

July 29, 1976

Honorable Paul Laxalt  
Chairman  
Citizens for Reagan  
1835 K Street, N. W.  
Washington, D. C. 20006

Re: MUR 172 (76)

Dear Senator Laxalt:

I am forwarding the enclosed complaint pursuant to Section 437g(a)(2) of the Federal Election Campaign Act for your information. As shown by the attached copy of my letter to complainant, the Commission does not intend to investigate the matter any further.

Sincerely yours,

William Oldaker  
Assistant General Counsel

Enclosure

FEDERAL ELECTION COMMISSION  
**OFFICIAL FILE COPY**  
OFFICE OF GENERAL COUNSEL

GSulton:mpc:7/29/76

7704001166

July 29, 1976

Honorable Ray Blanton  
Governor  
State of Tennessee  
State Capitol  
Nashville, Tennessee

Re: MUR 172 (76)

FEDERAL ELECTION COMMISSION  
**OFFICIAL FILE COPY**  
OFFICE OF GENERAL COUNSEL

Dear Governor Blanton:

77040031167

This letter is to acknowledge receipt of your complaint dated June 14, 1976, alleging certain violations of the Federal Election Campaign Act of 1971, as amended (the Act) by Citizens for Reagan. The staff has reviewed your allegations and has concluded that the Commission may not have authority over the matters as set forth in your complaint. It has not yet been resolved whether §441h applies to this type of situation, that is, misquotation of another candidate's words, or only to fraudulent misrepresentation of authority to act on behalf of another candidate. However, even if Section 441h does apply to the present matter, it does not appear from the information in your letter that you have furnished an instance of fraudulent misrepresentation, within the meaning of the strict standards laid down by applicable case law. Vannasco v. Schwartz, 401 F. Supp. 87, 92 (E.D. Ark., 1975), judgment aff'd, 56 S. Ct. 763 (1976), citing, inter alia, N.Y. Times v. Sullivan, 376 U.S. 254 (1964). Accordingly, the Commission has decided not to proceed further in this matter. This, of course, does not preclude any other civil action against Citizens for Reagan which may be available to you.

Should additional information come to your attention which you believe establishes an apparent violation of the Act, please contact me. The attorney assigned to this matter was Gloria R. Sulton (telephone no. 202/382-4041). The file reference number is MUR 172.

Sincerely yours,

William Oldaker  
Assistant General Counsel

GSulton:mpc:7/29/76

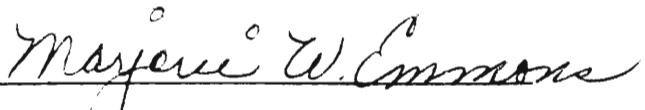
BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of            )  
Citizens for Reagan        )  
                                  )

MUR 172 (76)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on July 27, 1976, the Commission determined by a vote of 5-1 to close the file in the above-captioned matter. Voting to close were Commissioners Aikens, Harris, Springer, Staebler, and Thomson; voting against was Commissioner Tiernan. Accordingly, the file in this matter has now been closed.

  
Marjorie W. Emmons  
Secretary to the Commission

FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL

7704071161

JUL 27 1976

MEMORANDUM TO: File

FROM: D. R. Spiegel *DAS*

Re: MUR 172 (76)

At its meeting on July 27, 1972 the Commission, by a 5-1 vote, approved the recommendation in the 48 Hour Report stating that the file herein should be closed. The Commission rejected the recommendation of the alternative 48 Hour Report, stating that there should be a preliminary inquiry.

770410:115  
FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL

DATE AND TIME OF TRANSMITTAL: \_\_\_\_\_

NO. MUR 172

REC'D: 6/17/76

FEDERAL ELECTION COMMISSION  
Washington, D. C.

Complainant's Name: Governor Ray Blanton (Tennessee)

Respondent's Name: Citizens for Reagan/Senator Paul Laxalt, Chairman

Relevant Statute: 2 U.S.C. Section 441h

Internal Reports Checked: None

Federal Agencies Checked: None

FEDERAL ELECTION COMMISSION  
**OFFICIAL FILE COPY**  
OFFICE OF GENERAL COUNSEL

SUMMARY OF ALLEGATION

That respondent quoted Governor Blanton out of context in a political announcement; that this constitutes a fraudulent misrepresentation of the Governor's remarks which damaged the Democratic Party of Tennessee.

PRELIMINARY LEGAL ANALYSIS

(1) It is unclear whether Section 441h applies only to fraudulent misrepresentation of authority to act on behalf of another candidate or political party, or to all misrepresentations of another candidate's or party's position. Since Citizens for Reagan properly identified itself in this matter and then allegedly misrepresented remarks made by Governor Blanton, the Commission would have jurisdiction only if the broader (latter) construction were adopted.

(see continuation sheet)

RECOMMENDATION

Close file. Send attached letter.

Date of Next Commission Review: \_\_\_\_\_

## PRELIMINARY LEGAL ANALYSIS

FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL

However, the legislative history of 18 U.S.C. Section 617 (the predecessor to Section 441h) suggests that the more narrow (former) construction may have been intended.

Cong. Rec. April 11, 1974, S. 5845.

If this is the case, then the Commission would not have jurisdiction over this matter.

(2) Even if the Commission does have jurisdiction over this matter, the finding of a violation under the facts, as presently alleged, would raise a serious First Amendment problem.

Under Vanasco v. Schwartz, 401 F. Supp. 87, 92 (E.D.N.Y., 1975), three judge court, affd. 96 Sup. Ct. 763 (1976), the Standard for fraudulent misrepresentation would be the "actual malice" test of New York Times v. Sullivan, 376 U.S. 254, 84 S. Ct. 710, 11 L.Ed.2d 686 (1964). In Vanasco, supra at 97, the Court said " . . . the term 'misrepresentation' could be applied to almost all campaign speech." Interpretations of the actual malice test have read it as requiring "clear and convincing proof that the defamatory falsehood was made with knowledge of a falsity or reckless disregard for the truth," Gertz v. Robert Welch, Inc., 418 U.S. 323, 342, 94 S. Ct. 2997, 1 L.Ed.2d 789 (1974); and "recklessness must be measured not on a reasonable man basis but on whether the defendant had serious doubt as to the truth of his statements." St. Amant v. Thompson, 390 U.S. 727, 730-31, 88 S. Ct. 1323, 20 L.Ed.2d 262 (1968).

770400:1171

CONTINUATION SHEET

7704000117  
The evidence is insufficient to establish that this misquotation of Governor Blanton was fraudulent misrepresentation under Vanasco. Although Governor Blanton's words may have been used out of context, there is nothing to suggest that the intention was to harm Governor Blanton, but rather that its intent was to aid Governor Reagan's candidacy.

FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL



DATE AND TIME OF TRANSMITTAL: \_\_\_\_\_

NO. MUR 172 (76)

REC'D: 6-17-76

FEDERAL ELECTION COMMISSION  
Washington, D. C.

Complainant's Name: Governor Ray Blanton (Tennessee)

Respondent's Name: Citizens for Reagan/Senator Paul Laxalt, Chairman

Relevant Statute: 2 U.S.C. Section 441h

Internal Reports Checked: None

Federal Agencies Checked: None

FEDERAL ELECTION COMMISSION  
**OFFICIAL FILE COPY**  
OFFICE OF GENERAL COUNSEL

SUMMARY OF ALLEGATION

That respondent quoted Governor Blanton out of context in a political announcement; that this constitutes a fraudulent misrepresentation of the Governor's remarks which damaged the Democratic Party of Tennessee.

PRELIMINARY LEGAL ANALYSIS

It is unclear whether Section 441h applies only to fraudulent misrepresentation of authority to act on behalf of another candidate or political party, or to all misrepresentations of another candidate's or party's position. The statute, on its face, is subject to the latter and broader interpretation, which, if accepted, would require further inquiry of a factual nature. The burden of proof is clear and convincing evidence.

(see continuation sheet)

RECOMMENDATION

Conduct preliminary inquiry. Send attached letters.

Date of Next Commission Review: \_\_\_\_\_



CONTINUATION SHEET

This matter raises First Amendment issues and requires that the standard of New York Times v. Sullivan, 376 U.S. 254, 84 S. Ct. 710 (1964) be applied, i.e. knowledge of a falsity or reckless disregard for the truth.

FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL

77040021174



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Senator Paul Laxalt  
Chairman  
Citizens for Reagan  
1835 K Street, N.W.  
Washington, D.C. 20006

Re: MUR 172 (76)

FEDERAL ELECTION COMMISSION  
**OFFICIAL FILE COPY**  
OFFICE OF GENERAL COUNSEL

Dear Senator Laxalt:

This is to advise you that the Federal Election Commission has received a complaint against Citizens for Reagan which has been numbered MUR 172 (76). A copy of the complaint is enclosed. The Commission has made no determination that the matters alleged set forth a violation of the Federal Election Campaign Act of 1971, as amended (the Act).

The Commission has authorized a preliminary inquiry into this matter to determine if there is reason to believe a violation of the Act has occurred. Toward this end, I invite you to submit any factual or legal matters which you believe are relevant to the Commission's analysis. The Commission must consider such matters expeditiously; accordingly, please submit your response within ten days after receipt of this letter.

This matter will remain confidential unless you indicate in writing to the Commission that you wish it to be made public. If you have any questions, please do not hesitate to contact my office, the attorney assigned to this case is Gloria R. Sulton (telephone no. 202/382-4041).

Sincerely yours,

John G. Murphy, Jr.  
General Counsel

Enclosure



77040021175



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Honorable Ray Blanton  
Governor  
State of Tennessee  
State Capitol  
Nashville, Tennessee

Re: MUR 172 (76)

FEDERAL ELECTION COMMISSION  
**OFFICIAL FILE COPY**  
OFFICE OF GENERAL COUNSEL

Dear Governor Blanton:

This letter acknowledges receipt of your complaint dated June 14, 1976, alleging certain violations of the Federal Election Campaign Act of 1971, as amended (the Act) by Citizens for Reagan. We have numbered your complaint as MUR 172 (76); please refer to this number in any correspondence.

The Commission has authorized a preliminary inquiry into your allegations to determine if there is reason to believe a violation of the Act has occurred. If you have any other material to submit which may be relevant to your inquiry, please submit it within five days after receipt of this letter. The Commission is under a duty to consider these matters expeditiously.

If you have any questions, please do not hesitate to contact my office, the attorney assigned to this case is Gloria R. Sulton (telephone no. 202/382-4041).

Sincerely yours,

John G. Murphy, Jr.  
General Counsel



77040021176



B.U. FBI

172

File

The Atlanta Journal  
"COVERS DIXIE LIKE THE DEW"  
C. 253,721

JUN 3 4 1976



**BLANTON FILES  
ELECTION GRIPE**

Nashville — Unauthorized use of his voice in radio advertisements for Ronald Reagan has prompted Gov. Ray Blanton (in photo) to file a complaint with the Federal Election Commission. The complaint charges that campaign strategists for the California republican wrongly used a tape of Blanton's voice in Regan political advertisements on the eve of Tennessee's May 25 presidential primary.

FEDERAL ELECTION COMMISSION  
**OFFICIAL FILE COPY**  
OFFICE OF GENERAL COUNSEL

77047

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL

COMPLIANCE DIVISION

RAY BLANTON, GOVERNOR,  
STATE OF TENNESSEE,

Complainant

VS.

CITIZENS FOR REAGAN,  
SENATOR PAUL LAXALT,  
Chairman,

Defendants.

RESPONSE  
CONTROL # 76-564

NO. \_\_\_\_\_

COMPLAINT

FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL

Now comes the Complainant, Ray Blanton, Governor of the State of Tennessee, State Capitol, Nashville, Tennessee, 615-741-3621, and would state as follows:

STATEMENT OF FACTS

Governor Ray Blanton gave a speech in Crossville, Tennessee, on April 26, 1976, the contents of which are as set out below:

"I had a thought the other day as I was going to Memphis that it might be a good idea to teach these people that are preaching against party registration, which are Republicans, for us to go into their primary on May 25th and vote for Reagan. You know they've been doing it to us a long time and we could do it to them now or vote for whoever runs against Bill Brock. I'm not going to do that because I'm proud of the fact that we're all Democrats, and I'm proud of the fact that we tend to our business, and we'll tend to theirs in November."

On May 24th, Citizens for Reagan ran radio spots, the contents of which are as follows:

The following is a paid political announcement.

"I had a thought the other day as I was going to Memphis that it might be a good idea to teach these people that are preaching against party registration, which are Republicans, for us to go into their primary on May 25th and vote for Reagan."

770400:1173

That was Governor Ray Blanton. Now, here is Ronald Reagan.

"I believe that maybe it's time for people from outside of Washington who are not a part of a family there to go in, who are not bound by old friendships and old ties and who can go to work to reverse this course to set us on a right course. I'd like very much to have your help in doing it."

Paid for by Citizens for Reagan; Senator Paul Laxalt, Chairman.

#### ALLEGATIONS

77-1411-111  
The Complainant would allege that the facts outlined above are in violation of Section 327 of the Federal Election Campaign Act Amendments of 1976 which provides that no person who is a candidate for federal office or an employee or agent of such candidate is (1) fraudulently misrepresenting himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or (2) willfully and knowingly participate in or conspire to participate in any plan, scheme or design to violate Paragraph 1. It is clear that Governor Blanton, although not a candidate in this election year, is an agent of a political party and symbolizes the Democratic Party in Tennessee.

Accordingly, the fraudulent misrepresentation of Governor Blanton's position by the Republican radio spots for Ronald Reagan does damage both the Tennessee Democratic Party and Governor Blanton as an agent of the Tennessee Democratic Party in several ways. (1) The fraudulent misrepresentation by the Republicans may and does lead the average citizen to believe that Governor Blanton and the Tennessee Democratic Party favors cross-over voting; (2) the fraudulent misrepresentation by the Republicans may and does lead the average citizen to believe that Governor Blanton and the Tennessee Democratic Party are encouraging a vote for Ronald Reagan as opposed to President Ford.

FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL

CONCLUSION

Complainant prays that the Federal Election Commission conduct a thorough investigation of this situation and Complainant further prays that he be awarded appropriate relief for damages inflicted as provided by Section 329(a) of the Federal Election Commission Act Amendments of 1976. Attached to this complaint is a tape recording of Governor Blanton's speech and of the Ronald Reagan radio spot and a transcript thereof.

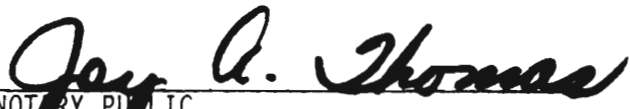
  
RAY BLANTON, GOVERNOR

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

After first being duly sworn, Ray Blanton, Governor of the State of Tennessee, the complainant in the foregoing complaint, makes oath in due form of law and states that the facts outlined in the foregoing complaint are true to the best of his knowledge, information and belief.

Witness my hand and official seal at office in Nashville, Tennessee, this 14<sup>th</sup> day of June, 1976.

  
NOTARY PUBLIC

My Commission Expires:

5/2/79

FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL



GOVERNOR BLANTON'S SPEECH AT CROSSVILLE RALLY:

One of them was party registration. I had a thought the other day as I was going to Memphis that it might be a good idea to teach these people that are preaching against party registration, which are Republicans, for us to go into their primary on May 25th and vote for Reagan. You know they've been doing it to us a long time and we could do it to them now or vote for whoever runs against Bill Brock. I'm not going to do that because I'm proud of the fact that we're all Democrats, and I'm proud of the fact that we tend to our business, and we'll tend to theirs in November.

Jim Gilchrist: What you have just heard is an actuality of Governor Blanton's speech at the Crossville Rally. The following is the Reagan radio commercial taken from that Crossville speech.

The following is a paid political announcement.

I had a thought the other day as I was going to Memphis that it might be a good idea to teach these people that are preaching against party registration, which are Republicans, for us to go into their primary on May 25th and vote for Reagan.

That was Governor Ray Blanton. Now, here is Ronald Reagan.

I believe that maybe it's time for people from outside of Washington who are not a part of a family there to go in, who are not bound by old friendships and old ties and who can go to work to reverse this course to set us on a right course. I'd like very much to have your help in doing it.

Paid for by Citizens for Reagan. Senator Paul Laxalt, Chairman.

FEDERAL ELECTION COMMISSION  
OFFICIAL FILE COPY  
OFFICE OF GENERAL COUNSEL

77040021181

RECEIVED  
FEDERAL ELECTION  
COMMISSION

76 JUN 17 A9:37



17 A9:37

FEDERAL ELECTION COMMISSION  
OFFICE OF THE GENERAL COUNSEL  
OFFICE OF THE GENERAL COUNSEL

TENNESSEE  
EXECUTIVE OFFICE  
NASHVILLE 37219

General Counsel  
Compliance Division  
Federal Election Commission  
1325 K Street, Northwest  
Washington, D. C. 20463