



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1875

Date Filmed 10/1/85 Camera No. --- 2

Cameraman AS

850405152947

FEDERAL ELECTION COMMISSION

- | | |
|----------------------------------------|---------------------------------------|
| <u>1) Assignment Sheet</u> | <u>5) Docket memo</u> |
| <u>2) Routing slips</u> | <u>6) Comment sheet</u> |
| <u>3) Correspondence control slips</u> | <u>7) 12 Day Rpt.</u> |
| <u>4) Rough draft of letter</u> | <u>8) Memo to Comm Sec. (Routing)</u> |

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 checked="" 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 Jonathan M. Levin
date 9/12/85

FEC 9-21-77

85040552948

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Real Estate Board of Rochester,
et. al.

)
)
)
)
MUR 1875

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 2, 1985, the Commission decided by a vote of 6-0 to take the following actions in MUR 1875:

1. Find no reason to believe the Real Estate Board of Rochester, Real Estate Board of Rochester PAC, National Association of Realtors, Realtors PAC, Philip Stark, as treasurer, New York State Association of Realtors, New York State Association of Realtors PAC violated 2 U.S.C. § 441b(b)(4)(C).
2. Approve the letters attached to the First General Counsel's Report signed April 26, 1985.
3. Close the file.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

5-2-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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

4-29-85, 5:05
4-30-85, 11:00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 10, 1985

Donald S. Mazzullo, Esquire
700 Midtown Tower
Rochester, New York 14604

RE: MUR 1875
Real Estate Board of Rochester, et al.

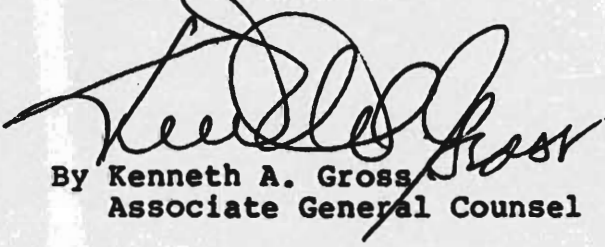
Dear Mr. Mazzullo:

By letter dated January 24, 1985, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 2, 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

85040552950



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 10, 1985

Harry Maisel
306 Wilkins Street
Rochester, New York 14621

Re: MUR 1875

Dear Mr. Maisel:

The Federal Election Commission reviewed the allegations of your complaint dated January 3, 1985, and determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

85040552951



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 10, 1985

William D. North
Senior Vice President & General Counsel
National Association of Realtors
430 North Michigan Avenue
Chicago, Illinois 60611

Re: MUR 1875
National Association of Realtors, et al.

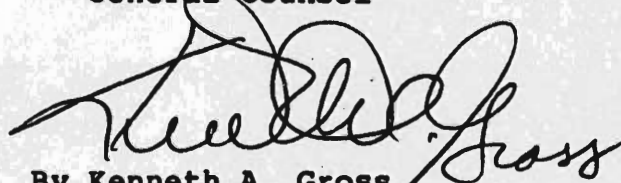
Dear Mr. North:

By letter dated January 24, 1985, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 2, 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel



By Kenneth A. Gross
Associate General Counsel

85040552952



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1875

SENSITIVE

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

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT 12220 15:05

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION _____

MUR 1875
DATE COMPLAINT RECEIVED
BY OGC 1/18/85
DATE OF NOTIFICATION TO
RESPONDENTS 1/24/85
STAFF MEMBER D.A. Brown

COMPLAINANT'S NAME: Harry W. Maisel

RESPONDENTS' NAMES: Real Estate Board of Rochester,
Real Estate Board of Rochester PAC;
National Association of Realtors,
Realtors PAC, Philip Stark, as
treasurer; New York State Association of
Realtors, New York State Association of
Realtors PAC

RELEVANT STATUTE: 2 U.S.C. § 441b(b)(4)(C)
11 C.F.R. § 111.4(d)(2) and (3)

INTERNAL REPORTS CHECKED: Respondents'

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

Harry W. Maisel ("complainant") filed a complaint on January 18, 1985, against the aforementioned respondents (Attachment I). The complainant alleges, inter alia, that the respondents "knowingly and willfully" solicited local real estate "licensees." The complainant also appears to be claiming that the licensees are "involuntary members" of the above named realtors' associations and, consequently, should not be considered part of the solicitable class of such associations. Complainant concludes, therefore, that the solicitation of such involuntary members is in violation of the Act. Moreover, the complainant alleges that: 1) respondents filed false and

85040552954

fraudulent membership claims with the Commission; 2) respondents knowingly and willfully misled local licensees with regard to certain federal tax credits; and 3) respondents knowingly misrepresent[ed] themselves to the public and to the Commission. The complainant concludes by alleging various constitutional claims and violations of anti-trust laws. Replies to the complaint were received on February 14, 1985, from counsel for the Real Estate Board of Rochester (Attachment II) and counsel for the National Association of Realtors (Attachment III). In his reply letter, counsel for the Real Estate Board of Rochester indicated that he and counsel for the National Association of Realtors would be acting as co-counsel and would be coordinating the responses of all respondents involved.

FACTUAL AND LEGAL ANALYSIS

Except for the allegation regarding the improper solicitations, no other allegation specifically addresses a violation for which the Commission may grant relief. The complainant recites numerous facts and figures, none of which presents any bases upon which the Commission might conduct an investigation into violations of the Act except the solicitation issue.

In responding to the complaint on behalf of the Real Estate Board of Rochester ("the Board"), counsel argues that the complainant has failed to set forth facts to support the complaint. Moreover, counsel avers that, by alleging that the respondents have filed false and fraudulent membership claims,

the complainant has failed to state a cause of action inasmuch as the respondents are not required to file such membership information with the Commission. Finally, regarding the allegation that the Board has solicited contributions from individuals other than its members, counsel states that the complainant, "has failed to provide particulars regarding a single instance in which such allegedly improper solicitations have taken place." In any event, the Board denies that it made improper solicitations.

On behalf of the National Association of Realtors ("NAR"), counsel argues that the complaint, "fails to state a clear and concise recitation of the facts which describes a violation ... over which the Commission has jurisdiction." This lack of specificity, counsel argues, makes it "impossible" for respondents to refute the allegations of illegal conduct. Further, counsel for NAR argues that although he is prepared to refute any charges of improper activities believed to be in violation of the Act, his efforts are frustrated by the complainant's "inability or unwillingness" to provide the specifics of such actions. Finally, counsel states that because the allegations are based on the, "information and belief" of the complainant, without identifying the source of the information that the complaint should fail in accordance with 11 C.F.R. § 111.4(d)(2) and (3). It is for the aforementioned reasons that co-counsel suggests that a finding of no reason to believe should be made by the Commission.

11 C.F.R. § 111.4(d)(2) and (3) states that a complaint should conform to the following provisions:

(2) Statements which are not based on personal knowledge should be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements;

(3) It should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction.

We disagree with the respondents' reliance on 11 C.F.R.

§ 111.4(d)(2) and (3) as a determining factor as to why the complaint should fail in light of the fact that § 111.4(d)(2) and (3) merely suggest the provisions a complaint should conform to and does not absolutely require it (see 11 C.F.R. § 111.4(b)).

Although the complaint does not contain many specifics concerning its allegations, it is properly filed in accordance with 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4(b), which states the prerequisites for a proper complaint.

2 U.S.C. § 441b(b)(4)(C) states that:

[A] membership organization, cooperative or corporation without capital stock, or a separate segregated fund established by a membership organization . . . [may solicit] contributions to such a fund from members of such organization. . . .

The complainant seems to argue that because membership is required as a condition of obtaining a realtors license, the members of such organizations are not "true" members. Even if such licensees are required to be members of the named associations in order to be licensed, that requirement does not

85040552957

make the solicitation of the members improper. So long as they have taken affirmative steps to become members (i.e., pay set amount of dues) and have rights and obligations, vis-a-vis the association, they are within the solicitable class. The complainant has not alleged that the members have no rights or obligations with regard to the association. Neither has the complainant alleged that contributions were improperly coerced from the members. Indeed, the complaint indicates just the opposite by stating that only 17% of those solicited actually contributed. These facts, coupled with the respondents' denial that any improper solicitations were made, leads to a conclusion that the complainant's allegation is without merit.

RECOMMENDATIONS

1. Find no reason to believe the Real Estate Board of Rochester, Real Estate Board of Rochester PAC; National Association of Realtors, Realtors PAC, Philip Stark, as treasurer; New York State Association of Realtors, New York State Association of Realtors PAC violated 2 U.S.C. § 441b(b) (4) (C).
2. Approve attached letters.
3. Close the file.

Charles N. Steele
General Counsel

April 26, 1985
Date

By:

Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

- I. Complaint of Harry Maisel
- II. Reply letter from Donald Mazzullo, Esq.
- III. Reply letter from William North, Esq.
- IV. Letter to Harry Maisel
- V. Letter to Donald Mazzullo, Esq.
- VI. Letter to William North, Esq.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**Donald S. Mazzullo, Esquire
700 Midtown Tower
Rochester, New York 14604**

**RE: MUR 1875
Real Estate Board of Rochester, et al.**

Dear Mr. Mazzullo:

By letter dated January 24, 1985, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

**Charles N. Steele
General Counsel**

A handwritten signature, likely of Kenneth A. Gross, is written over the typed name. The signature is in cursive and includes the date "5/5/85" written vertically below the name.

**By Kenneth A. Gross
Associate General Counsel**



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Harry Maisel
306 Wilkins Street
Rochester, New York 14621

Re: MUR 1875

Dear Mr. Maisel:

The Federal Election Commission reviewed the allegations of your complaint dated January 3, 1985, and determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

Handwritten signature and date 5/6/85

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

85040552960



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Harry Maisel
306 Wilkins Street
Rochester, New York 14621

Re: MUR 1875

Dear Mr. Maisel:

The Federal Election Commission reviewed the allegations of your complaint dated January 3, 1985, and determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

85040552961



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 10, 1985

William D. North
Senior Vice President & General Counsel
National Association of Realtors
430 North Michigan Avenue
Chicago, Illinois 60611

Re: MUR 1875
National Association of Realtors, et al.

Dear Mr. North:

By letter dated January 24, 1985, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

KNV
5/5/85

By Kenneth A. Gross
Associate General Counsel

85040352962



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**William D. North
Senior Vice President & General Counsel
National Association of Realtors
430 North Michigan Avenue
Chicago, Illinois 60611**

**Re: MUR 1875
National Association of Realtors, et al.**

Dear Mr. North:

By letter dated January 24, 1985, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

**Charles N. Steele
General Counsel**

**By Kenneth A. Gross
Associate General Counsel**



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Donald S. Mazzullo, Esquire
700 Midtown Tower
Rochester, New York 14604

RE: MUR 1875
Real Estate Board of Rochester, et al.

Dear Mr. Mazzullo:

By letter dated January 24, 1985, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

YTR 1875

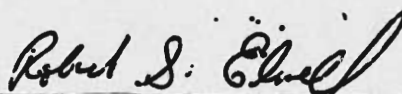
NAME OF COUNSEL: William D. North, Esq.

ADDRESS: 430 North Michigan Avenue
Chicago, IL 60611

TELEPHONE: (312) 329-8366

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

February 8, 1985
Date.


Signature /Real Estate Board of :
Rochester by Robert S. Elwell,
Executive Vice President

RESPONDENT'S NAME: Real Estate Board of Rochester

ADDRESS: 550 East Main Street
Rochester, NY 14604

HOME PHONE: (716) 374-5554

BUSINESS PHONE: (716) 325-7780

STATEMENT OF DESIGNATION OF COUNSEL

MYR 1875

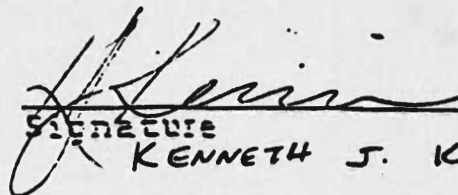
NAME OF COUNSEL: WILLIAM D. NORTH
RALPH W. HOLMEN

ADDRESS: 430 North Michigan Avenue
Chicago, Illinois 60611

TELEPHONE: 312/329-8366

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

2/8/85
Date


Signature
KENNETH J. KERIN

RESPONDENT'S NAME: NATIONAL ASSOCIATION OF REALTORS

ADDRESS: 430 North Michigan Avenue
Chicago, Illinois 60611

HOME PHONE:

BUSINESS PHONE: 312/329-8200

STATEMENT OF DESIGNATION OF COUNSEL

YUR

1875

NAME OF COUNSEL:

WILLIAM D. NORTH
RALPH W. HOLMEN

ADDRESS:

430 North Michigan Avenue

Chicago, Illinois 60611

TELEPHONE:

312/329-8366

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

Date

2/4/85

Signature

John J. DeBore

RESPONDENT'S NAME:

New York State Association of REALTORS®

ADDRESS:

107 Washington Avenue

P.O. Box 122

Albany, New York 12260

HOME PHONE:

BUSINESS PHONE:

518/462-9563

ATTACHMENT IV



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Harry Maisel
306 Wilkins Street
Rochester, New York 14621

Re: MUR 1875

Dear Mr. Maisel:

The Federal Election Commission reviewed the allegations of your complaint dated January 3, 1985, and determined that on the basis of the information provided in your complaint and information provided by the Respondents there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

//

ATTACHMENT V



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Donald S. Mazzullo, Esquire
700 Midtown Tower
Rochester, New York 14604

RE: MUR 1875
Real Estate Board of Rochester, et al.

Dear Mr. Mazzullo:

By letter dated January 24, 1985, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

8504055299

ATTACHMENT VI



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William D. North
Senior Vice President & General Counsel
National Association of Realtors
430 North Michigan Avenue
Chicago, Illinois 60611

Re: MUR 1875
National Association of Realtors, et al.

Dear Mr. North:

By letter dated January 24, 1985, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

85040552970

ACC# 6672
NATIONAL ASSOCIATION OF REALTORS

85 FEB 14 11:41

Executive Offices
430 North Michigan Avenue, Chicago, Illinois 60611
Telephone 312 328-8388

William D. North
Senior Vice President and General Counsel

February 11, 1985

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
85 FEB 14 12:59

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1875

Dear Mr. Gross:

This letter is in reponse to your letter of January 24, 1985. Your letter contained a copy of a complaint filed with the Federal Election Commission ("Commission") alleging that the National Association of Realtors, the New York State Association of Realtors, the Real Estate Board of Rochester, New York, and the affiliated political action committee of each may have violated certain sections of the Federal Election Campaign Act ("Act"). This response is on behalf of all Respondents.

We have reviewed the complaint and find that it fails to contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. The complaint also makes allegations based on the "information and belief" of the complainant, without identifying the source of information which gives rise to complainant's belief in the truth of such allegations. As such, the complaint fails to satisfy the requirements of 11 C.F.R. §111.4(d) (2) and (3).

The complaint contains simple, broad assertions that Respondents have violated certain requirements of the Act, without specific factual allegations supporting those assertions. The complaint also contains other assertions, similarly unsupported by fact, that Respondents have engaged in activities which do not constitute violations of the Act.

Finally, the complaint contains other assertions that Respondents have violated certain unspecified Federal and state laws which appear to be clearly not under the Commission's jurisdiction. As noted, this lack of factual specificity in the complaint fails to satisfy the requirements of 11 C.F.R. §111.4(d), and, moreover, makes it impossible for Respondents to explicitly refute these naked allegations of illegal conduct or otherwise demonstrate that no action should be taken on the basis of this complaint. Respondents nevertheless believe that the general allegations of complainant are without substance.

Respondents view very seriously any assertion that they at any time have violated the Act, or indeed, any other provision of law. This complaint appears to contend that in some unspecified way at some unknown time in some unstated manner and at some unidentified place Respondents have solicited and received contributions from non-members, or from members upon whom membership has been "illegally imposed." As such, this most recent complaint goes only slightly further than that filed by this very same complainant just 4 months ago, which was concluded only 60 days ago by the Commission's conclusion, in MUR 1810, that it set forth no reason to believe a violation of the Act had occurred.

Although Respondents are prepared and eager to refute charges that they have participated in activities or events which do not comply with the Act, our ability to do so is utterly frustrated by complainant's inability or unwillingness to point to any such actions. We think it entirely inappropriate for either the Commission or Respondents to be compelled to speculate as to the circumstances or theory of the violations complainant alleges. Yet a reply by Respondents more specific than a categorical denial of illegal conduct, or a conclusion by the Commission that there actually exists reason to believe a violation has occurred, would inherently require such speculation. Moreover, while we recognize and appreciate the Commission's responsibility to identify, investigate and act upon alleged violations of the Act, complainant's tactic of repeatedly advancing insufficient complaints suggests to us an objective other than assisting the Commission in performing its important functions.

Accordingly, Respondents believe that it is appropriate for the General Counsel to recommend that the Commission find no reason to believe that the complaint sets forth a

35040552972

Mr. Kenneth A. Cross
Federal Election Commission
February 11, 1985

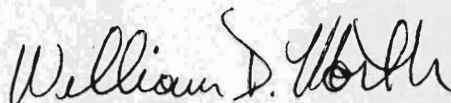
NATIONAL ASSOCIATION OF REALTORS®

Page -3-

possible violation of the Act, or otherwise dismiss the complaint, and that the Commission close the file on this matter.

Please feel free to contact me at (312) 329-8366 if you have any questions or wish to discuss this matter in any respect.

Sincerely,



William D. North
Senior Vice President &
General Counsel

cc: Charles N. Steele, General Counsel
New York State Association of REALTORS®
Real Estate Board of Rochester, N.Y.

WDN/mmg

85040552973

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1875

NAME OF COUNSEL:

WILLIAM D. NORTH
RALPH W. HOLMEN

ADDRESS:

430 North Michigan Avenue

Chicago, Illinois 60611

TELEPHONE:

312/329-8366

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

Date

2/8/85

Signature

KENNETH J. KERIN

RESPONDENT'S NAME:

NATIONAL ASSOCIATION OF REALTORS®

ADDRESS:

430 North Michigan Avenue

Chicago, Illinois 60611

HOME PHONE:

BUSINESS PHONE:

312/329-8200

85040552974

STATEMENT OF DESIGNATION OF COUNSEL

YUR

1875

NAME OF COUNSEL:

WILLIAM D. NORTH
RALPH W. HOLMEN

ADDRESS:

430 North Michigan Avenue

Chicago, Illinois 60611

TELEPHONE:

312/329-8366

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

Date

2/4/85

Signature

Thomas J. Sabone

RESPONDENT'S NAME:

New York State Association of REALTORS®

ADDRESS:

107 Washington Avenue

P.O. Box 122

Albany, New York 12260

HOME PHONE:

BUSINESS PHONE:

518/462-9563

850405529713

ACC# 6662

85 FEB 14 4 0:24

RICHARD B. SECREST
R. CLINTON EMERY
BRUCE S. HANSEN
JOHN E. SWETT
ANTHONY A. PALERMO
NATHAN J. ROSSFOSSEL
THOMAS A. GOLDBERG
JOHN P. MAHON
ALAN ILLIS
JOHN E. BLYTH
W. REYNOLDS BOWERS
PETER M. BLAUVELT
LAWRENCE R. PALVINO
WILLIAM D. SMITH
THOMAS S. GARLICK
ALAN F. HILFNER
C. RICHARD COLE
BARRY R. WHITMAN
D. DYSON GAY
JAMES C. MOORE
WILLIAM H. COLEY
KENNETH A. PAYMENT
STUART S. WEISENZAHL
JAMES A. LOCKE, III
MICHAEL F. BUCKLEY
WILLIAM H. BELFERICH, III
NEAL D. HADDEN
PETER G. SMITH
JAMES S. GRAY, JR.
JOHN R. WEIDER
H. ROBERT NERMAN
WILLIAM H. LA FORTE
THOMAS G. SMITH
JACK D. EISENBERG
FRANK S. HAGELSBERG
ERIC A. EVANS
FRED G. ATEN, JR.

HARTER, SECREST & EMERY
ATTORNEYS AT LAW
700 MIDTOWN TOWER
ROCHESTER, NEW YORK 14604

716-232-6500
TELECOPIER: 716-232-2183
CABLE: HS & E ROC

1100 5th Avenue South
Naples, Florida 33940
813-262-8282

* ALSO ADMITTED IN FLORIDA
* ADMITTED IN FLORIDA AND OHIO ONLY
* ADMITTED IN FLORIDA ONLY

February 12, 1985

HYMAN B. FREEMAN
J. PAUL BRENNAN
GEORGE R. WALLACE
E. JAMES HENRY
WILLIAM A. GERTNER
HARRY W. GRACE
ROBERT V. GIANNINI
WILLIAM W. BELL
OF COUNSEL
DAVID D. DINAN
T. MARY McDONALD
MARGARET A. CATILLAZ
PHILIP R. FLEET
DONALD S. MAZZULLO
A. PAUL BRITTON, JR.
SUSAN MASCETTE BRANDT
PAUL H. METLAND
ELIZABETH J. McDONALD
JEFFREY H. BOWEN
JOHN CLAPPER III
SUE A. JACOBSON
DAVID R. FERRIS
KAYE A. THOMAS
MICHAEL R. MEEVOY
TIMOTHY D. COSTELLO
SUSAN FORNATH KEEPER
DAVID H. STRUSS
KEVIN WETHORE
BONNIE A. SLENIS
MARY E. ROSS
JOHN C. HERBERT
TERESA D. JOHNSON
TIMOTHY R. HARRY
DAVID S. BORCE
BRYON C. ANDREASEN
CHARLES D. CRANTON
JAMES E. NETZLER
JATHLEEN C. PASSIDOMO
ROBERT F. PIZZO

Federal Election Commission
Enforcement Division of the Office
of General Counsel
Washington, D.C. 20463

Attention: Duane Brown, Esq.

Re: MUR #1875/Real Estate Board of Rochester

Dear Mr. Brown:

I am writing in response to the complaint of Harry Maisel dated January 3, 1985. This complaint seems to be divisible into three main parts. With respect to Mr. Maisel's allegation that the Real Estate Board of Rochester as well as the National Association of Realtors and the New York State Association of Realtors has violated antitrust and tax statutes, his complaint does not set forth any facts whatsoever to support his allegations. Further, the Real Estate Board of Rochester denies that it is violating the state and federal antitrust and tax laws. Finally, the Federal Election Commission is not charged with the responsibility of administering the state and federal antitrust and tax laws in any event.

With respect to the allegation and the complaint that the Real Estate Board of Rochester and the National and State Associations have filed false and fraudulent membership claims, the complaint fails to state a cause of action, inasmuch as the Real Estate Board of Rochester (and to the best of my knowledge, the National Association of Realtors and the New York State Association of Realtors as well) is not required to file such membership information with the Federal Election Commission. Further, all membership information which the Real Estate Board of Rochester has compiled is accurate and truthful in all respects.

35040552976

Federal Election Commission
February 8, 1985
Page Two

Lastly, with respect to the allegation that the Real Estate Board of Rochester has solicited contributions from individuals other than its members, Mr. Maisel has stated this fact but has failed to provide particulars regarding a single instance in which such allegedly improper solicitations have taken place. Such a conclusory allegation is impossible to refute in a detailed manner. The Real Estate Board of Rochester, however, strongly denies that it has made any improper solicitations.

Since Mr. Maisel in his complaint has named the National Association of Realtors and the New York State Association of Realtors together with their respective Political Action Committees, in addition to the Real Estate Board of Rochester, I am enclosing two Statements of Designation of Counsel, the first naming Harter, Secrest & Emery counsel to the Real Estate Board of Rochester for the purposes of resolving the complaint now under review and the second designating William D. North, the General Counsel to the National Association of Realtors, as co-counsel for the respondent Real Estate Board of Rochester, New York, Inc. Please forward any written notifications or other communications and copies of all correspondence to both Mr. North and myself.

Mr. North will be coordinating the responses of all of the Respondents to the pending complaint. However, if you have any questions regarding the manner in which the Real Estate Board of Rochester, New York, Inc. is conducting its campaign contribution activities, please feel free to contact me as well.

Very truly yours,

HARTER, SECREST & EMERY

Donald S. Mazzullo
Donald S. Mazzullo /dlu

DSM:djd

cc: Mr. Robert S. Elwell
Ralph Holmen, Esq.

35040512977

STATEMENT OF DESIGNATION OF COUNSEL

NYR 1875

NAME OF COUNSEL: Harter, Secrest & Emery - Donald S. Mazzullo
of Counsel

ADDRESS: 700 Midtown Tower
Rochester, NY 14604

TELEPHONE: (716) 232-6500

The above-named individual is hereby designated as my
co-counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

February 8, 1985

Date.

Robert S. Elwell
Signature/Real Estate Board of
Rochester by Robert S. Elwell,
Executive Vice President

RESPONDENT'S NAME: Real Estate Board of Rochester

ADDRESS: 550 East Main Street
Rochester, NY 14604

HOME PHONE: (716) 374-5554

BUSINESS PHONE: (716) 325-7780

STATEMENT OF DESIGNATION OF COUNSEL

MYR 1875

NAME OF COUNSEL: William D. North, Esq.

ADDRESS: 430 North Michigan Avenue

Chicago, IL 60611

TELEPHONE: (312) 329-8366

The above-named individual is hereby designated as my
co-counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

February 8, 1985

Date.

Robert S. Elwell

Signature / Real Estate Board of
Rochester by Robert S. Elwell,
Executive Vice President

RESPONDENT'S NAME: Real Estate Board of Rochester

550 East Main Street

Rochester, NY 14604

HOME PHONE: (716) 374-5554

BUSINESS PHONE: (716) 325-7780

EXPRESS MAIL SERVICE

POST OFFICE TO ADDRESSEE

TO
Holsen
ASSOCIATION OF REALTORS
th Michigan Avenue
IL 60611

Customer Number, if any:

TO
Meth A. Gross
General Counsel
Street, N.W.
on, D.C. 20463

ORIGIN:	
Initials of Receiving Clerk:	
P.O. ZIP	
Date in	
Time in	
Weight	Postage
Lbs. \$	

B 53474786	
DESTINATION:	
Date of Delivery: 2-14-85	
Time of Delivery: 1145 AM	
Initials of Delivering Employee: 119	
Signature of Addressee or Agent:	
DELIVERY WAS ATTEMPTED	
Date	Time:
Notice Left By:	

EXPRESS MAIL SERVICE

◆ TO REMOVE PEEL BACK HERE ◆

35040552931

NATIONAL ASSOCIATION OF REALTORS®
FIRST CLASS

Executive Offices:

430 North Michigan Avenue, Chicago, Illinois 60611

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

REALTOR®—is a registered mark

POSTED
FEB 12 1985



RECEIVED
FEB 12 1985
A 6:00

TER, SECREST & EMERY

790-Midtown Tower

Rochester, New York 14604



Federal Election Commission
Enforcement Division of the Office
of General Counsel
Washington, D.C. 20463



05 FEB 14 1975

40046677

NATIONAL ASSOCIATION OF REALTORS®

Executive Offices
430 North Michigan Avenue, Chicago, Illinois 60611
Telephone 312 329-6300

William D. North
Senior Vice President and General Counsel

February 11, 1985

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1875

Dear Mr. Gross:

This letter is in reponse to your letter of January 24, 1985. Your letter contained a copy of a complaint filed with the Federal Election Commission ("Commission") alleging that the National Association of Realtors, the New York State Association of Realtors, the Real Estate Board of Rochester, New York, and the affiliated political action committee of each may have violated certain sections of the Federal Election Campaign Act ("Act"). This response is on behalf of all Respondents.

We have reviewed the complaint and find that it fails to contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. The complaint also makes allegations based on the "information and belief" of the complainant, without identifying the source of information which gives rise to complainant's belief in the truth of such allegations. As such, the complaint fails to satisfy the requirements of 11 C.F.R. §111.4(d) (2) and (3).

The complaint contains simple, broad assertions that Respondents have violated certain requirements of the Act, without specific factual allegations supporting those assertions. The complaint also contains other assertions, similarly unsupported by fact, that Respondents have engaged in activities which do not constitute violations of the Act.

REALTOR® - is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.

8 5 0 4 0 5 5 2 9 8 3

05 FEB 15 08:58

Finally, the complaint contains other assertions that Respondents have violated certain unspecified Federal and state laws which appear to be clearly not under the Commission's jurisdiction. As noted, this lack of factual specificity in the complaint fails to satisfy the requirements of 11 C.F.R. §111.4(d), and, moreover, makes it impossible for Respondents to explicitly refute these naked allegations of illegal conduct or otherwise demonstrate that no action should be taken on the basis of this complaint. Respondents nevertheless believe that the general allegations of complainant are without substance.

Respondents view very seriously any assertion that they at any time have violated the Act, or indeed, any other provision of law. This complaint appears to contend that in some unspecified way at some unknown time in some unstated manner and at some unidentified place Respondents have solicited and received contributions from non-members, or from members upon whom membership has been "illegally imposed." As such, this most recent complaint goes only slightly further than that filed by this very same complainant just 4 months ago, which was concluded only 60 days ago by the Commission's conclusion, in MUR 1810, that it set forth no reason to believe a violation of the Act had occurred.

Although Respondents are prepared and eager to refute charges that they have participated in activities or events which do not comply with the Act, our ability to do so is utterly frustrated by complainant's inability or unwillingness to point to any such actions. We think it entirely inappropriate for either the Commission or Respondents to be compelled to speculate as to the circumstances or theory of the violations complainant alleges. Yet a reply by Respondents more specific than a categorical denial of illegal conduct, or a conclusion by the Commission that there actually exists reason to believe a violation has occurred, would inherently require such speculation. Moreover, while we recognize and appreciate the Commission's responsibility to identify, investigate and act upon alleged violations of the Act, complainant's tactic of repeatedly advancing insufficient complaints suggests to us an objective other than assisting the Commission in performing its important functions.

Accordingly, Respondents believe that it is appropriate for the General Counsel to recommend that the Commission find no reason to believe that the complaint sets forth a

35040552931

Mr. Kenneth Gross
Federal Election Commission
February 11, 1985


NATIONAL ASSOCIATION OF REALTORS®

Page -3-

possible violation of the Act, or otherwise dismiss the complaint, and that the Commission close the file on this matter.

Please feel free to contact me at (312) 329-8366 if you have any questions or wish to discuss this matter in any respect.

Sincerely,



William D. North
Senior Vice President &
General Counsel

cc: Charles N. Steele, General Counsel
New York State Association of REALTORS®
Real Estate Board of Rochester, N.Y.

WDN/mmg

85040552985

TOP

950405529



NEW YORK STATE ASSOCIATION OF REALTORS, INC.

107 Washington Avenue
Post Office Box 122
Albany, New York 12260

BUY NOW
SEE A
REALTOR



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

US FEB 4 AM 11:17

FEC



STATEMENT OF DESIGNATION OF COUNSEL

ACC #6580
RECEIVED AT THE FEC

MR 1875

85 FEB 4 AID: 107

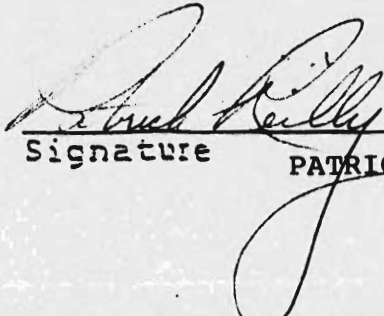
NAME OF COUNSEL: WILLIAM NORTH

ADDRESS: NATIONAL ASSOCIATION OF REALTORS®
430 NORTH MICHIGAN AVENUE
CHICAGO IL 60611

TELEPHONE: 312 329 8200

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

31 January 1985
Date


Signature

PATRICK J. REILLY

RESPONDENT'S NAME: NEW YORK STATE ASSOCIATION OF REALTORS®

ADDRESS: 107 WASHINGTON AVENUE BOX 122
ALBANY NY 12260

HOME PHONE:

BUSINESS PHONE: 518 462 9563

85040552987



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 24, 1985

Harry Maisel
306 Wilkins Street
Rochester, New York 14621

Dear Mr. Maisel:

This is in response to your letter of January 3, 1985, in which you request that the Commission re-open MUR 1810 for further consideration. The Office of General Counsel has decided not to re-open MUR 1810 since the matters alleged in your letter are not within the Commission's jurisdiction. Further, the second letter enclosed under the same date has been made into a complaint. A staff member has been assigned to analyze your allegations. The respondent will be notified of this complaint within five days. Finally, as you requested we have enclosed a copy of the General Counsel's Report with the attachments.

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. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By 
Kenneth A. Gross
Associate General Counsel

Enclosure

8504052988



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Real Estate Board of Rochester
550 East Main Street
Rochester, New York 14604

Re: MUR 1875

Dear Sir/Madam:

This letter is to notify you that on January 14, 1985 the Federal Election Commission received a complaint which alleges that Real Estate Board of Rochester may 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 1875. Please refer to this number in all future correspondence.

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

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


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

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form 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 Duane Brown, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Kenneth A. Gross
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: William D. North

85040552990



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

National Association of Realtors
777 14th Street
Fourth Floor
Washington, D.C. 20005

Re: MUR 1875

Dear Sir/Madam:

This letter is to notify you that on January 14, 1985 the Federal Election Commission received a complaint which alleges that National Association of Realtors may 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 1875. Please refer to this number in all future correspondence.

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

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

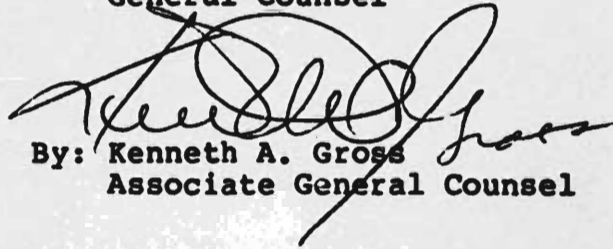
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form 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 Duane Brown, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Kenneth A. Gross
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: William D. North

85040552992



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

New York State Association of Realtors PAC
107 Washington Avenue
P.O. Box 122
Albany, New York 12260

Re: MUR 1875

Dear Sir/Madam:

This letter is to notify you that on January 14, 1985 the Federal Election Commission received a complaint which alleges that New York State Association of Realtors PAC may 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 1875 New York State Association of Realtors PAC. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against

in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

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

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form 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.

85040552993

If you have any questions, please contact Duane Brown, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Kenneth A. Gross
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: William D. North

85040552994

ATTACHMENT I
CERTIFIED MAIL

RECEIVED
OFFICE OF THE FEC
COMMISSIONER SECRETARY

January 3, 1985

05 JAN 18 A9:17

Frank P. Reiche, Chairman
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

MUR 1875

Dear Sir,

Please construe this letter as a formal complaint.

It is my information and belief; 1- That the following parties knowingly and willfully violate the Federal Elections Campaign Act as well as the relevant sections of the Internal Revenue Code: a- National Association of Realtors, b- National Association of Realtors Political Action Committee (RPAC), c- New York State Association of Realtors d- New York State Association of Realtors Political Action Committee, e- Real Estate Board of Rochester, N.Y. Inc. and their RPAC.

2- And, that in 1984, all of the above parties willfully and knowingly participated in the unlawful solicitation and collection of contributions from local real estate licensees- involuntary members of above named associations- for and on behalf of the above named RPACs, in violation of the above Federal Elections Laws requiring solicitations from legitimate voluntary members only; 3- that these parties have unlawfully solicited & collected contributions from local licensees since the Federal Elections Laws were first enacted.

It is my information and belief, furthermore; 4- That the above parties knowingly & willfully filed false & fraudulent membership claims with the Commission; 5- that they have knowingly & willfully misled local licensees with regard to relevant federal tax credits available; 6- that the above parties willfully & knowingly misrepresent themselves to the public and to the Commission, as to whom they truly represent (only about 525 out of about 3,000 local licensees-17%- reportedly contributed to RPAC in 1984; and it is highly questionable that this many would have contributed had they known the truth); 7- that the memberships claimed by the above State and National Associations are willfully & knowingly false, & fraudulently based on involuntary and illegally imposed memberships.

It is my information & belief, also;

2- That the above National & State Associations conspire(d) to unlawfully impose State & National Association & local Board membership upon locally licensed business owners & their salespeople, in violation of Federal & New York State Antitrust Laws & Federal Court Orders (see US-v- R.E.Bd. of Rochester, Civ-74-535; US-v_ MLS Portland Bd, et al, CIV-72-68; & about 14 other Consent Decrees); and in violation of local licensee's individual Constitutional right to conduct their businesses without unlawful interference, and in violation of their Constitutional right to freedom of association.

9- That these National & State Associations may not lawfully claim these illegally imposed memberships and thereby evade Federal Elections Law requirements prohibiting the solicitation of contributions from non-members.

10- That these State & National Associations willfully & knowingly conspired to raise contributions from local licensees, in 1984 and many years past, in violation of Federal Elections Law prohibiting solicitations from non-members (To be sure, there are also a number of local Board Directors, & others, who betrayed the trust of local licensees, and conspired together with these crooked organizations, and who should be held to equal accountability in this matter.)

11- That these same National & State Associations, and others, willfully & knowingly robbed local licensees of many millions of dollars over the years, thru illegally assessed, collected & imposed Associations 'dues' (disguised locally as 'Board dues'), in violation of state & federal antitrust laws & other laws. (Note- Their 'take' for 1984 was about \$178,000 from local licensees; and, based on a claimed total membership of 600,000 - 750,000, their annual 'take' could amount to some 30-40 millions \$ a year nationally. It's called racketeering.)

[Based on my knowledge and belief, it is highly likely that all of the other 49 state associations of realtors and all of the local real estate boards that are affiliated with the National Association of Realtors, as well as their individual RPACs, are also in violation of the same or similar statutes.]

It is my understanding that the above organizations, with a combined total of about 600,000+ claimed members, will or have raised millions of dollars for the 1984 election campaigns. The Real Estate Board of Rochester claims it has raised over \$28,000 thru it's RPAC.

12- That over a period of many years, the National Ass'n. of Realtors, the New York State Ass'n. of Realtors (formerly, National Ass'n. of Real Estate Boards, New York State Ass'n. of Real Estate Boards, respectively), and others, willfully & knowingly conspired to evade Federal Elections Laws; and, both state & federal antitrust & tax laws, and other laws, by falsely and fraudulantly claiming as legitimate, the above cited illegally imposed memberships.

Very Truly Yours,

Harry W. Maisel
Harry W. Maisel, Broker
306 Wilkins St.
Rochester, N.Y. 14621

(An active broker member, Real Estate Board of Rochester)

Signed and Sworn to before me this 3 day of January, 1985, ~~October, 1984,~~

Marjory Haested Hall

Notary Public

MARJORY HALSTED HALL
Notary Public in the State of New York
MONROE COUNTY
Commission Expires March 30, 1986

ATTACHMENT III

NATIONAL ASSOCIATION OF REALTORS

85 FEB 14 AM 11:21

Executive Offices
430 North Michigan Avenue, Chicago, Illinois 60611
Telephone 312 329-8388

William D. North
Senior Vice President and General Counsel

February 11, 1985

85 FEB 14 P 2:59

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

RE: MUR 1875

Dear Mr. Gross:

This letter is in reponse to your letter of January 24, 1985. Your letter contained a copy of a complaint filed with the Federal Election Commission ("Commission") alleging that the National Association of Realtors, the New York State Association of Realtors, the Real Estate Board of Rochester, New York, and the affiliated political action committee of each may have violated certain sections of the Federal Election Campaign Act ("Act"). This response is on behalf of all Respondents.

We have reviewed the complaint and find that it fails to contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. The complaint also makes allegations based on the "information and belief" of the complainant, without identifying the source of information which gives rise to complainant's belief in the truth of such allegations. As such, the complaint fails to satisfy the requirements of 11 C.F.R. §111.4(d) (2) and (3).

The complaint contains simple, broad assertions that Respondents have violated certain requirements of the Act, without specific factual allegations supporting those assertions. The complaint also contains other assertions, similarly unsupported by fact, that Respondents have engaged in activities which do not constitute violations of the Act.

85040552997

Finally, the complaint contains other assertions that Respondents have violated certain unspecified Federal and state laws which appear to be clearly not under the Commission's jurisdiction. As noted, this lack of factual specificity in the complaint fails to satisfy the requirements of 11 C.F.R. §111.4(d), and, moreover, makes it impossible for Respondents to explicitly refute these naked allegations of illegal conduct or otherwise demonstrate that no action should be taken on the basis of this complaint. Respondents nevertheless believe that the general allegations of complainant are without substance.

Respondents view very seriously any assertion that they at any time have violated the Act, or indeed, any other provision of law. This complaint appears to contend that in some unspecified way at some unknown time in some unstated manner and at some unidentified place Respondents have solicited and received contributions from non-members, or from members upon whom membership has been "illegally imposed." As such, this most recent complaint goes only slightly further than that filed by this very same complainant just 4 months ago, which was concluded only 60 days ago by the Commission's conclusion, in MUR 1810, that it set forth no reason to believe a violation of the Act had occurred.

Although Respondents are prepared and eager to refute charges that they have participated in activities or events which do not comply with the Act, our ability to do so is utterly frustrated by complainant's inability or unwillingness to point to any such actions. We think it entirely inappropriate for either the Commission or Respondents to be compelled to speculate as to the circumstances or theory of the violations complainant alleges. Yet a reply by Respondents more specific than a categorical denial of illegal conduct, or a conclusion by the Commission that there actually exists reason to believe a violation has occurred, would inherently require such speculation. Moreover, while we recognize and appreciate the Commission's responsibility to identify, investigate and act upon alleged violations of the Act, complainant's tactic of repeatedly advancing insufficient complaints suggests to us an objective other than assisting the Commission in performing its important functions.

Accordingly, Respondents believe that it is appropriate for the General Counsel to recommend that the Commission find no reason to believe that the complaint sets forth a

85040552998

Mr. Kenneth J. Gross
Federal Election Commission
February 11, 1985

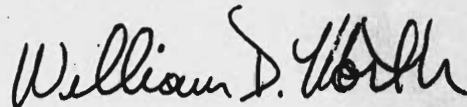
NATIONAL ASSOCIATION OF REALTORS®

Page -3-

possible violation of the Act, or otherwise dismiss the complaint, and that the Commission close the file on this matter.

Please feel free to contact me at (312) 329-8366 if you have any questions or wish to discuss this matter in any respect.

Sincerely,



William D. North
Senior Vice President &
General Counsel

cc: Charles N. Steele, General Counsel
New York State Association of REALTORS®
Real Estate Board of Rochester, N.Y.

WDN/mmg

85040552999

8

55 FEB 14 9:28

RICHARD S. SECREST
R. CLINTON EMERY
BRUCE E. HANSEN
JOHN E. SWETT
ANTHONY R. PALERMO
NATHAN J. ROSS
THOMAS C. GOLDBERG
JOHN P. HANSEN
ALAN ILKO
JOHN E. GLYNN
W. REYNOLDS BOWERS
PETER M. D. AVELLY
LAWRENCE R. RALVING
WILLIAM D. SMITH
THOMAS S. BARBER
ALAN F. HILFISER
C. RICHARD SOLE
BARRY R. WHITMAN
D. DYSON BAY
JAMES C. MOORE
WILLIAM H. GELBY
RENEATH A. RAYMENT
STUART S. HEISENZAHL
JAMES A. LOCKE, III
MICHAEL P. BUCKLEY
WILLIAM H. MELFERN, III
NEAL S. MADDEN
PETER S. SMITH
JAMES B. GRAY, JR.
JOHN R. WEIDER
H. ROBERT HERMAN
WILLIAM R. LA FORTE
THOMAS S. SMITH
JACK S. EISENBERG
FRANK S. HASELBERG
ERIC A. EVANS
FRED S. ATEN, JR.

HARTER, SECREST & EMERY
ATTORNEYS AT LAW
700 MIDTOWN TOWER
ROCHESTER, NEW YORK 14604

716-232-8500
TELESCOPE: 716-232-2188
CABLE: HSE & ROG

1100 5th Avenue South
Naples, Florida 33940
813-262-8282

* ALSO ADMITTED IN FLORIDA
* ADMITTED IN FLORIDA AND OHIO ONLY
* ADMITTED IN FLORIDA ONLY

February 12, 1985

HYMAN S. FREEMAN
J. PAUL FREEMAN
GEORGE R. WILLIAMS
E. JAMES HENRY
WILLIAM A. GERTNER
ROBERT W. GRACE
ROBERT W. GRANNIN
WILLIAM W. BELL
OF COUNSEL
DAVID S. SHANAN
T. MARY McDONALD
MARGARET A. CANTILLAS
PHILIP R. FLETH
DONALD S. HAZELL
A. PAUL BRITTON, JR.
SUSAN MAGGETTE GRANT
DAVID H. METLAND
ELIZABETH J. McDONALD
JEFFREY H. BOWEN
JOHN CLAPPER, III
SUE A. JACOBSON
DAVID R. FERRIS
RAYE A. THOMAS
MICHAEL R. MCVET
TIMOTHY J. COSTELLO
SUSAN CORATH KEEPER
DAVID H. STRUSS
KEVIN WETHORE
DONNE A. BLADIS
MARY S. ROSS
JOHN S. HERBERT
TERESA S. JOHNSON
TIMOTHY R. PARRY
DAVID S. BORCE
BRYAN S. ANDRESEN
CHARLES S. GRANTON
JATHLEEN C. PASSIDOMO
ROBERT F. PIZZO

000035403

Federal Election Commission
Enforcement Division of the Office
of General Counsel
Washington, D.C. 20463

Attention: Duane Brown, Esq.

Re: MUR #1875/Real Estate Board of Rochester

Dear Mr. Brown:

I am writing in response to the complaint of Harry Maisel dated January 3, 1985. This complaint seems to be divisible into three main parts. With respect to Mr. Maisel's allegation that the Real Estate Board of Rochester as well as the National Association of Realtors and the New York State Association of Realtors has violated antitrust and tax statutes, his complaint does not set forth any facts whatsoever to support his allegations. Further, the Real Estate Board of Rochester denies that it is violating the state and federal antitrust and tax laws. Finally, the Federal Election Commission is not charged with the responsibility of administering the state and federal antitrust and tax laws in any event.

With respect to the allegation and the complaint that the Real Estate Board of Rochester and the National and State Associations have filed false and fraudulent membership claims, the complaint fails to state a cause of action, inasmuch as the Real Estate Board of Rochester (and to the best of my knowledge, the National Association of Realtors and the New York State Association of Realtors as well) is not required to file such membership information with the Federal Election Commission. Further, all membership information which the Real Estate Board of Rochester has compiled is accurate and truthful in all respects.

Federal Election Commission
February 8, 1985
Page Two

Lastly, with respect to the allegation that the Real Estate Board of Rochester has solicited contributions from individuals other than its members, Mr. Maisel has stated this fact but has failed to provide particulars regarding a single instance in which such allegedly improper solicitations have taken place. Such a conclusory allegation is impossible to refute in a detailed manner. The Real Estate Board of Rochester, however, strongly denies that it has made any improper solicitations.

Since Mr. Maisel in his complaint has named the National Association of Realtors and the New York State Association of Realtors together with their respective Political Action Committees, in addition to the Real Estate Board of Rochester, I am enclosing two Statements of Designation of Counsel, the first naming Harter, Secrest & Emery counsel to the Real Estate Board of Rochester for the purposes of resolving the complaint now under review and the second designating William D. North, the General Counsel to the National Association of Realtors, as co-counsel for the respondent Real Estate Board of Rochester, New York, Inc. Please forward any written notifications or other communications and copies of all correspondence to both Mr. North and myself.

Mr. North will be coordinating the responses of all of the Respondents to the pending complaint. However, if you have any questions regarding the manner in which the Real Estate Board of Rochester, New York, Inc. is conducting its campaign contribution activities, please feel free to contact me as well.

Very truly yours,

HARTER, SECREST & EMERY

Donald S. Mazzullo
Donald S. Mazzullo /dlu

DSM:djd

cc: Mr. Robert S. Elwell
Ralph Holmen, Esq.

95040553001

CERTIFIED MAIL

January 3, 1985

Frank P. Reiche, Chairman
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Sir,

Please construe this letter as a formal complaint.

It is my information and belief; 1- That the following parties knowingly and willfully violate the Federal Elections Campaign Act as well as the relevant sections of the Internal Revenue Code: a- National Association of Realtors, b- National Association of Realtors Political Action Committee (RPAC), c- New York State Association of Realtors d- New York State Association of Realtors Political Action Committee, e- Real Estate Board of Rochester, N.Y. Inc. and their RPAC.

2- And, that in 1984, all of the above parties willfully and knowingly participated in the unlawful solicitation and collection of contributions from local real estate licensees- involuntary members of above named associations- for and on behalf of the above named RPACs, in violation of the above Federal Elections Laws requiring solicitations from legitimate voluntary members only; 3- that these parties have unlawfully solicited & collected contributions from local licensees since the Federal Elections Laws were first enacted.

It is my information and belief, furthermore; 4- That the above parties knowingly & willfully filed false & fraudulent membership claims with the Commission; 5- that they have knowingly & willfully misled local licensees with regard to relevant federal tax credits available; 6- that the above parties willfully & knowingly misrepresent themselves to the public and to the Commission, as to whom they truly represent (only about 525 out of about 3,000 local licensees-17%- reportedly contributed to RPAC in 1984; and it is highly questionable that this many would have contributed had they known the truth); 7- that the memberships claimed by the above State and National Associations are willfully & knowingly false, & fraudulently based on involuntary and illegally imposed memberships.

It is my information & belief, also;

8- That the above National & State Associations conspire(d) to unlawfully impose State & National Association & local Board membership upon locally licensed business owners & their salespeople, in violation of Federal & New York State Antitrust Laws & Federal Court Orders (see US-v- R.E.Bd. of Rochester, Civ-74-535; US-v_ MLS Portland Bd, et al, CIV-72-68; & about 14 other Consent Decrees); and in violation of local licensee's individual Constitutional right to conduct their businesses without unlawful interference, and in violation of their Constitutional right to freedom of association.

8504053002

9- That these National & State Associations may not lawfully claim these illegally imposed memberships and thereby evade Federal Elections Law requirements prohibiting the solicitation of contributions from non-members.

10- That these State & National Associations willfully & knowingly conspired to raise contributions from local licensees, in 1984 and many years past, in violation of Federal Elections Law prohibiting solicitations from non-members (To be sure, there are also a number of local Board Directors, & others, who betrayed the trust of local licensees, and conspired together with these crooked organizations, and who should be held to equal accountability in this matter.)

11- That these same National & State Associations, and others, willfully & knowingly robbed local licensees of many millions of dollars over the years, thru illegally assessed, collected & imposed Associations 'dues' (disguised locally as 'Board dues'), in violation of state & federal antitrust laws & other laws. (Note- Their 'take' for 1984 was about \$178,000 from local licensees; and, based on a claimed total membership of 600,000 - 750,000, their annual 'take' could amount to some 30-40 millions \$ a year nationally. It's called racketeering.)

[Based on my knowledge and belief, it is highly likely that all of the other 49 state associations of realtors and all of the local real estate boards that are affiliated with the National Association of Realtors, as well as their individual RPACs, are also in violation of the same or similar statutes.]

It is my understanding that the above organizations, with a combined total of about 600,000+ claimed members, will or have raised millions of dollars for the 1984 election campaigns. The Real Estate Board of Rochester claims it has raised over \$28,000 thru it's RPAC.

12- That over a period of many years, the National Ass'n. of Realtors, the New York State Ass'n. of Realtors (formerly, National Ass'n. of Real Estate Boards, New York State Ass'n. of Real Estate Boards, respectively), and others, willfully & knowingly conspired to evade Federal Elections Laws, and, both state & federal antitrust & tax laws, and other laws, by falsely and fraudulantly claiming as legitimate, the above cited illegally imposed memberships.

Very Truly Yours,

Harry W. Maisel
Harry W. Maisel, Broker
306 Wilkins St.
Rochester, N.Y. 14621

(An active broker member, Real Estate Board of Rochester)

Signed and Sworn to before me this 3 day of January 1985
~~October, 1984~~

Marjory Halsted Hall

Notary Public

MARJORY HALSTED HALL
Notary Public in the State of New York
MONROE COUNTY
Commission Expires March 30, 1986



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1875

Date Filmed 10/1/85 Camera No. ---2

Cameraman AS

85040553004