



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF TUE # 1285

Date Filmed 10/30/80 Camera No. --- 2

Cameraman GPC

30010221574

PS Form 3811, Aug. 1978

RETURN RECEIPT REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

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:  
*Phil Moore*

3. ARTICLE DESCRIPTION:  
 REGISTERED NO. *046966* CERTIFIED NO. \_\_\_\_\_ INSURED NO. \_\_\_\_\_  
 (Always obtain signature of addressee or agent)

I have received the article described above.  
 SIGNATURE ☐ Addressee ☐ Authorized agent  
*Lynn Snyder*

4. DATE OF DELIVERY \_\_\_\_\_ POSTMARK \_\_\_\_\_

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE *1785 Weeder* CLERK'S INITIALS \_\_\_\_\_

GPO: 1978-272-382

PS Form 3811, Aug. 1978

RETURN RECEIPT REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

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:  
*L. Adrian Roberts*

3. ARTICLE DESCRIPTION:  
 REGISTERED NO. *143966* CERTIFIED NO. \_\_\_\_\_ INSURED NO. \_\_\_\_\_  
 (Always obtain signature of addressee or agent)

I have received the article described above.  
 SIGNATURE ☐ Addressee ☐ Authorized agent  
*Catherine D. Roberts*

4. DATE OF DELIVERY \_\_\_\_\_ POSTMARK \_\_\_\_\_

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE *1785 Weeder* CLERK'S INITIALS \_\_\_\_\_

GPO: 1978-272-382



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 16, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Robert F. Bauer, Esquire  
Suite 406  
1101 Seventeenth Street, N.W.  
Washington, D.C. 20036

Re: MUR 1285

Dear Mr. Bauer:

You have previously been notified, via mailgram, of the Commission's determination that there is no reason to believe that your client, the McGovern Campaign Committee, violated any provision of the Federal Election Campaign Act of 1971, as amended.

Enclosed for your information is a copy of the General Counsel's Report which was presented to the Commission, by the Office of General Counsel, prior to its determination.

If you have any questions, please contact Carolyn Weeder, the staff member assigned to this matter at (202)523-4529.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. N. Steele", is written over the typed name.

Charles N. Steele  
General Counsel

Enclosure  
General Counsel's Report



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 16, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Robert Moore, Executive Director  
National Republican Senatorial  
Committee  
227 Massachusetts Avenue, N.E.  
Washington, D.C. 20001

Re: MUR 1285

Dear Mr. Moore:

You have previously been notified, via mailgram, of the Commission's determination that there is no reason to believe that the McGovern Campaign Committee; Midcontinent Broadcasting Company; or Joseph Floyd violated any provision of the Federal Election Campaign Act of 1971, as amended.

Enclosed for your information is a copy of the General Counsel's Report which was presented to the Commission, by the Office of General Counsel, prior to its determination.

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Carolyn Weeder, the staff member assigned to this matter at (202)523-4529.

Sincerely,

  
Charles N. Steele

Enclosure  
General Counsel's Report



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 16, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

L. Adrian Roberts, Esquire  
Dow, Lohnes, and Albertson  
1225 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Re: MUR 1285

Dear Mr. Roberts:

You have previously been notified, via mailgram, of the Commission's determination that there is no reason to believe that your clients, the Midcontinent Broadcasting Company and Joseph L. Floyd, violated any provision of the Federal Election Campaign Act of 1971, as amended.

Enclosed for your information is a copy of the General Counsel's Report which was presented to the Commission, by the Office of General Counsel, prior to its determination.

If you have any questions, please contact Carolyn Weeder, the staff member assigned to this matter at (202)523-4529.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles N. Steele".

Charles N. Steele  
General Counsel

Enclosure  
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Midcontinent Broadcasting, ) MUR 1285  
 et al. )

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on October 15, 1980, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 1285:

1. Find no reason to believe that Midcontinent Broadcasting, Joseph Floyd, and the McGovern Campaign Committee violated 2 U.S.C. §441b(a).
2. Close the file.

Attest:

10/15/80

Date

Marjorie W. Emmons

Marjorie W. Emmons  
Secretary to the Commission

30090321379



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*  
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*  
DATE: OCTOBER 14, 1980  
SUBJECT: COMMENTS REGARDING MUR 1285

Attached is a copy of Commissioner Reiche's  
vote sheet with comments regarding MUR 1285.

Commissioner Friedersdorf submitted an objection to  
MUR 1285 and the matter will be placed on the Amended Agenda  
for Wednesday, October 15, 1980.

ATTACHMENT:  
Copy of Vote Sheet



## FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463Date and Time Transmitted: THURSDAY, 10-9-80  
COBCommissioner FRIEDERSDORF, AIKENS, TIERNAN, MCGARRY, REICHE, HARRISRETURN TO OFFICE OF COMMISSION SECRETARY BY: FRIDAY, OCTOBER 10, 1980  
COBMUR No. 1285 - First General Counsel's Report dated 10-9-80☒ (✓) I approve the recommendation☐ ( ) I object to the recommendation

COMMENTS:

My approval is limited to the  
facts of this case.Date: 10/10/80

Signature:

Frank P. ReicheA DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED.  
PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE  
COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN  
ABOVE.





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*

FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*

DATE: OCTOBER 10, 1980

SUBJECT: OBJECTION - MUR 1285 - First General Counsel's  
Report dated 10-9-80; Received in OCS 10-9-80,  
3:03

The above-named document was circulated on an  
EXPEDITED basis at 4:45, October 9, 1980.

Commissioner Friedersdorf submitted an objection at  
12:59, October 10, 1980.

This matter will be discussed in executive  
session on Wednesday, October 15, 1980.

30010121332

October 9, 1980

MEMORANDUM TO: Marjorie W. Emmons  
FROM: Elissa T. Garr  
SUBJECT: MUR 1285

Please have the attached First GC Report distributed  
to the Commission on an expedited basis. Thank you.

30010121533

FEDERAL ELECTION COMMISSION  
1325 K Street, N.W.  
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL  
BY OGC TO THE COMMISSION 10-7-80

MUR 1285  
DATE COMPLAINT RECEIVED  
BY OGC August 28, 1980  
STAFF MEMBER - Carolyn Weeder

COMPLAINANT'S NAME: Robert Moore, Executive  
National Republican Senatorial Committee

RESPONDENTS' NAMES: Midcontinent Broadcasting  
Joseph Floyd, President of  
Midcontinent Broadcasting  
McGovern Campaign Committee

RELEVANT STATUTES: 2 U.S.C. § 441b(a)  
2 U.S.C. § 431(9)(B)(i)  
11 C.F.R. § 100.7(b)(2)

INTERNAL REPORTS CHECKED: Closed MURs 486, 657, 819, and 1212

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On August 28, 1980, Robert Moore, Executive Director of the National Republican Senatorial Committee, filed a complaint alleging that Midcontinent Broadcasting (KELO-TV, Sioux Falls, South Dakota); Joseph Floyd, President of Midcontinent Broadcasting and the McGovern Campaign Committee may have violated 2 U.S.C. § 441b(a). Specifically, the complainant alleges that the Midcontinent Broadcasting made a prohibited corporate contribution by deviating from its regularly scheduled programming to broadcast an additional edition of the news program "Face the Nation" which featured Senator George McGovern.

Complainant further alleges that Joseph Floyd also violated 2 U.S.C. § 441b(a) in that he was responsible for the broadcasting of the additional edition.

Accordingly, complainant alleges that the McGovern for Senate Committee may have violated 2 U.S.C. § 441b(a) by "accepting" the corporate contribution of the additional broadcast.

The Commission notified respondents of the allegations. The Office of General Counsel received responses from Robert Bauer, counsel for the McGovern Campaign Committee, and from L. Adrian Roberts, counsel for Midcontinent Broadcasting and Joseph Floyd, which are included as Attachments 2 and 3, respectively.

60 OCT 9 3:05

30710221534

An analysis of the activity complained of follows.

## II. FACTUAL AND LEGAL ANALYSIS

The FECA addresses the issue of expenditures for the broadcasting of news stories, commentaries, or editorials at 2 U.S.C. § 431(9)(B)(i). This provision specifically exempts from the definition of an expenditure "any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate."1/

Further, the regulations at 11 C.F.R. § 100.7(b)(2) also allow for exemption of such expenditures as contributions:

Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate, . . . is not a contribution.

Complainant has not demonstrated that the broadcast in question was not a news story, commentary, or editorial. In fact complainant acknowledges that the initial broadcasting of the program at its "regularly scheduled" time is not in violation of 2 U.S.C. § 441b in that "these broadcasts [shown at the "usual" time] are normally exempt as a bona fide news broadcast."2/

However, complainant suggests that the additional broadcasting of the same program, "in an entirely different time - frame and category" than its regularly scheduled time, should be considered violative of 2 U.S.C. § 441b.

---

1/ Complainant does not suggest that any entity other than the Midcontinent Broadcasting, a corporation, controls the broadcasting facilities.

2/ See complaint, page 1.

The re-broadcasting of a news program does not alter its classification as a news broadcast. Further, no provision of the FECA restricts the frequency that a particular news program can be broadcasted before it is considered as a contribution or expenditure. Thus, the fact that Midcontinent Broadcasting and/or Joseph Floyd broadcasted an "extra edition" of the program does not moot the exemption afforded to such programs.

The Commission has considered the exemption afforded by 2 U.S.C. § 431(9)(B)(i) in several past cases.<sup>3/</sup> Specifically, MURs 486, 819, 657 and 1212 pertain to this same issue. For example, in MUR 486, the Commission determined that newspaper articles (columns) written by federal candidates during the time of their campaigns fell within the exemption. In MUR 819, the Commission determined that the broadcasting of a special documentary which featured a specific congressman and which aired on three dates was not a contribution and/or expenditure by the broadcasting station.

Similarly, in MUR 657, the Commission determined that the broadcasting of an editorial endorsing a specific senatorial candidate was not a contribution or expenditure. Further, in MUR 1212, the Commission determined that the broadcasting of a talk show featuring an interview with a specific congressional candidate which was not a part of the show's "regular programming" was not a contribution pursuant to the Act.

Thus, the Commission has clearly established that the re-broadcasting of a news program, such as the one at issue, which is aired at a time other than its "regular" time is not a contribution or expenditure pursuant to 2 U.S.C. § 431(9)(B)(i).

In view of the fact that the program "Face the Nation" is a bona fide news program, the broadcast of which is not a contribution or expenditure pursuant to the Act, the Office of General Counsel recommends that the Commission find no reason to believe that Midcontinent Broadcasting, Joseph Floyd, and the McGovern Campaign Committee violated 2 U.S.C. § 441b(a), and close the file in this matter.

---

<sup>3/</sup> In cases referred to herein, the broadcasting facilities were not owned or controlled by any political party, political committee or candidate.

RECOMMENDATIONS

1. Find no reason to believe that Midcontinent Broadcasting, Joseph Floyd, and the McGovern Campaign Committee violated 2 U.S.C. § 441b(a).
2. Close the file.

Attachments

1. Complaint (2 pages)
2. Response from McGovern Campaign Committee (2 pages)
3. Response from Midcontinent Broadcasting and Joseph Floyd (4 pages)

3001001037

909878  
GCC# 2473  
RECEIVED

United States of America  
Before The  
FEDERAL ELECTION COMMISSION

80 AUG 28 P12:

ROBERT MOORE, EXECUTIVE DIRECTOR :  
NATIONAL REPUBLICAN SENATORIAL :  
COMMITTEE :  
227 Massachusetts Avenue, N.E. :  
Washington, D.C. 20001 :  
Complainant, :  
v. :  
MIDCONTINENT BROADCASTING :  
KELO-TV :  
Sioux Falls, South Dakota, :  
and :  
JOSEPH FLOYD, PRESIDENT :  
MIDCONTINENT BROADCASTING :  
Sioux Falls, South Dakota :  
and :  
MCGOVERN CAMPAIGN COMMITTEE :  
P.O. Box 1980 :  
Sioux Falls, South Dakota 57102 :  
Respondents. :

Complaint  
MUR

80 AUG 28 P 1:38

COMPLAINT

Robert Moore, being duly sworn deposes and complains  
of the above Respondents as follows:

I. That he is reliably informed of the facts alleged  
in this complaint by persons who observed the events described  
and whose names will be disclosed to the Commission if necessary.

II. That on Sunday, August 17, 1980, television station  
KELO-TV of Sioux Falls, South Dakota carried, as their regularly  
scheduled program, an issue of "Face the Nation", a C.B.S.  
network production.

III. That such program featured Senator George McGovern  
as the speaker and no complaint is lodged concerning that portion  
which was regularly scheduled since these broadcasts are normally  
exempt as a bona fide news broadcast.

Attachment 1  
(page 1)



IV. Contrary to the usual, normal and stated broadcasting procedures, however, the respondent, KELO-TV, for the first time known to informants, interrupted regularly scheduled programming to run an extra edition of this issue of "Face the Nation" in an entirely different time-frame and category.

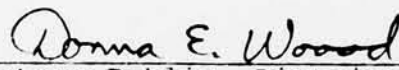
V. That your complainant believes that such deviation from normal practice results in a prohibited corporate contribution (See: A.O. 1976-86) by respondent television broadcasting corporation and that your complainant believes that the same was due to the actions of respondent Joseph Floyd, President of such corporate respondent and a known advocate of the respondent McGovern Campaign.

VI. That such corporate contribution is illegal and improper under the Federal Election Campaign Finance Act and the regulations of the Federal Election Commission.

  
ROBERT MOORE

DISTRICT OF COLUMBIA :  
: SS:  
CITY OF WASHINGTON :

On this 27<sup>th</sup> day of August, 1980, personally appeared Robert Moore, who being duly sworn and recognizing the penalties of perjury under 18 U.S.C. 1001 did swear that the above facts were true and correct to the best of his knowledge and belief, and were based upon information and belief obtained from reliable sources whose names will be divulged on request of the Federal Election Commission.

  
Notary Public, District of Columbia  
My Commission Expires: 1-1-82

Prepared by:

James F. Schoener  
Jenkins, Nystrom & Sterlacci, P.C.  
2033 M Street, N.W., Suite 504  
Washington, D.C. 20036  
(202) 293-2505

Attachment!  
(page 2)



*Weeder*

LAW OFFICES  
ROBERT F. BAUER  
SUITE 406  
1101 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036

(202) 296-0555

September 25, 1980

Mr. Charles Steele  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C.

RE: MUR 1285

Dear Sir:

On August 28, 1980, the National Republican Senatorial Committee (NRSC) filed a complaint alleging violations of the Act by the following parties: 1) the McGovern Campaign Committee ("the Committee"); 2) MidContinent Broadcasting (including KELO-TV, its station in Sioux Falls, South Dakota); 3) Joseph Floyd, President of MidContinent Broadcasting. The complaint alleged that, by virtue of a special showing of the CBS "Face the Nation" news interview program featuring Senator McGovern on August 17, 1980, MidContinent Broadcasting and its President had made, and the McGovern Campaign Committee had accepted, an illegal corporate contribution. The McGovern Campaign Committee contends that this complaint is wholly without merit, and should be immediately dismissed.

It is noted here first that Counsel to the NRSC has informed the Committee that the NRSC wishes now to withdraw its complaint on this matter. According to NRSC Counsel, a request to withdraw was orally communicated by him to FEC staff. Staff at the FEC has also informed the Committee, however, that this request does not relieve the Commission of its obligation to take some action on the complaint. Accordingly, while NRSC has evidently concluded that its own complaint is without merit, the McGovern Campaign Committee wishes to register here, for the record, its concurrence in that point of view.

The "Face the Nation" program in question constituted a bonafide news story, and as such its broadcast was exempt from the contribution and expenditure limitations of the Act. Specifically, §431(9)(B) excludes from the definition of "expenditure":

"any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee or candidate"  
See also §100.7(b)(2) and §100.8(b)(2) which exempt such news programming from the definitions of "contribution" and "expenditure", respectively.

Attachment 2  
(page 1)

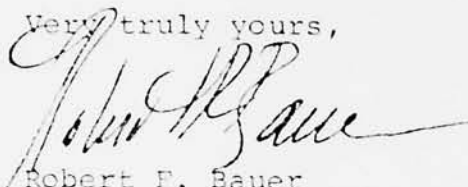
Mr. Charles Steele  
September 25, 1980  
Page 2

LAW OFFICES  
ROBERT F. BAUER

It is evident from these provisions of the Act and Regulations that the additional "Face the Nation" broadcast of KELO-TV cannot be an illegal corporate contribution or expenditure.\*

As the complaint of the NRSC is, therefore, without any foundation whatsoever in the Act or Regulations, the McGovern Campaign Committee requests that it be immediately dismissed.

Very truly yours,



Robert F. Bauer  
Counsel for the  
McGovern Campaign Committee

RFB:peg

\* In support of its position, NRSC cites Advisory Opinion 1976-86, which is wholly inapposite. That Opinion addresses the question of whether a billboard company could provide a discount, outside the normal course of its business, for the display of a political billboard advertisement of a political candidate. The underwriting by a corporation of campaign materials is in no way related, of course, to a news station's discharge of its duty to broadcast news stories or news commentaries in the public interest.

Attachment 2  
(page 2)

*Weeder*  
DOW, LOHNES & ALBERTSON

1225 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

TELEPHONE (202) 862-8000

TELECOPIER (202) 659-0059

CABLE "DOWLOHNES"

TELEX 86-533

WRITER'S DIRECT DIAL NO.

202/862-8051

410 316  
FAYETTE B. DOW (18

HORACE L. LOHNES (1897-1954)

WILLIAM P. SIMS  
THOMAS H. WALL  
EARL R. STANLEY  
JOHN A. RAFTER  
RICHARD L. BRAUNSTEIN  
JOHN D. MATTHEWS  
DONALD W. MARKHAM  
CHARLES J. MAKERNS  
B. DWIGHT PERRY  
DANIEL M. REDMOND  
L. ADRIAN ROBERTS  
DANIEL W. DOONEY  
BERNARD J. LONG, JR.

CHARLES H. HELEIN  
ALAN C. CAMPBELL  
RICHARD F. SWIFT  
PATRICK H. ALLEN  
RALPH W. HARDY, JR.  
JAMES A. TREANOR, III  
WERNER K. HARTENBERG  
JONATHAN B. HILL  
J. DOMINIC MONAHAN  
MARSHALL F. BERMAN  
J. MICHAEL HINES  
RICHARD D. MARKS  
JOHN I. DAVIS

ARNOLD P. LUTZKER  
LEONARD J. BAXT  
MICHAEL B. GOLDSTEIN  
MICHAEL J. MCCARTHY  
JOHN P. FEORE, JR.  
RAYMOND G. BENDER, JR.  
JOHN COLEMAN ADEGG  
KEVIN E. REED  
LESLIE H. WILSENFELDER  
JOYCE TRIMBLE SWADE  
DAVID P. FLEMING  
STUART A. SHELDON  
MICHAEL A. PACE

FREDERICK D. COOKE, JR.  
ALBERT H. TURKUS  
HELEN E. DISENHAUS  
CHRISTOPHER C. SMALLWOOD  
ANDREW A. MERDEN  
JOHN C. JUST  
JOHN D. WARD  
TODD D. GRAY  
JOHN H. POMEROY  
NOEL C. R. GUNTHER  
JOHN P. SCHNITKER  
R. BRUCE BECKNER  
JACK BARRETT  
JULIA A. WAYSDOFF

OF COUNSEL

FRED W. ALBERTSON • THOMAS W. WILSON

September 26, 1980

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

Re: Robert Moore, Executive Director, National  
Republican Senatorial Committee versus Midcontinent  
Broadcasting and Joseph Floyd, President,  
Midcontinent Broadcasting and McGovern Campaign  
Committee; MUR 1285

Attention: Ms. Carolyn Weeder

Gentlemen:

This letter will reply, on behalf of Midcontinent  
Broadcasting Co. and Joseph L. Floyd, to the above-referenced  
complaint.

The factual background of this matter is as follows.  
Station KELO-TV, a CBS affiliate in Sioux Falls, South Dakota,  
regularly carries the CBS program, Face The Nation, at 11:00 p.m.  
weekly on Sunday evenings. When the station learned that  
Senator McGovern was to be interviewed on the August 17, 1980  
edition of that program, it was decided to air the program  
at 3:00 p.m. on August 17. This decision was based solely  
upon the station's news judgment that an interview on  
national television with a member of Congress from South Dakota  
was especially newsworthy to residents of South Dakota and  
should be carried in a more desirable time period. No  
consideration whatsoever was given to the question of whether  
Senator McGovern's appearance would aid or hinder his campaign  
for re-election.\*/ The decision was also made not to delete

\*/ At the time the scheduling decision was made, the  
interview had not taken place. Mr. Floyd and the station  
could not know whether it would turn out favorably or un-  
favorably from Senator McGovern's standpoint.

Attachment 3  
(page 1)

Federal Election Commission  
September 26, 1980  
Page Two

the program in its regularly scheduled 11:00 p.m. time slot because there was insufficient time to publicize the 3:00 p.m. broadcast in the local TV Guide or in the local newspaper. Thus, to have eliminated the 11:00 p.m. broadcast would have been a disservice to viewers who were unaware of the 3:00 p.m. broadcast.

Shortly after August 17 and prior to the filing of the complaint, the station offered free and equal time to U.S. Representative James Abdnor, the Republican candidate for the U.S. Senate. Representative Abdnor later agreed to consider using free time on the station. We understand that at the request of Representative Abdnor, the National Republican Senatorial Committee has advised the FEC that they would have no objection to dismissal of the complaint.

Face The Nation is a news interview program produced in Washington, D.C. by the News Department of the CBS Network. Correspondents interviewing Senator McGovern on August 17 were George Herman of CBS News, John Mashek of U.S. News and World Report, and Susan Spencer of CBS News. The Federal Communications Commission has held that Face The Nation is a bona fide news interview program exempt from the equal time requirements of Section 315 of the Communications Act of 1934. Its rationale is that production and control of the program, the selection of subjects and participants, and the nature of the format, are such that the program is not susceptible to being used as a partisan campaign vehicle by an interviewee-candidate. See Letters to Andrew J. Easter, 40 FCC 307 (1960), Lar Daly, 40 FCC 310 (1960), Hon. Frank Kowalski, 40 FCC 355 (1962); telegram to Yates for U.S. Senator Committee, 40 FCC 368 (1962).

The FCC has further held that changes in the time and length of a news interview program do not detract from its non-partisan nature and, thus, such a program remains exempt:

Attachment 3  
(page 2)

"Because of the importance of an upcoming election, networks or stations sometimes increase the length of regularly scheduled news interview programs featuring one or more candidates. They also may change the times at which the programs are broadcast in order to reach larger audiences. Unless there is evidence that a station's or network's decision to lengthen the program or change its time period was unreasonable or made in bad faith, the program does not lose its news interview exemption. A broadcaster may 'in the exercise of its good faith news judgment, lengthen a "bona fide news interview" without destroying the exemption provided. \* \* \* Also, the mere change in placement of a program which would otherwise qualify for exemption does not remove the exemption because it is broadcast in other than at its regularly scheduled time slot.'" [Footnotes omitted] (The Law of Political Broadcasting and Cablecasting, Federal Register, Vol. 43, No. 159, p. 36366-Wednesday, August 16, 1978).

We would add that, in common with all television stations, KELO-TV frequently broadcasts news, including news interviews, more than one time, and, when circumstances warrant, broadcasts news, including news interviews, at other than regularly scheduled times.

In sum, the foregoing facts clearly show that the station made a decision, based upon readily understandable journalistic factors and in accordance with normal and usual station practices, to reschedule a non-partisan news program produced and controlled by a highly respected network news organization. By no stretch of the imagination could this be considered an illegal campaign contribution. To do so would have the most far reaching consequences, including interference in and disruption of the operations of all types of news gathering communications media, the raising of fundamental First Amendment questions, and the creation of a direct conflict with station licensee responsibilities imposed by the FCC to air news and public affairs programming.

Attachment 3  
(page 3)

Federal Election Commission  
September 26, 1980  
Page Four

However, we believe that the FEC's own rules wisely avoid such consequences by specifically excluding from the definition of a "contribution" "Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication . . ." (Section 100.7(b)(2)).

For all of the above reasons, Midcontinent Broadcasting Co. and Joseph L. Floyd respectfully request that you dismiss the complaint.

Respectfully submitted,

MIDCONTINENT BROADCASTING CO.  
and JOSEPH L. FLOYD

By L. Adrian Roberts  
L. Adrian Roberts

Their Attorney

L. Adrian Roberts, Esquire  
Dow, Lohnes & Albertson  
1225 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Attachment 3  
(page 4)



910 316

**DOW, LOHNES & ALBERTSON**

1225 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

TELEPHONE (202) 862-8000

TELECOPIER (202) 659-0059

CABLE "DOWLOHNES"

TELEX 89-553

WRITER'S DIRECT DIAL NO.

202/862-8051

FAYETTE B. DOW (1881-1932)

HORACE L. LOHNES (1897-1954)

WILLIAM P. SIMS  
THOMAS H. WALL  
EARL R. STANLEY  
JOHN A. RAFTER  
RICHARD L. BRAUNSTEIN  
JOHN D. MATTHEWS  
DONALD W. MARKHAM  
CHARLES J. McKEERNS  
B. DWIGHT PERRY  
DANIEL M. REDMOND  
LADRIAN ROBERTS  
DANIEL W. TOOHEY  
BERNARD J. LONG, JR.

CHARLES H. HELEIN  
ALAN C. CAMPBELL  
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PATRICK H. ALLEN  
RALPH W. HARDY, JR.  
JAMES A. TREANOR, III  
WERNER K. HARTENBERGER  
JONATHAN B. HILL  
J. DOMINIC MONAHAN  
MARSHALL F. BERMAN  
J. MICHAEL HINES  
RICHARD D. MARKS  
JOHN I. DAVIS

ARNOLD P. LUTZKER  
LEONARD J. BAXT  
MICHAEL B. GOLDSTEIN  
MICHAEL J. MCCARTHY  
JOHN P. FEORE, JR.  
RAYMOND G. BENDER, JR.  
JOHN COLEMAN GREGG  
KEVIN S. REED  
LESLIE H. WIESENFELDER  
JOYCE TRIMBLE GWADZ  
DAVID P. FLEMING  
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FREDERICK D. COOKE, JR.  
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CHRISTOPHER C. SMALLWOOD  
ANDREW A. MERDEK  
JOHN C. JOST  
JOHN D. WARD  
TODD D. GRAY  
JOHN H. POMEROY  
NOEL C. R. GUNTHER  
JOHN P. SCHNITKER  
R. BRUCE BECKNER  
JACK BARRETT  
JULIA A. WATSDORF

OF COUNSEL

FRED W. ALBERTSON • THOMAS W. WILSON

September 26, 1980

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

Re: Robert Moore, Executive Director, National  
Republican Senatorial Committee versus Midcontinent  
Broadcasting and Joseph Floyd, President,  
Midcontinent Broadcasting and McGovern Campaign  
Committee; MUR 1285

Attention: Ms. Carolyn Weeder

Gentlemen:

This letter will reply, on behalf of Midcontinent  
Broadcasting Co. and Joseph L. Floyd, to the above-referenced  
complaint.

The factual background of this matter is as follows.  
Station KELO-TV, a CBS affiliate in Sioux Falls, South Dakota,  
regularly carries the CBS program, Face The Nation, at 11:00 p.m.  
weekly on Sunday evenings. When the station learned that  
Senator McGovern was to be interviewed on the August 17, 1980  
edition of that program, it was decided to air the program  
at 3:00 p.m. on August 17. This decision was based solely  
upon the station's news judgment that an interview on  
national television with a member of Congress from South Dakota  
was especially newsworthy to residents of South Dakota and  
should be carried in a more desirable time period. No  
consideration whatsoever was given to the question of whether  
Senator McGovern's appearance would aid or hinder his campaign  
for re-election.\*/ The decision was also made not to delete

\*/ At the time the scheduling decision was made, the  
interview had not taken place. Mr. Floyd and the station  
could not know whether it would turn out favorably or un-  
favorably from Senator McGovern's standpoint.

Federal Election Commission  
September 26, 1980  
Page Two

the program in its regularly scheduled 11:00 p.m. time slot because there was insufficient time to publicize the 3:00 p.m. broadcast in the local TV Guide or in the local newspaper. Thus, to have eliminated the 11:00 p.m. broadcast would have been a disservice to viewers who were unaware of the 3:00 p.m. broadcast.

Shortly after August 17 and prior to the filing of the complaint, the station offered free and equal time to U.S. Representative James Abdnor, the Republican candidate for the U.S. Senate. Representative Abdnor later agreed to consider using free time on the station. We understand that at the request of Representative Abdnor, the National Republican Senatorial Committee has advised the FEC that they would have no objection to dismissal of the complaint.

Face The Nation is a news interview program produced in Washington, D.C. by the News Department of the CBS Network. Correspondents interviewing Senator McGovern on August 17 were George Herman of CBS News, John Mashek of U.S. News and World Report, and Susan Spencer of CBS News. The Federal Communications Commission has held that Face The Nation is a bona fide news interview program exempt from the equal time requirements of Section 315 of the Communications Act of 1934. Its rationale is that production and control of the program, the selection of subjects and participants, and the nature of the format, are such that the program is not susceptible to being used as a partisan campaign vehicle by an interviewee-candidate. See Letters to Andrew J. Easter, 40 FCC 307 (1960), Lar Daly, 40 FCC 310 (1960), Hon. Frank Kowalski, 40 FCC 355 (1962); telegram to Yates for U.S. Senator Committee, 40 FCC 368 (1962).

The FCC has further held that changes in the time and length of a news interview program do not detract from its non-partisan nature and, thus, such a program remains exempt:



"Because of the importance of an upcoming election, networks or stations sometimes increase the length of regularly scheduled news interview programs featuring one or more candidates. They also may change the times at which the programs are broadcast in order to reach larger audiences. Unless there is evidence that a station's or network's decision to lengthen the program or change its time period was unreasonable or made in bad faith, the program does not lose its news interview exemption. A broadcaster may 'in the exercise of its good faith news judgment, lengthen a "bona fide news interview" without destroying the exemption provided. \* \* \* Also, the mere change in placement of a program which would otherwise qualify for exemption does not remove the exemption because it is broadcast in other than at its regularly scheduled time slot.'" [Footnotes omitted] (The Law of Political Broadcasting and Cablecasting, Federal Register, Vol. 43, No. 159, p. 36366-Wednesday, August 16, 1978).

We would add that, in common with all television stations, KELO-TV frequently broadcasts news, including news interviews, more than one time, and, when circumstances warrant, broadcasts news, including news interviews, at other than regularly scheduled times.

In sum, the foregoing facts clearly show that the station made a decision, based upon readily understandable journalistic factors and in accordance with normal and usual station practices, to reschedule a non-partisan news program produced and controlled by a highly respected network news organization. By no stretch of the imagination could this be considered an illegal campaign contribution. To do so would have the most far reaching consequences, including interference in and disruption of the operations of all types of news gathering communications media, the raising of fundamental First Amendment questions, and the creation of a direct conflict with station licensee responsibilities imposed by the FCC to air news and public affairs programming.

Federal Election Commission  
September 26, 1980  
Page Four

However, we believe that the FEC's own rules wisely avoid such consequences by specifically excluding from the definition of a "contribution" "Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication . . ." (Section 100.7(b)(2)).

For all of the above reasons, Midcontinent Broadcasting Co. and Joseph L. Floyd respectfully request that you dismiss the complaint.

Respectfully submitted,

MIDCONTINENT BROADCASTING CO.  
and JOSEPH L. FLOYD

By   
L. Adrian Roberts

Their Attorney

L. Adrian Roberts, Esquire  
Dow, Lohnes & Albertson  
1225 Connecticut Avenue, N.W.  
Washington, D.C. 20036

MIDCONTINENT BROADCASTING COMPANY  
PHILLIPS AT 13TH ST. SIOUX FALLS, S.D. 57102  
TELEPHONE 605-336-1100

HAND DELIVERED  
00 SEP 26 P 3: 42

Federal Election Commission  
Washington, D.C. 20463

RE: Robert Moore, Executive Director, National  
Republican Senatorial Committee versus Midcontinent  
Broadcasting and Joseph Floyd, President,  
Midcontinent Broadcasting and McGovern campaign  
Committee; MUR 1285

Attention: Ms. Carolyn Weeder

Gentlemen:


On behalf of Midcontinent Broadcasting Co. and Joseph L. Floyd,  
respondents in the above-referenced complaint, please be advised  
that Dow, Lohnes & Albertson will represent those two respondents  
and are authorized to receive any notifications and other  
communications from the Commission. L. Adrian Roberts (862-8051)  
and Charles J. McKerns (862-8048) of that firm will have  
primary responsibility.

A copy of the firm's letterhead is attached hereto.

Respectfully submitted,

MIDCONTINENT BROADCASTING CO.  
and JOSEPH L. FLOYD

Date September 8, 1980

By   
Joseph L. Floyd, Individually  
and as President for  
Midcontinent Broadcasting Co.

# DOW, LOHNES & ALBERTSON

1225 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

TELEPHONE (202) 862-8000

TELECOPIER (202) 659-0059

CABLE "DOWLOHNES"

TELEX 89-553

WRITER'S DIRECT DIAL NO.

FAYETTE B. DOW (1881-1962)

HORACE L. LOHNES (1897-1954)

WILLIAM P. SIMS  
THOMAS H. WALL  
EARL R. STANLEY  
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WERNER K. HARTENBERGER  
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RAYMOND G. BENDER, JR.  
DONNA COLEMAN GREGG  
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JOHN P. SCHNITZER  
R. BRUCE BECKNER  
JACK BARRETT  
JULIA A. WAYSDOFF

OF COUNSEL

FRED W. ALBERTSON • THOMAS W. WILSON

3000100221601

DOW, LOHNES & ALBERTSON

1225 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

HAND DELIVERED

80 SEP 26 P 3:42

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

Attention: Ms. Carolyn Weeder

QCC#  
5779

LAW OFFICES

ROBERT F. BAUER

SUITE 406

80 SEP 25 P 4: 59 1101 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036

(202) 296-0555

September 25, 1980

Mr. Charles Steele  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C.

RE: MUR 1285

Dear Sir:

On August 28, 1980, the National Republican Senatorial Committee (NRSC) filed a complaint alleging violations of the Act by the following parties: 1) the McGovern Campaign Committee ("the Committee"); 2) MidContinent Broadcasting (including KELO-TV, its station in Sioux Falls, South Dakota); 3) Joseph Floyd, President of MidContinent Broadcasting. The complaint alleged that, by virtue of a special showing of the CBS "Face the Nation" news interview program featuring Senator McGovern on August 17, 1980, MidContinent Broadcasting and its President had made, and the McGovern Campaign Committee had accepted, an illegal corporate contribution. The McGovern Campaign Committee contends that this complaint is wholly without merit, and should be immediately dismissed.

It is noted here first that Counsel to the NRSC has informed the Committee that the NRSC wishes now to withdraw its complaint on this matter. According to NRSC Counsel, a request to withdraw was orally communicated by him to FEC staff. Staff at the FEC has also informed the Committee, however, that this request does not relieve the Commission of its obligation to take some action on the complaint. Accordingly, while NRSC has evidently concluded that its own complaint is without merit, the McGovern Campaign Committee wishes to register here, for the record, its concurrence in that point of view.

The "Face the Nation" program in question constituted a bonafide news story, and as such its broadcast was exempt from the contribution and expenditure limitations of the Act. Specifically, §431(9)(B) excludes from the definition of "expenditure":

"any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee or candidate"  
See also §100.7(b)(2) and §100.8(b)(2) which exempt such news programming from the definitions of "contribution" and "expenditure", respectively.

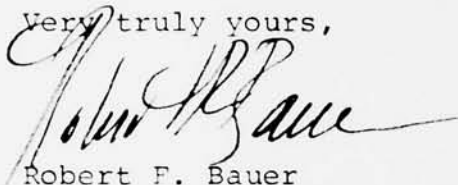
Mr. Charles Steele  
September 25, 1980  
Page 2

LAW OFFICES  
ROBERT F. BAUER

It is evident from these provisions of the Act and Regulations that the additional "Face the Nation" broadcast of KELO-TV cannot be an illegal corporate contribution or expenditure.\*

As the complaint of the NRSC is, therefore, without any foundation whatsoever in the Act or Regulations, the McGovern Campaign Committee requests that it be immediately dismissed.

Very truly yours,



Robert F. Bauer  
Counsel for the  
McGovern Campaign Committee

RFB:peg

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\* In support of its position, NRSC cites Advisory Opinion 1976-86, which is wholly inapposite. That Opinion addresses the question of whether a billboard company could provide a discount, outside the normal course of its business, for the display of a political billboard advertisement of a political candidate. The underwriting by a corporation of campaign materials is in no way related, of course, to a news station's discharge of its duty to broadcast news stories or news commentaries in the public interest.

ROBERT F. BAUER

SUITE 406

101 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036

MESSFNGER

MS. CAROLYN WEEDER  
General Counsel's Office  
Federal Election Commission  
1325 K Street, N.W.



LAW OFFICES  
**ROBERT F. BAUER**  
SUITE 406  
1101 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036

910143  
GCC#2662  
RECEIVED

80 SEP 17 P12:06 96-0555

September 15, 1980

Ms. Carolyn Weeder  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

RE: MUR 1285

Dear Ms. Weeder:

This letter confirms that I am authorized to represent the McGovern Campaign Committee in the above captioned matter.

We will be responding shortly to the complaint filed August 28 by the National Republican Senatorial Committee.

Very truly yours,



Robert F. Bauer

RFB:peg

10 SEP 17 P1:21

GENERAL INVESTIGATIVE

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ROBERT F. BAUER

SUITE 406

1101 SEVENTEENTH STREET, N.W.

WASHINGTON, D.C. 20036



RECEIVED



80 SEP 17 12:06

Ms. Carolyn Weeder  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 29, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

McGovern Campaign Committee  
P. O. Box 1980  
Sioux Falls, South Dakota 57102

Re: MUR 1285

Dear Sir or Madam:

This letter is to notify you that on August 28, 1980 the Federal Election Commission received a complaint which alleges that your Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1285. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your Committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.


This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

McGovern Campaign Committee  
Page Two

If you have any questions, please contact Carolyn Weeder, the staff member assigned to this matter at (202) 523-4529. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

  
Charles N. Steele  
General Counsel

Enclosure

1. Complaint
2. Procedures

30740201500

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on REVERSE.	
1. The following service is requested (check one). <input type="checkbox"/> Show to whom and date delivered. <input type="checkbox"/> Show to whom, date, and address of delivery. <input type="checkbox"/> RESTRICTED DELIVERY. <input type="checkbox"/> Show to whom and date delivered. <input type="checkbox"/> RESTRICTED DELIVERY. <input type="checkbox"/> Show to whom, date, and address of delivery. \$ (CONSULT POSTMASTER FOR FEES)	
2. ARTICLE ADDRESSED TO: <i>McGovern Camp Comm</i>	
3. ARTICLE DESCRIPTION: REGISTERED NO. <i>946072</i>	CERTIFIED NO. <i>946072</i> INSURED NO.
I have received the article described above. SIGNATURE <input type="checkbox"/> Addressee <input checked="" type="checkbox"/> Authorized agent <i>Bernie Marks</i>	
4. DATE OF DELIVERY <i>8/5</i>	
5. ADDRESS (Complete only if requested)	
6. UNABLE TO DELIVER BECAUSE:	

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1285 *Wendy*

SEP 8 1980  
STOCKX  
4529



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 29, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Robert Moore  
Executive Director  
National Republican Senatorial  
Committee  
227 Massachusetts Avenue, N.E.  
Washington, D. C. 20001

Dear Mr. Moore:

This letter is to acknowledge receipt of your complaint of August 27, 1980, against Midcontinent Broadcasting, Joseph Floyd, and McGovern Campaign Committee which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent(s) will be notified of this complaint within 5 days and a recommendation to the Federal Election Commission as to how this matter should be initially handled will be made 15 days after the respondents' notification. You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles N. Steele", is written over the typed name.

Charles N. Steele  
General Counsel

Enclosure

115160000

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

<p>● SENDER Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse</p>								
<p>1. The following service is requested (check one).</p> <p><input type="checkbox"/> Show to whom and date delivered _____</p> <p><input type="checkbox"/> Show to whom, date, and address of delivery _____</p> <p><input type="checkbox"/> RESTRICTED DELIVERY Show to whom and date delivered _____</p> <p><input type="checkbox"/> RESTRICTED DELIVERY Show to whom, date, and address of delivery \$ _____</p> <p>(CONSULT POSTMASTER FOR FEES)</p>								
<p>2. ARTICLE ADDRESSED TO:</p> <p><i>Mr. Robert Moore</i></p>								
<p>3. ARTICLE DESCRIPTION:</p> <table border="1"> <tr> <td>REGISTERED NO.</td> <td>CERTIFIED NO.</td> <td>INSURED NO.</td> </tr> <tr> <td></td> <td><i>946073</i></td> <td></td> </tr> </table> <p>(Always obtain signature of addressee or agent)</p> <p>I have received the article described above.</p> <p>SIGNATURE <input type="checkbox"/> Addressee <input type="checkbox"/> Authorized agent</p> <p><i>[Signature]</i></p>			REGISTERED NO.	CERTIFIED NO.	INSURED NO.		<i>946073</i>	
REGISTERED NO.	CERTIFIED NO.	INSURED NO.						
	<i>946073</i>							
<p>4. DATE OF DELIVERY</p> <p><i>SEP 4 1978</i></p>		<p>POSTMARK</p>						
<p>5. ADDRESS (Complete only if requested)</p> <p><i>SEP 4 1978</i></p>								
<p>6. UNABLE TO DELIVER BECAUSE:</p>		<p>CLERK'S INITIALS</p>						

1285

*Wendy*

☆ GPO: 1979-272-592



## FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 29, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Joseph Floyd  
President  
Midcontinent Broadcasting  
Sioux Falls, South Dakota

Re: MUR 1285

Dear Mr. Flyod:

This letter is to notify you that on August 28, 1980 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1285. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your Committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

Mr. Joseph Floyd  
Page Two

If you have any questions, please contact Carolyn Weeder, the staff member assigned to this matter at (202) 523-4529. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,



Charles N. Steele  
General Counsel

Enclosure

1. Complaint
2. Procedures

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.	
1. The following service is requested (check one): <input type="checkbox"/> Show to whom and date delivered. <input type="checkbox"/> Show to whom and address of delivery. <input type="checkbox"/> RESTRICTED DELIVERY. <input type="checkbox"/> Show to whom and date delivered. <input type="checkbox"/> RESTRICTED DELIVERY. <input type="checkbox"/> Show to whom and address of delivery. (CONSULT POSTMASTER FOR REGS.)	
2. ARTICLE ADDRESSED TO: <i>Joseph Floyd</i>	
3. ARTICLE DESCRIPTION: REGISTERED NO. <i>946075</i>	INSURED NO.
1. (Always obtain signature of addressee or agent) I have received the article described above. SIGNATURE <input type="checkbox"/> Addressee <input checked="" type="checkbox"/> Authorized agent <i>Kate Steele</i>	
4. DATE OF DELIVERY <i>9/9</i>	POSTMARK
5. ADDRESS (Complete only if requested)	
6. UNABLE TO DELIVER BECAUSE:	
CLERK'S INITIALS	

PS Form 3811, Aug. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1285 Weeder

30040221613





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 29, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Midcontinent Broadcasting  
KELO-TV  
Sioux Falls, South Dakota

Re: MUR 1285

Dear Sir or Madam:

300710221614  
This letter is to notify you that on August 28, 1980 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1285. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your Committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

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Midcontinent Broadcasting  
Page Two

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For your information, we have attached a brief description of  
the Commission's procedure for handling complaints.

Sincerely,

  
Charles N. Steele  
General Counsel

Enclosure

1. Complaint
2. Procedures

1285 Weeder

Form 3811, Aug. 1972

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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:

3. ARTICLE DESCRIPTION:  
REGISTERED NO. 946074 CERTIFIED NO. INSURED NO.

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

DATE OF DELIVERY 9/8 POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

1285 Weeder

0010221616  
MUR 1285  
909808  
REC# 2473  
RECEIVED

United States of America

Before The

80 AUG 28 P12:0

FEDERAL ELECTION COMMISSION

ROBERT MOORE, EXECUTIVE DIRECTOR :  
NATIONAL REPUBLICAN SENATORIAL :  
COMMITTEE :  
227 Massachusetts Avenue, N.E. :  
Washington, D.C. 20001 :

Complainant,

v.

Complaint

MIDCONTINENT BROADCASTING :  
KELO-TV :  
Sioux Falls, South Dakota, :

MUR

and

JOSEPH FLOYD, PRESIDENT :  
MIDCONTINENT BROADCASTING :  
Sioux Falls, South Dakota :

and

MCGOVERN CAMPAIGN COMMITTEE :  
P.O. Box 1980 :  
Sioux Falls, South Dakota 57102 :

Respondents.

COMPLAINT

Robert Moore, being duly sworn deposes and complains  
of the above Respondents as follows:

I. That he is reliably informed of the facts alleged  
in this complaint by persons who observed the events described  
and whose names will be disclosed to the Commission if necessary.

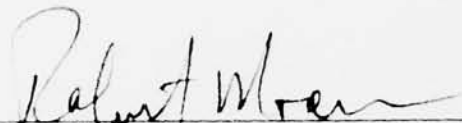
II. That on Sunday, August 17, 1980, television station  
KELO-TV of Sioux Falls, South Dakota carried, as their regularly  
scheduled program, an issue of "Face the Nation", a C.B.S.  
network production.

III. That such program featured Senator George McGovern  
as the speaker and no complaint is lodged concerning that portion  
which was regularly scheduled since these broadcasts are normally  
exempt as a bona fide news broadcast.

IV. Contrary to the usual, normal and stated broadcasting procedures, however, the respondent, KELO-TV, for the first time known to informants, interrupted regularly scheduled programming to run an extra edition of this issue of "Face the Nation" in an entirely different time-frame and category.

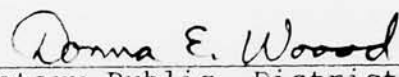
V. That your complainant believes that such deviation from normal practice results in a prohibited corporate contribution (See: A.O. 1976-86) by respondent television broadcasting corporation and that your complainant believes that the same was due to the actions of respondent Joseph Floyd, President of such corporate respondent and a known advocate of the respondent McGovern Campaign.

VI. That such corporate contribution is illegal and improper under the Federal Election Campaign Finance Act and the regulations of the Federal Election Commission.

  
ROBERT MOORE

DISTRICT OF COLUMBIA :  
: SS:  
CITY OF WASHINGTON :

On this 21<sup>st</sup> day of August, 1980, personally appeared Robert Moore, who being duly sworn and recognizing the penalties of perjury under 18 U.S.C. 1001 did swear that the above facts were true and correct to the best of his knowledge and belief, and were based upon information and belief obtained from reliable sources whose names will be divulged on request of the Federal Election Commission.

  
Notary Public, District of Columbia  
My Commission Expires: 1-1-82

Prepared by:

James F. Schoener  
Jenkins, Nystrom & Sterlacci, P.C.  
2033 M Street, N.W., Suite 504  
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3  
National Republican Senatorial Committee  
227 Massachusetts Avenue, N.E.  
Washington, D.C. 20002

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Federal Election Commission  
1325 K Street, N.W.  
5th Floor  
Washington, D.C. 20463

ATTENTION: COMPLAINT DEPARTMENT



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1285

Date Filmed 10/30/80 Camera No. --- 2

Cameraman SPC