



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1321

Date Filmed 10/21/81 Camera No. --- 2

Cameraman BPC

81-10403-07

FEDERAL ELECTION COMMISSION

Conciliation documents

and internal memos

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
|--|---|
| <input type="checkbox"/> (1) Classified Information | <input type="checkbox"/> (6) Personal privacy |
| <input type="checkbox"/> (2) Internal rules and practices | <input type="checkbox"/> (7) Investigatory files |
| <input type="checkbox"/> (3) Exempted by other statute | <input type="checkbox"/> (8) Banking Information |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input checked="" type="checkbox"/> (5) Internal Documents | |

Signed

Maura White

date

August 30, 1981



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 24, 1981

**Barbara Shea, Assistant Treasurer
Durkin for U.S. Senate Committee
Box 1016
Manchester, New Hampshire 03105**

Re: MUR 1321

Dear Ms. Shea:

This is in reference to the complaint you filed with the Commission on October 24, 1980, concerning a "Defeat Durkin" campaign being conducted in New Hampshire. After conducting an investigation in this matter, the Commission determined that there is no reason to believe the Defeat Durkin effort violated 2 U.S.C. §§ 433, 434, or 441a(f), no reason to believe David Melville violated 2 U.S.C. §§ 433, 434, or 441a(a) in regard to the Defeat Durkin effort, and no reason to believe either Robert Monier or Curt Clink-scales violated 2 U.S.C. §§ 433 or 434.

Additionally, the Commission determined that there was reason to believe David Melville violated 2 U.S.C. § 434(c)(2) in regard to the reporting of independent expenditures made by him as an individual. Enclosed, for your information, is a copy of the conciliation agreement entered into by the Commission and David Melville.

The file number in this matter is MUR 1321. If you have any questions please contact Maura White, the staff member assigned to this matter, at 202-523-4057.

Sincerely,

**Charles N. Steele
General Counsel**

[Signature of Kenneth A. Gross]
BY: **Kenneth A. Gross
Associate General Counsel**

**Enclosure
Conciliation Agreement**

81040300709



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Barbara Shea, Assistant Treasurer
Durkin for U.S. Senate Committee
Box 1016
Manchester, New Hampshire 03105

Re: MUR 1321

Dear Ms. Shea:

This is in reference to the complaint you filed with the Commission on October 24, 1980, concerning a "Defeat Durkin" campaign being conducted in New Hampshire. After conducting an investigation in this matter, the Commission determined that there is no reason to believe the Defeat Durkin effort violated 2 U.S.C. §§ 433, 434, or 441a(f), no reason to believe David Melville violated 2 U.S.C. §§ 433, 434, or 441a(a) in regard to the Defeat Durkin effort, and no reason to believe either Robert Monier or Curt Clink-scales violated 2 U.S.C. §§ 433 or 434.

Additionally, the Commission determined that there was reason to believe David Melville violated 2 U.S.C. § 434(c)(2) in regard to the reporting of independent expenditures made by him as an individual. Enclosed, for your information, is a copy of the conciliation agreement entered into by the Commission and David Melville.

The file number in this matter is MUR 1321. If you have any questions please contact Maura White, the staff member assigned to this matter, at 202-523-4057.

Sincerely,

Charles N. Steele
General Counsel

mw 8/21/81

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

81040300710



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 24, 1981

**W. Stephen Thayer
51 High Street
Manchester, New Hampshire 03104**

Re: MUR 1321

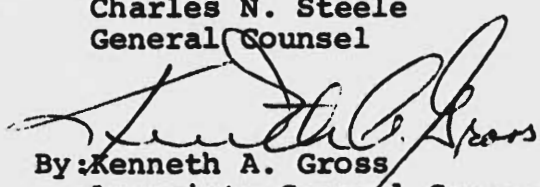
Dear Mr. Thayer:

On August 18, 1981, the Commission accepted the conciliation agreement signed by counsel for your client David Melville, and a civil penalty in settlement of a violation of 2 U.S.C. § 434(c)(2), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. Please be advised, however, that 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel


By: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation agreement

81040300711

W. Stephen Thayer
51 High Street
Manchester, New Hampshire 03104

Re: MUR 1321

Dear Mr. Thayer:

On 1981, the Commission accepted the conciliation agreement signed by counsel for your client David Malville, and a civil penalty in settlement of a violation of 2 U.S.C. § 434(c)(2), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. Please be advised, however, that 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

mw 8/21/81

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation agreement

81040300712

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

David Melville)

MUR 1321

CONCILIATION AGREEMENT

81 AUG 6 10:21
RECEIVED
OFFICE OF THE
GENERAL COUNSEL

This matter having been initiated by a signed, sworn, and notarized complaint filed by Barbara Shea, Assistant Treasurer of the Durkin for U.S. Senate Committee, an investigation having been conducted, and the Commission having found reason to believe that David Melville ("Respondent") violated 2 U.S.C. § 434(c)(2) by failing to file a 12 day pre-election report and a 24 hour report in connection with the September 9, 1980, primary election in New Hampshire, and a 12 day pre-election report and a 30 day post-election report in connection with the November 4, 1980, general election;

81040300713

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of a conciliation agreement under 2 U.S.C. § 437g(a)(4)(A).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent made an expenditure to C and L Communications on August 14, 1980, in the amount of \$7,468.73.

The expenditure was for the costs of advertisements in opposition to Senator John Durkin.

2. Respondent made an expenditure to C and L Communications on September 2, 1980, in the amount of \$7,179.11.

The expenditure was for the costs of advertisements in opposition to Senator John Durkin.

3. On October 10, 1980, Respondent filed an October 15, 1980, Report of Independent Expenditures (coverage dates July 1, 1980, through September 30, 1980). The October 15, 1980, filing reported expenditures to C and L Communications on August 14, 1980, and September 2, 1980, in the amount of \$7,468.73 and \$7,179.11, respectively, for the costs of advertisements in opposition to Senator John Durkin.

4. Respondent made an expenditure to C and L Communications on October 6, 1980, in the amount of \$6,272.44.

The expenditure was for the costs of advertisements in opposition to Senator John Durkin.

81040300714

5. Respondent made an expenditure to C and L Communications on October 7, 1980, in the amount of \$6,272.44. The expenditure was for the costs of advertisements in opposition to Senator John Durkin.

6. Respondent made an expenditure to W. Stephen Thayer on November 8, 1980, in the amount of \$2,000 for legal services.

7. Respondent made an expenditure to C and L Communications on December 24, 1980, in the amount of \$3,652.96. The expenditure was for the costs of advertisements in opposition to Senator John Durkin.

8. On January 16, 1981, Respondent filed a Year-End Report (coverage dates October 1, 1980, through December 31, 1980) of Independent Expenditures. The 1980 Year-End filing reported expenditures to C and L Communications on October 6, 1980, October 7, 1980, and December 24, 1980, in the amount of \$6,272.44, \$6,272.44, and \$3,652.96, respectively, for the costs of advertisements in opposition to Senator John Durkin. The filing also reported an expenditure of \$2,000 to W. Stephen Thayer on November 8, 1980, for legal services.

9. On March 19, 1981, Respondent filed a 12 day pre-primary election report which reported an expenditure to C and L Communications on August 14, 1980, in the amount of \$7,468.73 for the costs of advertisements in opposition to Senator John Durkin. Respondent also filed a 24 hour report in connection with the September 9, 1980, primary election

81040300715

which reported an expenditure to C and L Communications on September 2, 1980, in the amount of \$7,179.11 for the costs of advertisements in opposition to Senator John Durkin.

10. On March 30, 1981, Respondent filed a 30 day post-general election report (coverage dates September 30, 1980, through November 24, 1980) which reported expenditures of \$6,272.44 to C and L Communications on October 6, 1980, and October 7, 1980, respectively, for the costs of advertisements in opposition to Senator John Durkin, and an expenditure of \$2,000 to W. Stephen Thayer on November 8, 1980, for legal services.

WHEREFORE, Respondent agrees:

V. Respondent violated 2 U.S.C. § 434(c)(2) by failing to file a 12 day pre-primary election report and a 24 hour report prior to the September 9, 1980, primary election in New Hampshire, a 12 day pre-general election report prior to the November 4, 1980, general election, and a 30 day post-general election report by December 4, 1980.

VI. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of five hundred dollars (\$500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. Respondent will file a 12 day pre-general election report to report two expenditures of \$6,272.44 to C and L Communications for advertisements in opposition to Senator John Durkin on October 6, 1980, and October 7, 1980, respectively.

81040300716

VIII. Respondent agrees that he shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

X. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

XI. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XII. Respondent maintains that he reported all expenditures to defeat Sen. Durkin to the Commission and that all reports were prepared and filed on the advice of counsel.

Aug 21, 1981
Date

Charles N. Steele
Charles N. Steele
General Counsel

July 10, 1981
Date

David B. Melville
By: Hubrey E. Jones
David Melville
Hubrey E. Jones
30 Colpitts Road
Weston, Ma
02193
617-894-8080

81040300717

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
David Melville)

MUR 1321

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on August 18, 1981, do hereby certify that the Commission decided by a vote of 4-2 to accept the conciliation agreement attached to the General Counsel's August 7, 1981 memorandum, which had been signed by counsel for David Melville.

Commissioners Aikens, Harris, McGarry, and Thomson voted affirmatively for the decision; Commissioners Reiche and Tiernan dissented.

Attest:

8/20/81

Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

81040300718

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
David Melville)

MUR 1321

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 14, 1981, the Commission decided by a vote of 4-0 to take the following actions regarding MUR 1321:

1. Find REASON TO BELIEVE David Melville violated 2 U.S.C. § 434(c)(2) by his failure to file a 12 day pre-general election report and a 30 day post-general election report.
2. Approve the conciliation agreement and letter as submitted with the General Counsel's May 11, 1981 report.

Commissioners Aikens, Harris, Thomson and Tiernan voted affirmatively in this matter; Commissioners McGarry and Reiche did not cast a vote.

Attest:

5-14-81

Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour vote basis:

5-12-81, 10:00
5-12-81, 4:00

81040300719



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*
DATE: MAY 14, 1981
SUBJECT: COMMENTS REGARDING MUR 1321

Attached is a copy of Commissioner Reiche's
vote sheet with comments regarding his reason for
not casting a vote in the above-named matter.

81040300720

ATTACHMENT:
Copy of Vote Sheet

MEMORANDUM-TO: Marjorie W. Hancock

FROM: Elissa F. Gahr

SUBJECT: MUR 1321

Please have the attached General Counsel's Report distributed to the Commission on a 48 hour tally basis. Thank you.

81040300721

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

81 MAY 12 AIO: 00

In the Matter of

David Melville

)
)
)

MUR 1321

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On February 18, 1981, the Commission found reason to believe David Melville violated 2 U.S.C. § 434(c)(2) by failing to file reports of independent expenditures made by him as an individual. Specifically, Mr. Melville failed to file a 12 day pre-election report and a 24 hour report prior to the September 9, 1980, primary election in New Hampshire. Instead, Mr. Melville had filed an October 15, 1980, report on October 10, 1980, which reported expenditures made by him on August 14, 1980, and September 2, 1980.

Notification of the Commission's finding was mailed to David Melville on February 23, 1981. Responses from counsel for Mr. Melville were received on March 19, 1981, and March 30, 1981 (Attachments 1 and 2). On April 6, 1981, the Office of General Counsel received a letter from counsel for Mr. Melville which stated that his client would like to resolve this matter through informal conciliation (Attachment 3).

The March 19, 1981, response of Mr. Melville included the filing of a 12 day pre-election report and a 24 hour report in regard to expenditures made to influence the New

81040300722

Hampshire primary election. Mr. Melville's response states that the failure to file the correct report was "due to the fact that the commission's [sic] prior forms did not indicate either the twelve (12) day report or the twenty-four (24) hour report."

Subsequent to the Commission's reason to believe finding in regard to the reporting of primary election expenditures, it came to the attention of the Office of General Counsel that Mr. Melville should have also filed a 12 day pre-general election report and a 30 day post-general election report. 1/ These apparent additional violations of 2 U.S.C. § 434(c)(2) were conveyed to counsel for Mr. Melville during a telephone conversation on March 5, 1981. Mr. Melville then filed a 30 day post-general election report on March 30, 1981, in an attempt to rectify the general election reporting omissions. The Office of General Counsel has reviewed the March 30, 1981, filing and determined that a 12 day pre-general election report is also required to be filed. Expenditures required to be filed on the 12 day pre-general election report were mistakenly included on the 30 day post-general election report.

1/ On January 16, 1981, David Melville filed a Year-End Report of Independent Expenditures which reported expenditures for advertising to C and L Communications on October 6, 1980 (\$6,272.44), October 7, 1980 (\$6,272.44), and December 24, 1980 (\$3,652.96), and an expenditure to W. Stephen Thayer on November 8, 1980, for legal services.

81040300723

Staff of the Office of General Counsel has discussed this with counsel for Mr. Melville who has indicated a definite willingness to file the correct report.

II. Factual and Legal Analysis

Section 434(c)(2) of Title 2, United States Code, requires every person making independent expenditures to file, no later than the 12th day before any election, a pre-election report which is complete as of the 20th day before the election. Section 434(c)(2) further requires a person making independent expenditures to file, no later than the 30th day after the general election, a post-general election report which is complete as of the 20th day after the general election.

The Year-End report filed by David Melville on January 16, 1981, indicates that David Melville made four expenditures during the period of October 1, 1980, through December 31, 1980. See footnote 1. Based upon information reported on Mr. Melville's Year-End filing, it is the view of the General Counsel that David Melville violated 2 U.S.C. § 434(c)(2) by his failure to file a 12 day pre-general election report and a 30 day post-general election report in regard to the November 4, 1980, general election. Although Mr. Melville reported the expenditures on January 16, 1981, three of the expenditures should have been reported to the Commission prior to that time. Since the October 6 and October 7, 1981, payments for the advertise-

81040300724


ments were made more than 20 days prior to the general election, Mr. Melville should have reported them on a 12 day pre-general election report, required to be filed by October 23, 1980. As the November 8, 1980, expenditure was made before the 20th day after the general election, Mr. Melville should have also filed a 30 day post-general election report by December 4, 1980.

In view of the foregoing, the General Counsel recommends that the Commission find reason to believe David Melville violated 2 U.S.C. § 434(c)(2) in regard to the reporting of expenditures dated October 6, October 7, and November 8, 1980. Additionally, since the respondent wishes to resolve this matter through informal conciliation, the General Counsel recommends that the Commission approve the attached conciliation agreement which incorporates the above-recommended reason to believe finding.

III. General Counsel's Recommendations

1. Find reason to believe David Melville violated 2 U.S.C. § 434(c)(2) by his failure to file a 12 day pre-general election report and a 30 day post-general election report.
2. Approve the attached conciliation agreement and letter.

11 May 1981
Date


Charles N. Steele
General Counsel

Attachments:

1. response of March 19, 1981
2. response of March 30, 1981
3. letter of April 6, 1981
4. Year-End Report
5. proposed letter and agreement.

01040300725

81040300726

ATTACHMENT 1

91265 White 0007/200
W. STEPHEN THAYER, III
ATTORNEY AT LAW
51 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

TELEPHONE:
603-555-7501

March 16, 1981

John Warren McGarry
Chairman
Federal Election Commission
Washington, DC 20463

Re: MUR 1321

Dear Mr. Chairman:

Pursuant to your letter of February 23, 1981, I am enclosing herewith the twelve (12) day report and twenty-four (24) hour report regarding the New Hampshire primary which was held on September 9, 1980 and which was to be filed by David B. Melville.

The above oversight was made due to the fact that the commissions prior forms did not indicate either the twelve (12) day report or the twenty-four (24) hour report. Your commission in reviewing Mr. Melville's quarterly report and the accurate information contained therein which clearly stated when and in what amount contributions and expenditures were made during the periods covered by both the twelve (12) day and twenty-four (24) hour report established that we had not filed the forms with the commission although we had provided the information.

Very truly yours,

W. Stephen Thayer, III
W. Stephen Thayer, III (Imp)

WST/lmp
Enclosure

84:1 P 1:48
31 MAR 19 61 MAR 18

RECEIVED
FBI
MAR 19 1981

AND CONTRIBUTIONS RECEIVED

Used by a Person Other Than a Political Committee

(See Instructions on Reverse Side)

1. (a) Name David B. Melville		(e) Occupation Land Developer
(b) Address Old Ashburnham Road		2. Identification Number 080220887
(c) City, State and ZIP Code Rindge, New Hampshire 03461		3. Is this Report an Amendment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
(d) Name of Employer		

4. TYPE OF REPORT (check appropriate boxes):

- (a) ☐ April 15 Quarterly Report
☐ July 15 Quarterly Report
☐ October 15 Quarterly Report
☐ January 31 Year End Report
☐ July 31 Mid Year Report

☒ Twelfth Day Report preceding Primary election on 9/9/80
in the State of New Hampshire
☐ Thirtieth Day Report following the General Election on _____
in the State of _____

5. This Report covers the period — FROM: 7/1/80 THROUGH: 9/9/80

6. CONTRIBUTION(S) RECEIVED

Full Name, Mailing Address and ZIP Code of Contributor	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
				NONE

7. EXPENDITURE(S) MADE

Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check One		Name and Office Sought (District, State) of Federal Candidate
				Support	Oppose	
C&L Communications 1941 N. Woodley Arlington, VA 22207	Advertisement	8/14/80	7468.73		X	John Durkin, U.S. Senate

8. Total Contributions. \$ 0
9. Total Expenditures. \$ 7468.73

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

David B. Melville 3/10/81
SIGNATURE Date

Subscribed and sworn to before me this 10th
day of March 1981
My Commission Expires: May 14, 1987
[Signature]
Notary Public

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437c.

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

Any information reported herein may not be copied for sale or use by any person for the purposes of soliciting contributions or for any other commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee.

81040300728

AND CONTRIBUTIONS RECEIVED

Used by a Person Other Than a Political Committee

(See Instructions on Reverse Side)

1. (a) Name David B. Melville		(e) Occupation Land Developer
(b) Address Old Ashburnham Road		2. Identification Number 080220887
(c) City, State and ZIP Code Rindge, New Hampshire 03461		3. Is this Report an Amendment? X YES 0 NO
(d) Name of Employer Self-Employed		

4. TYPE OF REPORT (check appropriate boxes):

- (a) ☐ April 15 Quarterly Report
☐ July 15 Quarterly Report
☐ October 15 Quarterly Report
☐ January 31 Year End Report
☐ July 31 Mid Year Report

X Twelfth Day Report preceding Primary election on 9/9/80

in the State of New Hampshire (24-hour report)

☐ Thirtieth Day Report following the General Election on _____

in the State of _____

5. This Report covers the period — FROM: **8/20/80** THROUGH: **9/9/80**

6. CONTRIBUTION(S) RECEIVED

Full Name, Mailing Address and ZIP Code of Contributor	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
				NONE

7. EXPENDITURE(S) MADE

Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check One		Name and Office Sought (District, State) of Federal Candidate
				Support	Oppose	
C&L Communications 1941 N. Woodley Arlington, VA 22207	Advertise- ment	9/2/80	\$7179.11		X	John Durkin, U.S. Senate

8. Total Contributions \$ 0

9. Total Expenditures \$ 7179.11

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

David B. Melville 3/10/81
SIGNATURE Date

Subscribed and sworn to before me this 10th
day of March, 19 81

My Commission Expires:

May 14, 1987

[Signature]
(Notary Public)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

For further information contact:

Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

Any information reported herein may not be copied for sale or use by any person for the purposes of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

81040300729

81040300730

ATTACHMENT 2

W. STEPHEN THAYER, III
ATTORNEY AT LAW
61 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 08104

01 MAR 30 09:00

White

TELEPHONE:
603-644-5500

March 27, 1981

Maura White
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

Re: MUR 1321

Dear Ms. White:

Enclosed please find the forms that we previously spoke about.

Please contact me upon receipt.

Very truly yours,

W. Stephen Thayer, III
W. Stephen Thayer, III (imp)

WST/lmp
Enclosure

31 MAR 30 11:41

RECEIVED
GENERAL
MAR 31 1981

81040300731

AND CONTRIBUTIONS RECEIVED

by a Person Other Than a Political

(See Instructions on Reverse Side)

RECEIVED

81 MAR 30 A 9:00

1. (a) Name David B. Melville	(e) Occupation Land Developer
(b) Address Old Ashburnham Road	2. Identification Number 080220887
(c) City, State and ZIP Code Rindge, New Hampshire 03461	3. Is this Report an Amendment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
(d) Name of Employer Self-employed	

4. TYPE OF REPORT (check appropriate boxes):

- (a) ☐ April 15 Quarterly Report ☐ Twelfth Day Report preceding _____ election on _____
in the State of _____
- ☐ July 15 Quarterly Report
- ☒ Thirtieth Day Report following the General Election on **11/4/81**
in the State of **New Hampshire**
- ☐ October 15 Quarterly Report
- ☐ January 31 Year End Report
- ☐ July 31 Mid Year Report

5. This Report covers the period - FROM: **Sept. 30, 1980** THROUGH: **24 November 1980**

6. CONTRIBUTION(S) RECEIVED

Full Name, Mailing Address and ZIP Code of Contributor	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
				0

7. EXPENDITURE(S) MADE

Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check One		Name and Office Sought (District, State) of Federal Candidate
				Support	Oppose	
C & L Communications 1941 N. Woodley St. Arlington, VA 22207	Advertise	10/6/80	\$6,272.44		X	John Durkin, U.S. Sen. John Durkin, U.S. Sen.
		10/7/80	\$6,272.44		X	
W. Stephen Thayer, III 51 High Street Manchester, N.H.	Legal	11/8/80	\$2,000.00		X	John Durkin, U.S. Sen. New Hampshire

8. Total Contributions. \$ 0

9. Total Expenditures. \$ 14,544.88

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

David B. Melville
SIGNATURE

March 17, 1981
Date

Subscribed and sworn to before me this 17th
day of March, 1981

My Commission Expires:

May 14, 1987

Aubrey E. Jones
(Notary Public)
Aubrey E. Jones

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

Any information reported herein may not be copied for sale or use by any person for the purposes of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

81040300732

81040300733

ATTACHMENT 3

While

CC# 4415

81 APR 6 49:43

W. STEPHEN THAYER, III
ATTORNEY AT LAW
21 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

TELEPHONE
603-655-0501

April 2, 1981

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

Re: MUR 1321

Dear Mr. Steele:

Please be advised that I wish to enter into informal consideration with the Federal Election Commission relative to the above referenced matter. I will be available at your request to discuss this matter.

Very truly yours,

W. Stephen Thayer, III
W. Stephen Thayer, III (lmp)

WST/lmp

Dictated but not read

31 APR 6 41:48

RECEIVED
GENERAL COUNSEL
FEDERAL ELECTION COMMISSION

84040300734

81040300735

ATTACHMENT 4

REPORT OF INDEPENDENT EXPENDITURES AND CONTRIBUTIONS RECEIVED

(To Be Used by a Person Other Than a Political Committee)

(See Instructions on Reverse Side)

DECLINED

1. Full Name

David B. Melville

2. Address

Old Ashburnham Road

3. City, State and ZIP Code

Rindge, New Hampshire 03461

4. Name of Candidate

Self

SECRETARY OF THE ARMY

1. Treasurer

2. Secretary

3. HAND DELIVERED

4. U.S. POST OFFICE

5. YES

6. NO

4. TYPE OF REPORT (Check appropriate box):

☐ April 15 Quarterly Report

☐ July 15 Quarterly Report

☐ October 15 Quarterly Report

☐ January 31 Year End Report

☐ July 31 Mid Year Report

☐ Fourth Day Report

In the State of

☐ Third Day Report

In the State of

5. This Report covers the period -

FROM 1 October 80 THROUGH 31 December 80

6.

CONTRIBUTIONS RECEIVED

Full Name, Mailing Address and ZIP Code of Contributor	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
				0

7.

EXPENDITURES MADE

Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check One Support/Opinion	Name and Office Sought (District, State) of Federal Candidate
C & L Communications 1941 N. Woodley St. Arlington, VA 22207	Advertise	10/6/80	\$6,272.44	X	John Durkin, U.S. S.
		10/7/80	\$6,272.44	X	John Durkin, U.S. S.
		12/24/80	\$3,652.96	X	John Durkin, U.S. S.
W. Stephen Thayer, III 51 High Street Manchester, N.H.	Legal	11/80/80	\$2,000.00	X	John Durkin, U.S. Sen. New Hampshire

8. Total Contributions

0

9. Total Expenditures

18,197.84

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

David B. Melville

SIGNATURE

January 16, 1981

Date

Subscribed and sworn to before me this

16th

day of January

19 81

My Commission Expires:

May 14, 1987

Aubrey E. Jones

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

For further information contact:

Federal Election Commission
Toll Free 800-424-9530
Local 202-623-4088

Any information reported herein may not be used for sale or use by any person for the purpose of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

81020011770

4 530197 NH DEM C 369

PEC FORM 6 11/80

81040300737

**ATTACHMENT 5: PROPOSED LETTER AND
CONCILIATION AGREEMENT**

100050

RECEIVED

COO 4415

81 APR 8 48:00

W. STEPHEN THAYER, III
ATTORNEY AT LAW
81 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

TELEPHONE
603-666-0601

April 2, 1981

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

Re: MUR 1321

Dear Mr. Steele:

Please be advised that I wish to enter into informal consideration with the Federal Election Commission relative to the above referenced matter. I will be available at your request to discuss this matter.

Very truly yours,

W. Stephen Thayer, III
W. Stephen Thayer, III (lmp)

WST/lmp

Dictated but not read

81040300738

31 APR 8 48:11

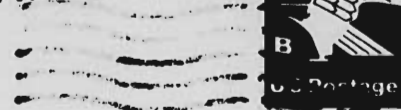
RECEIVED
GENERAL COUNSEL

8.1040100739

W. STEPHEN THAYER, III
ATTORNEY AT LAW
51 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104



81 APR 6 A9:43



Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS / JODY CUSTER *jc*
DATE: APRIL 1, 1981
SUBJECT: MUR 1321 Interim Investigative Report #1,
dated 3-27-81; Received in OCS, 3-30-81,
4:31

The above-named document was circulated to the
Commission on a 24 hour no-objection basis at 11:00,
March 31, 1981.

There were no objections to the Interim Investigative
Report at the time of the deadline.

81040300740

March 1, 1961

NY 1321

Please have the attached Warren Investigative Report
submitted to the Commission on a 24 hour no-objection basis.

Very truly,
J. Edgar Hoover

Enclosure

pkayson:2-30-61

cc: White/Thomas

BEFORE THE FEDERAL ELECTION COMMISSION
March 27, 1981

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

In the Matter of)
David Melville)

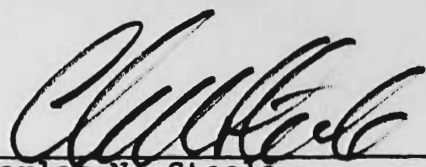
MUR 1321

81 MAR 30 P4:31

INTERIM INVESTIGATIVE REPORT #1

On February 18, 1981, the Commission found reason to believe David Melville violated 2 U.S.C. § 434(c)(2) by failing to timely report independent expenditures made by him as an individual. On February 23, 1981, a reason to believe notification letter was mailed to the respondent. On March 5, 1981, staff of this office and counsel for the respondent engaged in a telephone conversation during which respondent's counsel stated a desire to resolve this matter prior to a finding of probable cause to believe. On March 18, 1981, David Melville filed two reports of independent expenditures which were the subject of the reason to believe finding. Subsequent to the reason to believe finding, it came to the attention of this office that Mr. Melville may have violated § 434(c)(2) in regard to additional expenditures made by him in connection with the 1980 general election. On March 23 and March 27, 1981, this office attempted to contact counsel for the respondent. Respondent's counsel is expected to contact this office early next week, and following that communication this office will make a further report to the Commission.

30 March 1981
Date


Charles N. Steele
General Counsel

81040300742

912734

RECEIVED

4366

81 MAR 30 49:00

W. STEPHEN THAYER, III
ATTORNEY AT LAW
21 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

TELEPHONE
603-668-0601

March 27, 1981

Maura White
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

Re: MUR 1321

Dear Ms. White:

Enclosed please find the forms that we previously spoke about.

Please contact me upon receipt.

Very truly yours,

W. Stephen Thayer, III
W. Stephen Thayer, III (imp)

WST/lmp
Enclosure

81040300743

31 MAR 30 41:41

RECEIVED
GENERAL COUNCIL

(See Instructions on Reverse Side)

4. TYPE OF REPORT (check appropriate boxes):

- ☐ Twelfth Day Report preceding _____ election on _____

- In the State of** _____

- 41 Thirtieth Day Report following the General Election on 11/4/81

- in the State of New Hampshire

- July 31 Mid Year Report**

5. This Report covers the period — FROM: Sept. 30, 1980 THROUGH: 24 November 1980

CONTRIBUTION(S) RECEIVED**EXPENDITURE(S) MADE**

8. Total Contributions..... \$ 0

		14,544.88
9. Total Expenditures		\$

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

Subscribed and sworn to before me this 17th
day of March, 1981

My Commission Expires:

May 14, 1987

(Notary Public)

Aubrey E. Jones

SIGNATURE

Date _____

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

For further information contact:

Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

Any information reported herein may not be copied for sale or use by any person for the purposes of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

91263
ACC 4500
81 MAR 19 40:59
W. STEPHEN THAYER, III
ATTORNEY AT LAW
21 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104
TELEPHONE
603-688-0501

March 16, 1981

John Warren McGarry
Chairman
Federal Election Commission
Washington, DC 20463

Re: MUR 1321

Dear Mr. Chairman:

Pursuant to your letter of February 23, 1981, I am enclosing herewith the twelve (12) day report and twenty-four (24) hour report regarding the New Hampshire primary which was held on September 9, 1980 and which was to be filed by David B. Melville.

The above oversight was made due to the fact that the commissions prior forms did not indicate either the twelve (12) day report or the twenty-four (24) hour report. Your commission in reviewing Mr. Melville's quarterly report and the accurate information contained therein which clearly stated when and in what amount contributions and expenditures were made during the periods covered by both the twelve (12) day and twenty-four (24) hour report established that we had not filed the forms with the commission although we had provided the information.

Very truly yours,

W. Stephen Thayer, III
W. Stephen Thayer, III (lmp)

WST/lmp
Enclosure

81:1 d 61 MAR 11
GENERAL INVESTIGATIVE
DIVISION

**REPORT OF INDEPENDENT EXPENDITURES
AND CONTRIBUTIONS RECEIVED**
(To Be Used by a Person Other Than a Political Committee)

(See Instructions on Reverse Side)

1. (a) Name David B. Melville		(b) Occupation Land Developer
(b) Address Old Ashburnham Road		2. Identification Number 080220887
(c) City, State and ZIP Code Rindge, New Hampshire 03461		3. Is this Report an Amendment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
(d) Name of Employer		

4. TYPE OF REPORT (check appropriate boxes):

- | | |
|--|---|
| <input type="checkbox"/> April 15 Quarterly Report
<input type="checkbox"/> July 15 Quarterly Report
<input type="checkbox"/> October 15 Quarterly Report
<input type="checkbox"/> January 31 Year End Report
<input type="checkbox"/> July 31 Mid Year Report | <input checked="" type="checkbox"/> Twelfth Day Report preceding <u>Primary</u> election on <u>9/9/80</u>
in the State of <u>New Hampshire</u>
<input type="checkbox"/> Thirtieth Day Report following the General Election on _____
in the State of _____ |
|--|---|

5. This Report covers the period — FROM: 7/1/80 THROUGH: 9/9/80

6. CONTRIBUTION(S) RECEIVED

Full Name, Mailing Address and ZIP Code of Contributor	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
				NONE

7. EXPENDITURE(S) MADE

Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check One		Name and Office Sought (District, State) of Federal Candidate
				Support	Oppose	
C&L Communications 1941 N. Woodley Arlington, VA 22207	Advertisement	8/14/80	7468.73		X	John Durkin, U.S. Senate

8. Total Contributions \$ 0

9. Total Expenditures \$ 7468.73

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

David B. Melville 3/10/81
SIGNATURE Date

Subscribed and sworn to before me this 10th day of March 1981

My Commission Expires: May 14, 1987

[Signature]
(Notary Public)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

For further information contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

Any information reported herein may not be copied for sale or use by any person for the purposes of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

81040300746

(See Instructions on Reverse Side)

4. TYPE OF REPORT (check appropriate boxes):

- in the State of _____

6. CONTRIBUTION(S) RECEIVED

7. EXPENDITURE(S) MADEFEC FORM 5 (4/80)

W. STEPHEN THAYER, III

ATTORNEY AT LAW

51 HIGH STREET

MANCHESTER, NEW HAMPSHIRE 03104



John Warren McGarry
Chairman
Federal Election Commission
Washington, DC 20463

8104010048



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *MWE*
FROM: MARJORIE W. EMMONS/MARGARET CHANEY *mc*
OFFICE OF THE SECRETARY TO THE COMMISSION
DATE: FEBRUARY 25, 1981
SUBJECT: MUR 1321 - Errata - Memorandum to the
Commission dated 2-23-81; Received in
OCS 2-24-81, 9:57

The above-named document was circulated to the
Commission on a no-objection basis at 4:00, February 24, 1981.

There were no objections to the amendment of recom-
mendation one in the First General Counsel's Report in MUR 1321
(Executive Session, February 18, 1981). The recommendation should
read "Find no reason to believe the Defeat Durkin effort violated
2 U.S.C. §§ 433, 434, or 441a(f)."

81040300749

February 28, 1961

MEMORANDUM TO: Margaret S. Evans

FROM: William A. Hayden

SUBJECT: MUR 1321

Please have the attached Memo to the Commission distributed to the Commission on a 24 hour no-objection basis. Thank you.

Attachment

cc: White

81040300750



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 23, 1981

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel *CS*

SUBJECT: MUR 1321--Errata

It has come to my attention that recommendation number one in the First General Counsel's Report in MUR 1321 (Executive Session, February 18, 1981) contains a typographical error. The recommendation should be amended to read "Find no reason to believe the Defeat Durkin effort violated 2 U.S.C. §§ 433, 434, or 441a(f)."

1040300751



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

81 FEB 24 9: 57

February 23, 1981

MEMORANDUM TO: The Commission
FROM: Charles N. Steele
General Counsel *CS*
SUBJECT: MUR 1321--Errata

It has come to my attention that recommendation number one in the First General Counsel's Report in MUR 1321 (Executive Session, February 18, 1981) contains a typographical error. The recommendation should be amended to read "Find no reason to believe the Defeat Durkin effort violated 2 U.S.C. §§ 433, 434, or 441a(f)."

81040300752



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 23, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. Stephen Thayer, III
51 High Street
Manchester, New Hampshire 03104

Re: MUR 1321

Dear Mr. Thayer:

On October 27, 1980, the Commission notified your clients, David Melville and Robert Monier, of a complaint alleging that they may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission, on February 18, 1981, determined, on the basis of information in the complaint and information provided by you, that there is no reason to believe Robert Monier violated sections 433 and 434 of the Act, and no reason to believe David Melville violated sections 433, 434, or 441a of the Act in regard to the Defeat Durkin effort. However, the Commission determined that there is reason to believe David Melville violated section 434(c)(2) of the Act. Specifically, it appears that David Melville failed to file a 12 day pre-primary election report and a 24 hour report, reporting independent expenditures made by him, prior to the primary election in New Hampshire.

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please file any such response within ten days of your receipt of this notification. In the absence of any additional information which demonstrates that no further action should be taken against your client, the Commission may find probable cause to believe a violation has occurred and proceed with formal conciliation. Of course, this does not preclude settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

81040300753

Letter to: S. Thayer
Page 2

The investigation now being conducted will be 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 investigation to be made public.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at 202-523-4060.

Sincerely,

John Warren McGarry
JOHN WARREN MCGARRY
Chairman

2-23 MUR 1321 m. white

FROM MAIL, JAN 1979

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:
W. Stephen Thayer, III
51 High Street
Manchester, N.H. 03104

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
550816

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE: ☐ Addressee ☐ Authorized agent
Rita M. Paul

DATE OF DELIVERY
2-26-81

4. ADDRESS (Complete only if requested)

5. SINGLE TO MULTIPLE DELIVERIES

U.S. POSTAL SERVICE
FEB 26 1981
U.S. POST OFFICE
MANCHESTER, NH

1-800-375-2243

81040300755
CERTIFIED MAIL

RETURN RECEIPT

W. Stephen Thayer, III
53 High Street
Manchester, New Hampshire 03102

Re: MUR 1321

Dear Mr. Thayer:

On October 27, 1980, the Commission notified your clients, David Melville and Robert Monier, of a complaint alleging that they may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission, on _____, 1981, determined, on the basis of information in the complaint and information provided by you, that there is no reason to believe Robert Monier violated sections 433 and 434 of the Act, and no reason to believe David Melville violated sections 433, 434, or 441a of the Act in regard to the Defeat Durkin effort. However, the Commission determined that there is reason to believe David Melville violated section 434(c)(2) of the Act. Specifically, it appears that David Melville failed to file a 12 day pre-primary election report and a 24 hour report, reporting independent expenditures made by him, prior to the primary election in New Hampshire.

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please file any such response within ten days of your receipt of this notification. In the absence of any additional information which demonstrates that no further action should be taken against your client, the Commission may find probable cause to believe a violation has occurred and proceed with formal conciliation. Of course, this does not preclude settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

Let
Page

The
confidentiality of the information contained in this letter is to be maintained (SF and S-12)(12)(A). The information contained in this letter is to be made public.

If you have any questions, please contact Norma White, the staff member assigned to this matter, at 202-523-4060.

Sincerely,

2/21/91

81040300754

MW



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 23, 1981

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Curt Clinkscales
C&L Communications
101 Park Washington Court
Falls Church, Virginia 22046

Re: MUR 1321

Dear Mr. Clinkscales:

On October 27, 1980, the Commission notified you of a complaint alleging that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission, on February 18, 1981, determined, on the basis of the information in the complaint and information provided by you, that there is no reason to believe a violation of any statute within its jurisdiction has been committed. If you wish to submit any materials to appear on the public record, please do so within ten days.

If you have any questions please contact Maura White, the staff member assigned to this matter, at 202-523-4060.

MUR 1321 M. White

1. The following article 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 Show to whom and date delivered. <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom, date, and address of delivery.		(CONSULT POSTMASTER FOR FEES)	
ARTICLE ADDRESSED TO: <i>Curt Clinkscales 101 Park Washington Court Falls Church, Va. 22046</i>		ARTICLE DESCRIPTION: <i>52896</i>	
REGISTERED NO. <i>52896</i>		CERTIFIED NO. <i>52896</i>	
I have received the article described above. SIGNATURE: <i>[Signature]</i> DATE OF DELIVERY: <i>2/23/81</i>			
CHURCH, VA. MAIN OFFICE FEB 23 1981		CLIENT'S INITIALS <i>[Signature]</i>	

PS Form 3817, Jan. 1978

N. Steele
Counsel

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Curt Clinkscales
C&L Communications
101 Park Washington Court
Falls Church, Virginia 22044

Re: MUR 1321

Dear Mr. Clinkscales:

On October 27, 1980, the Commission notified you of a complaint alleging that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission, on , 1981, determined, on the basis of the information in the complaint and information provided by you, that there is no reason to believe a violation of any statute within its jurisdiction has been committed. If you wish to submit any materials to appear on the public record, please do so within ten days.

If you have any questions please contact Maura White, the staff member assigned to this matter, at 202-523-4060.

Sincerely,

Charles N. Steele
General Counsel

MW

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Defeat Durkin)

David Melville)

Robert Monier)

Curt Clinkscales)

MUR 1321

CERTIFICATION

I, Lena L. Stafford, Secretary to the Federal Election Commission's Executive Session on February 18, 1981, at which a quorum was present, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions regarding MUR 1321:

1. Find NO REASON TO BELIEVE the Defeat Durkin effort violated 2 U.S.C. §§433, 434, or 441a(a).
2. Find NO REASON TO BELIEVE David Melville violated 2 U.S.C. §§433, 434, or 441a(a) in regard to the Defeat Durkin effort.
3. Find REASON TO BELIEVE David Melville violated 2 U.S.C. §434(c) (2) in regard to the independent expenditures made by him as an individual.
4. Find NO REASON TO BELIEVE Robert Monier violated 2 U.S.C. §§433 or 434.
5. Find NO REASON TO BELIEVE Curt Clinkscales violated 2 U.S.C. §§433 or 434.
6. Send the letters as attached to the First General Counsel's Report dated February 9, 1981.

Commissioners Aikens, McGarry, Reiche, Thomson, and Tiernan voted for the actions.

Attest:

2-20-81
Date

Lena L. Stafford
Recording Secretary

81040300759



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY .

DATE: FEBRUARY 13, 1981

**SUBJECT: OBJECTION - MUR 1321 - First General
Counsel's Report dated 2-9-81; Received
in OCS 2-9-81, 1:38**

The above-named document was circulated on a 48
hour vote basis at 11:00, February 11, 1981.

Commissioner Tiernan submitted an objection at 12:03,
February 13, 1981.

This matter will be placed on the Executive Session
Agenda for Wednesday, February 18, 1981.

81040300760

February 2, 1961

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Carr
SUBJECT: MUR 1321

Please have the attached First GC Report distributed
to the Commission on a 48 hour tally basis. Thank you.

81040300761

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 2-9-81

MUR # 1321
DATE COMPLAINT RECEIVED
BY OGC October 24, 1980
STAFF M. White

COMPLAINANT'S NAME: Barbara Shea/Durkin for U.S. Senate Committee

RESPONDENT'S NAME: Defeat Durkin; David Melville; Robert
Monier; Curt Clinkscales

RELEVANT STATUTE: 2 U.S.C. §§ 431, 433, 434, 441a(a), 441a(f)

INTERNAL REPORTS CHECKED: Public records

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On October 24, 1980, the Durkin for U.S. Senate Committee filed a complaint against David Melville, Curt Clinkscales, Robert Monier, and "Defeat Durkin." The complaint alleges that Defeat Durkin is an entity "dedicated to the defeat of Senator Durkin" in the 1980 Senate election and is a political committee under the Act which has violated 2 U.S.C. §§ 433 and 434 by its failure to register with, and report to, the Commission. David Melville, Curt Clinkscales, and Robert Monier are alleged to be the organizers of Defeat Durkin, and the complainant makes the further allegation that Defeat Durkin, as a "single candidate" political committee, has accepted contributions from David Melville in excess of the contribution limitations (Attachment 1). 1/

1/ On October 27, 1980, the Durkin for U.S. Senate Committee filed, in U.S. District Court for the District of New Hampshire, a petition for declaratory judgment and injunctive relief, a motion for the immediate issuance of a temporary restraining order, and a motion for a preliminary injunction. Briefs were submitted by the petitioner (Attachment 2) and the Commission on October 29, 1980. The petitioner submitted an additional filing with the Court on October 29, 1980 (Attachment 3). The Court dismissed the petitioner's complaint on October 31, 1980. Durkin for U.S. Senate Committee v. Federal Election Commission, No. C80-503D (D.N.H., Oct. 31, 1980).

81 FEB 9 11:39
RECEIVED
OFFICE OF THE
GENERAL COUNSEL
FEDERAL ELECTION COMMISSION

81040300762

On October 27, 1980, notification letters were mailed to Defeat Durkin, David Melville, Robert Monier, and Curt Clinkscales. On October 30, 1980, the Office of General Counsel received additional information from the complainant (Attachment 4). The responses of Robert Monier, David Melville, and Curt Clinkscales were received on November 17, 1980, November 18, 1980, and November 28, 1980, respectively (Attachments 5-7).

II. FACTUAL BASIS AND LEGAL ANALYSIS

A. The facts asserted in the complaint and responses.

Complainant's allegation that "Defeat Durkin" is a political committee within the meaning of 2 U.S.C. § 431(4) appears to be based on various news articles and anti-Durkin advertisements which appeared in several New Hampshire newspapers and on radio stations, statements made by Robert Monier during a press conference held on October 6, 1980, and the affidavit of Charles Russell, counsel for the Durkin for U.S. Senate Committee. Copies of the materials upon which the complainant relies to make its allegations were submitted with the complaint. Additionally, subsequent to the filing of the complaint, the complainant submitted a list of the various newspapers which printed the anti-Durkin advertisements, including the dates and approximate cost of the ads, 2/ and also provided copies of certain news articles which appeared in the Boston Herald American on October 24, 1980, and the Monadnock Ledger on October 8, 1980.

Apparently, two anti-Durkin advertisements were placed in the Concord Monitor and the Berlin Reporter on September 15, 1980, and October 15, 1980, respectively, and several other newspapers during the period of August 25, 1980, through October 21, 1980. One of the two ads, entitled "The Two Faces of John Durkin," attacks the voting record of Senator Durkin by comparing his votes on tax cuts with contrasting statements made by the Senator in a constituent newsletter. The other ad, "John Durkin vs. Your Children," claims that Senator Durkin's voting record demonstrates that the Senator casts "anti-child, anti-parent, and anti-family votes." Both ads state that they are "[p]aid for by David B. Melville and not authorized by any candidate or candidate's committee." The advertisements, the complainant maintains, contain a "clip-out coupon, which readers are invited to forward to 'Defeat Durkin' along with financial or other offers of assistance." According to the

2/ The complainant has estimated the total cost of the Defeat Durkin ads to be approximately \$12,519.46.

81040300763

complainant, the solicitation of "assistance ... will certainly be characterized by some portion of the readership as a solicitation of funds."

The ads do in fact contain a coupon which the reader is directed to return to "Defeat Durkin." 3/ However, while the ads contain the language "I'll help DEFEAT DURKIN" and "If you would like to assist in this effort please complete the coupon," the ads request only the name, address, occupation, and employer of the individual offering assistance. No financial assistance is expressly requested. Indeed, the complainant has not supported its claim with any facts, other than the affidavit of its counsel, that the Defeat Durkin effort received contributions from anyone other than David Melville, the individual who paid for the advertisements. 4/

Robert Monier is alleged to have lent his "name, advice, and support to the anti-Durkin campaign" and to have "called a press conference to announce the formation of the 'Defeat Durkin' campaign." 5/ Complainant states that "[i]n the course of that conference, Mr. Monier conceded all of the essential facts of this case" by announcing "a cooperative venture on the part of himself, Mr. David Melville, and C & L Communications, Inc., of Falls Church, Virginia, the purpose being to mount a massive drive, funded by Mr. Melville, to defeat Senator Durkin." Mr. Monier's remarks during the October 6, 1980, press conference state in pertinent part:

This press conference was called to announce the formation of DEFEAT DURKIN, a concerted effort to expose the real record of John Durkin in the United States Senate.

I have agreed to serve as State Coordinator for DEFEAT DURKIN, a post that make me the spokesman and director of the New Hampshire drive.

3/ The addresses for the Defeat Durkin effort differ on the coupons which appear on the two types of advertisements. One address is listed as Box 472, Rindge, New Hampshire, and the other as Suite 7, 63 N. State Street, Concord, New Hampshire.

4/ The affidavit of Charles Russell, counsel for the Durkin for U.S. Senate Committee, states that Kathryn Reddy, an apparent volunteer at Defeat Durkin "headquarters," responded in the affirmative to his question of whether "contributions and mail" were received at that office.

5/ Complainant's allegation that Mr. Monier lent his name, advice, and support to the campaign appears to be based on a news article printed in the Concord Monitor on October 7, 1980. The article reports Robert Monier as saying "[David] Melville asked him to organize the movement and to lend his name, support and advice."

81040300764

.
DEFEAT DURKIN will point out how Mr. Durkin has failed to represent the views and values of New Hampshire people in his votes as our Senator on issues of critical importance

.
... DEFEAT DURKIN began informally in August with statewide newspaper ads on the tax issue, and repeated them in mid-September.

.
As DEFEAT DURKIN State Coordinator, I plan to conduct news conferences and to issue news releases to inform voters of Mr. Durkin's record.

Although Mr. Monier identified himself as the "state coordinator" and "spokesman and director" of "Defeat Durkin," complainant's claim that Mr. Monier's statements demonstrate that "Defeat Durkin" constitutes a political committee under the Act is misleading in view of the limited nature of the remarks. At most, the intricacy of the effort is made apparent.

The complainant states that it should be noted that C & L Communications, Inc., the advertising agency apparently retained to conduct the Defeat Durkin campaign, "is not simply an organization tendering commercial services in the ordinary sense" as the agency is "very close to the political line" and "mixes professional services with specific political advocacy." 6/ Thus, the complainant alleges that Curt Clinkscales, the agency's "treasurer," has "undertaken an immediate and direct personal role in the [Defeat Durkin] activities in New Hampshire." Based upon the complainant's "information and belief" Mr. Clinkscales is alleged to have "organized the inaugural press conference attended by ... [Mr.] Monier" and returned "all press calls placed to Mr. Melville about this press conference." No evidence was submitted by the complainant, however, to document this claim.

6/ The complainant's statement concerning the nature of business conducted by C & L Communications, Inc., appears to be based on a news article which was run in the Concord Monitor on October 29, 1980. Doug Lee, the reported President of C & L Communications, Inc., is quoted in the article as saying that he did not think it was strange that Mr. Melville had hired his firm because Mr. Melville "knew C&L Communications, Inc., was 'very close to the political line' and specialized in political advertising by groups affiliated with no campaign."

81040300765

It is further alleged that the "least active member of this effort appears to be Mr. Melville, who is making available from personal resources the \$100,000 to be spent by 'Defeat Durkin'." 7/ Complainant, therefore, asserts that "the direction and control of 'Defeat Durkin' lies with Robert Monier, Curt Clinkscales and other 'staff'." This contention appears to be based solely on the alleged facts that "Mr. Melville was not even in the country" when the first series of anti-Durkin newspaper advertisements appeared and that "in the only reported interview with Mr. Melville, he exhibited no knowlege [sic] of the content of the very advertisements that he was financing, claiming that he left the management of the effort to the 'staff'." 8/ There is, however, no evidence in the exhibits provided by the complainant which supports the allegation that it is Mr. Monier and Mr. Clinkscales, and not Mr. Melville, who direct and control the Defeat Durkin effort. Rather, in one of the news articles upon which the complainant relies to make its allegations, Mr. Melville is quoted as responding, in regard to the labelling of the Defeat Durkin effort as a "movement," that "[t]his is me, me alone" and "[i]t's my money and all I have is a two-man outfit doing research for me." Furthermore, an affidavit submitted by the Durkin for U.S. Senate Committee quotes Mr. Monier as saying that while he "did look at the ads before they went in for taste," he has "no control over them except to look at" them.

The complainant concludes that "the joint activity of Mr. Melville, Mr. Monier, C & L Communications, Inc., and Mr. Clinkscales (and possibly others)" qualifies their efforts as a "political committee" which has "clear registration, reporting and other obligations under the FECA." Additionally, it maintains that since "the committee in question is a 'single candidate' committee, which is seeking to influence the defeat of only one candidate, any individual contributing to the committee

7/ Complainant's statement that Mr. Melville plans to spend \$100,000 appears to be based on an article published in the Nashua Telegraph on October 16, 1980. However, that same article quotes Mr. Melville as saying "I can't allow it [the anti-Durkin campaign] to top \$50,000."

8/ The allegation that David Melville stated that he left the management of the Defeat Durkin effort to staff appears to be based on a news story in the Nashua Telegraph on October 16, 1980. The article reported that David Melville "couldn't recall the issues targeted in the 'Two Faces' ads, and quotes Mr. Melville as saying 'I knew a few of his [Senator Durkin] votes and had the staff uncover more'."

81040300766

is limited to \$1,000." The complainant asserts, therefore, that as Mr. Melville "has already contributed more than \$8,000" both David Melville and the Defeat Durkin effort have violated the contribution limitation provisions of the Act.

The response of David Melville (Attachment 6) argues that the allegations in the complaint are without merit as Mr. Melville "acted well within the confines of the Federal Election Campaign act [sic] and the Supreme Court's ruling in Buckley v. Valeo [sic] and that he has in fact operated as an individual making independent expenditures completely financed by himself." In support of its argument, the response asserts that Mr. Melville has "filed reports with the Federal Election Commission ... as mandated by 2 U.S.C. § 434(C)." ^{9/} The response further argues that while Mr. Melville had "political ads produced by C & L Communications," and while he "utilized Robert Monier as his spokesman in New Hampshire," David Melville "neither solicited nor accepted contributions from any individuals, groups, committees, corporations, partnerships or any other entity whatsoever" and that the coupon attached to the ads were "used for control purposes in an effort to measure the impact of the ad, and in no instance solicited money or provided the customary space for stating the amount of the contribution."

The response of Robert Monier (Attachment 5) concurs with the response of David Melville and further states that "the allegations of fact contained in the Durkin for U.S. Senate complaint are both groundless and full of misrepresentations." As with the response of Mr. Melville, the response of Mr. Monier asserts that this matter centers around David Melville who "made independent expenditures in an individual effort to defeat Senator John Durkin" and that neither Robert Monier nor David Melville solicited or accepted contributions from any source in an effort to defeat Senator Durkin. The response of Mr. Monier concludes, in explanation of his role in the Defeat Durkin effort, that Mr. Monier "acted solely as a spokesman for David Melville in an individual effort to defeat then Senator John Durkin."

In answer to the complaint, Curt Clinkscales has reiterated the position of both David Melville and Robert Monier that the complaint should be dismissed because the activities of which the complainant complains are the making of independent expenditures by David Melville (Attachment 7). Mr. Clinkscales, chairman of C & L Communications, Inc., ("CLCo, Inc.") ^{10/}, has

^{9/} On October 10, 1980, David Melville filed an October 15, 1980, report which reported \$14,647.84 in independent expenditures against John Durkin. The expenditures were reported as being made to C&L Communications on August 14, 1980, and September 2, 1980 (Attachment 8).

^{10/} The complainant has identified Mr. Clinkscales as the treasurer of CLCo, Inc. but Mr. Clinkscales' reply notes that he is the chairman of the company.

81040300767

explained that "CLCo, Inc. was engaged by Mr. David Melville in a non-contractual arrangement to write, design and place advertisements for his independent expenditures effort" and that the company served "Mr. Melville by advising him on media questions and in placing newspaper and radio advertisements paid for in full by Mr. Melville." The response further argues that "[n]either CLCo, Inc., nor any member of its staff were in any way connected to any 'committee' as alleged by the Durkin campaign."

Furthermore, the allegation that "Mr. Melville did not direct and control the expenditures of the effort" has been termed "totally false" by Mr. Clinkscales. The reply of Mr. Clinkscales maintains that "Mr. Melville had total power of approval for all ads and ad copy as well as placement" and that "[n]o ads were placed without his express approval in advance." The reply continues that the coupons were only "added [to the ads] to gauge response by the public to the advertising campaign" and did not solicit contributions. In summary, Mr. Clinkscales notes that "[a]t no time were there any discussions between the alleged parties as to the formation of a 'committee'" and that "Mr. Melville's timely and full filing of his report (FEC Form 5) for an independent expenditures campaign prove his intent to act under this provision of the law."

B. The law applicable

The term "political committee" is defined at 2 U.S.C. § 431(4)(A) to mean any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year. ^{11/} Pursuant to 2 U.S.C. § 433(a) a political committee which is neither an authorized committee nor a separate segregated fund shall file a statement of organization with the Commission within ten days after becoming a political committee within the meaning of the Act. A political committee is further required by 2 U.S.C. § 434 to report all receipts and expenditures of the committee.

^{11/} The courts have not addressed the specific question of what constitutes a "group of persons." Instead, courts addressing this provision have focused on the purpose of the activities engaged in by particular organizations. See Buckley v. Valeo, 424 U.S. 1, 79(1976); United States v. National Committee for Impeachment, 469 F.2d 1135, 1140-42 (2d Cir. 1972); American Civil Liberties Union v. Jennings, 366 F.Supp. 1041, 1056-57 (D.D.C. 1973), vacated as moot sub nom Staats v. American Civil Liberties Union, 422 U.S. 1030 (1975).

81040300768

Specifically, 2 U.S.C. § 434(b)(6)(B)(iii) requires a political committee to report the name and address of each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure, and a statement which indicates whether the independent expenditure is in support of, or in opposition to, a candidate. The report should also contain the name and office sought by each candidate, and a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of the committee.

Section 434(c)(2) of Title 2 requires every person, other than a political committee, to file within 24 hours after an independent expenditure is made, a report of any independent expenditure aggregating in excess of \$1,000 or more made after the 20th day but more than 24 hours before any election. Section 434(c)(2) further requires any person making an independent expenditure to file, no later than the 12th day before any election, a pre-election report which is complete as of the 20th day before such election.

Pursuant to 2 U.S.C. § 441a(a)(1)(C) no person may contribute more than \$5,000 per calendar year to any political committee which is neither the authorized committee of a candidate or a political committee established and maintained by a national political party. Section 441a(f) of the Act prohibits a political committee from knowingly accepting a contribution which is in violation of the Act.

C. Application of law to facts.

In view of the replies of David Melville, Robert Monier, and Curt Clinkscales, it is the position of the General Counsel that the Defeat Durkin effort does not constitute a political committee within the meaning of the Act. Instead, the Defeat Durkin effort constitutes the activities of one individual, David Melville, exercising his right to make unlimited independent expenditures to defeat Senator Durkin in the 1980 election.

The primary factor in this matter, in the General Counsel's view, is the evidence that the costs of the Defeat Durkin advertisements were paid for solely by David Melville. If the Defeat Durkin effort had been financed by David Melville and other individuals, this "group of persons" may have qualified as a political committee under the Act. However, as the ads apparently were funded only by David Melville, and no other

81040300769

persons made contributions to the Defeat Durkin effort, it does not seem that a group of persons "which receives contributions... or makes expenditures," i.e., a political committee, exists under the Act. 12/

The fact that Robert Monier served as spokesman for the Defeat Durkin effort, or that Curt Clinkscales' business was retained to perform a professional service, does not, in the view of the General Counsel, warrant a different conclusion. It must be assumed that an individual making independent expenditures may require assistance to create an effective and professional advertisement. If a political committee is formed when one individual provides volunteer assistance to a person financing an independent expenditure, or when a business is paid to produce and publish an independent expenditure, individuals would be precluded, in effect, from engaging in independent expenditures under the Act. 13/

In view of the foregoing, it is the opinion of the General Counsel that the Defeat Durkin campaign was in essence the independent expenditure activity of one individual, David Melville, and that the Defeat Durkin effort does not constitute a political committee within the meaning of the Act. As the complainant's allegation that David Melville contributed to the Defeat Durkin effort in excess of the contribution limitations is premised upon its contention that the Defeat Durkin effort constitutes a political committee, the allegation is without substance.

It is, however, the view of the General Counsel that David Melville, as an individual making independent expenditures, violated 2 U.S.C. § 434(c)(2) by his failure to file a 12 day pre-election report and a 24 hour report

12/ It is also significant that David Melville appears to have had ultimate control of the Defeat Durkin effort. The complainant has not supported with any concrete facts its allegation that Robert Monier and Curt Clinkscales, and not Mr. Melville, authorized, directed, or controlled the expenditures involved.

13/ The situation here in question is materially distinguishable from the situation presented to the Commission in Advisory Opinion 1980-126. In AO 1980-126 an individual established a bank account in the name of "Independent Voters for a Republican Victory," solicited contributions to Independent Voters, and alone made all decisions involving Independent Voters. Independent Voters was described as an on-going organization. On the basis of the facts presented, the Commission determined that the activities of both the individual and contributors to Independent Voters constituted a political committee under the Act. The reasoning in that situation was that the individual reached beyond his personal funds and resources to involve numerous contributors in the same activity, and that the contributors divested themselves of control over any decisionmaking in the making of expenditures.

81040300770

prior to the September 9, 1980, primary election in New Hampshire. Although, as previously discussed, Mr. Melville filed an October 15, 1980, report which reported one expenditure to C&L Communications on August 14, 1980 (in the amount of \$7,468.73) and another on September 2, 1980 (in the amount of \$7,179.11), the expenditures should have been reported to the Commission prior to October 1980. As the initial payment for the ads was made on August 14, 1980, and thus more than 20 days prior to the September 9, 1980, primary election, Mr. Melville should have filed a 12 day pre-primary election report. As the September 2, 1980, payment was made after the 20th day, but more than 24 hours before the September 9, 1980, primary election, Mr. Melville should have also filed a 24 hour report. In consideration of Mr. Melville's failure to timely disclose his activity, the General Counsel recommends that the Commission find reason to believe David Melville violated 2 U.S.C. § 434(c)(2).

RECOMMENDATIONS

1. Find no reason to believe the Defeat Durkin effort violated 2 U.S.C. §§ 433, 434, or 441a(a).
2. Find no reason to believe David Melville violated 2 U.S.C. §§ 433, 434, or 441a(a) in regard to the Defeat Durkin effort.
3. Find reason to believe David Melville violated 2 U.S.C. § 434(c)(2) in regard to the independent expenditures made by him as an individual.
4. Find no reason to believe Robert Monier violated 2 U.S.C. §§ 433 or 434.
5. Find no reason to believe Curt Clinkscales violated 2 U.S.C. §§ 433 or 434.
6. Send the attached letters.

Attachments

- 1 - Complaint
- 2 - Brief of Durkin for Senate
- 3 - Notice affidavit of Durkin for Senate
- 4 - Letter from Durkin for Senate
- 5 - Response of Robert Monier
- 6 - Response of David Melville
- 7 - Response of Curt Clinkscales
- 8 - FEC Form 5 filed by David Melville
- 9 - Proposed letters

81040300771

81040300772

ATTACHMENT 1

80 OCT 24 P12:14

Before the
FEDERAL ELECTION COMMISSION
Washington, D.C.

HAND DELIVERED

Durkin for U.S. Senate
Committee

v.

MUR No. _____

David Melville,
Robert Monier,
Curt Clinkscales,
et. al.

COMPLAINT AND REQUEST FOR EXPEDITED CONSIDERATION

I. Introduction

The Durkin for U.S. Senate Committee has uncovered certain serious violations of the Federal Election Campaign Act of 1971, as amended, which have been -- and will continue to be -- committed in the course of this year's United States Senate election in New Hampshire. The violations in question have led to the expenditure of thousands of dollars of illegal funds to defeat Senator John Durkin, who is currently campaigning for reelection. Immediate, expedited action by the Commission to correct these violations is required, for if the Commission fails to act, the Senate campaign in New Hampshire will be tainted by election law violations of the most serious magnitude.

II. Summary of Allegations

Through this complaint, the Durkin for U.S. Senate Committee seeks immediate action to stop and to remedy ongoing violations of the FECA by respondents David Melville, Robert Monier and Curt Clinkscales. Specifically, these individuals -- and possibly others -- have organized a "political committee" dedicated to the defeat of Senator

81040300773

Durkin in this year's election campaign. This political committee, however, is neither registered nor reporting in violation of Sections 433 & 434 of the Act. 1/

Moreover, this committee has accepted contributions from Mr. Melville well in excess of the lawful limit. Since the committee in question is a "single candidate" committee, which is seeking to influence the defeat of only one candidate, any individual contributing to the committee is limited to \$1,000. See Advisory Opinion 1979-40; Informational letter (Re: AOR 1976-20) dated August 17, 1976. Mr. Melville, however, has already used this committee as a conduit for the expenditure of over \$8,000, and the committee plans call for additional expenditures for a total of \$100,000. This flagrant violation of the law has enabled this committee to run, throughout the state, newspaper advertisements and to plan radio advertisements calling for the defeat of Senator Durkin.

III. Factual Background of the Case

Earlier this month, Mr. Robert Monier, President of the New Hampshire State Senate, called a press conference to announce the formation of the "Defeat Durkin" campaign. In the course of that conference, Mr. Monier conceded all of the essential facts of this case.

Specifically, Mr. Monier announced a cooperative venture on the part of himself, Mr. David Melville, and C & L Communications, Inc. of Falls Church, Virginia, the purpose being to mount a massive drive, funded by Mr. Melville, to defeat Senator Durkin. Mr. Monier's role was to serve as "state coordinator", who would lend his "name, advice, and support" to this anti-Durkin campaign. See Exhibit "A-1", "A-2". C & L Communications, Inc., will serve as media adviser, charged with placing the newspaper and radio advertisements financed by Mr. Melville. See Exhibit "B".

It should be noted that C & L Communications, Inc. is not simply an organization tendering commercial services in the ordinary sense. By the admission of its own President, Mr. Doug Lee, the agency is "very close to the political line", i.e. an organization which mixes professional services with specific political advocacy. See Exhibit "B". Moreover, C & L Communications Treasurer, Mr. Curt Clinkscales, is a well known political activist of the "New Right", who has undertaken an immediate and direct personal role in the activities in New Hampshire. Upon information

1. As of the filing of this complaint, no filings had been made by "Defeat Durkin" or any of the named individuals with the Federal Election Commission, the Secretary of the Senate or the Secretary of State for New Hampshire.

81040300774

and belief, Mr. Clinkscales organized the inaugural press conference attended by Senate President Monier, and all press calls placed to Mr. Melville about this press conference were returned by Mr. Clinkscales.

The least active member of this effort appears to be Mr. Melville, who is making available from personal resources the \$100,000 to be spent by "Defeat Durkin". When this anti-Durkin campaign opened with the first series of newspaper advertisements, Mr. Melville was not even in the country. See Exhibit "B". Moreover, in the only reported interview with Mr. Melville, he exhibited no knowledge of the content of the very advertisements that he was financing, claiming that he had left the management of the effort to the "staff". See Exhibit "C". Thus, although he has provided vast sums of money, the direction and control of "Defeat Durkin" lies with Robert Monier, Curt Clinkscales, and other "staff".

Since the inception of this effort, newspaper advertisements attacking Senator Durkin have appeared in newspapers around the state. Significantly, these advertisements contain a clip-out coupon, which readers are invited to forward to "Defeat Durkin" along with any financial or other offers of assistance. See Exhibits "D-1" & "D-2".

IV. The Law of the Case

It is unclear whether "Defeat Durkin" even considers its efforts to be lawful. At one point, Senate President Monier declared a "loop hole" in the election laws enabled him and his associates to operate in this fashion. As shown below, however, this "loophole" consists simply of blatant violations of the Act by respondents. See Exhibit "E".

A. Failure of This "Political Committee" to Register, Report, or Comply with Any Other Requirements of the FECA

In any event, it is apparent that the joint activity of Mr. Melville, Mr. Monier, C & L Communications, Inc. and Mr. Clinkscales (and possibly others) qualifies this group as a "political committee" which has clear registration, reporting and other obligations under the FECA. See, e.g., Section 433 & 434 of the Act. Section 431(4) (A) defines a "political committee" as:

81040300775

"any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year."

Under any analysis, it is apparent that a political committee has been created through the activities of these "persons". The association has already received contributions aggregating in excess of \$1,000 from Mr. Melville this year. Moreover, coupons accompanying their newspaper advertisements solicit "assistance" from the readers -- an appeal which will certainly be characterized by some portion of the readership as a solicitation of funds. Nor is there anywhere in the public record on this effort a statement by any of these parties that contributions from other individuals or organizations would be unwelcome. Instead, it appears that this "political committee", organized relatively recently, does not wish to trouble with the fundraising difficulties encountered by most other political entities, but instead seeks a "loophole" to take advantage of the virtually unlimited financing available from Mr. Melville.

B. Unlawful Contributions by David Melville to this "Political Committee"

Apart from the failure of this "political committee" to register, report, or otherwise fulfill any of its other obligations under the Act, there remains the additional violation of contributions from Mr. Melville well in excess of the lawful limit. This "political committee", "Defeat Durkin", is a single candidate committee. As such, it is limited to \$1,000 in contributions from any one individual, including Mr. Melville. See Informational letter of August 1976, cited supra. Yet, as stated previously, Mr. Melville has already contributed more than \$8,000 and expects to contribute a total of at least \$100,000. The violation of FECA limitations involved here could not be more egregious.

V. Conclusion

For all of the foregoing reasons, there has been uncovered in New Hampshire a violation of the FECA which requires urgent and immediate Commission attention. The financial support tendered by individuals and committees to the Durkin campaign, all of it within the lawful limits, is

currently being overwhelmed by the vast illegal sums expended by the respondents. The "loophole" they claim to have discovered must be immediately closed, so that the election in New Hampshire can proceed to be settled on the basis of a fair public evaluation of the merits of the competing candidates -- not on the basis of distorted spending by opponents of one candidate in violation of Federal law.

Barbara F. Shea

Barbara F. Shea, Assistant Treasurer
Durkin For U.S. Senate Committee
P.O. Box 1016
Manchester, NH 03105

THE STATE OF NEW HAMPSHIRE

COUNTY OF HILLSBOROUGH, SS.

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 23rd DAY OF OCTOBER, 1980.

James M. Connelly
Notary Public, James M. Connelly

My commission expires in 1983

81040300777



Monier, answers questions after announcing Defeat Durkin campaign. AP/Tim Savard

Drive To Defeat Him *Monitor* Doesn't Worry Durkin *10/7*

By MIKE RECHT
Associated Press Writer

Sen. John Durkin thinks the formation of a Defeat Durkin advertising campaign is going to backfire, and wonders if it is even legal.

"I don't think the people of New Hampshire are going to be swayed by an out-of-state campaign to smear my record," the Democratic senator said.

"It's all part of the same cesspool, and all interconnected. It's all the far-right. They're going to dump thousands of dollars into New Hampshire to try to capture the Senate seat."

Robert Monier, the Republican state Senate president, yesterday said contributions to the Defeat Durkin campaign may reach \$100,000. The money, he said, is being contributed by David Melville, a real estate developer who has lived in Rindge about two years.

Monier said Melville asked him to organize the movement and to lend his name, support and advice. "He talked to me and I agree with him."

Monier said the campaign will include radio and newspaper ads to begin appearing in the state today. He said they will focus on Durkin's voting record in the Senate, particularly on tax issues, and where the Democratic senator gets his campaign contributions.

Melville is involved in a real estate development in the Bahamas, Monier said. He said Melville has not limited himself to

political bankrolling, but has been active in church work and contributed money to a youth camp.

Melville purchased a number of newspaper ads asking voters in the Sept. 9 primary to defeat Durkin, who won the primary against little opposition.

Monier said Warren Rudman, the Republican candidate opposing Durkin, has not been consulted in the program, and that he knew of no other individuals in New Hampshire involved in the Defeat Durkin campaign.

Election laws allow only individuals, not political action committees, to spend unlimited money to defeat a candidate.

"Under federal election laws, I can have nothing to do with this group," Rudman said when told of the campaign. "I have not. I'm not aware where the money is coming from or who the people are."

"I'm going to run my own campaign. If anyone else wishes to address any of John Durkin's shortcomings, there are enough issues for people to address."

Melville also has contributed to the New England Conservative Political Action Committee, whose honorary chairman is Sen. Gordon Humphrey, R-N.H.

Durkin questioned whether the movement is an individual effort with independent expenditures, "or are they coordinating with other committees and organizations" contrary to election laws.

"I am aware NECPAC has done some things in other states," Monier said. "This is not directly connected with those at all."

STATEMENT BY SENATOR ROBERT MONIER
Monday, October 6, 1980
The State House, Concord, NH

Ladies and Gentlemen:

This news conference was called to announce the formation of DEFEAT DURKIN, a concerted effort to expose the real record of John Durkin in the United States Senate.

I have agreed to serve as State Coordinator for DEFEAT DURKIN, a post that makes me the spokesman and director of the New Hampshire drive.

There is one very simple reason for DEFEAT DURKIN. John Durkin's votes in the U.S. Senate have been out of step with New Hampshire citizens since he first went to Washington back in 1975.

The citizens of our state need to know how their elected officials carry out their wishes after their election, and we are going to tell them.

DEFEAT DURKIN will point out how Mr. Durkin has failed to represent the views and values of New Hampshire people in his votes as our Senator on issues of critical importance to the citizens of the Granite State.

Further, we shall show the very close record of Mr. Durkin's voting with the positions of Jimmy Carter, a man from whom Mr. Durkin seems to want to distance himself. In the first three years of the Carter presidency, John Durkin voted in agreement with Carter's disastrous policies an unusually high 73% of the time.

We have already illustrated how this can be effectively done as DEFEAT DURKIN began informally in August with statewide newspaper ads on the tax issue, and repeated them in mid-September.

With a record as liberal as John Durkin's, there are many areas from which to select to show how far out of line Mr. Durkin's votes are

from the thinking of the people in New Hampshire.

The next ad will appear in tomorrow's (Tuesday, October 7th) daily, and in this week's weekly, newspapers.

As DEFEAT DURKIN State Coordinator, I plan to conduct news conferences and to issue news releases to inform voters of Mr. Durkin's record which may not be otherwise addressed.

An example of this is John Durkin's latest vote in the U.S. Senate against a tax cut for New Hampshire taxpayers. In spite of his claim to favor tax cuts, John Durkin voted again on September 25th not to allow our taxes to be cut. That was at least the sixth time this year alone that Mr. Durkin voted to deny us much needed tax relief, but it was the first time since DEFEAT DURKIN exposed his two-faced position on taxes.

It is my personal belief that DEFEAT DURKIN will conclusively demonstrate that John Durkin has failed to represent the people of New Hampshire, and will help voters to determine that to be effectively represented in Washington, they'll have to defeat John Durkin on November 4th.

8104030078

①

11/15/81

Money Works Against Durkin

By JANE HARRIGAN
Associated Press Writer

Who is David B. Melville and why is he spending thousands of dollars urging New Hampshire voters to defeat Sen. John Durkin?

Melville hasn't been on his farm in Rindge this week to answer that question.

The ads began appearing in newspapers around the state this week. Their theme: "The Two Faces of John Durkin."

Melville's advertising manager, Doug Lee, says Melville may be vacationing on his private island in the Caribbean.

Lee, the president of C&L Communications in Virginia, also says Melville is performing a public service by paying for the ads.

Durkin disagrees. He calls the ads evidence that "it's going to be a nasty, dirty campaign."

Melville's name appears in tiny print at the bottom of the ads, and local knowledge of the man appears to be equally small.

A woman in the Rindge town office says she thinks Melville has lived on his farm for about a year and a half and seems to be retired.

Melville's lawyer, Aubrey Jones of Weston, Mass., describes his client as a man in his mid-50s, "basically an investor and philanthropist." Jones says he knows of no political office Melville has held, but says Melville is interested in politics.

If spending is a measure of political interest, Melville is very interested. According to reports filed with the New Hampshire secretary of state, he contributed \$5,000 in February to the New England Conservative Political Action Committee.

The contribution was the largest single one received this year by the conservative group, whose honorary chairman is Sen. Gordon Humphrey. On the form, Melville listed his occupation as investor and his employer's address as a post office box in Weston.

Also in February, before New Hampshire's presidential primary, Melville paid for a series of advertisements citing George Bush's record and warning the public not to be "Bushwacked."

C&L Communications placed those ads, and Lee says Melville spent "at least \$2,500" on that campaign.

Melville later returned to C&L with his ideas about Durkin. Lee said the "Two Faces" ad ran this week in virtually every paper in New Hampshire and cost Melville \$8,000.

(See MELVILLE — Page 12)

MELVILLE

Concord Monitor 10/29/81

(Continued From Page 1)

Melville's proposed contract with the agency includes two more newspaper ads, Lee says, and possibly a radio and television campaign.

"According to David, we will be going forward," Lee says. "This is just the first in a series."

Lee says a New Hampshire man's association with an advertising agency in Falls Church, Va., is not as strange as it might seem. He says Melville knew C&L was "very close to the political line" and specialized in political advertising by groups affiliated with no campaign.

Independence is the key in so-called "negative advertising." Federal regulations limit political action committee contributions to particular candidates, but do not limit spending by independent, unaffiliated groups.

Durkin says the recent proliferation of negative ads "raises some very serious legal questions about what constitutes an independent expenditure."

"These negative groups let the candidate take the high road. He talks about the effect of Japanese beetles on photovoltaic cells while they do the mudslinging. They use the money to do a hatchet job, a smear campaign on the incumbent."

Lee sees it differently: "There's a difference between a smear campaign and using an incumbent's voting record. If we said Durkin was a massive womanizer, that would be a smear."

"But if someone is portraying himself one way and the actual facts show another, we're actually doing a public service by pointing that out."

The newspaper ad focuses on Durkin's record on taxes, saying the Democratic senator has pledged to fight for lower taxes but has voted against several tax cuts. A coupon at the bottom asks readers to "assist in this effort" to defeat Durkin.

Durkin says the ad doesn't bother him as much as the idea of political fund-raising by independent groups.

"Nobody reads those things anyway unless they're stuck in the laundromat and get sick of looking at the machines," he said.

Lee acknowledges there is "a certain stigma that goes with accentuating the negative." Even people who don't agree with an incumbent, he says, sometimes object to spending money to criticize him rather than supporting an alternative.

Lee and Durkin do agree on one point: New Hampshire is going to see more and more negative political advertising.

Durkin says independent groups nationwide have raised \$55 million, which he calls a staggering figure, adding: "I have no doubt I'll be outspent 3-1."

Says Lee: "This is only the beginning."

81040300781

Nashua
Telegraph

A portrait look at one man's crusade



A mysterious financier, with untold wealth, sifts tens of thousands into a personal campaign to remove a United States Senator.

The man, David Melville of Rindge, we conclude, must be a dominating, vindictive money magnate, who has finally found a cause only his powerful influence can carry.

A man whose potential strength, for changing the course of New Hampshire politics can finally be realized.

Not even close.

Even a cursory conversation with Melville, when you can find him in the Granite State, reveals a very soft-spoken, political naive who just got angry at one politician.

If Sen. John Durkin hadn't decided to tell citizens in an April, 1980 newsletter, how he fought taxes while in office, he might not be facing Melville's wrath, and more importantly, his cash.

"It was that April newsletter I got in the mail, the one in which he told everybody how he was working hard to fight taxes. That got me angry, it shook me up," Melville, 55, told the *Telegraph*.

At the time, Durkin's Republican opponent, Warren Rudman, called the mailing "blatantly political" and challenged the use of congressional funds for the newsletter.

Durkin had received the okay from the Senate Ethics Committee before sending it out, however.

Melville, of course, isn't your ordinary American, insulted by a political sales pitch and feeling frustrated to act.

He's a very successful real estate developer, now working on a multi-million dollar scuba diving resort in the Bahamas.

So a business contact to C and S Advertising & Church Falls Va. political con-

sultant, and some staff research there produced, "The Two Faces of John Durkin."

The brief but expensive ad campaign depicted charges of a Durkin public statement and voting record discrepancy on five tax issues.

Now, Melville, with the Nov. 4 election fast approaching, has made the quantum leap to the major leagues of New Hampshire politics. Enlisting the hearty support of Senate President Robert Monier, an official campaign, "Defeat Durkin" was born.

Monier was reported as saying they could throw \$100,000 at Durkin opposition, Melville amending that to closer to \$30,000. "I can't allow it to top \$50,000," he said.

Despite his wealth ("Yes, I have made a million dollars in my life") and recent publicity, confessions of Melville confirm that any future, for him as a political heavyweight needs polish.

Among the rough spots:

— He couldn't recall the issues targeted in the "Two Faces" ads, saying "I knew a few of his votes and had the staff uncover more";

— Melville has never met Durkin, and says he's associated with no one who has had numerous dealings with him. "I know nothing about the man," he concedes;

— Though he's constrained, as an individual financier, from stumping for Rudman, he's never met him either and isn't a student of his career. "I'm not the least bit familiar with his politics," Melville says;

— Working in Bermuda at primary time, he said his knowledge about the congressional race in his district is even more lacking. "I don't even know who's running in that one. I suppose I should, shouldn't I?"

Melville is a New York state native, who

came to Rindge three years ago, purchasing several hundred rural acres where sheep and other farm animals now graze.

His pursuit of a politician isn't without precedent for him; he coined the phrase, "Don't Get Bushwacked," in a series of ads pushing for George Bush's presidential primary defeat.

"If Durkin's voting record was an open book, I don't think he would vote as he does," Melville said, levelling the blame on the media for its lack of pointed coverage.

Insisting his function is only to "tell the truth about Durkin," Melville says he has nothing to gain or lose from his effort.

"This certainly could help him, I'm aware of that," Melville said, conscious that Durkin is giving the impression of a "picked-on politician" and he could cash in on that image.

"But I'm not on a vendetta. If he gets re-elected, all the power to him."

If that happens, Melville will go back solely to the business of promoting a financial commodity, not discrediting a political one.

A man with a quiet demeanor, Melville's only outburst during the interview came when his crusade was labelled a movement.

"A movement usually means a lot of different people getting together. This is me, me alone.

"It's my money and all I have is a two-man outfit doing research for me."

A single, less than supremely informed, but wealthy man.

Oh, if we could be sure this would merit the zero credence it so richly deserves, for the sake of both candidates.

Kevin Landrigan

Telegraph staff writer

The Two Faces of John Durkin

"I AM FIGHTING HARD IN THE SENATE TO CUT FEDERAL INCOME TAXES FOR NEW HAMPSHIRE'S OVERBURDENED TAXPAYERS."

John Durkin Newsletter,
dated April, 1980



The New Hampshire Face

Shall Taxes Be Cut?



The Washington Face

John Durkin TALKS one way in New Hampshire, but VOTES another way in Washington D.C.

The tax issue is a vivid example of Mr. Durkin's two-faced record.

TAXES have skyrocketed to an all time high, and on January 1, 1981, we'll suffer a brand new hike in our payroll taxes.

John Durkin is one of the big-

gest reasons your taxes are so high today. When your tax bite jumps again in January, THANK JOHN DURKIN!

John Durkin, of course, doesn't want you to know the truth about his big taxing, big spending, big government voting record.

To cover his record, he went so far as to put out (at taxpayer

expense) a "newsletter" to try to fool New Hampshire citizens into believing he opposes high taxes!

This "Special Report/legislation to cut taxes" dated April, 1980 claimed a host of tax cuts for the Senator, most of which were proposals Mr. Durkin knows will never come to a vote.

He claimed to support cutting our federal income taxes.

WHAT A WHOPPER!!!

John Durkin has already voted at least 5 times this year to KILL TAX CUTS!

March 25, 1980 — DURKIN VOTED TO KILL cut in Social Security payroll tax hike.

May 6, 1980 — DURKIN VOTED TO KILL \$30 BILLION tax cut.

May 8, 1980 — DURKIN VOTED TO KILL \$7.3 BILLION tax cut.

June 26, 1980 — DURKIN VOTED TO KILL 10% individual income tax cut.

June 26, 1980 — DURKIN VOTED TO KILL measures to index income tax brackets which would cut tax increases resulting from inflation.

Not only did John Durkin vote against tax cuts for you while claiming to be "fighting hard in the Senate to cut federal income

taxes," he voted for increased federal spending at almost every possible opportunity!

Mr. Durkin's taxpayer-funded

self-promotion also claimed that he is "opposed to tax hike in Social Security payroll tax."

ANOTHER WHOPPER!!!

On December 15, 1977, John Durkin voted to RAISE YOUR PAYROLL TAXES BY \$227 BILLION, the massive tax hikes which he now wants you to believe he opposes!

Which face do you believe? John Durkin's re-election campaign oratory in New Hampshire, or his VOTING RECORD in Washington, D.C.?

If freedom is to be preserved, men like John Durkin who engage in political double talk for votes must be defeated. The future of our nation is very much at stake.

This message is brought to you by Defeat Durkin because you should have the facts when you select your next U.S. Senator.

If you would like to assist in this effort, please complete this coupon.

Defeat Durkin P.O. Box 472 Rindge, NH 03461

I agree that John Durkin's two-faced record must be exposed.

() I'll help Defeat Durkin.

Name: _____ Occupation: _____

Firm: _____

Home Address: _____

City: State: Zip: _____

Fold for by David B. Mahaffey and not authorized by any candidate or candidate's committee.

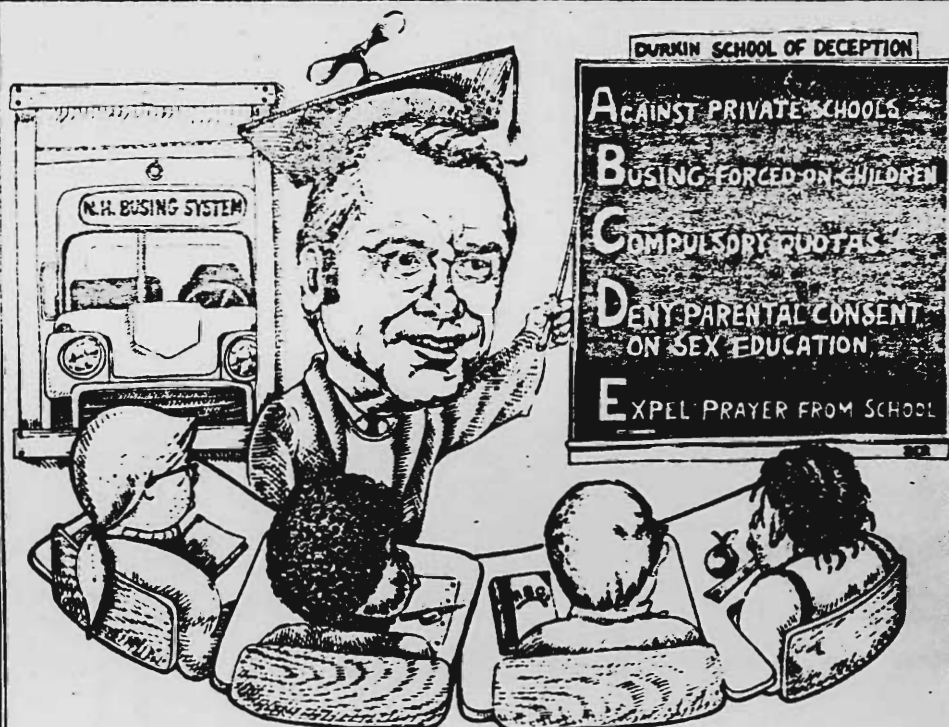
Concord Monitor 9/15 p. 3

Political Advertisement

EXHIBIT "D-2"

Berlin Reporter, 10/15/80

JOHN I VS. YOUR CHILDREN



If you are a parent or grandparent concerned about the quality of education your child or grandchild is receiving, and about his or her future as a good citizen, John Durkin's voting record in the U.S. Senate will interest you:

JOHN DURKIN VOTES FOR FORCED SCHOOL BUSING

John Durkin has repeatedly voted against efforts to stop the forced busing of school children. Two such **ANTI-CHILD** votes were cast on 8/28/78 and 6/7/79

JOHN DURKIN VOTES AGAINST VOLUNTARY SCHOOL PRAYER

John Durkin voted on 4/5/79 against prohibiting federal courts from interfering with voluntary prayer in schools. **ANOTHER ANTI-CHILD VOTE.**

JOHN DURKIN VOTES FOR QUOTAS

Quotas are discrimination in its worst form. They require certain racial, sex or other group ratios in admittance, hiring and promotions regardless of merit or qualification. John Durkin voted for such unfair quotas on both 4/30/79 and 6/7/79. These votes were **AGAINST YOUR CHILDREN AND YOU!**

JOHN DURKIN VOTES AGAINST PRIVATE SCHOOLS

John Durkin voted on 9/9/79 against prohibiting the Internal Revenue Service from revoking tax-exemptions of private schools, mostly church schools, which don't comply with IRS hiring and admissions quotas. This vote was **ANTI-CHILD AND ANTI-PARENT!**

JOHN DURKIN VOTES AGAINST PARENTAL CONSENT ON SEX EDUCATION

John Durkin voted on 4/30/79 against requiring parental notification and consent before their child could participate in public school sex education courses. This was clearly an **ANTI-PARENT VOTE!**

U.S. Senators are elected to 6 year terms, and in 1980 New Hampshire voters will determine whether or not John Durkin will go back to Washington for 6 more years.

John Durkin has been casting **ANTI-CHILD, ANTI-PARENT AND ANTI-FAMILY VOTES** in Washington for more than 5 years. He is part of Washington's liberal majority, and his votes prove it!

The votes listed above show how John Durkin has "represented" you in the U.S. Senate. If you don't approve of Mr. Durkin's record in Washington, you can retire him on November 4, 1980. But remember to

vote because this will be your **LAST CHANCE** for the next **SIX YEARS** to **DEFEAT DURKIN.**

DEFEAT DURKIN brings you this message because you should have the facts when you select your next U.S. Senator. Let John Durkin know you do not approve of the way he votes. Call him at (603) 224-1957. If you'd like to request the facts, please complete this coupon.

DEFEAT DURKIN, Suite 7, 63 N. State St., Concord, N.H. 03301. (603) 224-1957.

I agree that John Durkin's **ANTI-CHILD, ANTI-PARENT, AND ANTI-FAMILY** voting record must be exposed.
() I'll help **DEFEAT DURKIN.**

Name: _____
Home Address: _____
City, State and Zip: _____

Printed by David B. MacKay, and not authorized for any other use or distribution.

Berlin Reporter 10/15

Campaign Begun To Defeat Durkin

By DONN TIBBETTS
State House Bureau Chief.
CONCORD — State Senate President Robert Monier says he is the state coordinator of a \$100,000 Defeat Durkin drive being financed by Rindge "philanthropist, developer and a supporter of conservative causes." David Melville.

Monier (R-Goffstown) says the "media campaign" will utilize radio and newspaper ads designed "to expose the real record" of Democratic U.S. Sen. John Durkin "to show how far out of line Durkin's votes are from the thinking of our people in New Hampshire."

Sen. Monier told a news conference yesterday that Durkin "voted in agreement with Carter's disastrous policies an unus-

ually high 73 percent of the time," although Durkin "seemingly tried to publicly disassociate himself from the President." Monier charged Durkin "voted six times this year "to deny us much needed tax relief."

Monier asserted that Durkin has "an AFL-CIO Cope rating — the union bosses' scoreboard — that tells us Durkin has voted the straight union position 89 percent of the time he has been in the senate."

"No wonder they have contributed a total of over \$57,500 to him through the primary," declared Monier.

Monier says Melville is financing the Defeat Durkin campaign "because he is very disappointed in Durkin's voting record and

CAMPAIGN

Page 18

CAMPAIGN

(Continued from Page One)

wants to present the facts to the voters." It is being done "under the independent expenditures ruling of the Supreme Court." He said C and L, Inc. of Falls Church, Va., is the ad agency, which "has been associated with conservative activity." He said Melville, under the independent expenditures law "will be filing a quarterly report with the FEC Oct. 10."

The Senate President said he recently met with Melville prior to Melville's departure for the Bahamas "where he is building a development."

Monier said there is "nothing any more unusual about this program than the unions helping Durkin."

"Gov. Gallen has gotten very much involved in the Presidential campaign so I'm happy to join him by getting involved in the attempt to defeat Durkin," said

Monier. He said Republican U.S. Senate nominee Warren Rudman was "not contacted and not involved in this effort."

"I didn't set up the election reform laws that went in during 1974. I think they have a lot of loopholes. To be very blunt, I find nothing different in what I am doing that what happens with the Democrats when they interlocked a whole series of things and interfere in campaigns from President to state senate and house."

"I kind of like the technique that Gallen has seemed to develop and I'm going to start using it myself," asserted Monier.

"I don't intend to let any ads out that are not viable or backed up by data," declared Monier. Asked if the intent was to get Durkin to respond, Monier replied, "No, my intention is to beat him, period."

81040300785

81040300786

ATTACHMENT 2

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

XX

Durkin for U.S. Senate
Committee

Plaintiff

v.

Civil No. _____

Federal Election Commission;

David Melville, individually;

Robert Monier, individually;

Curt Clinkscales, individually;

Defeat Durkin Committee

Defendants

XX

PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

COMPLAINT

INTRODUCTION

This is a civil action seeking injunctive and declaratory relief arising under the laws of the United States in which the Durkin for U.S. Senate Committee seeks to order the Federal Election Commission to undertake an expedited review of the Complaint filed with the Federal Election Commission on October 24, 1980 at 12:13 pm and to permanently enjoin the other named defendants from violating

81040300787

Federal election law. Defendant Federal Election Commission is the governmental agency created by the Federal Election Campaign Act of 1971, as amended, to enforce the provisions of the Act. Defendant David Melville has made contributions in excess of the permissible limit mandated by Federal law to the Defeat Durkin Committee. Defendant Robert Monier is the State Coordinator and Director of the Defeat Durkin Committee. Defendant Curt Clinkscales is the treasurer of C&L Communications, Inc. of Arlington, Virginia, which is acting as the media adviser and agent to the Defeat Durkin Committee. Defendant Defeat Durkin Committee is a single candidate political committee formed for the purpose of defeating Senator John Durkin, which has received and expended funds in violation of Federal law. The clear beneficiary of the Defeat Durkin Committee is Warren Rudman. Subsequent to the press conference held by Defendant Monier announcing the creation of defendant Defeat Durkin Committee, Warren Rudman issued a statement which could be construed as inviting defendant Defeat Durkin Committee to interfere with the election process. Warren Rudman now wants to disavow defendant Defeat Durkin Committee's activities when it appears that its activities may be in violation of Federal law.

JURISDICTION

1. Jurisdiction over the defendants is conferred on this Court by 28 U.S.C. 1331 in that an actual controversy has arisen under the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 et seq.

2. Plaintiff also seeks declaratory and injunctive relief as authorized by 28 U.S.C. 2201 and 2202 and Rules 57 and 65 of the Federal Rules of Civil Procedure.

PLAINTIFFS

3. That at all times hereinafter mentioned, plaintiff Durkin for U.S. Senate Committee was an "authorized political committee" duly registered with the Federal Election Commission under the provisions of the Federal Election Campaign Act of 1971, as amended, with headquarters located in Manchester, New Hampshire.

DEFENDANTS

4. Defendant Federal Election Commission, whose address is 1325 K Street, N.W., Washington, D.C., is the governmental agency created by the Federal Election Campaign Act of 1971, as amended, for enforcement of the Act.

5. Defendant David Melville is a resident of Rindge, New Hampshire and an organizer and the financial benefactor of the Defeat Durkin Committee.

6. Defendant Robert Monier is a resident of Goffstown, New Hampshire and the State Coordinator and Director of the Defeat Durkin Committee and an organizer of the Defeat Durkin Committee.

7. Defendant Defeat Durkin Committee is a "political committee" advocating the defeat of Senator John Durkin whose address is P.O. Box 472, Rindge, New Hampshire and 63 N. State Street, Concord, New Hampshire.

81040300789

8. Defendant Curt Clinkscales is the treasurer of C&L Communications, Inc., 1941 N. Woodley Street, Arlington, Virginia, and an organizer of the Defeat Durkin Committee.

9. Defendant John Does and other unknown individuals who have aided and abetted defendants Melville, Monier, and Clinkscales.

COUNT I

10. Defendant Defeat Durkin Committee is a "political committee" within the meaning of 2 U.S.C. 431(4)(A).

11. Defendant Defeat Durkin Committee has received contributions in excess of \$1000 during a calendar year.

12. Defendant Defeat Durkin Committee has made expenditures in excess of \$1000 during a calendar year.

13. Defendant Defeat Durkin Committee has failed to register as a political committee with the Federal Election Commission as required by 2 U.S.C. 433(a).

COUNT II

14. Defendants David Melville, Robert Monier, Curt Clinkscales and possibly others have organized the Defeat Durkin Committee.

15. Defendant Defeat Durkin Committee is dedicated to the defeat of Senator John Durkin in this year's election campaign.

16. Defendant Defeat Durkin Committee is a single candidate "political committee" as defined by Section 431(4)(A) of the Federal

81040300790

Election Campaign Act of 1971, as amended, because it has received contributions and made expenditures in excess of \$1000 during a calendar year.

17. Defendant Defeat Durkin Committee has not filed with the Federal Election Commission the Quarterly Report due on October 15, 1980 as required under 2 U.S.C. 434(a)(4)(A)(i).

COUNT III

18. Defendants David Melville, Robert Monier, Curt Clinkscales and possibly others have organized the Defeat Durkin Committee.

19. Defendant Defeat Durkin Committee is dedicated to the defeat of Senator John Durkin in this year's election campaign.

20. Defendant Defeat Durkin Committee is a single candidate "political committee" as defined by Section 431 (4)(A) of the Federal Election Campaign Act of 1971, as amended, because it has received contributions and made expenditures in excess of \$1000 during a calendar year.

21. Defendant Defeat Durkin Committee has not filed with the Federal Election Commission the 12-day Pre-election Report due on October 23, 1980 as required by 2 U.S.C. 434(a)(4)(A)(ii).

COUNT IV

22. On information and belief, plaintiff Durkin for U.S. Senate Committee alleges that David Melville has made contributions in excess of \$1000 to the Defeat Durkin Committee, a single candidate

committee organized for the purpose of defeating Senator John Durkin in this year's election campaign.

23. Defendant David Melville is limited to a maximum contribution of \$1000 to the defendant Defeat Durkin Committee, a single candidate political committee organized for the purpose of defeating Senator John Durkin, under 2 U.S.C. 441a.

COUNT V

24. Defendant Federal Election Commission is the governmental agency created by the Federal Election Campaign Act of 1971, as amended, to enforce the provisions of the Act.

25. Plaintiff Durkin for U.S. Senate Committee filed a Complaint and Request for Expedited Relief with the Federal Election Commission on October 24, 1980 alleging that the defendants have committed serious violations of the Federal Election Campaign Act of 1971, as amended. (Copy of Complaint attached as Exhibit "A".)

26. Defendant Federal Election Commission has the power to initiate civil actions for injunctive, declaratory or other appropriate relief to enforce the provisions of the Federal Election Campaign Act of 1971, as amended. 2 U.S.C. 437g.

27. Defendant Federal Election Commission has failed and refused to expedite consideration of the Complaint filed with the Commission and, on information and belief, it is highly unlikely that any action will be taken against defendants Melville, Monier, Clink-scales and the Defeat Durkin Committee prior to the November 4th election.

81040300792

IRREPARABLE INJURY

28. The flagrant disregard by the defendants Melville, Monier, Clinkscales and the Defeat Durkin Committee of the registration and reporting requirements of the Federal Election Campaign Act of 1971, as amended, is producing and will continue to produce irreparable harm to the Durkin for U.S. Senate Committee.

29. Plaintiff Durkin for U.S. Senate Committee is being irreparably harmed by the illegal contributions of David Melville and the consequent illegal expenditures by the Defeat Durkin Committee.

INADEQUATE ALTERNATIVE REMEDIES

30. Because the defendant Federal Election Commission has failed to expedite consideration of the Complaint filed by the plaintiff Durkin for U.S. Senate Committee, the plaintiff does not have a plain, adequate or complete remedy or law to redress the wrong and unlawful acts herein complained of.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Durkin for U.S. Senate Committee prays that upon filing of this complaint this Honorable Court will advance this case on the docket and order a speedy hearing of same and upon said hearing this Court will

- A. Assume jurisdiction over this matter.
- B. Adjudge, decree and declare the rights and other legal relations of the parties to the subject matter

300793

here in controversy in order that such declaration shall have the force and effect of a final judgment.

C. Pending a final hearing and determination, enter a temporary and/or preliminary injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, restraining and enjoining

1. defendant Defeat Durkin Committee from expending any further funds or allowing any funds to be expended without first having registered with the Federal Election Commission, pursuant to the provisions of 2 U.S.C. 433(a); 2 U.S.C. 434(a)(4)(A)(i); and 2 U.S.C. 434(a)(4)(A)(ii).

2. defendant Defeat Durkin Committee from expending any funds or allowing any funds to be expended which were contributed to the Defeat Durkin Committee in violation of 2 U.S.C. 441a.

D. Enter a final judgment pursuant to 28 U.S.C. 2201 and 2202 and Rules 54, 57, and 58 of the Federal Rules of Civil Procedure declaring that the defendants violated the provisions of 2 U.S.C. 433(a); 2 U.S.C. 434(a)(3)(A)(i); 2 U.S.C. 434(a)(4)(A)(ii); and 2 U.S.C. 441a.

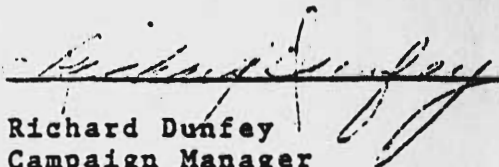
E. Issue a mandamus to the Federal Election Commission ordering the Federal Election Commission to promptly expedite consideration of the Complaint filed with the

81040300794

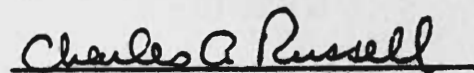
Federal Election Commission.

F. Award the plaintiff reasonable attorney's fees and the cost of this suit.

G. Such other and further relief as this Court may deem just, proper and equitable.

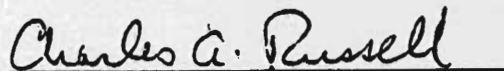

Richard Dunfey
Campaign Manager
Durkin for U.S. Senate
Committee

Respectfully Submitted
Durkin for U.S. Senate
Committee
By Their Attorney


Charles A. Russell
4 Bicentennial Square
Concord, New Hampshire

State of New Hampshire
County of Merrimack

Sworn to and subscribed before me this 27th day of October, 1980, by Richard Dunfey who swore to the truthfulness of the allegations contained herein.



81040300795

United States District Court
For The
District of New Hampshire

XX

Durkin for U.S. Senate
Committee

Plaintiff

v.

Civil No. _____

Federal Election Commission; X
David Melville individually; X
Robert Monier individually; X
Curt Clinkscales individually; X
Defeat Durkin Committee X

XX

Motion to Produce Documents Prior to Time of
Hearing on Injunction

Now Comes Plaintiff in above captioned matter with a Motion to Produce the documents on other items listed below and deliver to Plaintiff's attorney one hour prior to a hearing in this matter at the 5th Floor, Federal Building, Concord, New Hampshire.

1. List of the names of any and all contributors and amounts contributed to the organization known as Defeat Durkin Committee since July 1, 1980.
2. List of any and all expenditures made by the organization known as the Defeat Durkin Committee since July 1, 1980.
3. List of names of any and all officials, employees, staff members, volunteers, organizers and agents who have done work for the Defeat Durkin Committee indicating title or position held and dates of service.

61040300796

4. An accounting of the amount of funds contributed by David Melville to any and all organizations involved in any political activity whatsoever particularly the Defeat Durkin Committee.
5. The date of organization, first activity or first use of the Defeat Durkin designation.
6. List of any and all expenditures made by David Melville personally in conjunction with political advertising relating to the U.S. Senate Election for the State of New Hampshire.

WHEREFORE, Plaintiff prays that

1. The Motion to Produce be granted
2. The Court grant such other further relief as deemed just and proper.

Respectfully Submitted
Durkin for U.S. Senate Committee
By Their Attorney

Charles A. Russell

Certificate of Service

I hereby certify that a copy of this motion was served in conjunction with service of the Petition for Declaratory Judgement.

Charles A. Russell

81040300797

81040300798

ATTACHMENT 3

CHARLES A. RUSSELL
ATTORNEY AT LAW
4 BICENTENNIAL SQUARE
CONCORD, NEW HAMPSHIRE
03301
Telephone 603-225-3185

9000730 P12: 46

October 29, 1980

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

Re: Notice Affidavit,
Submission of Evidence

Attorney Thomas:

Please note the copy of the Notice Affidavit entered with the Court. It is self-explanatory.

Would you also consider this as evidence at whatever time you render a decision in this matter? Particularly, I direct your attention to paragraph 3 relative to my efforts in finding the Defeat Durkin Committee headquarters and the responses by Kathryn Reddy who was working for that committee.

Her response was that she reported to Robert Monier at (603)271-2676. This 271 exchange is reserved exclusively for the governmental phones for the State of New Hampshire. Mr. Monier is the President of the New Hampshire Senate.

This evidence is submitted for consideration by the FEC as evidence of the connection between Robert Monier and the Defeat Durkin Committee. The Commission is requested to consider the affidavit indicating the responses of Ms. Kathryn Reddy, an agent of the Defeat Durkin Committee as admissions against interest by the Defeat Durkin Committee as to Robert Monier's association with and activities in conjunction with the Defeat Durkin Committee.

If further evidence or testimony is desired as to this affidavit or recollections of this event, I am willing to offer further testimony.

Please contact me if desired.

Sincerely,

91:Ed 08130 Charles A. Russell 08130 0

Charles A. Russell
Durkin for U.S. Senate Committee

Encl.
CAR/hhs

AFFIDAVIT OF KATHY KELLEY

I, KATHY KELLEY, of 48 South Fruit Street, Concord, New Hampshire was present at a press conference of Senator Robert Monier's on October 29, 1980 at the New Hampshire State House at his office. I taped the press conference and have transcribed several questions and responses by Mr. Monier. They are as follows - this is a follow up on earlier question as to his role in Defeat Durkin Committee and his response to the action filed against him in Concord Federal District Court this morning (durkin for U.S. Senate v. Defeat Durkin Committee, et. al.):

- Q. So if there were going to be any (additional ads) they would have gone before your eyes?
- A. I would have probably seen them - yes - but there is still time.
- Q. You placed the ads ... or what?
- A. I have no control over them except to look at the ads, and I did look at the ads before they went in for taste and whether they were a smear type or whether they were factual statements...

I hereby certify that the above text is a true and accurate transcription of those questions and answers.

10/29/80
Date

Kathy A. Kelley
Kathy Kelley

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

Personally appeared Kathy Kelley, the above signed, on the above signed date, and swears that the above statement is true to the best of her belief and knowledge.

Before me,

Charles A. Russell
Justice of the Peace/Notary, Public

81040300800

CHARLES A. RUSSELL
ATTORNEY AT LAW
4 BICENTENNIAL SQUARE
CONCORD, NEW HAMPSHIRE
03301
Telephone 603-225-3185

60 10703 P12:46

October 29, 1980

Frederick DeCesaris, Clerk
Federal District Court
District of Rhode Island
Federal Court House
Providence, Rhode Island 02901

Re: Durkin for U.S. Senate Committee vs.
Federal Election Commission, et. al.
C80-508D (D.Ct. NH)

Mr. DeCesaris:

Please note the entry of the Plaintiff's Counsel
Affidavit of Notice to Defendants. A copy of this has been
sent to all Defendant's on this 29th day of October, 1980.

Respectfully,


Charles A. Russell, Esq.

CC: Scott Thomas, Esq., Federal Election Commission
Robert Monier
Defeat Durkin Committee
Curt Clinkscales
Robert Melville

Encl.
CAR/hhs

31040300801

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

XXX
Durkin for U.S. Senate Committee

Plaintiff

v.

Civil No. _____

Federal Election Commission,
Et. Als.

Defendants
XXX

3
1
0
4
0
3
0
8
0
2

SECOND AFFIDAVIT OF PLAINTIFF'S COUNSEL
PURSUANT TO NOTICE REQUIREMENTS TO DEFENDANTS

I, CHARLES A. RUSSELL, of Concord, New Hampshire am counsel of record for Durkin for U.S. Senate Committee, the Plaintiff in this action. On October 27, 1980 at approximately 4:45 p.m., I received verbal instruction from the Clerk of U.S. District Court of Rhode Island, Frederick DeCesaris, to notify the Defendant's in this matter to be prepared for a hearing on the matter in Providence, Rhode Island on the afternoon of Tuesday, October 28, 1980 or on Wednesday, October 28, 1980 with only 2 hours notice. The following is a list of my activities in furtherance of this order.

1. David Melville, Rindge, New Hampshire, (603)899-6185,
10/27/80 - 3 calls: 5:19 pm, 5:58 pm, 7:24pm. 10 rings, no answer.
2. Scott Thomas, Counsel, Federal Election Commission
1-(202)-523-5071
10/27/80 - 5:20-:25 pm. Notice given, case status report. Gave District Court of Rhode Island telephone number.
3. Defeat Durkin Committee, (603)224-1957,
10/27/80 -2 calls: 5:26 pm, 5:59 pm. 10 rings, no answer.
Rechecked number and repair service. No out of order report.
10/28/80 11:03 am. Defeat Durkin Committee mailing address:

3. Defeat Durkin Committee, (continued).

63 North State Street, Concord, NH, Suite #7. No such address. Checked 63 North Main Street, Concord, NH. At Suite #9, the door to the office was open. The sign on the door identified it as Committee to Elect a Conservative NH Senate.

The person behind the desk identified herself as Kathryn Reddy, who is apparently retirement age and a volunteer.

CAR Q. Is this Defeat Durkin Headquarters?

KR A. Yes

CAR Q I have to inform you a suit transferred to District Court of Rhode Island and the necessity for being available - (interrupted)

KR A I just answer phones

CAR Q To whom do you report or transmit messages?

KR A 271-2676 Senator Monier

CAR Q Are contributions and mail received here for the Defeat Durkin Committee?

KR A Yes

10/28/80 - 11:05 am. Called U.S. Marshall's office regarding Service of Defeat Durkin. Told of corrected address and presence of someone in the office.

NOTE: Having previously notified and spoken with Robert Monier as stated in #4, I did not contact him.

4. Robert Monier, Goffstown, New Hampshire, (603)497-2868
10/29/80 5:29 pm, 5:39 pm. 10 rings, no answer.
5:40 pm. 10 rings, no answer. (603)271-2676, work number. 5:59 pm contact was made with Robert Monier at home. Instructed to call back after news.

10/29/80 -7:18 pm to 7:22 pm. Robert Monier, contacted at home. Gave him notice of suit and phone number of Clerk of District Court of Rhode Island. He protested the 2 hour limit and stated that he had not been served yet. He did not feel obliged to call the Court.

31040300803

5. Curt Clinkscale, Falls Church, Virginia. 1-(703) 528-0560, Doug Lee, President of C & L Communications, Inc. Curt Clinkscales not present. Gave message to him regarding notice of case and 2 hour limit to be in District Court of Rhode Island, Providence, RI.

NOTE: (See earlier affidavit for 10/27/80 morning notice to Clinkscale).

The above noted events are a true and accurate record of the actions which I took pursuant to the above mentioned order. My office is 2 minutes from the Defeat Durkin office. The notes were made within 10 minutes of the conversation. At that time, I was attempting to give notice as required under Federal Rules of Civil Procedure, Rule 65(b) and furnish an affidavit in response to the direction of the Clerk of the U.S. District Court of Rhode Island as to oral notice.

Respectfully Submitted,
Durkin for U.S. Senate Committee,
By Their Attorney,

Charles A. Russell
Charles A. Russell, Esq.

10/29/80
Date

Sworn to and subscribed before me this 29th day of October, 1980 by the above signed individual.

Holleriff
~~Justice of the Peace~~ Notary Public
Notary Public

My Commission Expires April 9, 1987

Certificate of Service

I hereby certify that a copy of this affidavit was sent postage prepaid to Defendants in this matter on 29 October, 1980.

Charles A. Russell
Charles A. Russell, Esq.

81040300805

ATTACHMENT 4

JOHN A. DURKIN
United States Senator

90 OCT 30 P 1:44

Thomas/
White

October 29, 1980

Mr. Scott Thomas
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Dear Mr. Thomas:

The Durkin for U.S. Senate Committee hereby submits the following additional information in support of its complaint against David Melville, Robert Monier, Curt Clinkscales and the Defeat Durkin Committee:

1. Lists of the newspapers, dates, and approximate costs of the advertisements sponsored by Defeat Durkin.
2. Certification from the Secretary of State of New Hampshire that no reports have been filed either registering a Defeat Durkin Committee or itemizing receipts and expenditures of a Defeat Durkin Committee.
3. Boston Herald American article of October 24, 1980, in which the connection between Curt Clinkscales and David Melville is described in detail.
4. Monadnock Ledger article of October 8, 1980.

Additional evidence will be provided at a later date.

Sincerely,

Barbara Shea

Barbara Shea
Assistant Treasurer
Durkin for U.S. Senate Committee
P.O. Box 1016
Manchester, New Hampshire 03105

89:2 d 03100 01

Enclosures

PAID FOR BY DURKIN FOR U.S. SENATE COMMITTEE
ANDRE VERVILLE, CHAIRMAN JAMES CONNELLY, TREASURER
P.O. BOX 1016 MANCHESTER, N.H. 03105

"TWO FACES OF JOHN DURKIN" ads appeared in the following newspapers on the following dates:

1. Manchester Union Leader (city and state editions)	8/25 and 9/15	approx. \$1,234.20
2. Monadnock Ledger	9/10 and 9/17	approx. \$ 336.40
3. Coos County Democrat	8/27 and 9/17	approx. \$ 468.00
4. Meredith News	8/27 and 9/17	approx. \$ 288.00
5. Keene Sentinel	8/25 and 9/15	approx. \$ 342.00
6. Laconia Citizen	8/25	approx. \$ 172.80
7. Plymouth Record Citizen	8/27 and 9/17	approx. \$ 282.24
8. Carrol County Independent	8/27 and 9/17	approx. \$ 306.00
9. Littleton Courier	8/27	approx. \$ 121.22
10. Granite State News	8/28 and 9/10	approx. \$ 306.00
11. North Conway Reporter	8/27 and 9/10	approx. \$ 594.00
12. Concord Monitor	8/25 and 9/15	approx. \$ 396.80
13. Nashua Telegraph	9/15	approx. \$ 376.00
14. Foster's Daily Democrat	9/15	approx. \$ 311.85
15. Lebanon Valley News	9/15	approx. \$ 156.35
16. Portsmouth Herald	9/15	approx. \$ 306.85
17. Bristol Enterprise	9/18	approx. \$ 56.00
18. Rochester Courier	9/16	approx. \$ 158.92

Estimated Total approx. \$6,213.63

NOTE: Estimated costs for advertisements are based on advertising rates of the various newspapers for ads of the approximate size of the Defeat Durkin ads.

I, Paul Keegan, certify that, to the best of my knowledge, the above information is accurate.

Paul Keegan
Paul Keegan

81040300807

"JOHN DURKIN V. YOUR CHILDREN" ads appeared in the following newspapers on the following dates:

1. Portsmouth Herald	10/7 and 10/15	approx. \$ 613.70
2. Concord Monitor	10/7 and 10/17	approx. \$ 396.80
3. Bristol Enterprise	10/9 and 10/16	approx. \$ 112.00
4. Plymouth Record-Citizen	10/8 and 10/15	approx. \$ 282.24
5. Lebanon Valley News	10/7 and 10/16	approx. \$ 212.70
6. Nashua Telegraph	10/7 and 10/16	approx. \$ 752.00
7. Manchester Union Leader	10/8 and 10/16	approx. \$1,234.20
8. Keene Sentinel	10/16	approx. \$ 171.00
9. Rochester Courier	10/14 and 10/21	approx. \$ 158.92
10.Monadnock Ledger	10/15	approx. \$ 168.20
11. Foster's Daily Democrat	10/15	approx. \$ 311.85
12. Laconia Evening Citizen	10/7	approx. \$ 172.80
13. Littleton Courier	10/8	approx. \$ 121.22
14. Berlin Reporter	10/8 and 10/15	approx. \$ 524.00
15. Carroll County Independent	10/8	approx. \$ 153.00 (one rate, both papers)
16. Granite State News	10/8	
17. Coos County Democrat	10/8 and 10/15	approx. \$ 468.00
18. Milford Cabinet & Journal	10/9	approx. \$ 165.20
19. Meredith News	10/8 and 10/15	approx. \$ 288.00

Estimated Total approx. \$6,305.83

NOTE: Estimated costs for advertisements are based on advertising rates of the various newspapers for ads of the approximate size of the Defeat Durkin ads.

I, Paul Keegan, certify that, to the best of my knowledge, the above information is accurate.

Paul Keegan
Paul Keegan

The State of New Hampshire

WILLIAM M. GARDNER
SECRETARY OF STATE



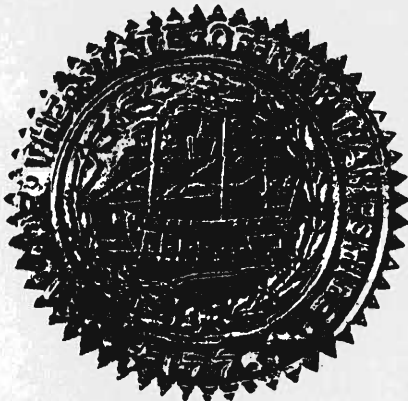
ROBERT P. AMBROSE
DEPUTY SECRETARY

Department of State

State House - Room 204
Concord Tel. 271-3242

I, Robert P. Ambrose, Deputy Secretary of State of the State of New Hampshire, certify that my office is the appropriate state depository in the State of New Hampshire for reports of candidates and committees filed pursuant to the Federal Election Campaign Act. I further certify that a search of the records in this office reveals that no reports have been filed either registering a "Defeat Durkin" committee or itemizing receipts and expenditures of a "Defeat Durkin" committee.

In Testimony whereof, I hereto set my hand and cause the Seal of the State of New Hampshire to be affixed this twenty eighth day of October, 1980.



Robert P. Ambrose
Deputy Secretary of State

81040300809

N.H. mystery man finances 'Defeat Durkin' drive

Boston Herald American 1/24

By PAUL D. MINDUS
Staff Writer

A "mystery man" in the New Hampshire U.S. Senate race is bank-rolling a \$35,000 advertising campaign to defeat the liberal Democratic incumbent John Durkin.

David Melville, a Rindge, N.H., developer and life member of the ultra-conservative John Birch Society, is financing the Defeat Durkin campaign with help from

a national conservative political consultant. Melville's role has become a controversial issue in the tight race between Durkin and Warren Rudman, the Republican U.S. Senate candidate who has made an issue of not accepting out-of-state political action committee money.

Rudman, who is believed trailing Durkin slightly with 15 to 20 percent of the voters still unde-

cided, insists he had no connection with Melville or the anti-Durkin advertisements. Melville, 54, told the Herald American yesterday he was angered by an April newsletter from Durkin in which the senator "said he was fighting to reduce taxes, and his votes were to the contrary."

Melville, who moved to Rindge two years ago from Weston, Mass., hired conservative political

consultant Curt Clinkscales of Arlington, Va., last June to map out strategy and advertisements against Durkin. Clinkscales also is part of the five-member executive committee of the National Conservative Political Action Committee (NCPAC), the New Right activists who have spent \$1 million in campaigns against six liberal Democratic senators — George McGovern of South Dakota,

Frank Church of Idaho, John Culver of Iowa, Birch Bayh of Indiana, Alan Cranston of California and Thomas Eagleton of Missouri. Durkin, contacted last night in Keene, N.H., charged that Melville and Clinkscales have violated federal election laws. Melville's connection with Clinkscales, he said, "constitutes a de facto political action committee, and as such,

Continued on Page A7

N.H. mystery man finances \$35,

Continued from Page A1

Melville could only contribute a maximum of \$5,000."

Clinkscales yesterday said Melville had already spent \$27,000 to pay for newspaper and radio anti-Durkin advertisements. Melville said he intended to spend up to an additional \$10,000.

The anti-Durkin ads have taken issue with his support for the Department of Education, his opposition to the B-1 bomber, his votes against defense appropriations and

his support of organized labor.

Durkin shrugged off Rudman's denial of any involvement with Melville. "They are using the same issues in Melville's and Rudman's advertisements," Durkin said.

Rudman last night said he wished "quite frankly these people (Melville and Clinkscales) would go mind their own business. I won this primary fair and square without them.

"Frankly, I think these groups are ill-advised. Sometimes they can help the person they're trying to

hurt and hurt the person they're trying to help," said Rudman, a former attorney general and moderate Republican. "I don't know if that's the case here, but certainly it's a possibility."

Melville has been shrouded in mystery since his name first appeared on anti-Durkin newspaper advertisements in August. The Monadnock Ledger, a weekly newspaper in southwestern New Hampshire, alleged that he lived most of the time in the Caribbean, prompting Durkin to dub his nemesis "the

— Friday, October 24, 1980

A7

000 'Defeat Durkin' campaign

mystery man of the Bermuda Triangle."

Born in New York, Melville yesterday described himself as a "resort developer," currently working on a scuba diving resort complex in the Outer Islands of the Bahamas. A "strong conservative," he joined the John Birch Society 20 years ago.

"People are so fast to put labels on things," Melville said, referring to public perception of his organization as right-wing. "I would say the John Birch Society is primarily interested in stopping the inroads of

communism within this country and effectively reducing the size and scope of government."

Melville estimated he has contributed an additional \$25,000 for and against other campaigns this year. He financed the \$6,000 "Don't be a bushwhacker" campaign against Republican George Bush in the New Hampshire presidential primary. He also contributed to Meldrim Thomson, a fellow member of the John Birch Society running for governor in New Hampshire, to Sen. Jesse Helms, R-N.C., Ronald

Reagan and Rep. Larry McDonald, a conservative Georgia Democrat.

Durkin suggested last night the Melville-Clinkscales campaign "will backfire. The people of New Hampshire resent outside interference."

"That's a perfectly logical thrust for Durkin to make," Melville replied, "but I don't consider it true. I'm not out of state, even though I'm fairly a newcomer. I am not fighting Durkin per se. I'm only presenting the facts of his voting record. He says one thing, the facts are another."

81040300811

Package Man To Spend \$100,000 To Beat Durkin

CONCORD — A Rindge man is financing \$100,000 in advertising to unseat U.S. Senator John Durkin, who is running for re-election this year.

At a press conference on Monday, Republican state senator Robert Monier announced that he has agreed to act as state coordinator for a Defeat Durkin effort that is being funded by David Melville of Rindge.

Mr. Melville is associated with the Melville Corp., which owns Thom McAn Shoes, among its holdings. Mr. Melville has established the Wide Water Trust, which several years ago purchased a large tract of land on the Old Ashburnham Road in order to create a church retreat on the property for the Trinitarian Church of Wayland, Mass.

Efforts to contact Mr. Melville, who is reported to

be in the Bahamas, were unsuccessful.

Senator Monier said Monday that he was contacted about the Defeat Durkin effort by C&L Communications, a Washington-based political advertising firm. The treasurer of C&L, Curt Clinkscales, also serves on the board of directors of the National Conservative Political Action Committee Durkin to 9

\$100,000 TO BEAT DURKIN (FROM I)

(NCPAC), as independent political campaign committee that is spearheading the effort to defeat six U.S. Senators facing re-election this year.

Mr. Monier confirmed reports that Mr. Melville plans to spend around \$100,000 of his own money on Defeat Durkin, saying, "My understanding is that it will be approximately \$100,000 — in that nature."

Federal election laws require that an individual campaign expenditure such as the one Mr. Melville made, cannot be coordinated with or related to any effort by Senator Durkin's opponent and that the money can be used only to purchase advertising in newspapers or on radio and television.

The Defeat Durkin movement began in August with a series of newspaper ads highlighting Senator Durkin's voting record on tax issues. Those ads were paid for by Mr. Melville through an account with C&L Communications, which, according to senator Monier, will be responsible for researching and formulating

the ads.

Mr. Melville's effort raises several issues which have not been resolved by the Federal Elections Commission (FEC).

Fred Ieland, an FEC spokesman, said this week that the Commission has not yet ruled on whether an individual may contract with an advertising agency and still stay within the guidelines of an independent expenditure.

Mr. Ieland said that if the Commission were to decide that Mr. Melville's efforts were not as an individual,

but as a financial backer of a campaign committee, then "such an effort would be a violation because the law limits individual contributions to \$5,000."

The federal election laws state that an individual or an independent political action committee, not associated with any party or political candidate, may spend any amount they want to elect or defeat a candidate. However, the laws limit the amount an individual may contribute to such a committee to \$5,000.

Monadnock Ledger,

October 8, 1980

81040300812

81040300813

ATTACHMENT 5

W. STEPHEN THAYER, III
ATTORNEY AT LAW
51 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

November 13, 1980

94964
911265
600# 3344
TELEPHONE
600-666-0601

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

Attention: Maura White

RE: MUR 1321

Dear Attorney Steele:

Please be advised that I have been retained by Robert B. Monier to represent him in the above referenced matter which is presently before the Federal Election Commission.

I am in possession of the complaint filed by the Durkin for U.S. Senate Committee and in answer to said complaint state the following:

1. That the allegations of fact contained in the Durkin for U.S. Senate complaint are both groundless and full of misrepresentations.
2. That this entire matter centers around one David Melville of Rindge, New Hampshire who made independent expenditures in an individual effort to defeat Senator John Durkin of New Hampshire.
3. That David Melville filed regular reports with the Federal Election Commission under ID number 080220887 as required by the FECA.
4. That David Melville has not solicited nor accepted contributions from any individual, groups, committees, corporations, partnerships or any other entity whatsoever.
5. That said David Melville was exercising his first amendment rights of free speech, a right which was affirmed relative to the FECA in 1976 by the U.S. Supreme Court ruling in the

30 NOV 17 11:04

GENERAL INVESTIGATIVE

81040300814

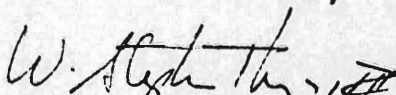
Charles N. Steele, Esq.
Page Two
November 13, 1980

case of Buckley vs. Valeo 424 U.S. 20 and reiterated in numerous cases since then. The last reported case being California Medical Association et al vs. Federal Election Commission decided by the United States Court of Appeals for the 9th circuit, no. 79-4426, May 23, 1980.

6. That Robert B. Monier acted solely as a spokesman for David Melville in an effort to defeat then Senator John Durkin of New Hampshire (See complainants, exhibits A-1, B, C, and E)
7. That Robert B. Monier, in speaking for David Melville, readily espoused the purposes of David Melville's expenditures to wit: Defeat John Durkin.
8. That Robert B. Monier never solicited nor accepted contributions from any source in the effort to defeat John Durkin.

In as much as, in our opinion, the Complaint at issue was filed in an effort to prohibit David Melville from availing himself of his first amendment privileges under the United States Constitution and that Robert Monier is and was only incidental to the complaint, it is our feeling that the above facts should suffice as far as the complaint alleges any wrongdoing on his part. However, should your office desire either a longer response or further information, please do not hesitate to contact me.

Very truly yours,


W. Stephen Thayer, III

WST/lmp

81040300815

81040300816

ATTACHMENT 6

W. STEPHEN THAYER, III
ATTORNEY AT LAW
51 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

November 13, 1980

62243358
80 NOV 18 P12:52
911285

TELEPHONE
900-688-0601

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

Attention: Maura White

RE: MUR 1321

Dear Attorney Steele:

Please be advised that I have been retained by David Melville to represent him in the above referenced matter which is presently before the Federal Election Commission.

I am in possession of the complaint filed by the Durkin for U.S. Senate Committee and in response to said complaint I am providing the following information:

1. That David Melville of Rindge, New Hampshire made independent expenditures in an individual effort to defeat Senator John Durkin of New Hampshire pursuant to 2 U.S.C. 431 (17) and Buckley vs. Valeo 424 U.S. 17.
2. That David Melville filed reports with the Federal Election Commission under ID number 080220887 as mandated by 2 U.S.C. 434 (C).
3. That David Melville's expenditures were made from his own finances in an effort to defeat John Durkin. Mr. Melville had political ads produced by C. & L. Communications of Arlington, Virginia (See FEC filing by David Melville dated 10-7-80 and attached as Exhibit 1) and utilized Robert Monier as his spokesman in New Hampshire.
4. That David Melville neither solicited nor accepted contributions from any individual, groups, committees,

80 NOV 18 P2:27

GENERAL COUNSEL

81040300817

Charles N. Steele, Esq.
Page Two
November 13, 1980

corporations, partnerships or any other entity whatsoever (Exhibit 2, Durkin for Senate Committee exhibit D-1). Please note that said exhibit has the requisite disclaimer (Paid for by David B. Melville and not authorized by any candidate or candidates committee). I would further direct your attention to the coupon attached to our ads, which was used for control purposes in an effort to measure the impact of the ad, and in no instance solicited money or provided the customary space for stating the amount of a contribution.

It is our opinion that after the commission reviews the material before it, that they will conclude that David Melville has acted well within the confines of the Federal Election Campaign act and the Supreme Court's ruling in Buckley vs. Valeo and that he has in fact operated as an individual making independent expenditures completely financed by himself in furtherance of his own political purposes under his rights sanctioned by the first amendment to the United States Constitution. To find otherwise would severely undercut the Supreme Court's ruling in Buckley vs. Valeo and infringe upon the Constitutional right of free speech.

Should the commission or those investigating this matter feel further explanations are desired or further information is needed, please do not hesitate to contact me and I will provide the information or exhibits you desire and if necessary will appear in person.

Thank you for your cooperation in this matter

Very truly yours,

W. Stephen Thayer, III
W. Stephen Thayer, III

WST/lmp

81040300818

REPORT OF INDEPENDENT EXPENDITURES CONTRIBUTIONS BY PERSONS

(To be used by an individual or a person other than political committee)

1. (a) Name (in full) David B. Melville	2. Identification Number 080220887
(b) Address (number and street) Old Ashburnham Road	3. This is an Independent Expenditure: <input type="checkbox"/> In support of Federal candidate. <input checked="" type="checkbox"/> In opposition to Federal candidate.
(c) City, State and ZIP Code Rindge, New Hampshire 03461	
(d) Principal Place of Business Rindge, New Hampshire	(e) Occupation Land Developer

4. Type of Report (check appropriate box and complete)

- (a) ☐ Amendment for _____ (which report) (d) ☒ October 10 Quarterly Report
 (b) ☐ April 10 Quarterly Report (e) ☐ January 31 Year End Report
 (c) ☐ July 10 Quarterly Report
 (f) ☐ Tenth day report preceding _____ election on _____ In the State of _____
 (primary, general or convention) (date)
 (g) ☐ Thirtieth day report following _____ election on _____ In the State of _____
 (primary, general or convention) (date)

5. This report covers the period July 1, 1980 through September 30, 1980

Complete either Line 6 or Line 7 whichever is appropriate.

CONTRIBUTIONS

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate
None				

Complete either Line 6 or Line 7 whichever is appropriate.

EXPENDITURES

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate
C & L Communications 1941 N. Woodley Arlington, VA 22207	Advertisements	8/14/80 9/2/80	7,468.73 7,179.11	John Durkin U.S. Senate

8. TOTAL CONTRIBUTIONS \$
 9. TOTAL EXPENDITURES \$ 14,647.84

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestions of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.

Subscribed and sworn to before me this 7th day of October, 1980

My Commission expires:

10-29-82 Judith A. Lee
NOTARY PUBLIC

David B. Melville 10/7/80
Signature Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. Section 437c or Section 441j (See reverse side of form).

For further information
Contact:

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20543
800-424-9530

Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

REPORT OF INDEPENDENT EXPENDITURE
CONTRIBUTIONS BY PERSONS

(To be used by an individual or a person other than political committee)

1. (a) Name (in full) DAVID B. MELVILLE	2. Identification Number
(b) Address (number and street) Old Ashburnham Road	3. This is an Independent Expenditure: <input type="checkbox"/> in support of Federal candidate, <input checked="" type="checkbox"/> in opposition to Federal candidate.
(c) City, State and ZIP Code Rindge, New Hampshire 03461	
(d) Principal Place of Business None	(e) Occupation Investor

4. Type of Report (check appropriate box and complete)

- (a) ☐ Amendment for _____ (which report) (d) ☐ October 10 Quarterly Report
(b) ☒ April 10 Quarterly Report (e) ☐ January 31 Year End Report
(c) ☐ July 10 Quarterly Report
(f) ☐ Tenth day report preceding _____ election on _____ In the State of _____
(primary, general or convention) (date)
(g) ☐ Thirtieth day report following _____ election on _____ In the State of _____
(primary, general or convention) (date)

5. This report covers the period **1 January '80** through **31 March '80**

6. Complete either Line 6 or Line 7 whichever is appropriate.

CONTRIBUTIONS

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate

7. Complete either Line 6 or Line 7 whichever is appropriate.

EXPENDITURES

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate
CL Co., Inc. (Agency) 1941 N. Woodley St. Arlington, Va. 22207	Advertisements	2-15-80	\$3,143.68	George Bush President
	Advertisements	2-20-80	\$2,825.28	"

8. TOTAL CONTRIBUTIONS \$
9. TOTAL EXPENDITURES \$ **5,968.96**

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestions of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.

Subscribed and sworn to before me this **23rd** day of **April**, 19 **80**

My Commission expires:

November 29, 1985

Carol A. Tevekalian
NOTARY PUBLIC

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. Section 437g or Section 441j (See reverse side of form).

For further information
Contact:

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
800-424-9530

Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

The Two Faces of John Durkin

"I AM FIGHTING HARD IN THE SENATE TO CUT FEDERAL INCOME TAXES FOR NEW HAMPSHIRE'S OVERBURDENED TAXPAYERS."

John Durkin Newsletter
dated April, 1980



The New Hampshire Face

John Durkin TALKS one way in New Hampshire, but VOTES another way in Washington D.C.

The tax issue is a vivid example of Mr. Durkin's two-faced record.

TAXES have skyrocketed to an all time high, and on January 1, 1981, we'll suffer a brand new hike in our payroll taxes.

John Durkin is one of the big-

gest reasons your taxes are so high today. When your tax bite jumps again in January, THANK JOHN DURKIN!

John Durkin, of course, doesn't want you to know the truth about his big taxing, big spending, big government voting record.

To cover his record, he went so far as to put out (at taxpayer

expense) a "newsletter" to try to fool New Hampshire citizens into believing he opposes high taxes!

He claimed to support cutting our federal income taxes.

This "Special Report/legislation to cut taxes" dated April, 1980 claimed a host of tax cuts for the Senator, most of which were proposals Mr. Durkin knows will never come to a vote.

Shall Taxes Be Cut?



The Washington Face

WHAT A WHOPPER!!!

John Durkin has already voted at least 5 times this year to KILL TAX CUTS!

March 25, 1980 — DURKIN VOTED TO KILL cut in Social Security payroll tax hike.

May 6, 1980 — DURKIN VOTED TO KILL \$30 BILLION tax cut.

May 8, 1980 — DURKIN VOTED TO KILL \$7.3 BILLION tax cut.

June 26, 1980 — DURKIN VOTED TO KILL 10% Individual Income tax cut.

June 26, 1980 — DURKIN VOTED TO KILL measures to Index Income tax brackets which would cut tax increases resulting from inflation.

Not only did John Durkin vote against tax cuts for you while claiming to be "fighting hard in the Senate to cut federal income

taxes," he voted for increased federal spending at almost every possible opportunity!

Mr. Durkin's taxpayer-funded

self-promotion also claimed that he is "opposed to tax hike in Social Security payroll tax."

ANOTHER WHOPPER!!!

On December 15, 1977, John Durkin voted to RAISE YOUR PAYROLL TAXES BY \$227 BILLION, the massive tax hikes which he now wants you to believe he opposes!

Which face do you believe? John Durkin's re-election campaign oratory in New Hampshire, or his VOTING RECORD in Washington, D.C.?

If freedom is to be preserved, men like John Durkin who engage in political double talk for votes must be defeated. The future of our nation is very much at stake.

This message is brought to you by Defeat Durkin because you should have the facts when you select your next U.S. Senator.

If you would like to assist in this effort, please complete this coupon.

Defeat Durkin P.O. Box 472 Rindge, NH 03461

I agree that John Durkin's two-faced record must be exposed.

() I'll help Defeat Durkin.

Name: _____

Occupation: _____

Title: _____

Home Address: _____

City, State, Zip: _____

Forward by David B. Nichols and not authorized by any candidate or candidate's committee.

81040300822

ATTACHMENT 7

White
345
November 21, 1980

Mr. Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1321

Dear Mr. Steele:

This letter is in response to the complaint filed against Mr. David B. Melville, Senator Robert Monier and myself.

The request for action to order Mr. Melville to cease and desist is moot at this writing, but other questions persist.

CLCo, Inc. is a Virginia corporation which engages in duly recognized advertising activities for its clients. CLCo, Inc. was engaged by Mr. David Melville in a non-contractual arrangement to write, design and place advertisements for his independent expenditures effort.

Neither CLCo, Inc. nor any member of its staff were in any way connected to any "committee" as alleged by the Durkin campaign.

CLCo, Inc. did serve Mr. Melville by advising him on media questions and in placing newspaper and radio advertisements paid for in full by Mr. Melville. This is a normal business activity for an advertising firm, and not part of any possible "committee" conspiracy.

CLCo, Inc. is a leading advertising firm in the political field. This field of specialty is one to which we point with pride, and certainly our engaging in normal ad work for persons wishing such services is in no way a contribution to their efforts if they are paying for the service.

I was unaware that I am a "well known political activist of the 'New Right,'..." The political beliefs of an advertising man in no way constitute grounds for such accusations by the Durkin campaign. The New Right connotation is a reference to the proclaimed group led by Mr. Richard Viguerie. Mr. Viguerie's book "The New Right, We're Ready To Lead" makes no mention of me.

The allegation that Mr. Melville did not direct and control the expenditures of the effort is totally false. Mr. Melville had total power of approval for all ads and ad copy as well as placement. No ads were placed without his express approval in advance.

Should Mr. Melville had wished to receive contributions to his effort, the coupons to which the Durkin complaint referred would have provided opportunity for interested and like minded persons to help. The coupons did not have such an opportunity, but were added to gauge response by the public to the advertising campaign.

1941 N. Woodley Street • Arlington, Va. 22207 • 703-528-0560

direct marketing, mail services, mailing lists, business counselors, public affairs, advertising

It is plain that Mr. Melville's efforts were legal under the provisions of the federal law as construed by the U.S. Supreme Court in Buckley-vs-Valeo as part of his individual right of free speech as protected under the First Amendment to the U.S. Constitution.

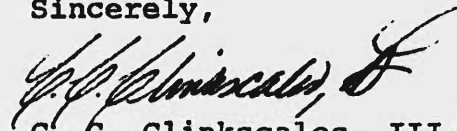
Mr. Melville's timely and full filing of his reports (FEC Form 5) for an independent expenditures campaign prove his intent to act under this provision of the law.

At no time were there any discussions between the alleged parties as to the formation of a "committee."

Upon review of these facts coupled with the response of the other named persons, I am confident that the Commission will find that the efforts by Mr. Melville in which CLCo, Inc. and I acted as an advertising agency were fully and completely within both the letter and the intent of the law.

Should the Commission wish a more complete explanation of any part of the role played by CLCo, Inc. or me, I shall be glad to provide that information upon request.

Sincerely,


C. C. Clinkscales, III
Chairman

CCC/clc

81040300824

81040300825

ATTACHMENT 8

March 1978
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

REPORT OF INDEPENDENT EXPENDITURE
OR CONTRIBUTIONS BY PERSONS

RECEIVED

(To be used by an individual or a person other than political committee)

RECEIVED FEB 21

1. (a) Name (in full) David B. Melville	2. Identification Number 080220887
(b) Address (number and street) Old Ashburnham Road	3. This is an Independent Expenditure: a. <input type="checkbox"/> in support of Federal candidate. b. <input type="checkbox"/> in opposition to Federal candidate.
(c) City, State and ZIP Code Rindge, New Hampshire 03461	(d) Occupation Land Developer
(e) Principal Place of Business Rindge, New Hampshire	
4. Type of Report (check appropriate box and complete) (a) <input type="checkbox"/> Amendment for _____ which report (b) <input type="checkbox"/> April 10 Quarterly Report (c) <input type="checkbox"/> July 10 Quarterly Report (d) <input type="checkbox"/> October 10 Quarterly Report (e) <input type="checkbox"/> January 31 Year End Report (f) <input type="checkbox"/> Tenth day report preceding _____ election on _____ in the State of _____ (g) <input type="checkbox"/> Thirtieth day report following _____ election on _____ in the State of _____ (h) <input type="checkbox"/> Thirtieth day report following _____ election on _____ in the State of _____	
5. This report covers the period July 1, 1980 through September 30, 1980	

6. Complete either Line 6 or Line 7 whichever is appropriate.

None **CONTRIBUTIONS**

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate

7. Complete either Line 6 or Line 7 whichever is appropriate.

EXPENDITURES

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate
C & L Communications	Advertisements	8/14/80	7,468.73	John Durkin
1941 N. Woodley		9/2/80	7,179.11	U.S. Senate
Arlington, VA 22207				

8. TOTAL CONTRIBUTIONS

9. TOTAL EXPENDITURES

14,647.84

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of a campaign, election, nomination, or re-election in whole or in part of any campaign or materials prepared by the candidate, his campaign committee, or their agent.

Subscribed and sworn to before me this 14th day of October, 1980.

My Commission expires 10-29-82

Signature: David B. Melville Date: 10/14/80

NOTARY PUBLIC

NOTE: Submission of this form, erroneous or incomplete information may subject the filer to civil or criminal penalties under 2 U.S.C. Section 437g.

For further information contact:

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
202-424-9570

Any information received here may not be copied for use in any other form or for any other purpose.

81040300827

ATTACHMENT 9: PROPOSED LETTERS



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. Stephen Thayer, III
51 High Street
Manchester, New Hampshire 03104

Re: MUR 1321

Dear Mr. Thayer:

On October 27, 1980, the Commission notified your clients, David Melville and Robert Monier, of a complaint alleging that they may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission, on , 1981, determined, on the basis of information in the complaint and information provided by you, that there is no reason to believe Robert Monier violated sections 433 and 434 of the Act, and no reason to believe David Melville violated sections 433, 434, or 441a of the Act in regard to the Defeat Durkin effort. However, the Commission determined that there is reason to believe David Melville violated section 434(c)(2) of the Act. Specifically, it appears that David Melville failed to file a 12 day pre-primary election report and a 24 hour report, reporting independent expenditures made by him, prior to the primary election in New Hampshire.

You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please file any such response within ten days of your receipt of this notification. In the absence of any additional information which demonstrates that no further action should be taken against your client, the Commission may find probable cause to believe a violation has occurred and proceed with formal conciliation. Of course, this does not preclude settlement of this matter through informal conciliation prior to a finding of probable cause to believe if you so desire.

81040300828

Letter to: S. Thayer
Page 2

The investigation now being conducted will be 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 investigation to be made public.

If you have any questions, please contact Maura White, the staff member assigned to this matter, at 202-523-4060.

Sincerely,

81040300829



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Curt Clinkscales
C&L Communications
101 Park Washington Court
Falls Church, Virginia 22046

Re: MUR 1321

Dear Mr. Clinkscales:

On October 27, 1980, the Commission notified you of a complaint alleging that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission, on , 1981, determined, on the basis of the information in the complaint and information provided by you, that there is no reason to believe a violation of any statute within its jurisdiction has been committed. If you wish to submit any materials to appear on the public record, please do so within ten days.

If you have any questions please contact Maura White, the staff member assigned to this matter, at 202-523-4060.

Sincerely,

Charles N. Steele
General Counsel

81040300830

prior to the September 9, 1980, primary election in New Hampshire. Although, as previously discussed, Mr. Melville filed an October 15, 1980, report which reported one expenditure to C&L Communications on August 14, 1980 (in the amount of \$7,468.73) and another on September 2, 1980 (in the amount of \$7,179.11), the expenditures should have been reported to the Commission prior to October 1980.

As the initial payment for the ads was made on August 14, 1980, and thus more than 20 days prior to the September 9, 1980, primary election, Mr. Melville should have filed a 12 day pre-primary election report. As the September 2, 1980, payment was made after the 20th day, but more than 24 hours before the September 9, 1980, primary election, Mr. Melville should have also filed a 24 hour report. In consideration of Mr. Melville's failure to timely disclose his activity, the General Counsel recommends that the Commission find reason to believe David Melville violated 2 U.S.C. § 434(c)(2).

RECOMMENDATIONS

1. Find no reason to believe the Defeat Durkin effort violated 2 U.S.C. §§ 433, 434, or 441a(a).
2. Find no reason to believe David Melville violated 2 U.S.C. §§ 433, 434, or 441a(a) in regard to the Defeat Durkin effort.
3. Find reason to believe David Melville violated 2 U.S.C. § 434(c)(2) in regard to the independent expenditures made by him as an individual.
4. Find no reason to believe Robert Monier violated 2 U.S.C. §§ 433 or 434.
5. Find no reason to believe Curt Clinkscales violated 2 U.S.C. §§ 433 or 434.
6. Send the attached letters.

Attachments

- 1 - Complaint
- 2 - Brief of Durkin for Senate
- 3 - Notice affidavit of Durkin for Senate
- 4 - Letter from Durkin for Senate
- 5 - Response of Robert Monier
- 6 - Response of David Melville
- 7 - Response of Curt Clinkscales
- 8 - FEC Form 5 filed by David Melville
- 9 - Proposed letters

MW:rd *mw 1/15/81*
ST *ST 1/15/81*
KAG *KAG 1/15/81*
CNS

file copy

3440
CLC
C & L Communications

November 21, 1980

Mr. Charles N. Steele, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1321

Dear Mr. Steele:

This letter is in response to the complaint filed against Mr. David B. Melville, Senator Robert Monier and myself.

The request for action to order Mr. Melville to cease and desist is moot at this writing, but other questions persist.

CLCo, Inc. is a Virginia corporation which engages in duly recognized advertising activities for its clients. CLCo, Inc. was engaged by Mr. David Melville in a non-contractual arrangement to write, design and place advertisements for his independent expenditures effort.

Neither CLCo, Inc. nor any member of its staff were in any way connected to any "committee" as alleged by the Durkin campaign.

CLCo, Inc. did serve Mr. Melville by advising him on media questions and in placing newspaper and radio advertisements paid for in full by Mr. Melville. This is a normal business activity for an advertising firm, and not part of any possible "committee" conspiracy.

CLCo, Inc. is a leading advertising firm in the political field. This field of specialty is one to which we point with pride, and certainly our engaging in normal ad work for persons wishing such services is in no way a contribution to their efforts if they are paying for the service.

I was unaware that I am a "well known political activist of the 'New Right,'..." The political beliefs of an advertising man in no way constitute grounds for such accusations by the Durkin campaign. The New Right connotation is a reference to the proclaimed group led by Mr. Richard Viguerie. Mr. Viguerie's book "The New Right, We're Ready To Lead" makes no mention of me.

The allegation that Mr. Melville did not direct and control the expenditures of the effort is totally false. Mr. Melville had total power of approval for all ads and ad copy as well as placement. No ads were placed without his express approval in advance.

Should Mr. Melville had wished to receive contributions to his effort, the coupons to which the Durkin complaint referred would have provided opportunity for interested and like minded persons to help. The coupons did not have such an opportunity, but were added to gauge response by the public to the advertising campaign.

1941 N. Woodley Street • Arlington, Va. 22207 • 703-528-0560

direct marketing, mail services, mailing lists, business counselors, public affairs, advertising

It is plain that Mr. Melville's efforts were legal under the provisions of the federal law as construed by the U.S. Supreme Court in Buckley-vs-Valeo as part of his individual right of free speech as protected under the First Amendment to the U.S. Constitution.

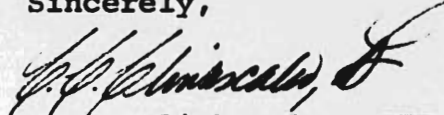
Mr. Melville's timely and full filing of his reports (FEC Form 5) for an independent expenditures campaign prove his intent to act under this provision of the law.

At no time were there any discussions between the alleged parties as to the formation of a "committee."

Upon review of these facts coupled with the response of the other named persons, I am confident that the Commission will find that the efforts by Mr. Melville in which CLCo, Inc. and I acted as an advertising agency were fully and completely within both the letter and the intent of the law.

Should the Commission wish a more complete explanation of any part of the role played by CLCo, Inc. or me, I shall be glad to provide that information upon request.

Sincerely,


C. C. Clinkscales, III
Chairman

CCC/clc

010403300833

81040300834

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

8

SPECIAL DELIVERY

FEDERAL ELECTION COMMISSION
1325 K STREET, N.W.
WASHINGTON, D. C. 20463



POSTAGE AND FEES PAID



80 NOV 28 P12:40

606
3436

RECEIVED

W. STEPHEN THAYER, III
ATTORNEY AT LAW
81 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

80 NOV 28 P2:46
911384

TELEPHONE
603-656-0821

November 21, 1980

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

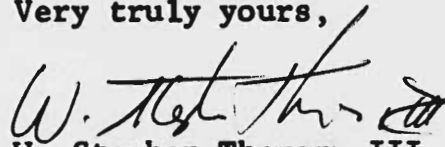
Attn: Maura White

Re: MUR 1321

Dear Attorney Steele:

Enclosed please find the required authorization signed by David B. Melville which authorizes you to deal with me in any and all matters presently before the commission.

Very truly yours,


W. Stephen Thayer, III

WST/lmp
Enclosure

81040300835

80 NOV 28 P3:55

RECEIVED
FEDERAL ELECTION COMMISSION
NOV 28 1980

TO: *Available Bond*
Charles Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Attn: Laura White

Re: MUR 1321

Dear Attorney Steele:

I hereby authorize Stephen Thayer, Esq., to serve as my attorney with reference to the above captioned matter. I further authorize you to deal with him in all matters herewith involved.

David B. Melville

David B. Melville
Old Ashburnham Road
Rindge, New Hampshire 03461

81040300836

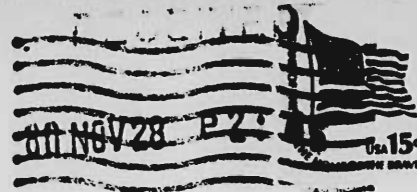
61040100837

W. STEPHEN THAYER, III

ATTORNEY AT LAW

51 HIGH STREET

MANCHESTER, NEW HAMPSHIRE 03104



Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

W. STEPHEN THAYER, III
ATTORNEY AT LAW
61 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

November 13, 1980

RECEIVED
622 3358
80 NOV 18 P12:52
911285

TELEPHONE
603-668-0601

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

Attention: Maura White

RE: MUR 1321

Dear Attorney Steele:

Please be advised that I have been retained by David Melville to represent him in the above referenced matter which is presently before the Federal Election Commission.

I am in possession of the complaint filed by the Durkin for U.S. Senate Committee and in response to said complaint I am providing the following information:

1. That David Melville of Rindge, New Hampshire made independent expenditures in an individual effort to defeat Senator John Durkin of New Hampshire pursuant to 2 U.S.C. 431 (17) and Buckley vs. Valeo 424 U.S. 17.
2. That David Melville filed reports with the Federal Election Commission under ID number 080220887 as mandated by 2 U.S.C. 434 (C).
3. That David Melville's expenditures were made from his own finances in an effort to defeat John Durkin. Mr. Melville had political ads produced by C. & L. Communications of Arlington, Virginia (See FEC filing by David Melville dated 10-7-80 and attached as Exhibit 1) and utilized Robert Monier as his spokesman in New Hampshire.
4. That David Melville neither solicited nor accepted contributions from any individual, groups, committees,

80 NOV 18 P2:27

GENERAL COUNSEL

31040300838

Charles N. Steele, Esq.
Page Two
November 13, 1980

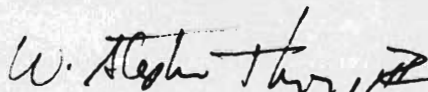
corporations, partnerships or any other entity whatsoever (Exhibit 2, Durkin for Senate Committee exhibit D-1). Please note that said exhibit has the requisite disclaimer (Paid For by David B. Melville and not authorized by any candidate or candidates committee). I would further direct your attention to the coupon attached to our ads, which was used for control purposes in an effort to measure the impact of the ad, and in no instance solicited money or provided the customary space for stating the amount of a contribution.

It is our opinion that after the commission reviews the material before it, that they will conclude that David Melville has acted well within the confines of the Federal Election Campaign act and the Supreme Court's ruling in Buckley vs. Valeo and that he has in fact operated as an individual making independent expenditures completely financed by himself in furtherance of his own political purposes under his rights sanctioned by the first amendment to the United States Constitution. To find otherwise would severely undercut the Supreme Court's ruling in Buckley vs. Valeo and infringe upon the Constitutional right of free speech.

Should the commission or those investigating this matter feel further explanations are desired or further information is needed, please do not hesitate to contact me and I will provide the information or exhibits you desire and if necessary will appear in person.

Thank you for your cooperation in this matter

Very truly yours,


W. Stephen Thayer, III

WST/lmp

01040300839

REPORT OF INDEPENDENT EXPENDITURES
OR CONTRIBUTIONS BY PERSONS

EXHIBIT 1

(To be used by an individual or a person other than political committee)

1. (a) Name (in full) David B. Melville	2. Identification Number 080220887
(b) Address (number and street) Old Ashburnham Road	3. This is an Independent Expenditure: 2. In support of Federal candidate. 3. In opposition to Federal candidate.
(c) City, State and ZIP Code Rindge, New Hampshire 03461	(e) Occupation Land Developer
(d) Principal Place of Business Rindge, New Hampshire	

4. Type of Report (check appropriate box and complete)

- (a) ☐ Amendment for _____ (which report) (d) ☒ October 10 Quarterly Report
(b) ☐ April 10 Quarterly Report (e) ☐ January 31 Year End Report
(c) ☐ July 10 Quarterly Report
(f) ☐ Tenth day report preceding _____ election on _____ In the State of _____
(primary, general or convention) (date)
(g) ☐ Thirtieth day report following _____ election on _____ In the State of _____
(primary, general or convention) (date)

This report covers the period July 1, 1980 through September 30, 1980

Complete either Line 6 or Line 7 whichever is appropriate.

CONTRIBUTIONS

None

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate

Complete either Line 6 or Line 7 whichever is appropriate.

EXPENDITURES

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate
C & L Communications 1941 N. Woodley Arlington, VA 22207	Advertisements	8/14/80 9/2/80	7,468.73 7,179.11	John Durkin U.S. Senate

8. TOTAL CONTRIBUTIONS \$
9. TOTAL EXPENDITURES \$ 14,647.84

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestions of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.

Subscribed and sworn to before me this 7th day of

October, 1980

My Commission expires:

10-29-82

NOTARY PUBLIC

Signature

Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. Section 437g or Section 441j (See reverse side of form).

For further information

Contact:

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
800-424-9530

Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

REPORT OF INDEPENDENT EXPENDITURES
OR CONTRIBUTIONS BY PERSONS

(To be used by an individual or a person other than political committee)

1. (a) Name (in full) DAVID B. MELVILLE	2. Identification Number
(b) Address (number and street) Old Ashburnham Road	3. This is an Independent Expenditure: <input type="checkbox"/> In support of Federal candidate. <input checked="" type="checkbox"/> In opposition to Federal candidate.
(c) City, State and ZIP Code Rindge, New Hampshire 03461	(e) Occupation Investor
(d) Principal Place of Business None	

4. Type of Report (check appropriate box and complete)

- (a) ☐ Amendment for _____ (which report) (d) ☐ October 10 Quarterly Report
(b) ☒ April 10 Quarterly Report (e) ☐ January 31 Year End Report
(c) ☐ July 10 Quarterly Report
(f) ☐ Tenth day report preceding _____ election on _____ In the State of _____
(primary, general or convention) (date)
(g) ☐ Thirtieth day report following _____ election on _____ In the State of _____
(primary, general or convention) (date)

5. This report covers the period **1 January '80** through **31 March '80**

Complete either Line 6 or Line 7 whichever is appropriate.

CONTRIBUTIONS

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate

Complete either Line 6 or Line 7 whichever is appropriate.

EXPENDITURES

Full Name, Mailing Address and ZIP Code of Payee	Particular of Expenditure	Date (month, day, year)	Amount	Name and Office Sought of Federal Candidate
CL Co., Inc. (Agency) 1941 N. Woodley St. Arlington, Va. 22207	Advertisements	2-15-80	\$3,143.68	George Bush President
	Advertisements	2-20-80	\$2,825.28	"

8. TOTAL CONTRIBUTIONS \$

9. TOTAL EXPENDITURES \$ **5,968.96**

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestions of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the financing of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.

David B. Melville 4/23/80
Signature Date

Subscribed and sworn to before me this 23rd day of April, 19 80

My Commission expires:

November 29, 1985

Carol A. Tevelian
NOTARY PUBLIC

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. Section 437g or Section 441j (See reverse side of form).

For further information
Contact:

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
800-424-9530

Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

The Two Faces of John Durkin

 EXHIBIT "D-1"
 Concord Monitor, 9/15/80

"I AM FIGHTING HARD IN THE SENATE TO CUT FEDERAL INCOME TAXES FOR NEW HAMPSHIRE'S OVERBURDENED TAXPAYERS."

John Durkin Newsletter
 dated April, 1980



The New Hampshire Face

Shall Taxes Be Cut?



The Washington Face

John Durkin TALKS one way in New Hampshire, but VOTES another way in Washington D.C.

The tax issue is a vivid example of Mr. Durkin's two-faced record.

TAXES have skyrocketed to an all time high, and on January 1, 1981, we'll suffer a brand new hike in our payroll taxes.

John Durkin is one of the big-

gest reasons your taxes are so high today. When your tax bite jumps again in January. THANK JOHN DURKIN!

John Durkin, of course, doesn't want you to know the truth about his big taxing, big spending, big government voting record.

To cover his record, he went so far as to put out (at taxpayer

expense) a "newsletter" to try to fool New Hampshire citizens into believing he opposes high taxes!

This "Special Report/legislation to cut taxes" dated April, 1980 claimed a host of tax cuts for the Senator, most of which were proposals Mr. Durkin knows will never come to a vote.

He claimed to support cutting our federal income taxes.

WHAT A WHOPPER!!!

John Durkin has already voted at least 5 times this year to KILL TAX CUTS!

- March 25, 1980 - DURKIN VOTED TO KILL cut in Social Security payroll tax hike.
- May 6, 1980 - DURKIN VOTED TO KILL \$30 BILLION tax cut.
- May 8, 1980 - DURKIN VOTED TO KILL \$7.3 BILLION tax cut.
- June 26, 1980 - DURKIN VOTED TO KILL 10% Individual Income tax cut.
- June 26, 1980 - DURKIN VOTED TO KILL measures to index income tax brackets which would cut tax increases resulting from inflation.

Not only did John Durkin vote against tax cuts for you while claiming to be "fighting hard in the Senate to cut federal income

taxes," he voted for increased federal spending at almost every possible opportunity!

Mr. Durkin's taxpayer-funded

self-promotion also claimed that he is "opposed to tax hike in Social Security payroll tax."

ANOTHER WHOPPER!!!

Durkin voted to RAISE YOUR PAYROLL TAXES BY \$227 BILLION, the massive tax hikes which he now wants you to believe he opposed!

John Durkin's re-election campaign oratory in New Hampshire, or his VOTING RECORD in Washington, D.C.?

men like John Durkin who engage in political double talk for votes must be defeated. The future of our nation is very much at stake.

This message is brought to you by Defeat Durkin because you should have the facts when you select your next U.S. Senator.

If you would like to assist in this effort, please complete this coupon.

Defeat Durkin P.O. Box 472 Rindge, NH 03461

Remember that John Durkin's two-faced record must be exposed.

() I'll help Defeat Durkin.

Name _____ Occupation _____

Phone _____

Home Address _____

City, State, Zip _____

Reprint by Concord Monitor and not authorized by any candidate or candidate's campaign.

Concord Monitor 9/15/80

6104010083

W. STEPHEN THAYER, III

ATTORNEY AT LAW

51 HIGH STREET

MANCHESTER, NEW HAMPSHIRE 03104

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D. C. 20463



UNRECORDED

W. STEPHEN THAYER, III
ATTORNEY AT LAW
51 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

November 13, 1980

911364
911265
6CC# 3344
TELEPHONE
603-628-0001

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

Attention: Maura White

RE: MUR 1321

Dear Attorney Steele:

Please be advised that I have been retained by Robert B. Monier to represent him in the above referenced matter which is presently before the Federal Election Commission.

I am in possession of the complaint filed by the Durkin for U.S. Senate Committee and in answer to said complaint state the following:

1. That the allegations of fact contained in the Durkin for U.S. Senate complaint are both groundless and full of misrepresentations.
2. That this entire matter centers around one David Melville of Rindge, New Hampshire who made independent expenditures in an individual effort to defeat Senator John Durkin of New Hampshire.
3. That David Melville filed regular reports with the Federal Election Commission under ID number 080220887 as required by the FECA.
4. That David Melville has not solicited nor accepted contributions from any individual, groups, committees, corporations, partnerships or any other entity whatsoever.
5. That said David Melville was exercising his first amendment rights of free speech, a right which was affirmed relative to the FECA in 1976 by the U.S. Supreme Court ruling in the

30 NOV 17 11:04

GENERAL COUNSEL

31040100844

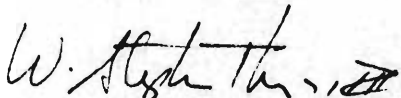
Charles N. Steele, Esq.
Page Two
November 13, 1980

case of Buckley vs. Valeo 424 U.S. 20 and reiterated in numerous cases since then. The last reported case being California Medical Association et al vs. Federal Election Commission decided by the United States Court of Appeals for the 9th circuit, no. 79-4426, May 23, 1980.

6. That Robert B. Monier acted solely as a spokesman for David Melville in an effort to defeat then Senator John Durkin of New Hampshire (See complainants, exhibits A-1, B, C, and E)
7. That Robert B. Monier, in speaking for David Melville, readily espoused the purposes of David Melville's expenditures to wit: Defeat John Durkin.
8. That Robert B. Monier never solicited nor accepted contributions from any source in the effort to defeat John Durkin.

In as much as, in our opinion, the Complaint at issue was filed in an effort to prohibit David Melville from availing himself of his first amendment privileges under the United States Constitution and that Robert Monier is and was only incidental to the complaint, it is our feeling that the above facts should suffice as far as the complaint alleges any wrongdoing on his part. However, should your office desire either a longer response or further information, please do not hesitate to contact me.

Very truly yours,


W. Stephen Thayer, III

WST/lmp

81040300843

81040100346
W. STEPHEN THAYER, III
ATTORNEY AT LAW
51 HIGH STREET
MANCHESTER, NEW HAMPSHIRE 03104

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463



911260
QCC# 3340



ROBERT B. MONIER
PRESIDENT

STATE OF NEW HAMPSHIRE
SENATE
STATE HOUSE, CONCORD

November 13, 1980

Charles N. Steele, Esq.
General Counsel
Federal Elections Commission
1325 K Street
Washington, D.C. 20463

Attention: Maura White

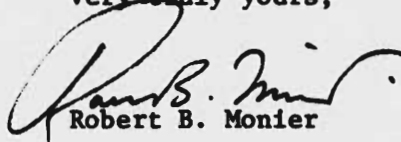
RE: M.U.R. 1321

Dear Attorney Steele:

Please be advised that I have retained Attorney W. Stephen Thayer, III of Manchester, New Hampshire to represent me in the above referenced complaint that has been filed by the Durkin for United States Senate Committee.

I hereby authorize you to discuss this matter with him and make available to him all documents relating to this matter.

Very truly yours,


Robert B. Monier

RBM/gmo

cc: W. Stephen Thayer, III, Esq.
51 High Street
Manchester, NH 03101

30 NOV 17 11:04

GENERAL COUNSEL

81040300847

8104030848

ROBERT B. MONIER, President
STATE SENATE



STATE OF NEW HAMPSHIRE
STATE HOUSE, CONCORD



Charles N. Steele, Esq.
General Counsel
Federal Elections Commission
1325 K Street
Washington, D.C. 20463

Attn: Maura White

"TWO FACES OF JOHN DURKIN" ads appeared in the following newspapers on the following dates:

1. Manchester Union Leader (city and state editions)	8/25 and 9/15	approx. \$1,234.20
2. Monadnock Ledger	9/10 and 9/17	approx. \$ 336.40
3. Coos County Democrat	8/27 and 9/17	approx. \$ 468.00
4. Meredith News	8/27 and 9/17	approx. \$ 288.00
5. Keene Sentinel	8/25 and 9/15	approx. \$ 342.00
6. Laconia Citizen	8/25	approx. \$ 172.80
7. Plymouth Record Citizen	8/27 and 9/17	approx. \$ 282.24
8. Carrol County Independent	8/27 and 9/17	approx. \$ 306.00
9. Littleton Courier	8/27	approx. \$ 121.22
10. Granite State News	8/28 and 9/10	approx. \$ 306.00
11. North Conway Reporter	8/27 and 9/10	approx. \$ 594.00
12. Concord Monitor	8/25 and 9/15	approx. \$ 396.80
13. Nashua Telegraph	9/15	approx. \$ 376.00
14. Foster's Daily Democrat	9/15	approx. \$ 311.85
15. Lebanon Valley News	9/15	approx. \$ 156.35
16. Portsmouth Herald	9/15	approx. \$ 306.85
17. Bristol Enterprise	9/18	approx. \$ 56.00
18. Rochester Courier	9/16	approx. \$ 158.92

Estimated Total approx. \$6,213.63

NOTE: Estimated costs for advertisements are based on advertising rates of the various newspapers for ads of the approximate size of the Defeat Durkin ads.

I, Paul Keegan, certify that, to the best of my knowledge, the above information is accurate.

Paul Keegan
Paul Keegan

81040300850

"JOHN DURKIN V. YOUR CHILDREN" ads appeared in the following newspapers on the following dates:

1. Portsmouth Herald	10/7 and 10/15	approx. \$ 613.70
2. Concord Monitor	10/7 and 10/17	approx. \$ 396.80
3. Bristol Enterprise	10/9 and 10/16	approx. \$ 112.00
4. Plymouth Record-Citizen	10/8 and 10/15	approx. \$ 282.24
5. Lebanon Valley News	10/7 and 10/16	approx. \$ 212.70
6. Nashua Telegraph	10/7 and 10/16	approx. \$ 752.00
7. Manchester Union Leader	10/8 and 10/16	approx. \$1,234.20
8. Keene Sentinel	10/16	approx. \$ 171.00
9. Rochester Courier	10/14 and 10/21	approx. \$ 158.92
10. Monadnock Ledger	10/15	approx. \$ 168.20
11. Foster's Daily Democrat	10/15	approx. \$ 311.85
12. Laconia Evening Citizen	10/7	approx. \$ 172.80
13. Littleton Courier	10/8	approx. \$ 121.22
14. Berlin Reporter	10/8 and 10/15	approx. \$ 524.00
15. Carroll County Independent	10/8	approx. \$ 153.00 (one rate, both papers)
16. Granite State News	10/8	
17. Coos County Democrat	10/8 and 10/15	approx. \$ 468.00
18. Milford Cabinet & Journal	10/9	approx. \$ 165.20
19. Meredith News	10/8 and 10/15	approx. \$ 288.00

Estimated Total approx. \$6,305.83

NOTE: Estimated costs for advertisements are based on advertising rates of the various newspapers for ads of the approximate size of the Defeat Durkin ads.

I, Paul Keegan, certify that, to the best of my knowledge, the above information is accurate.

Paul Keegan
Paul Keegan

31040300851

The State of New Hampshire

WILLIAM M. GARDNER
SECRETARY OF STATE



ROBERT P. AMBROSE
DEPUTY SECRETARY

Department of State

State House - Room 204

Concord Tel. 271-3242

I, Robert P. Ambrose, Deputy Secretary of State of the State of New Hampshire, certify that my office is the appropriate state depository in the State of New Hampshire for reports of candidates and committees filed pursuant to the Federal Election Campaign Act. I further certify that a search of the records in this office reveals that no reports have been filed either registering a "Defeat Durkin" committee or itemizing receipts and expenditures of a "Defeat Durkin" committee.

In Testimony whereof, I hereto set my hand and cause the Seal of the State of New Hampshire to be affixed this twenty eighth day of October, 1980.



Robert P. Ambrose
Deputy Secretary of State

81040300852

81040300853

Boston Herald American 10/24

N.H. mystery man finances 'Defeat Durkin' drive

By PAUL D. MINDUS
Staff Writer
Hampshire U.S.
bank-rolling a \$35,000 advertising
campaign to defeat the liberal
Democratic incumbent John Dur-

kin. David Melville, a Rindge, N.H.,
developer and life member of the
ultra-conservative John Birch So-
ciety, is financing the Defeat
Durkin campaign with help from

a national conservative political
consultant. Melville's role has become a
controversial issue in the tight
race between Durkin and Warren
Rudman, the Republican U.S.
Senate candidate who has made
an issue of not accepting out-of-
state political action committee
money.

Rudman, who is believed trail-
ing Durkin slightly with 15 to 20
percent of the voters still unde-

cided, insists he had no connection
with Melville or the anti-Durkin
advertisements. Melville, 54, told the Herald
American yesterday he was an-
gered by an April newsletter from
Durkin in which the senator "said
he was fighting to reduce taxes,
and his votes were to the con-
trary."

Melville, who moved to Rindge
two years ago from Weston,
Mass., hired conservative political

consultant Curt Clinkscales of An-
lington, Va., last June to map out
strategy and advertisements
against Durkin.

Clinkscales also is part of the
five-member executive committee
of the National Conservative Po-
litical Action Committee (NCPAC),
ists who have spent \$1 million in
campaigns against six liberal
Democratic senators — George
McGovern of South Dakota,

Frank Church of Idaho, John Cul-
ver of Iowa, Birch Bayh of In-
diana, Alan Cranston of Califor-
nia and Thomas Eagleton of
Missouri. Durkin contacted last night in
Keene, N.H., charged that Mel-
ville and Clinkscales have violated
federal election laws. Melville's
connection with Clinkscales, he
said, "constitutes a de facto politi-
cal action committee, and as such,
Continued on Page A7

N.H. mystery man finances \$35,

Continued from Page A1

Melville could only contribute a maximum of \$5,000."

Clinkscales yesterday said Melville had already spent \$27,000 to pay for newspaper and radio anti-Durkin advertisements. Melville said he intended to spend up to an additional \$10,000.

The anti-Durkin ads have taken issue with his support for the Department of Education, his opposition to the B-1 bomber, his votes against defense appropriations and

his support of organized labor.

Durkin shrugged off Rudman's denial of any involvement with Melville. "They are using the same issues in Melville's and Rudman's advertisements," Durkin said.

Rudman last night said he wished "quite frankly these people (Melville and Clinkscales) would go mind their own business. I won this primary fair and square without them.

"Frankly, I think these groups are ill-advised. Sometimes they can help the person they're trying to

hurt and hurt the person they're trying to help," said Rudman, a former attorney general and moderate Republican. "I don't know if that's the case here, but certainly it's a possibility."

Melville has been shrouded in mystery since his name first appeared on anti-Durkin newspaper advertisements in August. The Monadnock Ledger, a weekly newspaper in southwestern New Hampshire, alleged that he lived most of the time in the Caribbean, prompting Durkin to dub his nemesis "the

— Friday, October 24, 1980

A7

000 'Defeat Durkin' campaign

mystery man of the Bermuda Triangle."

Born in New York, Melville yesterday described himself as a "resort developer," currently working on a scuba diving resort complex in the Outer Islands of the Bahamas. A "strong conservative," he joined the John Birch Society 20 years ago.

"People are so fast to put labels on things," Melville said, referring to public perception of his organization as right-wing. "I would say the John Birch Society is primarily interested in stopping the inroads of

communism within this country and effectively reducing the size and scope of government."

Melville estimated he has contributed an additional \$25,000 for and against other campaigns this year. He financed the \$6,000 "Don't be a bushwhacker" campaign against Republican George Bush in the New Hampshire presidential primary. He also contributed to Meldrim Thomson, a fellow member of the John Birch Society running for governor in New Hampshire, to Sen. Jesse Helms, R-N.C., Ronald

Reagan and Rep. Larry McDonald, a conservative Georgia Democrat.

Durkin suggested last night the Melville-Clinkscales campaign "will backfire. The people of New Hampshire resent outside interference."

"That's a perfectly logical thrust for Durkin to make," Melville replied, "but I don't consider it true. I'm not out of state, even though I'm fairly a newcomer. I am not fighting Durkin per se. I'm only presenting the facts of his voting record. He says one thing, the facts are another."

61040300854

Rindge Man To Spend \$100,000 To Beat Durkin

CONCORD — A Rindge man is financing \$100,000 in advertising to unseat U.S. Senator John Durkin, who is running for re-election this year.

At a press conference on Monday, Republican state senator Robert Monier announced that he has agreed to act as state coordinator for a Defeat Durkin effort that is being funded by David Melville of Rindge.

Mr. Melville is associated with the Melville Corp., which owns Thom McAn Shoes, among its holdings. Mr. Melville has established the Wide Water Trust, which several years ago purchased a large tract of land on the Old Ashburnham Road in order to create a church retreat on the property for the Trinitarian Church of Wayland, Mass.

Efforts to contact Mr. Melville, who is reported to

be in the Bahamas, were unsuccessful.

Senator Monier said Monday that he was contacted about the Defeat Durkin effort by C&L Communications, a Washington-based political advertising firm. The treasurer of C&L, Curt Clinkscale, also serves on the board of directors of the National Conservative Political Action Committee.

Durkin to 9

\$100,000 TO BEAT DURKIN (from 1)

(NCPAC), as independent political campaign committee that is spearheading the effort to defeat six U.S. Senators facing re-election this year.

Mr. Monier confirmed reports that Mr. Melville plans to spend around \$100,000 of his own money on Defeat Durkin, saying, "My understanding is that it will be approximately \$100,000 — in that nature."

Federal election laws require that an individual campaign expenditure such as the one Mr. Melville made, cannot be coordinated with or related to any effort by Senator Durkin's opponent and that the money can be used only to purchase advertising in newspapers or on radio and television.

The Defeat Durkin movement began in August with a series of newspaper ads highlighting Senator Durkin's voting record on tax issues. Those ads were paid for by Mr. Melville through an account with C&L Communications, which, according to senator Monier, will be responsible for researching and formulating

the ads.

Mr. Melville's effort raises several issues which have not been resolved by the Federal Elections Commission (FEC).

Fred Ieland, an FEC spokesman, said this week that the Commission has not yet ruled on whether an individual may contract with an advertising agency and still stay within the guidelines of an independent expenditure.

Mr. Ieland said that if the Commission were to decide that Mr. Melville's efforts were not as an individual,

but as a financial backer of a campaign committee, then "such an effort would be a violation because the law limits individual contributions to \$5,000."

The federal election laws state that an individual or an independent political action committee, not associated with any party or political candidate, may spend any amount they want to elect or defeat a candidate. However, the laws limit the amount an individual may contribute to such a committee to \$5,000.

Monadnock Ledger,

October 8, 1980

81040300855

8 1 0 4 0 3 0 0 8 5 6

90 OCT 30 P 1

for U.S. Senate Committee
1016
r, New Hampshire 03105



Mr. Scott Thomas

Office of General Counsel

EXPRESS MAIL SERVICE **POST OFFICE TO ADDRESSEE**

B 45136590

FROM: DURKIN FOR U.S. SENATE COM. P.O. Box 1016 MARLBOROUGH, N.H. 03105		TO: SCOTT THOMAS OFF. OF GEN. COUNSEL FEC 1225 K ST. N.W. WASHINGTON D.C. 20463	
Customer Number, if any:			

ORIGIN: Initials of Receiving Clerk: P		DESTINATION:	
P.O. ZIP: 03101	Date in: 10-29-80	Date of Delivery: 10/30/80	Time of Delivery: 1:45
Time in: 2:30 PM	Weight: 1 lb. 5 oz.	Initials of Delivering Employee: R	Signature of Addressee or Agent: [Signature]
Postage: 7.55	DELIVERY WAS ATTEMPTED		
	Date:	Time:	Notice Left By:

EXPRESS MAIL SERVICE

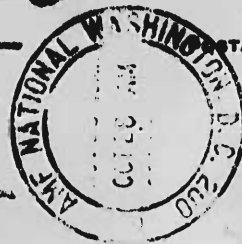
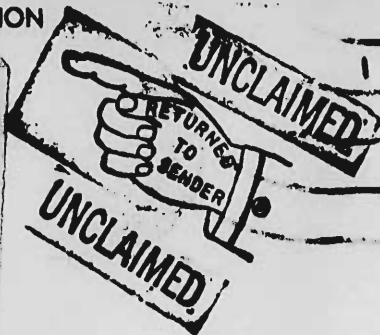
◆ TO REMOVE PEEL BACK HERE ◆

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

CLAIM CHECK NO.
700150

☐ MAIL
DATE 10/24/81
1ST NOTICE
11-4-81
2ND NOTICE
11-13
RETURN

Detached from
FD Form 3040-A
Feb. 1978



POSTAGE AND FEE PAID



Curt Clinkscales
C and L Communications
1941 North Woodley Street
Arlington, Virginia 22207

CERTIFIED

SPECIAL DELIVERY

SPECIAL DELIVERY

747027

81040100857

5 1 1 0 4 0 3 0 0 8 5 8



13 white

PS FORM 3871, JAN 67

1. The following information is requested (check one):
☐ Standard Mail
☐ Registered Mail
☐ Registered Mail with Signature Confirmation
☐ Registered Mail with Restricted Delivery
☐ Registered Mail with Return Receipt
☐ Registered Mail with Signature Confirmation and Restricted Delivery
☐ Registered Mail with Signature Confirmation and Return Receipt
☐ Registered Mail with Signature Confirmation and Restricted Delivery and Return Receipt

2. ARTICLE IS ADDRESSED TO: *Enclosed*

3. ARTICLE DESCRIPTION:
 REGISTERED NO. | CERTIFIED NO. | INSURED NO.
 (Always obtain signature of addressee or agent)
 I have received the article described above.
 SIGNATURE | ADDRESS | CARRIER | CARRIER NO.

4. DATE OF DELIVERY | POSTMARK

5. ADDRESS (Complete only if requested)

6. USABLE TO DELIVER BROUGHT
UNCLAIMED
 RETURN TO SENDER

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

MEMO TO: The file *mw*
Date: November 17, 1980
MUR: 1321

The letter mailed to Curt Clinkscales at C&L Communications in Arlington, Virginia, should be remailed to Mr. Clinkscales at the following address:

C&L Communications
101 Park Washington Court
Falls Church, Virginia 22046

81040300859



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 27, 1980

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Curt Clinkscales
C and L Communications
1941 North Woodley Street
Arlington, Virginia 22207

RE: MUR 1321

Dear Mr. Clinkscales:

This letter is to notify you that on October 24, 1980, 1980, the Federal Election Commission received a complaint which alleges that you have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1321. Please refer to this number in all future correspondence.

The Commission has adopted special procedures to expedite compliance matters during the pre-General Election period. A summary of these procedures is enclosed. Where possible, within five days after receipt of a complaint, the Commission will determine whether the complaint should be dismissed prior to receipt of your response to this notice. If the Commission dismisses the complaint, you will be so notified by mailgram followed by an explanatory letter. A copy of the Commission's determination to dismiss the complaint may also be picked up in person by you, or your authorized agent, from our Associate General Counsel, Mr. Kenneth A. Gross.

Under the Act, you have the opportunity to demonstrate, in writing, that no further action should be taken against you in connection with this matter. If the Commission is unable to expeditiously dismiss the complaint as outlined above, it will take no further action until we receive your response or 15 days after your receipt of this notification. If the Commission does not receive a response from you within 15 days after your receipt of this letter, it may take further action based on available information.

Letter to: Curt Clinkscales
Page Two

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

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.

If you have any questions, please contact Maura White, the staff member assigned to this matter at (202) 523-4060.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

Enclosures:

Complaint
Procedures
Envelope

81040300861

RECEIVED

1. The following information is being furnished to the Commission:

☒ Show to whom, date and address of delivery.

☐ RESTRICTED DELIVERY

☐ RESTRICTED DELIVERY

☐ Show to whom, date, and address of delivery.

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Curt Clinkscales
947307

3. ARTICLE DESCRIPTION:

REGISTERED NO. CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE: *Charles N. Steele* Date: 11-19-80

DATE OF DELIVERY: 11-19-80

4. ADDRESS (Complete only if changed)

5. UNABLE TO DELIVER BECAUSE:

NOV 20 1980

PS Form 3811, Jan. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

MW MOL 1321



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 27, 1980

**SPECIAL DELIVERY
RETURN RECEIPT REQUESTED**

**Defeat Durkin Committee
P.O. Box 472
Rindge, New Hampshire 03461**

RE: MUR 1321

Dear Sir or Madam:

This letter is to notify you that on October 24, 1980, 1980, the Federal Election Commission received a complaint which alleges that your Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1321. Please refer to this number in all future correspondence.

The Commission has adopted special procedures to expedite compliance matters during the pre-General Election period. A summary of these procedures is enclosed. Where possible, within five days after receipt of a complaint, the Commission will determine whether the complaint should be dismissed prior to receipt of your response to this notice. If the Commission dismisses the complaint, you will be so notified by mailgram followed by an explanatory letter. A copy of the Commission's determination to dismiss the complaint may also be picked up in person by you, or your authorized agent, from our Associate General Counsel, Mr. Kenneth A. Gross.

Under the Act, you have the opportunity to demonstrate, in writing, that no further action should be taken against your Committee in connection with this matter. If the Commission is unable to expeditiously dismiss the complaint as outlined above, it will take no further action until we receive your response or 15 days after your receipt of this notification. If the Commission does not receive a response from you within 15 days after your receipt of this letter, it may take further action based on available information.

Letter to : Defeat Durkin Committee
Page Two

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

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.

If you have any questions, please contact Maura White, the attorney assigned to this matter at (202) 523-4060.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

Enclosures:

Complaint
Procedures
Envelope

81040300863

1321 White

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1. The following articles are 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 2.

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Defeat Durkin Committee

3. ARTICLE DESCRIPTION:
REGISTERED NO. 449029 INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE Date Date of receipt

4. DATE OF DELIVERY
OCT 29 1:80

5. ADDRESS (Complete only if requested)
JAN 11 1981

6. UNABLE TO DELIVER REASON:
NO SUCH PERSON

7. RETURN TO SENDER

8. RETURN TO ADDRESSEE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 27, 1980

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Robert Monier
New Boston Road
Goffstown, New Hampshire 03045

RE: MUR 1321

Dear Mr. Moniew:

This letter is to notify you that on October 24, 1980, 1980, the Federal Election Commission received a complaint which alleges that you have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1321. Please refer to this number in all future correspondence.

The Commission has adopted special procedures to expedite compliance matters during the pre-General Election period. A summary of these procedures is enclosed. Where possible, within five days after receipt of a complaint, the Commission will determine whether the complaint should be dismissed prior to receipt of your response to this notice. If the Commission dismisses the complaint, you will be so notified by mailgram followed by an explanatory letter. A copy of the Commission's determination to dismiss the complaint may also be picked up in person by you, or your authorized agent, from our Associate General Counsel, Mr. Kenneth A. Gross.

Under the Act, you have the opportunity to demonstrate, in writing, that no further action should be taken against you in connection with this matter. If the Commission is unable to expeditiously dismiss the complaint as outlined above, it will take no further action until we receive your response or 15 days after your receipt of this notification. If the Commission does not receive a response from you within 15 days after your receipt of this letter, it may take further action based on available information.

Letter to : Robert Monier
Page Two

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

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.

If you have any questions, please contact Maura White, the staff member assigned to this matter at (202) 523-4060.

Sincerely,

Charles N. Steele
Charles N. Steele
General Counsel

Enclosures:

Complaint
Procedures
Envelope

1321 White ✓

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.	
1. The following services 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 Show to whom and date delivered..... <input type="checkbox"/> RESTRICTED DELIVERY Show to whom, date, and address of delivery 3.....	
(CONSULT POSTMASTER FOR FEES)	
2. ARTICLE ADDRESSED TO: <i>Robert Monier</i>	
3. ARTICLE DESCRIPTION: REGISTERED NO. <i>80014b</i>	CERTIFIED NO. <i>80014b</i> INSURED NO.
(Always obtain signature of addressee or agent)	
I have received the article described above. SIGNATURE <i>Charles N. Steele</i> DATE OF DELIVERY <i>05/30/1980</i>	
4. ADDRESS <i>1321 White</i> 5. ADDRESS <i>1321 White</i> 6. ADDRESS <i>1321 White</i>	

Form 3811, Jan. 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 27, 1980

**SPECIAL DELIVERY
RETURN RECEIPT REQUESTED**

David Melville
Old Ashburnham Road
Rindge, New Hampshire 03461

RE: MUR 1321

Dear Mr. Melville:

8104030866
This letter is to notify you that on October 24, 1980, 1980, the Federal Election Commission received a complaint which alleges that you have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1321. Please refer to this number in all future correspondence.

The Commission has adopted special procedures to expedite compliance matters during the pre-General Election period. A summary of these procedures is enclosed. Where possible, within five days after receipt of a complaint, the Commission will determine whether the complaint should be dismissed prior to receipt of your response to this notice. If the Commission dismisses the complaint, you will be so notified by mailgram followed by an explanatory letter. A copy of the Commission's determination to dismiss the complaint may also be picked up in person by you, or your authorized agent, from our Associate General Counsel, Mr. Kenneth A. Gross.

Under the Act, you have the opportunity to demonstrate, in writing, that no further action should be taken against you in connection with this matter. If the Commission is unable to expeditiously dismiss the complaint as outlined above, it will take no further action until we receive your response or 15 days after your receipt of this notification. If the Commission does not receive a response from you within 15 days after your receipt of this letter, it may take further action based on available information.

f

81040300867

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.

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.

Sincerely

Enclosures:

Complaint Procedures Envelope

Form 3841, Rev. 1-78

STANDARD: Complete Items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):

☐ Return to whom and date delivered.....

☐ Return 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 3.---

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE REGISTERED FOR: _____

3. ARTICLE DESCRIPTION: _____

REGISTERED NO. _____ CERTIFIED NO. _____ INSURED NO. _____

947026

(Always obtain signature of addressee or agent)

1. I have received the article described above.

SIGNATURE _____ DATE _____

DATE OF DELIVERY _____

2. ADDRESS (Complete only if requested)

3. ADDRESS FOR RETURN OR INSURANCE

CLERK'S OFFICE

OCT 29 1.80

POSTMARK

DATE: 10/29/80

81040300868

1321 white

PS Form 3811 Jan. 1978

● 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:

Barbara Shea

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	050666	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Barbara Shea

4. DATE OF DELIVERY

NOV 9 1980

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

RED

78

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆ GPO : 1978-255-045



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 27, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

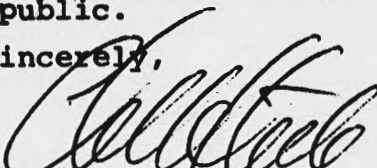
Barbara Shea
Assistant Treasurer
P.O. Box 1016
Manchester, New Hampshire 03105

Dear Ms. Shea:

This letter is to acknowledge receipt of your complaint of October 24, 1980, against David Melville, Robert Monier, Defeat Durkin Committee, and Curt Clinkscales which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within 24 hours 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.

Please be advised that this matter shall remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless the respondent notifies the Commission in writing that they wish the matter to be made public.

Sincerely,


Charles N. Steele
General Counsel

Enclosure

31040300869

To: Docket
Re: MUR 1321

Complainant : Barbara Shea, Assistant Treasurer
Durkin for Senate Committee
P.O. Box 1016
Manchester, N.H. 03105

Respondent : ① David Melville
Old Ashburnham Road
Rindge, N.H. 03461

② Robert Monier
New Boston Rd.
Goffstown, N.H. 03045

③ Defeat Durkin Committee
P.O. Box 472
Rindge, N.H. 03461

④ Curt Clinkscales
Cand L Communications
1941 North Woodley St.
Arlington, VA 22207

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

6007 3099

80 OCT 24 P12:14

Before the
FEDERAL ELECTION COMMISSION
Washington, D.C.

80 OCT 24 P2:02

HAND DELIVERED

Durkin for U.S. Senate
Committee

v.

MUR No. _____

David Melville,
Robert Monier,
Curt Clinkscales,
et. al.

COMPLAINT AND REQUEST FOR EXPEDITED CONSIDERATION

I. Introduction

The Durkin for U.S. Senate Committee has uncovered certain serious violations of the Federal Election Campaign Act of 1971, as amended, which have been -- and will continue to be -- committed in the course of this year's United States Senate election in New Hampshire. The violations in question have led to the expenditure of thousands of dollars of illegal funds to defeat Senator John Durkin, who is currently campaigning for reelection. Immediate, expedited action by the Commission to correct these violations is required, for if the Commission fails to act, the Senate campaign in New Hampshire will be tainted by election law violations of the most serious magnitude.

II. Summary of Allegations

Through this complaint, the Durkin for U.S. Senate Committee seeks immediate action to stop and to remedy ongoing violations of the FECA by respondents David Melville, Robert Monier and Curt Clinkscales. Specifically, these individuals -- and possibly others -- have organized a "political committee" dedicated to the defeat of Senator

81040300871

Durkin in this year's election campaign. This political committee, however, is neither registered nor reporting in violation of Sections 433 & 434 of the Act. 1/

Moreover, this committee has accepted contributions from Mr. Melville well in excess of the lawful limit. Since the committee in question is a "single candidate" committee, which is seeking to influence the defeat of only one candidate, any individual contributing to the committee is limited to \$1,000. See Advisory Opinion 1979-40; Informational letter (Re: AOR 1976-20) dated August 17, 1976. Mr. Melville, however, has already used this committee as a conduit for the expenditure of over \$8,000, and the committee plans call for additional expenditures for a total of \$100,000. This flagrant violation of the law has enabled this committee to run, throughout the state, newspaper advertisements and to plan radio advertisements calling for the defeat of Senator Durkin.

III. Factual Background of the Case

Earlier this month, Mr. Robert Monier, President of the New Hampshire State Senate, called a press conference to announce the formation of the "Defeat Durkin" campaign. In the course of that conference, Mr. Monier conceded all of the essential facts of this case.

Specifically, Mr. Monier announced a cooperative venture on the part of himself, Mr. David Melville, and C & L Communications, Inc. of Falls Church, Virginia, the purpose being to mount a massive drive, funded by Mr. Melville, to defeat Senator Durkin. Mr. Monier's role was to serve as "state coordinator", who would lend his "name, advice, and support" to this anti-Durkin campaign. See Exhibit "A-1", "A-2". C & L Communications, Inc., will serve as media adviser, charged with placing the newspaper and radio advertisements financed by Mr. Melville. See Exhibit "B".

It should be noted that C & L Communications, Inc. is not simply an organization tendering commercial services in the ordinary sense. By the admission of its own President, Mr. Doug Lee, the agency is "very close to the political line", i.e. an organization which mixes professional services with specific political advocacy. See Exhibit "B". Moreover, C & L Communications Treasurer, Mr. Curt Clinkscales, is a well known political activist of the "New Right", who has undertaken an immediate and direct personal role in the activities in New Hampshire. Upon information

1. As of the filing of this complaint, no filings had been made by "Defeat Durkin" or any of the named individuals with the Federal Election Commission, the Secretary of the Senate or the Secretary of State for New Hampshire.

81040300872

and belief, Mr. Clinkscales organized the inaugural press conference attended by Senate President Monier, and all press calls placed to Mr. Melville about this press conference were returned by Mr. Clinkscales.

The least active member of this effort appears to be Mr. Melville, who is making available from personal resources the \$100,000 to be spent by "Defeat Durkin". When this anti-Durkin campaign opened with the first series of newspaper advertisements, Mr. Melville was not even in the country. See Exhibit "B". Moreover, in the only reported interview with Mr. Melville, he exhibited no knowledge of the content of the very advertisements that he was financing, claiming that he had left the management of the effort to the "staff". See Exhibit "C". Thus, although he has provided vast sums of money, the direction and control of "Defeat Durkin" lies with Robert Monier, Curt Clinkscales, and other "staff".

Since the inception of this effort, newspaper advertisements attacking Senator Durkin have appeared in newspapers around the state. Significantly, these advertisements contain a clip-out coupon, which readers are invited to forward to "Defeat Durkin" along with any financial or other offers of assistance. See Exhibits "D-1" & "D-2".

IV. The Law of the Case

It is unclear whether "Defeat Durkin" even considers its efforts to be lawful. At one point, Senate President Monier declared a "loop hole" in the election laws enabled him and his associates to operate in this fashion. As shown below, however, this "loophole" consists simply of blatant violations of the Act by respondents. See Exhibit "E".

A. Failure of This "Political Committee" to Register, Report, or Comply with Any Other Requirements of the FECA

In any event, it is apparent that the joint activity of Mr. Melville, Mr. Monier, C & L Communications, Inc. and Mr. Clinkscales (and possibly others) qualifies this group as a "political committee" which has clear registration, reporting and other obligations under the FECA. See, e.g., Section 433 & 434 of the Act. Section 431(4) (A) defines a "political committee" as:

81040300873

"any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year."

Under any analysis, it is apparent that a political committee has been created through the activities of these "persons". The association has already received contributions aggregating in excess of \$1,000 from Mr. Melville this year. Moreover, coupons accompanying their newspaper advertisements solicit "assistance" from the readers -- an appeal which will certainly be characterized by some portion of the readership as a solicitation of funds. Nor is there anywhere in the public record on this effort a statement by any of these parties that contributions from other individuals or organizations would be unwelcome. Instead, it appears that this "political committee", organized relatively recently, does not wish to trouble with the fundraising difficulties encountered by most other political entities, but instead seeks a "loophole" to take advantage of the virtually unlimited financing available from Mr. Melville.

B. Unlawful Contributions by David Melville to this "Political Committee"

Apart from the failure of this "political committee" to register, report, or otherwise fulfill any of its other obligations under the Act, there remains the additional violation of contributions from Mr. Melville well in excess of the lawful limit. This "political committee", "Defeat Durkin", is a single candidate committee. As such, it is limited to \$1,000 in contributions from any one individual, including Mr. Melville. See Informational letter of August 1976, cited supra. Yet, as stated previously, Mr. Melville has already contributed more than \$8,000 and expects to contribute a total of at least \$100,000. The violation of FECA limitations involved here could not be more egregious.

V. Conclusion

For all of the foregoing reasons, there has been uncovered in New Hampshire a violation of the FECA which requires urgent and immediate Commission attention. The financial support tendered by individuals and committees to the Durkin campaign, all of it within the lawful limits, is

81040300874

currently being overwhelmed by the vast illegal sums expended by the respondents. The "loophole" they claim to have discovered must be immediately closed, so that the election in New Hampshire can proceed to be settled on the basis of a fair public evaluation of the merits of the competing candidates -- not on the basis of distorted spending by opponents of one candidate in violation of Federal law.

Barbara F. Shea

Barbara F. Shea, Assistant Treasurer
Durkin For U.S. Senate Committee
P.O. Box 1016
Manchester, NH 03105

THE STATE OF NEW HAMPSHIRE

COUNTY OF HILLSBOROUGH, SS.

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 23rd DAY OF OCTOBER, 1980.

James M. Connelly
Notary Public, James M. Connelly

My commission expires in 1983

81040300875



Monier answers questions after announcing Defeat Durkin campaign.

AP/Tim Seward

Drive To Defeat Him ^{Monitor} Doesn't Worry Durkin ^{10/7}

By MIKE RECHT
Associated Press Writer

Sen. John Durkin thinks the formation of a Defeat Durkin advertising campaign is going to backfire, and wonders if it is even legal.

"I don't think the people of New Hampshire are going to be swayed by an out-of-state campaign to smear my record," the Democratic senator said.

"It's all part of the same cesspool, and all interconnected. It's all the far-right. They're going to dump thousands of dollars into New Hampshire to try to capture the Senate seat."

Robert Monier, the Republican state Senate president, yesterday said contributions to the Defeat Durkin campaign may reach \$100,000. The money, he said, is being contributed by David Melville, a real estate developer who has lived in Rindge about two years.

Monier said Melville asked him to organize the movement and to lend his name, support and advice. "He talked to me and I agree with him."

Monier said the campaign will include radio and newspaper ads to begin appearing in the state today. He said they will focus on Durkin's voting record in the Senate, particularly on tax issues, and where the Democratic senator gets his campaign contributions.

Melville is involved in a real estate development in the Bahamas, Monier said. He said Melville has not limited himself to

political bankrolling, but has been active in church work and contributed money to a youth camp.

Melville purchased a number of newspaper ads asking voters in the Sept. 9 primary to defeat Durkin, who won the primary against little opposition.

Monier said Warren Rudman, the Republican candidate opposing Durkin, has not been consulted in the program, and that he knew of no other individuals in New Hampshire involved in the Defeat Durkin campaign.

Election laws allow only individuals, not political action committees, to spend unlimited money to defeat a candidate.

"Under federal election laws, I can have nothing to do with this group," Rudman said when told of the campaign. "I have not. I'm not aware where the money is coming from or who the people are."

"I'm going to run my own campaign. If anyone else wishes to address any of John Durkin's shortcomings, there are enough issues for people to address."

Melville also has contributed to the New England Conservative Political Action Committee, whose honorary chairman is Sen. Gordon Humphrey, R-N.H.

Durkin questioned whether the movement is an individual effort with independent expenditures, "or are they coordinating with other committees and organizations" contrary to election laws.

"I am aware NECPAC has done some things in other states," Monier said. "This is not directly connected with those at all."

STATEMENT BY SENATOR ROBERT MONIER
Monday, October 6, 1980
The State House, Concord, NH

Ladies and Gentlemen:

This news conference was called to announce the formation of DEFEAT DURKIN, a concerted effort to expose the real record of John Durkin in the United States Senate.

I have agreed to serve as State Coordinator for DEFEAT DURKIN, a post that makes me the spokesman and director of the New Hampshire drive.

There is one very simple reason for DEFEAT DURKIN. John Durkin's votes in the U.S. Senate have been out of step with New Hampshire citizens since he first went to Washington back in 1975.

The citizens of our state need to know how their elected officials carry out their wishes after their election, and we are going to tell them.

DEFEAT DURKIN will point out how Mr. Durkin has failed to represent the views and values of New Hampshire people in his votes as our Senator on issues of critical importance to the citizens of the Granite State.

Further, we shall show the very close record of Mr. Durkin's voting with the positions of Jimmy Carter, a man from whom Mr. Durkin seems to want to distance himself. In the first three years of the Carter presidency, John Durkin voted in agreement with Carter's disastrous policies an unusually high 73% of the time.

We have already illustrated how this can be effectively done as DEFEAT DURKIN began informally in August with statewide newspaper ads on the tax issue, and repeated them in mid-September.

With a record as liberal as John Durkin's, there are many areas from which to select to show how far out of line Mr. Durkin's votes are

from the thinking of our people in New Hampshire.

The next ad will appear in tomorrow's (Tuesday, October 7th) daily, and in this week's weekly, newspapers.

As DEFEAT DURKIN State Coordinator, I plan to conduct news conferences and to issue news releases to inform voters of Mr. Durkin's record which may not be otherwise addressed.

An example of this is John Durkin's latest vote in the U.S. Senate against a tax cut for New Hampshire taxpayers. In spite of his claim to favor tax cuts, John Durkin voted again on September 25th not to allow our taxes to be cut. That was at least the sixth time this year alone that Mr. Durkin voted to deny us much needed tax relief, but it was the first time since DEFEAT DURKIN exposed his two-faced position on taxes.

It is my personal belief that DEFEAT DURKIN will conclusively demonstrate that John Durkin has failed to represent the people of New Hampshire, and will help voters to determine that to be effectively represented in Washington, they'll have to defeat John Durkin on November 4th.

Mystery Man's Money Works Against Durkin

By JANE HARRIGAN
Associated Press Writer

Who is David B. Melville and why is he spending thousands of dollars urging New Hampshire voters to defeat Sen. John Durkin?

Melville hasn't been on his farm in Rindge this week to answer that question.

The ads began appearing in newspapers around the state this week. Their theme: "The Two Faces of John Durkin."

Melville's advertising manager, Doug Lee, says Melville may be vacationing on his private island in the Caribbean.

Lee, the president of C&L Communications in Virginia, also says Melville is performing a public service by paying for the ads.

Durkin disagrees. He calls the ads evidence that "it's going to be a nasty, dirty campaign."

Melville's name appears in tiny print at the bottom of the ads, and local knowledge of the man appears to be equally small.

A woman in the Rindge town office says she thinks Melville has lived on his farm for about a year and a half and seems to be retired.

Melville's lawyer, Aubrey Jones of Weston, Mass., describes his client as a man in his mid-50s, "basically an investor and philanthropist." Jones says he knows of no political office Melville has held, but says Melville is interested in politics.

If spending is a measure of political interest, Melville is very interested. According to reports filed with the New Hampshire secretary of state, he contributed \$5,000 in February to the New England Conservative Political Action Committee.

The contribution was the largest single one received this year by the conservative group, whose honorary chairman is Sen. Gordon Humphrey. On the form, Melville listed his occupation as investor and his employer's address as a post office box in Weston.

Also in February, before New Hampshire's presidential primary, Melville paid for a series of advertisements citing George Bush's record and warning the public not to be "Bushwacked."

C&L Communications placed those ads, and Lee says Melville spent "at least \$2,500" on that campaign.

Melville later returned to C&L with his ideas about Durkin. Lee said the "Two Faces" ad ran this week in virtually every paper in New Hampshire and cost Melville \$8,000.

(See MELVILLE — Page 12)

EXHIBIT "B"

Concord Monitor 10/29/80

MELVILLE

(Continued From Page 1)

Melville's proposed contract with the agency includes two more newspaper ads, Lee says, and possibly a radio and television campaign.

"According to David, we will be going forward," Lee says. "This is just the first in a series."

Lee says a New Hampshire man's association with an advertising agency in Falls Church, Va., is not as strange as it might seem. He says Melville knew C&L was "very close to the political line" and specialized in political advertising by groups affiliated with no campaign.

Independence is the key in so-called "negative advertising." Federal regulations limit political action committee contributions to particular candidates, but do not limit spending by independent, unaffiliated groups.

Durkin says the recent proliferation of negative ads "raises some very serious legal questions about what constitutes an independent expenditure."

"These negative groups let the candidate take the high road. He talks about the effect of Japanese beetles on photovoltaic cells while they do the mudslinging. They use the money to do a hatchet job, a smear campaign on the incumbent."

Lee sees it differently: "There's a difference between a smear campaign and using an incumbent's voting record. If we said Durkin was a massive womanizer, that would be a smear."

"But if someone is portraying himself one way and the actual facts show another, we're actually doing a public service by pointing that out."

The newspaper ad focuses on Durkin's record on taxes, saying the Democratic senator has pledged to fight for lower taxes but has voted against several tax cuts. A coupon at the bottom asks readers to "assist in this effort" to defeat Durkin.

Durkin says the ad doesn't bother him as much as the idea of political fund-raising by independent groups.

"Nobody reads those things anyway unless they're stuck in the laundromat and get sick of looking at the machines," he said.

Lee acknowledges there is "a certain stigma that goes with accentuating the negative." Even people who don't agree with an incumbent, he says, sometimes object to spending money to criticize him rather than supporting an alternative.

Lee and Durkin do agree on one point: New Hampshire is going to see more and more negative political advertising.

Durkin says independent groups nationwide have raised \$55 million, which he calls a staggering figure, adding: "I have no doubt I'll be outspent 3-1."

Says Lee: "This is only the beginning."

81040300879

Nashua Telegraph

A portrait look at one man's crusade



A mysterious financier, with untold wealth, sifts tens of thousands into a personal campaign to remove a United States Senator.

The man, David Melville of Rindge, we conclude, must be a dominating, vindictive money magnate, who has finally found a cause only his powerful influence can carry.

A man whose potential strength, for changing the course of New Hampshire politics can finally be realized.

Not even close.

Even a cursory conversation with Melville, when you can find him in the Granite State, reveals a very soft-spoken, political naïf who just got angry at one politician.

If Sen. John Durkin hadn't decided to tell citizens in an April, 1980 newsletter, how he fought taxes while in office, he might not be facing Melville's wrath, and more importantly, his cash.

"It was that April newsletter I got in the mail, the one in which he told everybody how he was working hard to fight taxes. That got me angry, it shook me up," Melville, 55, told the *Telegraph*.

At the time, Durkin's Republican opponent, Warren Rudman, called the mailing "blatantly political" and challenged the use of congressional funds for the newsletter.

Durkin had received the okay from the Senate Ethics Committee before sending it out, however.

Melville, of course, isn't your ordinary American, insulted by a political sales pitch and feeling frustrated to act.

He's a very successful real estate developer, now working on a multi-million dollar scuba diving resort in the Bahamas.

So a business contact to C and S Advertising, a Church Falls, Va., political con-

sultant, and some staff research there produced, "The Two Faces of John Durkin."

The brief but expensive ad campaign depicted charges of a Durkin public statement and voting record discrepancy on five tax issues.

Now, Melville, with the Nov. 4 election fast approaching, has made the quantum leap to the major leagues of New Hampshire politics. Enlisting the hearty support of Senate President Robert Monier, an official campaign, "Defeat Durkin" was born.

Monier was reported as saying they could throw \$100,000 at Durkin opposition, Melville amending that to closer to \$30,000. "I can't allow it to top \$50,000," he said.

Despite his wealth ("Yes, I have made a million dollars in my life") and recent publicity, confessions of Melville confirm that any future for him as a political heavyweight needs polish.

Among the rough spots:

— He couldn't recall the issues targeted in the "Two Faces" ads, saying "I knew a few of his votes and had the staff uncover more";

— Melville has never met Durkin, and says he's associated with no one who has had numerous dealings with him. "I know nothing about the man," he concedes;

— Though he's constrained, as an individual financier, from stumping for Rudman, he's never met him either and isn't a student of his career. "I'm not the least bit familiar with his politics," Melville says;

— Working in Bermuda at primary time, he said his knowledge about the congressional race in his district is even more lacking. "I don't even know who's running in the One's supposed should, shouldn't?"

Melville is a New York state native, who

came to Rindge three years ago, purchasing several hundred rural acres where sheep and other farm animals now graze.

His pursuit of a politician isn't without precedent for him; he coined the phrase, "Don't Get Bushwacked," in a series of ads pushing for George Bush's presidential primary defeat.

"If Durkin's voting record was an open book, I don't think he would vote as he does," Melville said, levelling the blame on the media for its lack of pointed coverage.

Insisting his function is only to "tell the truth about Durkin," Melville says he has nothing to gain or lose from his effort.

"This certainly could help him, I'm aware of that," Melville said, conscious that Durkin is giving the impression of a "picked-on politician" and he could cash in on that image.

"But I'm not on a vendetta. If he gets re-elected, all the power to him."

If that happens, Melville will go back solely to the business of promoting a financial commodity, not discrediting a political one.

A man with a quiet demeanor, Melville's only outburst during the interview came when his crusade was labelled a movement.

"A movement usually means a lot of different people getting together. This is me, me alone.

"It's my money and all I have is a two-man outfit doing research for me."

A single, less than supremely informed, but wealthy man.

Oh, if we could be sure this would merit the zero credence it so richly deserves, for the sake of both candidates.

Kevin Landrigan
is a *Telegraph* staff writer.

The Two Faces of John Durkin

"I AM FIGHTING HARD IN THE SENATE TO CUT FEDERAL INCOME TAXES FOR NEW HAMPSHIRE'S OVERBURDENED TAXPAYERS."

John Durkin Newsletter dated April, 1980



The New Hampshire Face

Shall Taxes Be Cut?



The Washington Face

John Durkin TALKS one way in New Hampshire, but VOTES another way in Washington D.C.

The tax issue is a vivid example of Mr. Durkin's two-faced record.

TAXES have skyrocketed to an all time high, and on January 1, 1981, we'll suffer a brand new hike in our payroll taxes.

John Durkin is one of the big-

gest reasons your taxes are so high today. When your tax bite jumps again in January, THANK JOHN DURKIN!

John Durkin, of course, doesn't want you to know the truth about his big taxing, big spending, big government voting record.

To cover his record, he went so far as to put out (at taxpayer

expense) a "newsletter" to try to fool New Hampshire citizens into believing he opposes high taxes!

This "Special Report/legislation to cut taxes" dated April, 1980 claimed a host of tax cuts for the Senator, most of which were proposals Mr. Durkin knows will never come to a vote.

He claimed to support cutting our federal income taxes.

WHAT A WHOPPER!!!

John Durkin has already voted at least 5 times this year to KILL TAX CUTS!

March 25, 1980 - DURKIN VOTED TO KILL cut in Social Security payroll tax hike.

May 6, 1980 - DURKIN VOTED TO KILL \$30 BILLION tax cut.

May 8, 1980 - DURKIN VOTED TO KILL \$7.3 BILLION tax cut.

June 26, 1980 - DURKIN VOTED TO KILL 10% Individual Income tax cut.

June 26, 1980 - DURKIN VOTED TO KILL measures to index income tax brackets which would cut tax increases resulting from inflation.

Not only did John Durkin vote against tax cuts for you while claiming to be "fighting hard in the Senate to cut federal income

taxes," he voted for increased federal spending at almost every possible opportunity!

Mr. Durkin's taxpayer-funded

self-promotion also claimed that he is "opposed to tax hike in Social Security payroll tax."

ANOTHER WHOPPER!!!

On December 15, 1977, John Durkin voted to RAISE YOUR PAYROLL TAXES BY \$227 BILLION, the massive tax hikes which he now wants you to believe he opposes!

Which face do you believe? John Durkin's re-election campaign oratory in New Hampshire, or his VOTING RECORD in Washington, D.C.?

If freedom is to be preserved, men like John Durkin who engage in political double talk for votes must be defeated. The future of our nation is very much at stake.

This message is brought to you by Defeat Durkin because you should have the facts when you select your next U.S. Senator.

If you would like to assist in this effort, please complete this coupon.

Defeat Durkin P.O. Box 472 Rindge, NH 03461

I agree that John Durkin's two-faced record must be exposed.

() I'll help Defeat Durkin.

Name: _____ Occupation: _____

Firm: _____

Home Address: _____

City: State: Zip: _____

Paid for by David B. Hovell and not authorized by any candidate or candidate's committee

Concord Monitor 9/15/80

JOHN D. VS. YOUR CHILDREN



If you are a parent or grandparent concerned about the quality of education your child or grandchild is receiving, and about his or her future as a good citizen, John Durkin's voting record in the U.S. Senate will interest you:

JOHN DURKIN VOTES FOR FORCED SCHOOL BUSING

John Durkin has repeatedly voted against efforts to stop the forced busing of school children. Two such **ANTI-CHILD** votes were cast on 8/28/78 and 6/7/79.

JOHN DURKIN VOTES AGAINST VOLUNTARY SCHOOL PRAYER

John Durkin voted on 4/5/79 against prohibiting federal courts from interfering with voluntary prayer in schools. **ANOTHER ANTI-CHILD VOTE.**

JOHN DURKIN VOTES FOR QUOTAS

Quotas are discrimination in its worst form. They require certain racial, sex or other group ratios in admittance, hiring and promotions regardless of merit or qualification. John Durkin voted for such unfair quotas on both 4/30/79 and 6/7/79. These votes were **AGAINST YOUR CHILDREN AND YOU!**

JOHN DURKIN VOTES AGAINST PRIVATE SCHOOLS

John Durkin voted on 9/9/79 against prohibiting the Internal Revenue Service from revoking tax-exemptions of private schools, mostly church schools, which don't comply with IRS hiring and admissions quotas. This vote was **ANTI-CHILD AND ANTI-PARENT!**

JOHN DURKIN VOTES AGAINST PARENTAL CONSENT ON SEX EDUCATION

John Durkin voted on 4/30/79 against requiring parental notification and consent before their child could participate in public school sex education courses. This was clearly an **ANTI-PARENT VOTE!**

U.S. Senators are elected to 6 year terms, and in 1980 New Hampshire voters will determine whether or not John Durkin will go back to Washington for 6 more years.

John Durkin has been casting **ANTI-CHILD, ANTI-PARENT AND ANTI-FAMILY VOTES** in Washington for more than 5 years. He is part of Washington's liberal majority, and his votes prove it!

The votes listed above show how John Durkin has "represented" you in the U.S. Senate. If you don't approve of Mr. Durkin's record in Washington, you can retire him on November 4, 1980. But remember to

vote because this will be your **LAST CHANCE** for the next **SIX YEARS** to **DEFEAT DURKIN.**

DEFEAT DURKIN - Write, call, or fax your legislator to tell him or her to vote against Durkin's record. We need your help to defeat Durkin.

DEFEAT DURKIN, Suite 7, 63 N. State St., Concord, N.H. 03301
(603) 224-1957

I agree that John Durkin's **ANTI-CHILD, ANTI-PARENT, AND ANTI-FAMILY** voting record must be exposed. I will help **DEFEAT DURKIN.**

Name _____
Home Address _____
City, State and Zip _____

Berlin Reporter

10/15

81040300882

UL 10/7
**Campaign Begun
To Defeat Durkin**

By DONN TIBBETTS
State House Bureau Chief
CONCORD — State Senate President Robert Monier says he is the state coordinator of a \$100,000 Defeat Durkin drive being financed by Rindge "philanthropist, developer and a supporter of conservative causes." David Melville.

Monier (R-Goffstown) says the "media campaign" will utilize radio and newspaper ads designed "to expose the real record" of Democratic U.S. Sen. John Durkin "to show how far out of line Durkin's votes are from the thinking of our people in New Hampshire."

Sen. Monier told a news conference yesterday that Durkin "voted in agreement with Carter's disastrous policies an unus-

ually high 73 percent of the time," although Durkin "seemingly tried to publicly disassociate himself from the President." Monier charged Durkin "voted six times this year "to deny us much needed tax relief."

Monier asserted that Durkin has "an AFL-CIO Cope rating — the union bosses' scoreboard — that tells us Durkin has voted the straight union position 89 percent of the time he has been in the senate."

"No wonder they have contributed a total of over \$57,500 to him through the primary," declared Monier.

Monier says Melville is financing the Defeat Durkin campaign "because he is very disappointed in Durkin's voting record and
CAMPAIGN Page 18

CAMPAIGN

(Continued from Page One)

wants to present the facts to the voters." It is being done "under the independent expenditures ruling of the Supreme Court." He said C and L, Inc. of Falls Church, Va., is the ad agency, which "has been associated with conservative activity." He said Melville, under the independent expenditures law "will be filing a quarterly report with the FEC Oct. 10."

The Senate President said he recently met with Melville prior to Melville's departure for the Bahamas "where he is building a development."

Monier said there is "nothing any more unusual about this program than the unions helping Durkin."

"Gov. Gallen has gotten very much involved in the Presidential campaign so I'm happy to join him by getting involved in the attempt to defeat Durkin," said

Monier. He said Republican U.S. Senate nominee Warren Rudman was "not contacted and not involved in this effort."

"I didn't set up the election reform laws that went in during 1974. I think they have a lot of loopholes. To be very blunt, I find nothing different in what I am doing that what happens with the Democrats when they interlocked a whole series of things and interfere in campaigns from President to state senate and house."

"I kind of like the technique that Gallen has seemed to develop and I'm going to start using it myself," asserted Monier.

"I don't intend to let any ads out that are not viable or backed up by data," declared Monier. Asked if the intent was to get Durkin to respond, Monier replied, "No, my intention is to beat him, period."

81040300883

Durkin for U.S. Senate Committee
P.O. Box 1016
Manchester, New Hampshire 03105

8 1 0 4 0 3 0 0 8 8 4

RECEIVED

80 OCT 24 PM 12:14

HAND DELIVERED

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

HAND DELIVERED



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20543

THIS IS THE BEGINNING OF MUR # 1321

Date Filmed 10/22/81 Camera No. --- 2

Cameraman BPC

81040300885