. Champin
2300 First National Bank Building
Minneapolis Minnesota 55402

Dear Mr. Champin:

This is to acknowledge receipt of your complaint of October 5, 1978, alleging violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. A recommendation to the Federal Election Commission as to how this matter should be handled will be made shortly. You will be notified as soon as the Commission determines what action should be taken. For your information, we have attached a brief description of the Commission's preliminary procedures for handling complaints.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lester N. Scal", is written over the word "Sincerely,".

Lester N. Scal
Assistant General Counsel

81040292910

DORSEY, WINDHORST, HANNAFORD, WHITNEY & HALL

2300 FIRST NATIONAL BANK BUILDING
MINNEAPOLIS, MINNESOTA 55402

1455 W-FIRST NATIONAL BANK BUILDING
ST. PAUL, MINNESOTA 55101
(612) 227-2017

(612) 340-2800
CABLE DOROW
TELEX: 28-0808
TELECOPIER: (612) 340-2868

RECEIVED
FEDERAL ELECTION
COMMISSION

73 OCT 10 AM 11:35

115 THIRD STREET SOUTHWEST
ROCHESTER, MINNESOTA 55901
(612) 225-0346

STEVEN K. CHAMPLIN
(612) 340-2913

October 5, 1978

Mr. David Spiegel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

806749

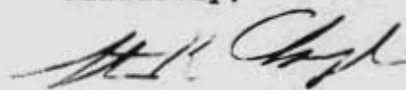
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Sincerely,


Steven K. Champlin

SKC/jcs

Enclosure

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81010229211

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OF THE
MINNESOTA MEDICAL POLITICAL ACTION COMMITTEE
TO THE
FEDERAL ELECTION COMMISSION

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81040292912

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more-

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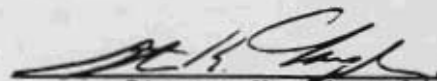
national incidents where the mere charges of wrong doing were as damaging to the reputation and future of individuals involved in national election processes as any conviction could possibly be.

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DORSEY, WINDHORST, HANNAFORD, WHITNEY
& HALLADAY

By


Steven K. Champlin
2300 First National Bank Building
Minneapolis, Minnesota 55402
Telephone: (612) 340-2913

Attorneys for MINNPAC

Subscribed and sworn to me this
5th day of October, 1978.



Notary Public

DEBORAH J. SCHRIER

Attachments -- See next page.

more-

81040292914

Illegal AMA money for Mattson charged

By DAVID HENRY

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Common Cause Senior Vice President Fred Wertheimer stated in the complaint that "on at least 45 occasions, (the AMA's political action committees) have contributed an aggregate in excess of \$5,000 to a candidate for federal office in violation of the Federal Election Campaign Act Amendment of 1976."

The complaint alleges the AMA violated federal law by contributing \$2,500 to Mattson's unsuccessful 1976 DFL primary bid for the U.S. 6th Congressional District House

seat. Mattson ran against Rep. Bruce Vento and St. Paul businessman John Connolly.

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Mattson from 1

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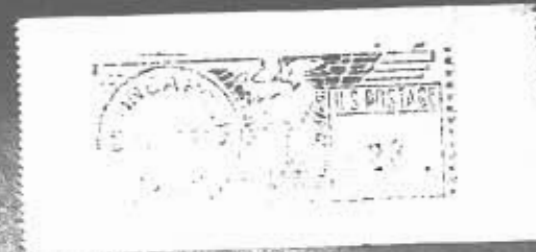
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Mattson to 21

RECEIVED
FEDERAL ELECTION
COMMISSION

78 OCT 10 AM: 55



1st CLASS

DORSEY, WINDHORST, HANNAFORD, WHITNEY & HALLADAY
FIRST NATIONAL BANK BUILDING
MINNEAPOLIS, MINNESOTA 55402

TO: Mr. David Spiegel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 804

Date Filmed 9/11/81 Camera No. --- 2

Camerman DPC