



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4379

DATE FILMED 4-25-97 CAMERA NO. 1

CAMERAMAN JMW

97043792582



JOHN HOSTETTLER

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 23 11 21 AM '96

OFFICE OF JOHN HOSTETTLER COMMITTEE
P.O. BOX 3676
EVANSVILLE, INDIANA 47735
TELEPHONE (812) 422-4227 • FAX (812) 422-9089

Restoring trust in government

May 21, 1996

Mr. Danny L. McDonald, Chairman
Federal Election Commission
999 E Street, NW
Washington DC 20463

Dear Chairman McDonald:

I am writing to alert the Federal Election Commission to a violation of federal law in the Indiana Eighth Congressional District race and to request a prompt and thorough investigation of the violation to determine all the relevant facts.

On Friday, May 18, 1996, about a dozen people gathered outside the District Office of US Rep. John Hostettler in Evansville IN to conduct a media stunt. These individuals, union operatives and liberal activists, claimed the purpose of the event was to ask that Congressman Hostettler sign a pledge regarding the federal budget. However, they never asked the Congressman to sign the pledge, they did not present him with the pledge, and they did nothing to make the Congressman's office or staff aware of the pledge beyond the so-called news conference. During their event, a copy of the event's "script"—a very detailed media plan complete with precise wording of what each program participant did, in fact, say for reporters—was given to a newspaper reporter covering the event along with a news release. Based on the reaction of union operatives later confronted by the reporter, I can only surmise they did not mean to distribute the script.

That reporter wrote an article for his newspaper, The Evansville Press, a copy of which is included, reporting that the script had been faxed to the event's hapless organizers by a Teamsters Union Office outside of the District of Rep. Hostettler.

In light of these troubling developments, and in light of the comments of one of the event's up-front spokesmen, who is a high-ranking union official, that his organization was working to defeat Rep. Hostettler, I ask the Federal Election Commission to investigate this illegal use of union resources to engage in partisan electioneering by answering the following questions:

1. What union resources, at the local and headquarters levels, were used in conceiving, planning, preparing, promoting and executing the above-mentioned event? This should include postage, long-distance telephone tolls for faxing or voice communication, media contact lists, vehicles, staff help, reimbursement or mileage or other travel costs, any expenses paid to or remuneration for participants at the event?

HOSTETTLER FOR CONGRESS

MAY 23 11 10 AM '96
COMMISSION
SECRETARIAT

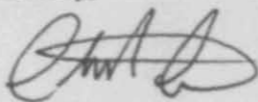
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2. What degree of communication, cooperation and coordination existed between the organizers and stagers of this event and Mr. Jonathan Weinzapfel, the Democrat Party's nominee to face Mr. Hostettler and the political beneficiary of these illegal actions?
 3. Were any of the event's union officials being paid for taking part in this event?
 4. Were any of the event's participants members of Mr. Weinzapfel's staff being paid for taking part in this event? One reporter told Mr. Hostettler's staff he believed several of the participants work for Mr. Weinzapfel's campaign.
 5. Will these donations of resources, staff times and perhaps more be reported as an in-kind contribution to Mr. Weinzapfel's campaign committee?
 6. What steps is the FEC taking to enforce federal law and the Supreme Court's Beck decision, both of which prevent unions from taking members' hard-earned dues and using them to engage in partisan political activity designed to advocate the defeat of or the election of any candidate?

Let me close by stating, for the record, that this investigation is not about a union or unions, in general. Mr. Hostettler enjoys wide and deep support from tens of thousands of rank and file union members. He was raised in a union household, and many of his family members continue today to belong to unions. This investigation is about protecting those union members from having their national bosses take their dues and use them for the bosses' agenda—in violation of federal law. Mr. Hostettler continues to stand for and work hard to achieve a tax cut for working families, to preserve Medicare and Social Security for our seniors, and to balance the federal budget. That is why he enjoys broad support from the rank-and-file worker—he is working for them.

Thank you for your prompt and thorough attention to this investigation.

Sincerely,



Chris Crabtree
Campaign Manager

CLC/kh

Enc.

Seniors' speech 'scripted' by labor

Aides say it's unions' anti-GOP campaign

By Mark Stalcup
Staff reporter

They claimed to be concerned seniors and local labor members who organized to urge 8th District Rep. John Hostettler to sign a pledge not to cut Medicare.

But they read from a script admittedly written by local organized labor leaders; didn't tell the congressman they were coming; and never presented him with a copy of the pledge they sought from him.

Even the figures they cited were from an old GOP budget proposal that recommended deeper budget cuts than the one currently being considered.

Hostettler's aides say yesterday's press conference outside Evansville's federal building was part of a \$35 million national labor campaign against Republicans.

Now, aide Michael Jahr said, it's likely

that word of the scripted speeches will be taken to the chief counsel of the Republican National Committee, already pursuing legal claims that unions are wrongly using member dues in a campaign against freshmen GOP congressmen.

"This is just further evidence," Jahr said. "It reconfirms what we've seen in other Republican districts around the country — 'below-the-radar' union efforts to stir up trouble for Republican freshmen."

Jahr said union leaders in Washington, D.C., have "made no secret of the fact they want to return the House to Democrats and (want) a return to the status quo... I think it's got to be disappointing that the best they can do in Evansville is dig up 13 people, some from organized labor and some from an opposition campaign."

Meanwhile, local labor leaders admit that they're working to oust Hostettler.

"I won't deny we want to get the congressman out," Evansville Central Labor Council President Don Walker said. "I don't think he is really standing up for working people, seniors or anybody else."

But Walker said yesterday's group never sought to meet with Hostettler despite the pledge they proposed he sign.

"We didn't call him," Walker said. "We just wanted to educate people on his record."

But the figures they cited yesterday are out of date.

The \$270 billion in budget cuts and a \$245 billion tax cut which speakers urged Hostettler to work against are not the figures proposed by the current GOP budget plan.

Instead, Republicans seek \$122 billion in tax cuts with \$700 billion in savings from various federal budgets.

Of that money, \$158 billion in Medicare savings and \$72 billion in Medicaid savings are proposed.

Whether Medicare would be cut under such a plan is a matter of semantics.

Republicans claim they are slowing growth to save the program, while Democrats claim GOP proposals would force a decline in care and increased premiums.

• See "GOP," Page 8

Divers v crater in of ValuJet Crews looking f

Associated Press

MIAMI — Workmen cleared the fringes of a murky crater that swallowed ValuJet Flight 592 as they prepared to yield to barges that will try to retrieve chunks of the aircraft from the Everglades grave.

First, though, police divers planned to don lightweight biohazard suits that will better protect them today from the skin-irritating jet fuel as they scour wreckage and remains of the plane's 110 occupants.

Search crews were looking for the fuselage and other parts of the DC-10 which a week ago tore and slammed nose-first into a swamp, leaving a scorching hole about 130-by-40 feet, 8 feet deep in spots. Less than 10 percent of the plane had been recovered.

"We're hoping the divers may shed some light on what happened," said Gregory Feith, lead investigator for the National Safety Transportation Board.

Authorities are elated with even the few pieces of the plane that have been recovered.

• See "Divers," Page 8

Shuttle's new antenna is a giant balloon

Knight-Ridder Tritone News Wire

MIAMI — The United States has put everything else in space — why not a big balloon?

NASA plans to launch the space shuttle Endeavour on a 10-day commercial science mission tomorrow that will include inflating a tennis court-size balloon to see how well it works as an antenna.

Resting on a pair of 92-foot expandable poles, the \$10 mil-

lion, 132-pound assembly is about half the cost of a conventional metal antenna, NASA spokesman Bruce Buckingham said.

Inflatable orbiting antennas could be used for a variety of functions in space, Buckingham said, including satellite antennas for space and mobile communications, Earth observations, astronomical observations and space-based radar.

"This flight is designed to prove the technology... to see whether it works as well as we think it will," Buckingham said.

Embryonic fish, sea urchin eggs and baby mussels are part of several medical research projects. In addition, the shuttle will carry a dozen commercial space experiments funded by a number of companies.

There is an 80 percent chance that weather will be perfect for the 6:30 a.m. launch, the

fourth this year.

The Endeavour will be flown by an unusually experienced crew.

Commander John Casper will be making his fourth flight; pilot Curt Brown, his third. Mission specialists Dan Bursch and Mario Runco will make their third flights, while Canadian mission specialist Marc Garneau will make his second. The only rookie is Andrew Thomas, a mission specialist.

WEATHER

IN TODAY'S PRESS

METRO

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the same way, there would have been some delay in procedures to get the plane down safely. There was no delay," ATA spokeswoman Mary Moses Cochran said yesterday.

A flight attendant in the cockpit with the pilot, co-pilot and engineer also fell unconscious in the oxygen-starved atmosphere, the National Transportation Board

descent and the captain regained consciousness and then landed the plane," Cochran said. "Obviously, there wasn't any long-term loss of consciousness."

ATA Flight 406 landed safely in Indianapolis, where 12 of the 106 passengers were treated and released for ear pain, lightheadedness and nausea.

Cochran wouldn't comment on how the

accidental engines re Indianapolis

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GOP

Continued from Page 1

effectively cutting the current level of care.

As the press conference ended, Hostettler aide Harold Gutzweiler presented each spectator with a press release detailing the GOP's 1997 Fiscal Budget.

He claims the GOP Medicare plan calls for 44 percent increase, with the \$5,200 annual allocated recipient in 1996 expanded to \$7,100 by 2001.

"Any way you look at this, this is not a cut but an increase and ensures that Medicaid will be here for these seniors," Gutzweiler said.

But protestors disagreed with that claim, and apparently read verbatim a script which Walker said he and other members of the Labor Council authored that criticized Hostettler's Medicare voting record as sacrificing Medicare for tax breaks to the wealthy.

"How'd you get a copy of that?" Walker asked when questioned about the script.

That script, which identified speakers only as "moderator," "person number 1" and so on, had a fax number from Ellettsville, Ind., and was attributed to Teamsters 135.

However, Walker said the efforts were not orchestrated elsewhere, despite indications that the script was faxed from Ellettsville.

Instead, he said locals wrote the speeches and he gave copies to speakers a few days prior to yesterday's event.

Walker said that Teamsters 135 had been faxed a copy of the Evansville group's statement for comment, then faxed it back to the Labor Council "because we needed a copy."

Walker also said that copies of the generic script, which could be used by other labor groups throughout the 8th District, were sent to other Labor Councils.

"It's been supplied to them," he said. "But they're not going to follow it completely. They have ideas and we have ideas."

YOU'RE JUST MINUTES
AWAY FROM GRACE

X-rated

Continued from Page 1

zoning changes for trade publications.

And this year, an overwhelming number of land-use debates have involved adult entertainment.

"It's been unbelievable," Vagliano said. "I've never seen anything like it."

The state attorney general's office, which reviews town by-laws, and the City Solicitors and Town Counsel Association both said they've been asked for advice on regulating the adult entertainment industry.

Many communities rushed to revamp their zoning laws after a Rhode Island-based strip club tried to open in Weymouth. Faced with community outrage, the Foxy Lady eventually withdrew its proposal in January. But the episode showed many communities they, too, could be caught napping.

According to the Supreme Court, communities can prohibit the sale of "obscene" material, which is defined as matter sexually offensive by a community's standards. But because the definition is so subjective, it's often hard to take legal action against adult businesses.

The best bet, legal experts said, is for communities to restrict where the stores can be located. Brockton, for example, recently reserved a spot for adult entertainment near its sewage treatment plant.

Some communities have chosen to restrict adult establishments to industrial sections

of the city. Others also have said that the establishments must be a minimum number of feet away from schools, homes and houses of worship.

Some community leaders, however, have been reluctant to pass zoning regulations at all, because residents complain that setting aside any area is tantamount to rolling out a welcome mat.

"One of the hardest things is convincing people that if you do not have any regulation on it, you are worse off than if you had a regulation permitting it in a certain area," said James Lampke, town counsel for the town of Hull and secretary-treasurer of the town counsel association.

Many adult store owners said they don't object to some zoning — "as long as they don't

CORRE

The Evansville Press tries to correct promptly any appearing in news articles. To report an error or

Due to a reporter's error, the first edition of yesterday's Press misnamed the local activist at the AIDS Watch in Washington. D.C. Andrew Puntney, director of client services at the local AIDS Resource Group, was one of 40 Indiana activists attending the fifth annual lobbying event.

★ ★ ★

Because of a reporter's error, a story in yesterday's editions of The Evansville Press indicated that two former em-

TRINITY

United Methodist

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Sunday Worship
8:30 AM & 10:45 AM
Sunday School 9:30 AM

Bible School



FEDERAL ELECTION COMMISSION

Washington, DC 20463

May 30, 1996

Chris Crabtree
Campaign Manager
Friends of John Hostettler Committee
PO Box 3676
Evansville, Indiana 47735

Dear Mr. Crabtree:

This is to acknowledge receipt on May 29, 1996, of your letter dated May 21, 1996. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter did not contain a notarization on your signature and was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this ____ day of ____, 19__." A statement by the notary that the complaint was sworn to and subscribed before him/her also will be sufficient. We regret the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

Enclosed is a Commission brochure entitled "Filing a Complaint." I hope this material will be helpful to you should you wish to file a legally sufficient complaint with the Commission.

Please note that this matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. The respondents will then have an additional 15 days to respond to the complaint on the merits. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

If you have any questions concerning this matter, please call me at (202) 219-3410.

Sincerely,

Retha Dixon

Retha Dixon
Docket Chief

Enclosure

cc: Teamsters Local #135
Teamsters Central Labor Council
Weinzapfel for Congress

97043792588



JOHN HOSTETTLER

06C
FRIENDS OF JOHN HOSTETTLER COMMITTEE
P.O. BOX 3676
EVANSVILLE, INDIANA 47735
TELEPHONE (812) 422-4227 • FAX (812) 422-9089

Restoring trust in government

May 21, 1996

MUR 4379

JUN 7 12 50 PM '96
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Mr. Danny L. McDonald, Chairman
Federal Election Commission
999 E Street, NW
Washington DC 20463

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HOSTETTLER
FOR CONGRESS

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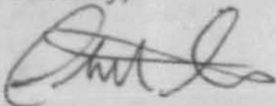
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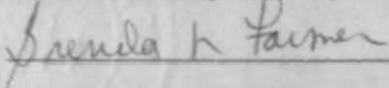
Thank you for your prompt and thorough attention to this investigation.

Sincerely,



Chris Crabtree
Campaign Manager

"Subscribed and sworn to before me on this 5th day of May, 1996.
My commission expires on July 8, 1997."



Notary Public residing in Vanderburgh County Indiana

97043792259C

JOHN NEAL
President
DANNY L. BARTON
Secretary-Treasurer
RONALD A. FOSTER
Vice President
COURTNEY L. BOWEN
Recording Secretary

CHAUFFEURS, TEAMSTERS, WAREHOUSEMEN AND HELPERS LOCAL UNION No. 135

AFFILIATED WITH THE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS



Trustees:
RALPH NEAL
MICHAEL L. LUNPKIN
STEPHEN LONGWORTH

(317) 639-3541
Fax # (317) 639-3500
1283 Shelby Street
Indianapolis, Indiana 46203

June 5, 1996

To Whom it May Concern:

Teamsters Local Union No. 135 authorizes the Law Firm of Brand, Lowell and Rys and authorizes Stanley Brand or David Fruella of the Law Firm of Brand, Lowell and Rys to represent Teamsters Local Union No. 135 before the Federal Election Commission.

Sincerely,

TEAMSTERS LOCAL UNION NO. 135

John Neal
John Neal, President

JN:lm

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 5 3 53 PM '96

97043792591

BUY AMERICAN * * * SHIP TEAMSTERS
DRIVE SAFELY * STAY ALIVE . . . BUY UNION * DELIVER TEAMSTERS



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 14, 1996

Chris Crabtree, Campaign Manager
Friends of John Hostettler Committee
P.O. Box 3676
Evansville, Indiana 47735

RE: MUR 4379

Dear Mr. Crabtree:

This letter acknowledges receipt on June 7, 1996, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4379. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in dark ink, appearing to read "Colleen T. Sealander", is written over a circular stamp.

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

97043792592



FEDERAL ELECTION COMMISSION

Washington, DC 20463

June 14, 1996

Roselle Weinzapfel, Treasurer
Weinzapfel for Congress
P.O. Box 6893
Evansville, IN 47719

RE: MUR 4379

Dear Ms. Weinzapfel:

The Federal Election Commission received a complaint which indicates that Weinzapfel for Congress ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4379. Please refer to this number in all future correspondence.

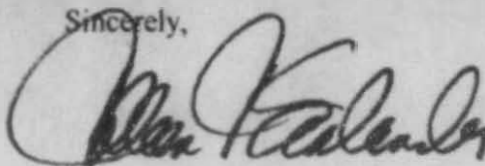
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, 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.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

97043792593

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

cc: Jonathan D. Weinzapfel

97043792594



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 14, 1996

Jonathan D. Weinzapfel
10433 Altheide Road
Mt Vernon, IN 47620

RE: MUR 4379

Dear Mr. Weinzapfel:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4379. Please refer to this number in all future correspondence.

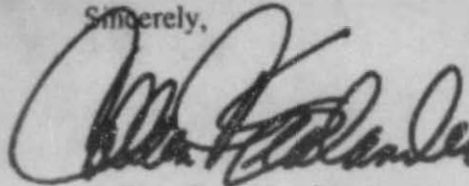
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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97043792595

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

97043792596



FEDERAL ELECTION COMMISSION

Washington, DC 20463

June 14, 1996

Don Walker
Central Labor Council
210 N. Fulton
Evansville, IN 47710

RE: MUR 4379

Dear Mr. Walker:

The Federal Election Commission received a complaint which indicates that the Central Labor Council may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4379. Please refer to this number in all future correspondence.

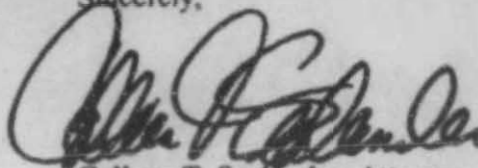
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Central Labor Council in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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97043792597

If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

97043792598



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 14, 1996

David Frulla, Esq.
Brand, Lowell & Ryan
923 Fifteenth Street, NW
Washington, DC 20005

RE: MUR 4379

Dear Mr. Frulla:

The Federal Election Commission received a complaint which indicates that the Teamsters Local #135 may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4379. Please refer to this number in all future correspondence.

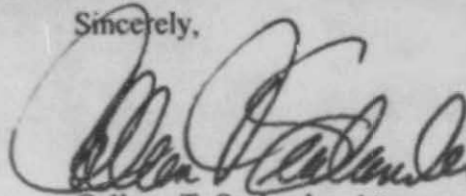
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Teamsters Local #135 in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your client's response should be addressed to the General Counsel's Office, 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.

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

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If you have any questions, please contact a member of the Central Enforcement Docket at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures

97043792600

SIDNEY L. BERGER
1917-1998
CHARLES L. BERGER
SHEILA M. CORCORAN
MARK W. RIETMAN
ROBERT J. PIGHAN
ANDREW S. WARD

**Berger
& Berger**
ATTORNEYS AND COUNSELORS AT LAW
313 MAIN STREET
EVANSVILLE, INDIANA 47706-1485
TELEPHONE (812) 425-8101
FAX (812) 421-5909

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 21 2 14 PM '96

June 20, 1996

Ms. Colleen T. Sealander, Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street N.W.
Washington, DC 20463

Dear Ms. Sealander:

We represent the Central Labor Council. We enclose the Statement of Designation of Counsel regarding a purported Complaint sent in by the Hostettler for Congress Committee.

With this letter we have served also a Notice of Dismissal of the charges. Under the laws of the State of Indiana, in order for a Notary to be valid, it must be done simultaneously with the execution of the document that is being notarized.

In this case, the documents served upon my client show that the documents that were served upon them was dated May 21, 1996. The Notary was sworn to on the 5th day of May, 1996. On its face, the notarization is invalid and therefore the Complaint should be dismissed.

We look forward to the Commission's ruling on this matter.

Sincerely,

BERGER AND BERGER

By: Charles L. Berger

CLB:bjk

Enclosure

United Parcel Service

97043792601

FEDERAL ELECTION COMMISSION

RECEIVED
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COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 21 2 14 PM '96

HOSTETTTLER FOR CONGRESS

Complainant

and

MUR No. 4379

CENTRAL LABOR COUNCIL

Respondent

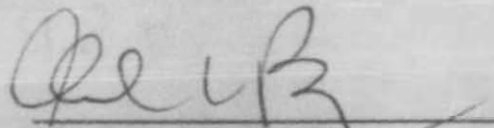
MOTION TO DISMISS COMPLAINT

The Central Labor Council, by counsel Charles L. Berger of the firm of Berger and Berger, move the Federal Election Commission to dismiss the purported Complaint of May 21, 1996, since it fails to meet with the Federal Regulations and in compliance with Indiana statutes.

In order for notarized statement to be valid under the laws of the State of Indiana, the notarization must have occurred simultaneously with the execution of the document.

Since the document that has been forwarded to us is dated May 21, 1996 and it has a notary of May 5, 1996, the document purporting to be the Complaint form is not valid on its face.

WHEREFORE, we move that this matter be dismissed.



CHARLES L. BERGER
A Member of the Firm of
BERGER AND BERGER
313 Main Street
Evansville, Indiana 47708
Telephone: (812) 425-8101
Attorney No. 2698-82
Attorneys for Respondent

97043792602

STATEMENT OF DESIGNATION OF COUNSEL

JUN 21 2 14 PM '96

MUR 4379

NAME OF COUNSEL: Charles L. Berger

FIRM: Berger and Berger

ADDRESS: 313 Main Street

Evansville, IN 47708

TELEPHONE: (812) 425-8101

FAX: (812) 421-5909

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.

6/20/96
Date

Donald Walker
Signature

RESPONDENT'S NAME: Central Labor Council

ADDRESS: 210 N. Fulton Avenue

Evansville, IN 47710

TELEPHONE: HOME()

BUSINESS(812) 422-2552

97043792603

American Federation of Labor and Congress of Industrial Organizations



815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

JOHN J. SWEENEY
PRESIDENT

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John T. Joyce
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George J. Kourpias
Michael Sacco
Gloria T. Johnson
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Carolyn Forrest
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William Lucy
A.L. "Mike" Monroe
Robert E. Wages

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James LaSala
Andrew McKenzie
Robert A. Scardelletti

June 27, 1996

Federal Election Commission
Office of the General Counsel
Central Enforcement Docket
999 E Street, N.W.
Washington D.C. 20463
BY FAX: 202/219-3923

Attention: Ms. Clinette Short

RE: MUR 4379

Dear Ms. Short:

The purpose of this letter is to request an extension of time in which to file the Central Labor Council of Southern Indiana's response in the above-referenced matter.

The Central Labor Council of Southern Indiana received the complaint in this matter on June 17, 1996. On June 20, the Labor Council's local attorney filed a motion to dismiss the complaint on the grounds that the notarization of the complainant's signature does not meet the requirements of state law.

The Central Labor Council has now designated me as counsel in this matter for the purpose of filing a supplement to its initial response. A copy of that designation is attached hereto. I only received the complaint yesterday and have not been able to discuss it with my client yet.

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OFFICE OF GENERAL
COUNSEL

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Accordingly, I am requesting an extension of 15 days from July 2 to July 17 in which to prepare a complete response to the complaint in this matter. I would appreciate it if you could let me know as soon as possible whether my request for an extension is granted.

Sincerely,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Central Labor
Council of Southern Indiana

97043792605

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4379

NAME OF COUNSEL: PEGGY McCORMICK

FIRM: _____

ADDRESS: _____

TELEPHONE: (202) 637-5397

FAX: (202) 637-5397

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.

6/24/96
Date

Donald Walker
Signature

RESPONDENT'S NAME: CENTRAL LABOR COUNCIL
OF SOUTHERN INDIANA

ADDRESS: 210 N. FULTON AVE.
EVANSVILLE, IN. 47710

TELEPHONE: HOME(_____) _____

BUSINESS(812) 422-2552

JUN 27 1 36 PM '96

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COMMISSION
OFFICE OF GENERAL
COUNSEL

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 28, 1996

Margaret E. McCormick, Esq.
American Federation of Labor and
Congress of Industrial Organizations
815 Sixteenth Street, NW
Washington, D.C. 20006

RE: MUR 4379

Dear Ms. McCormick:

This is in response to your letter dated June 27, 1996 which we received on the same day requesting an extension to respond on your client's behalf to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on July 17, 1996.

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,

Clinett Short, Paralegal
Central Enforcement Docket

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

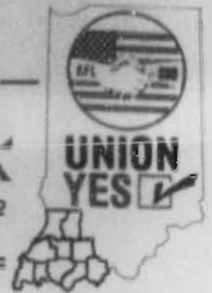
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AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS



**CENTRAL LABOR COUNCIL
OF SOUTHERN INDIANA**

210 NORTH FULTON AVENUE • PHONE 422-2552
EVANSVILLE, INDIANA 47710



June 28, 1996

Colleen Sealander, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D. C. 20006

RE: FEC MUR 4379

Dear Ms. Sealander:

I am writing to inform you that the Central Labor Council of Southern Indiana, AFL-CIO, has designated Margaret E. McCormick, Esq. as its counsel in the above referenced matter. Ms. McCormick will replace Charles Berger, Esq., as our counsel of record.

Please send all correspondence in connection with this matter to Ms. McCormick at the AFL-CIO, 815 16th Street, N.W., Washington D. C. 20006, Room 807

Sincerely,

Donald G. Walker
President

DGW/djo:215ibt

JUL 1 1 20 PM '96

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COMMISSION
OFFICE OF GENERAL
COUNSEL

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Weinzapfel 96

7/1/96

Colleen T. Sealander, Attorney
Central Enforcement Docket
Federal Election Commission
Washington, D.C. 20463

Re: MUR 4379

Dear Ms. Sealander:

In response to your letter dated June 14, 1996, received by my office June 18, 1996, I am filing the following response. A review of this response should dispel any doubts that you may have regarding the questions raised by Campaign Manager Chris Crabtree of the Hostettler campaign.

In sum, the charges contained in the complaining letter dated May 21, 1996 relate to an event that neither Jonathan Weinzapfel, nor myself, nor any member of the Weinzapfel campaign staff had any prior knowledge of or involvement in. Mr. Crabtree's insinuations to the contrary are pure speculation with no basis in fact, and are controverted by the sworn affidavits of Jonathan Weinzapfel and the three principal members of the campaign staff attached hereto, as well as by this sworn letter.

For the sake of thoroughness, I will respond to the six numbered paragraphs in the complaint with the corresponding paragraphs below.

1. Weinzapfel for Congress is not implicated in numbered paragraph 1 of the complaining letter and has no knowledge of the facts sought to be discovered therein.
2. No communication, cooperation, or coordination regarding the event described in numbered paragraph 2 of the complaining letter took place between the organizers and stagers of the event and Mr. Jonathan Weinzapfel or any member of the Weinzapfel for Congress staff.
3. Weinzapfel for Congress is not implicated in numbered paragraph 3 of the complaining letter and has no knowledge of the facts sought to be discovered therein.
4. Regarding numbered paragraph 4 of the complaining letter, as the attached affidavits attest, there were no members of Mr. Weinzapfel's staff, paid or unpaid, present or taking part in the event described in the complaining letter. Weinzapfel for Congress is

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COMMISSION
MAIL ROOM

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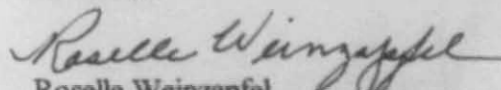
without knowledge as to any alleged communications between any reporters and Mr. Hostettler's staff.

5. Regarding numbered paragraph 5 of the complaining letter, there were no donations of resources, staff times or anything else to the Weinzapfel for Congress Committee.

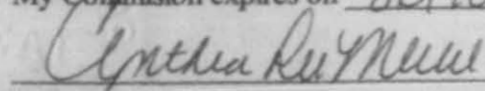
6. Weinzapfel for Congress is not implicated in numbered paragraph 6 of the complaining letter and has no knowledge of the facts sought to be discovered therein.

If there is any information that you may need in order to conclude your investigation of this matter, please do not hesitate to contact me.

Sincerely,


Roselle Weinzapfel
Treasurer, Weinzapfel for Congress

"Subscribed and sworn to before me this 1 day of July, 1996.
My Commission expires on 8/3/98.

 Notary Republic residing in Vanderburgh County,
Indiana.

9704379261C

Affidavit of Marianna Weinzapfel

BEFORE ME, the undersigned authority, personally appeared , who, after first being sworn upon oath, deposes and states:

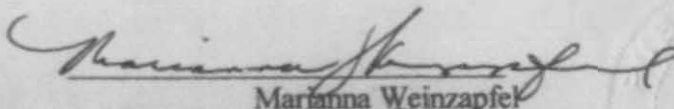
1. My name is Marianna Weinzapfel, I am over 18 years of age, and I have personal knowledge of the facts contained herein.

2. I have read the complaining letter dated May 21, 1996 from Chris Crabtree, Campaign Manager, Hostettler for Congress to the Federal Election Commission, and the letter dated June 14, 1996 from Colleen T. Sealander of the F.E.C. to Roselle Weinzapfel, Treasurer, Weinzapfel for Congress.

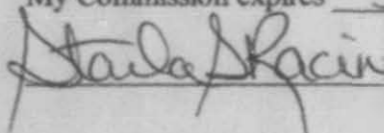
3. As of May 18, Weinzapfel for Congress had one paid employee, Jason Simpson.

4. There was no communication, cooperation or coordination between the organizers and stagers of the event described in the complaining letter and myself or any paid or unpaid member of Weinzapfel for Congress' staff concerning that event.

5. No one who works for Weinzapfel for Congress attended the above-mentioned event, nor was anyone paid by Weinzapfel for Congress to attend the event.


Marianna Weinzapfel

"Subscribed and sworn before me on this 1st day of July 1996.
My Commission expires 3-23-97."

 Notary Public residing in Vanderburgh County, Indiana.

97043792611

Affidavit of John Thornton

BEFORE ME, the undersigned authority, personally appeared , who, after first being sworn upon oath, deposes and states:

1. My name is John Thornton, I am over 18 years of age, and I have personal knowledge of the facts contained herein.

2. I have read the complaining letter dated May 21, 1996 from Chris Crabtree, Campaign Manager, Hostettler for Congress to the Federal Election Commission, and the letter dated June 14, 1996 from Colleen T. Sealander of the F.E.C. to Roselle Weinzapfel, Treasurer, Weinzapfel for Congress.

3. As of May 18, Weinzapfel for Congress had one paid employee, Jason Simpson.

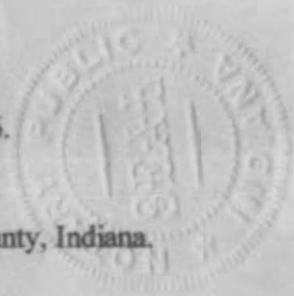
4. There was no communication, cooperation or coordination between the organizers and stagers of the event described in the complaining letter and myself or any paid or unpaid member of Weinzapfel for Congress' staff concerning that event.

5. No one who works for Weinzapfel for Congress attended the above-mentioned event, nor was anyone paid by Weinzapfel for Congress to attend the event.

“Subscribed and sworn before me on this 1st day of July, 1996.
My Commission expires 3-23-97.”

John Thornton

Stacy Racine Notary Public residing in Vanderburgh County, Indiana.



97043792612

Affidavit of Jonathan Weinzapfel

BEFORE ME, the undersigned authority, personally appeared Jonathan Weinzapfel, who, after first being sworn upon oath, deposes and states:

1. My name is Jonathan Weinzapfel, I am over 18 years of age, and I have personal knowledge of the facts contained herein.
2. I have read the complaining letter dated May 21, 1996 from Chris Crabtree, Campaign Manager, Hostettler for Congress to the Federal Election Commission, and the letter dated June 14, 1996 from Colleen T. Sealander of the F.E.C. to Roselle Weinzapfel, Treasurer, Weinzapfel for Congress.
3. As of May 18, Weinzapfel for Congress had one paid employee, Jason Simpson.
4. There was no communication, cooperation or coordination between the organizers and stagers of the event described in the complaining letter and myself or any paid or unpaid member of Weinzapfel for Congress' staff concerning that event.
5. No one who works for Weinzapfel for Congress attended the above-mentioned event, nor was anyone paid by Weinzapfel for Congress to attend the event.

Jonathan Weinzapfel
Jonathan Weinzapfel

"Subscribed and sworn before me on this 1st day of July 1996.
My Commission expires 3-23-97."

Paula Recina Notary Public residing in Monroe County, Indiana.

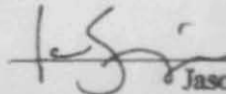


97043792613


Affidavit of Jason Simpson

BEFORE ME, the undersigned authority, personally appeared Jason Simpson, who, after first being sworn upon oath, deposes and states:

1. My name is Jason Simpson, I am over 18 years of age, and I have personal knowledge of the facts contained herein.
2. I have read the complaining letter dated May 21, 1996 from Chris Crabtree, Campaign Manager, Hostettler for Congress to the Federal Election Commission, and the letter dated June 14, 1996 from Colleen T. Scalander of the F.E.C. to Roselle Weinzapfel, Treasurer, Weinzapfel for Congress.
3. As of May 18, Weinzapfel for Congress had one paid employee, myself.
4. There was no communication, cooperation or coordination between the organizers and stagers of the event described in the complaining letter and myself or any paid or unpaid member of Weinzapfel for Congress' staff concerning that event.
5. No one who works for Weinzapfel for Congress attended the above-mentioned event, nor was anyone paid by Weinzapfel for Congress to attend the event.


Jason Simpson

"Subscribed and sworn before me on this 1st day of July, 1996.
My Commission expires August 12, 1998.

 Notary Public residing in Monroe County, Indiana.

BEFORE THE FEDERAL ELECTION COMMISSION

JUL 3 11 38 AM '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

In the Matter of:

International Brotherhood of Teamsters,
Local 135,

Respondent.

MUR 4379

LOCAL 135's RESPONSE TO HOSTETTTLER COMMITTEE COMPLAINT

On June 7, 1996, the Hostettler for Congress Committee ("Complainant") filed a complaint initiating this matter under review. Complainant alleges that representatives of certain unidentified labor organizations held what is termed a "partisan electioneering" rally outside Representative Hostettler's district office in Evansville, Indiana. Complainant, however, proffered no evidence that the rally was devoted to express advocacy of Representative Hostettler's election or defeat -- the actual operative standard here. Rather, the solitary newsclip which Complainant attaches in support of its charges reveals the rally was directed toward Representative Hostettler's positions on the issues: the budget and taking Medicare away from working Americans.

Apparently because Complainant's newsclip reports that an alleged script for the rally bears a facsimile telephone number "attributed to" the Ellettsville, Indiana hall of International Brotherhood of Teamsters Local 135 ("Respondent"), the Commission has included Local 135 as a respondent in this MUR. Respondent respectfully requests that the Commission expeditiously dismiss this matter under review as to it because there is no "reason to

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believe" that Respondent violated the Federal Election Campaign Act or its implementing regulations. See 11 C.F.R. § 111.9(a). In addition, Respondent will show the Commission should not have accepted the complaint for filing pursuant to 11 C.F.R. § 111.5 because its notarization was defective. The Commission should also dismiss the Complaint for this reason, too.

I. THE COMMISSION SHOULD NOT HAVE ACCEPTED THE COMPLAINT BECAUSE ITS NOTARIZATION WAS DEFECTIVE

The Commission should re-consider its decision to accept the complaint for filing under 11 C.F.R. § 111.5 and "otherwise terminate [these] proceedings" (see 11 C.F.R. § 111.9(b)), because the Complaint was not properly notarized.

This is the second time the Complaint has failed to meet the FECA's notarization requirement, 11 C.F.R. 111.4(b)(2). The Commission originally rejected the Complaint pursuant to 11 C.F.R. § 111.5(b) because it had not been notarized at all.

Complainant thereupon re-filed the complaint with a notarization. It must have escaped the Commission's attention that the notarization was defective. Specifically, the notary's jurat is dated May 5, 1996, but the complaint was re-filed on June 7, 1996. The original complaint was dated May 21, 1996, over two weeks after the May 5, 1996, date on the amended complaint's jurat. The jurat is either back-dated or mis-dated. In either case, the notarization is ineffective. Cf. In re Weiss v. Mahoney, 373 N.Y.S.2d 411, 412 (N.Y. Sup. Ct. App. Div. 1975) (undated jurat on primary election designating petition is ineffective). Therefore, the Commission should not have accepted

LOCAL 135's "NO REASON TO BELIEVE" SUBMISSION -- Page 2

97043792616

the amended complaint for processing pursuant to 11 C.F.R. § 111.5(b), and must again dismiss it now pursuant to 11 C.F.R. § 111.9(b).

II. NO "REASON TO BELIEVE" EXISTS THAT RESPONDENT VIOLATED THE LAW BECAUSE THE RALLY INVOLVED ISSUE ADVOCACY

This complaint is the next in a well-orchestrated effort to burden organized labor's right to freely advocate issues of importance to its membership in this pivotal election year through the filing of patently meritless FEC complaints.

A. The Complaint Should Be Dismissed Because A Newsclip Cannot Provide "Reason to Believe" That A Violation of Federal Campaign Finance Law Occurred

Opponents of organized labor have been filing scantily supported, newsclip-based complaints that seek to burden its members' exercise of free speech. These complaints are inexpensive to prepare and submit, yet impose on respondents the chilling cost and dislocation of being a respondent in Commission enforcement proceedings.¹

This MUR reaches a new level -- low, actually -- of minimalism. Complainant has proffered a single newsclip to support its claims. A recent judicial decision should represent the death knell for this cynical strategy. In Fed. Election Comm'n v. GOPAC, Inc., 917 F. Supp. 851 (D.D.C. 1996), District

The Commission should impose its own applicable substantive filter on these types of complaints. Commission Agenda Document 79-299 requires that a newsclip-based complaint be "substantive in its facts" and "contain a clear and concise statement of the acts that are alleged to constitute a violation of the Act" For the reasons set forth herein, the newsclip patently does not meet these standards. The Commission should never have accepted it in the first place.

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Judge Oberdorfer held that "a magazine article is not 'significantly probative' nor is it 'material' 'evidence on which [a trier of fact] could reasonably find" a violation of federal campaign finance law and regulations had occurred. 951 F. Supp. at 864 (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249-50, 252 (1986)). This Complainant's attachment and parroting of a newsclip provides no more "material evidence" to support any "reason to believe" finding. Accordingly, this Complaint should be summarily dismissed.

B. The Complaint Should Be Dismissed Because It Has Adduced No "Reason to Believe" a Violation Occurred

If anything, Complainant's solitary newsclip actually demonstrates the FECA was not violated. Specifically, the newsclip reports that the rally concerned Representative Hostettler's positions on the budget and Medicare. Nowhere does the article report that the rally expressly advocated Representative Hostettler's election or defeat. Thus, the record reveals that the rally involved issue advocacy not subject to question or sanction in a Commission enforcement proceeding.

The Commission may only permissibly subject to regulation as an independent expenditure a communication "that in express terms advocates the election or defeat of a clearly identified candidate for federal office." Buckley v. Valeo, 424 U.S. 1, 44 (1976). Determining whether a communication represents express advocacy is not a matter of guess-work or implication. Buckley "restrict[ed]" the scope of FECA's independent expenditure provisions to the very narrow class of communications that "in
LOCAL 135's "NO REASON TO BELIEVE" SUBMISSION -- Page 4

97043792619
express terms advocate the election or defeat of clearly identified candidate" (id. (emphasis added)), in specific terms "such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" 424 U.S. at 44 n.52. The Second Circuit, en banc, has confirmed that "the words 'expressly advocating' means (sic) exactly what they say" Federal Election Comm'n v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 53 (2d Cir. 1980). Courts have repeatedly rejected entreaties to imply an electoral purpose from an issue advocacy message. Federal Election Comm'n v. Christian Action Network, 894 F. Supp. 946, 952 (W.D. Va. 1995) (after two decades of judicial interpretation, the "vast majority [of cases] . . . have adopted a strict interpretation" of the express advocacy standard).

Nothing in the newsclip indicates that those at the rally used Buckley's "magic words" to expressly exhort anyone to vote against Representative Hostettler or for his opponent. To the contrary, the newsclip quotes Mr. Don Walker, president of the Evansville Central Labor Council, who explained:

We didn't call [the Complainant]. . . . We just wanted to educate people on his record. (Emphasis added.)

Later in the article, the newsclip reported that, "a script that Walker said that he and other members of the Labor Council authored . . . criticized [Complainant's] voting record as sacrificing Medicare for tax breaks for the wealthy." The newsclip reports textbook issue advocacy.

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Representative Hostettler is a member of the infamous House Republican freshman class of 1994 -- a group that has come to personify the debate on which Americans should shoulder the burden of reducing the national debt. The Supreme Court in Buckley explained:

. . . the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions.

424 U.S. at 42-43. Likewise, criticism of Representative Hostettler's (and the rest of his Republican congressional class's) positions on the budget, Medicare, or any other issue of the day falls outside any permissible definition of "contribution" or "expenditure" under the FECA or Commission implementing regulations under the caselaw set out above.²

² We would note that the portion of the Commission's new "express advocacy" regulations that sought to establish parameters to determine when a statement impliedly advocated a candidate's election or defeat, 11 C.F.R. § 100.22(b), has been invalidated. Maine Right to Life Com'tee, Inc. v. Fed. Election Comm'n, 914 F. Supp. 8, 12-13 (D. Me. 1996). Section 100.22(b) is not applicable in any event because Complainant has not pointed to any non-express unmistakable basis on which the rally could be considered express advocacy: The rally occurred in the midst of hard-fought congressional deliberations on budget priorities, some six months before the election. Similarly, the newsclip reports that Local 135's Ellettsville is outside Representative Hostettler's district, further indicating that any interest Local 135 might have had in Representative Hostettler related to his votes in Congress, not his campaign for re-election. The Complaint, moreover, reflects that the rally was at the Congressman's district office, rather than his campaign headquarters. The location of the rally again reveals that it was directed to Representative Hostettler's actions in office, not his running for office.

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Complainant cannot resuscitate its complaint by arguing that those at the rally used a pledge not to cut Medicare as a prop, but they never really intended to present it to Representative Hostettler for his signature. Complainant does not and cannot provide any connective reasoning why the use of an issue-directed prop converts issue advocacy into express advocacy. Far more sarcastic criticisms of elected officials have been held to be issue advocacy. See Federal Election Comm'n v. Christian Action Network, 894 F. Supp. 946, 953-55 (W.D. Va. 1995) (concluding "there is no requirement that issue advocacy be congenial and non-inflammatory" in finding that vitriolic advertisements attacking President Clinton's positions on gay rights was issue advocacy); Federal Election Comm'n v. American Federation of State, County and Municipal Employees, 471 F. Supp. 315, 316 (D.D.C. 1979) (nearly equally caustic attacks on President Ford for pardoning President Nixon represented issue advocacy). Thus, the bitterness (or effectiveness) of speech simply has no appropriate bearing on whether the speech represents issue advocacy or express advocacy.

The final straw which Complainant seeks to grasp to convert issue advocacy into express advocacy is that the newsclip reported that an Indiana union leader -- but not a member of this Respondent, Local 135 -- stated that, in general, organized labor was working to defeat Representative Hostettler. Such a generalized statement is not material to whether words spoken at a rally were issue or express advocacy. Just last week, in Colo.

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Republican Fed. Camp. Com'tee v. Fed. Election Comm'n, ---

U.S. ---, 1996 WL 345766 (U.S., June 26, 1996), the Supreme Court rejected the Commission's argument that generalized deposition testimony of the Chairman of the Colorado Republican Party that "it was the practice of the party to 'coordinat[e] with the candidate' 'campaign strategy' . . . and for [him] to be 'as involved as [he] could be with the individuals seeking the Republican nomination,' . . . by making available to them 'all of the assets of the party . . .," standing alone, demonstrated coordination between the Colorado state party and any nominee. See 1996 WL 345766, at * 7. The Supreme Court held that such "general descriptions" created no material issue of fact whether coordination had, in fact, occurred. Id. By the same token, Complainant now has no basis to argue -- if it ever did before last week's decision -- that an Indiana labor leader's generalized articulation of a political goal converted the rally's words of issue advocacy into the words of express advocacy.

Indeed, any basis to ascribe wrongdoing to this Respondent is more attenuated in this MUR than in Colo. Republican Fed. Camp. Com'tee. In that case, at least, the deponent was actually an officer of the respondent state party committee. In this MUR, however, the person quoted, Mr. Don Walker, was president of the Evansville Central Labor Council, and not an official of this Respondent, Local 135. Indeed, nothing at all connects Local 135 to this MUR, save a newspaper allegation that a facsimile

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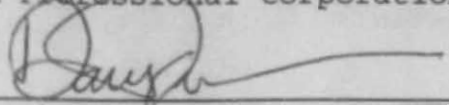
telephone number on the rally's purported issue advocacy "script" can be "attributed to" a Local 135 hall in Ellettsville, Indiana. That is, simply put, no basis on this record to bind Local 135 over for further proceedings in this MUR.

III. CONCLUSION

For the foregoing reasons, Respondent IBT Local 135 respectfully requests that the Commission expeditiously dismiss this Complaint as to it.

Respectfully submitted this 3rd day of July, 1996

BRAND, LOWELL & RYAN, P.C.
(A Professional Corporation)



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July 17, 1996

Lawrence N. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Jul 17 5 02 PM '96

Re: MUR 4379

Dear Mr. Noble:

This constitutes the response of the Central Labor Council of Southern Indiana, AFL-CIO ("Central Labor Council") to the complaint in the above-referenced matter filed by Chris Crabree, Campaign Manager of the Friends of John Hostettler Committee.

The bulk of the complaint consists of a list of questions which the complainant asks the Commission to investigate and a self-serving statement about the purpose of the complaint and Mr. Hostettler's background. This material requires no response because it sets forth no facts from which a violation of FECA may reasonably be inferred. With respect to the very limited material set forth in the remainder of the complaint, for the reasons set forth below, the Commission should take no action against Respondent and the complaint should be dismissed.

Discussion

It is well-settled that the FECA's prohibition on corporate/union political expenditures does not extend to communications that "contain a discussion of public issues that by their nature raise the names of certain politicians" but only

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Lawrence N. Noble, Esq.
General Counsel
July 17, 1996
Page 2

to corporate and union communications that "expressly advocate the election or defeat of a clearly identified candidate." Federal Election Commission v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 248, 249 (1986), quoting Buckley v. Valeo, 424 U.S. 1, 80 (1976). As described in the complaint, the May 17¹ event was a grassroots communication concerned solely with a discussion of public issues and did not contain any express advocacy of the election or defeat of Rep. Hostettler. The Affidavit of Donald Walker, who organized the event, confirms the issue-related nature of the activity.

1. As described in the complaint and the news clipping attached to it, the May 17 demonstration was called to protest positions taken by Rep. John Hostettler concerning the Medicare and other health-related programs. The complaint does not quote any campaign-related message communicated at the event, even though a staff member from Rep. Hostettler's local office was present. The notes used by the speakers do not include any such message. Finally, the organizer of the event, has stated that it focussed entirely on legislative issues pending in Congress and was not campaign-related. Affidavit of Don Walker, ¶ 4 ("Walker Aff.")

2. Rather than setting forth facts demonstrating that the event contained express advocacy, the complaint asks that a campaign purpose for the event be inferred from two circumstances. First, although the purpose of the event was to ask Rep. Hostettler to sign a pledge, the complaint alleges that no such pledge was submitted to the Congressman. The facts regarding the pledge are otherwise, however. Walker Aff. ¶ 5. Moreover, even if the pledge had not been submitted to Rep. Hostettler, this fact would be insufficient to support an inference of express advocacy given all of the other evidence of the bona fides of the legislative concerns raised during the

¹ The complaint is incorrect in stating that the date of the event was "Friday, May 18, 1996."

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Lawrence N. Noble, Esq.
General Counsel
July 17, 1996
Page 3

event. Thus, it is undeniable that the issue of Medicare cuts has been of great concern to many working persons throughout the country, that the issue has arisen in Congress only the day before the May 17 event, and that it will continue to arise in the future. See, 11 C.F.R. § 100.22(b) (message and surrounding circumstances must be so "unmistakable, unambiguous, and suggestive of only one meaning" that "reasonable minds could not differ as to whether it encourages election or defeat of candidates or some other type of non-election action.")

Second, the complaint relies on the fact that the remarks of several of the speakers were taken from a "script" sent from outside of the district. What matters, however, is the message contained in the script, whose lobbying message is undeniable, not where the notes were written. The existence of a campaign purpose cannot be inferred from these facts.

3. Finally, the complaint relies on a quote from Mr. Walker which appeared in a newspaper story regarding the May 17 event. That story did not, however, suggest that Mr. Walker or anyone else connected with the event communicated a campaign message to the public in the course of the event. Whatever Mr. Walker said in response to a reporter's question hours after the event took place was a private, personal communication which has no bearing on the legality of the event itself.²

² The complaint makes no allegation that the event was coordinated with Rep. Hostettler or his opponent, and this was in fact not the case. Walker Aff. 4 ¶.

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Lawrence N. Noble, Esq.
General Counsel
July 17, 1996
Page 4

Conclusion

For the foregoing reasons, the Commission should take no further action in this matter and should dismiss the complaint.

Respectfully submitted,

Margaret E. McCormick

Margaret E. McCormick
Counsel for Respondent

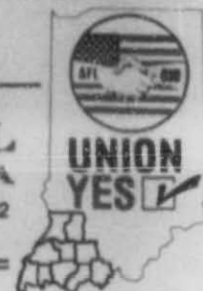
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CENTRAL LABOR COUNCIL OF SOUTHERN INDIANA

210 NORTH FULTON AVENUE • PHONE 422-2552
EVANSVILLE, INDIANA 47710



JUL 17 5 02 PM '96

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COUNSEL

AFFIDAVIT OF DONALD WALKER

DONALD WALKER, being duly sworn, deposes and states:

1. I am the President of the Central Labor Council of Southern Indiana, AFL-CIO ("Central Labor Council").
2. On May 17, 1996, the Central Labor Council organized a demonstration on the sidewalk outside of the Federal Building in Evansville, Indiana. The purpose of the demonstration was to call attention to recent votes by Rep. John Hostettler against the medicare program and to urge Rep. Hostettler to change his vote when the issue arises in the future. Rep. Hostettler represents the Eighth District of Indiana in Congress and has an office in the Federal Building.
3. The demonstration lasted approximately ten to fifteen minutes, during which I spoke briefly and introduced three retired workers from the Evansville area who spoke about the importance of the medicare program, their concerns about actions being taken in Congress to cut the program, and Rep. Hostettler's support of those actions. Prior to the demonstration, the speakers had been provided to me with written notes. A copy of these notes is attached as Exhibit A to this Affidavit. Although the speakers did not repeat the notes verbatim at the demonstration, the notes accurately reflect the substance of each speaker's actual remarks.
4. The demonstration on May 17, 1996, was intended to be a grassroots lobbying activity to address legislative issues of concern to workers, retirees and their families. The event was not intended to be campaign related and did not advocate the election or defeat of any candidate for federal office, including Rep. Hostettler. The Congressional election in November, 1996, was not mentioned by any of the speakers, there were no campaign posters and campaign literature was not distributed. In organizing the demonstration, I did not consult, cooperate, or have contact with any representative or agent of Rep. Hostettler or of his Democratic opponent, and to the best of my knowledge no person associated with the opponent's campaign attended the demonstration. A representative from Rep. Hostettler's office did show up at the event, without our prior knowledge, and distributed certain information to members of the media who were present. Copies of these materials are attached as Exhibit B. A copy of the press release which I distributed to the media prior to the event is attached as Exhibit C. The demonstration was attended by approximately 10 to 15 members of the public, most of whom were retired workers, and several reporters.

AFFIDAVIT OF DONALD WALKER

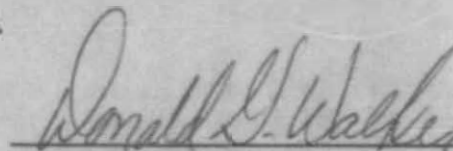
Page 2

5. The complaint in MUR 4379 erroneously states that Rep. Hostettler was never asked to sign a pledge and that no pledge was delivered to him. During my remarks at the demonstration, I expressly asked Rep. Hostettler "to sign a pledge that he will not vote to cut Medicare again." This statement referred to a pledge prepared by an organization known as Citizen Action Coalition. It was, and still is, my understanding that this pledge was sent to Rep. Hostettler prior to May 17, 1996, with a request that he sign it.

6. The Central Labor Council paid all of the costs of the demonstration, including the cost of distributing the press release, and the cost of producing a poster related to the medicare issue. I doubt that the total of these costs exceeded \$25.00.

7. Some time after the event was over, I received a telephone call from Mark Stalcup, a reporter for The Herald-Times, a local newspaper, who had attended the demonstration earlier in the day. In addition to asking me several questions about the event, Mr. Stalcup asked me a question relating to Rep. Hostettler's candidacy for re-election. I indicated to Mr. Stalcup that I personally did not support Rep. Hostettler. This statement was erroneously quoted by the reporter in his story regarding the event without making clear that the statement was not made during the event and that I was expressing my personal views and not those of the Central Labor Council. The Central Labor Council has not, as of this date, endorsed either candidate in the race for Rep. Hostettler's seat.

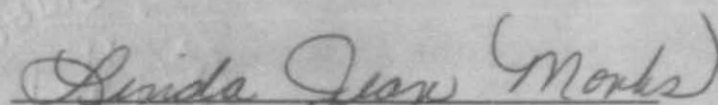
Executed this 16th day of July, 1996.


Donald G. Walker

DGW/djo:215ibt

Sworn to and subscribed before me this 16th day of July, 1996.

My commission expires April 4, 1998.


Notary Public

Don Walker

Representative Hostettler supports Newt Gingrich's plan to cut \$270 billion from Medicare in order to pay for a \$245 billion tax cut for the rich. Republicans have proposed making huge cuts in the Medicare and Medicaid programs, cuts which will have a devastating impact on millions of seniors, disabled and children. We are here today to ask Representative Hostettler to sign a pledge that he will not vote to cut Medicare again. I would like to first introduce Norb Woolly who will talk about why this \$270 billion dollar cut is truly a cut that goes beyond slowing the growth of Medicare.

Norb Woolly

The GOP's \$270 billion in cuts is almost three times the amount recommended by the bipartisan Medicare trustees. The Trustees have indicated that only \$110 billion in cuts is needed to assure that Medicare remains strong for the next decade. Nearly 37 million Americans rely on Medicare for their health care. While Rep Hostettler's standard defense of these cuts is that they are simply a slowing of growth, his constituents are concerned that these cuts will double the premiums that seniors will have to pay. Seniors on fixed income can not afford to pay twice as much. Nationally, the average senior on Medicare would have to pay about \$3,500 in additional out of pocket expenses over 7 years. Rep Hostettler and his rich friends in Washington who can afford double premiums have been ignoring the fact that medical costs will continually increase. This means that there will be fewer health care services for seniors under his plan. Anytime there is a reduction in services, a cut has happened. This whole argument that this is simply slowing the rate of growth is silly. It would be similar to me sitting in a barbers chair and asking them to slow the rate of growth of my hair. Ninety seven percent (97%) of Medicare expenditures go to seniors with annual incomes of \$50,000 or less. THESE SENIORS CANNOT AFFORD INCREASES IN THEIR HEALTH CARE COSTS.

The part B premium is deducted directly from senior citizens' Social Security checks. Increases in Medicare costs will eliminate up to 55% of seniors Social Security cost of living adjustments and reduce their benefits significantly. Another example of where this cut hits home. Although Rep. Hostettler will reflexively respond that these are not cuts at all, there is too much evidence that he has voted for significant cuts in Medicare. This is not the first time that a politician has done something that their constituents did not want and then tried to put a false face on it. We are simply asking Rep. Hostettler to sign a pledge that he will not do it again.

Don Walker

Thank you Norb. There is no escaping that Rep. Hostettler has voted five times for significant cuts in Medicare. Unfortunately, attacks on Medicare have not slowed. There is current legislation winding its way through Congress which is another attempt to attack Medicare. I would like to thank Doris Strouse for coming today to talk about the Medical Savings Account provisions of the Kennedy Kassebaum health bill that is currently being considered.

Doris Strouse

Thank you, Don. In October, 1995, Newt Gingrich said, "We don't want to get rid of it in round one because we don't think it's politically smart. But we believe that it's going to wither on the vine because we think seniors are going to leave it voluntarily." Gingrich's plan to wither Medicare is centered around Medical Savings Accounts. What are Medical Savings Accounts? MSAs are high deductible, low premium accounts that are designed for

the healthy and wealthy. They will lure the healthy seniors out of Medicare, which constitutes over 70% of people on it. As these healthy people leave, the Medicare fund will be depleted to the point that it will no longer be able to adequately care for our ill seniors. When this happens, all seniors will be forced off of Medicare and it will have withered on the vine. Just as Newt Gingrich and John Hostettler are hoping.

John Hostettler has indicated his support for MSAs. As part of this pledge, we are hoping that he will reverse his position on MSAs. Having said that, it is also important to note that MSAs are bad for working families by raising health care premiums. They will also lure healthier people out of regular health care. As this happens, the average cost per insured will increase, which means that premiums will increase. Working families cannot afford higher premiums. It is vital that Rep. Hostettler stops supporting MSAs. With that, I will once again encourage my representative to sign a pledge to act in a manner which represents his constituents better. Before he responds that he does, I need to remind him that I am talking about the residents of the 8th district not just his rich friends.

Don Walker

Thank you for those very informative comments Doris. We have been talking technical aspects of why Rep. Hostettler must begin to vote more responsibly with regards to Medicare. It is important to remember that all of these technical aspects affect people. We would be remiss if we did not invite a Medicare recipient to talk about how all of these changes will affect their lives. I would now like to invite Oscar Bippus for a word.

Oscar Bippus

Thank you Don. These cuts that Rep. Hostettler supports are going to have a horrible effect on me and many of my senior friends. Families of seniors will probably be asked to take up the slack for the inadequate care Medicare will provide as it "withers" under the Gingrich and Hostettler plan.

Many seniors like me take pride in remaining independent and financially stable even in the face of health problems. If my Medicare premiums were increased, I would be hard pressed to make ends meet and remain financially on my feet.

I think that when Rep. Hostettler votes to cut Medicare, he simply does not recognize how fragile seniors' budgets really are. His votes in favor of tax cuts for the wealthy are a slap in the face to seniors who are trying to maintain a sense of dignity and stability for themselves and their families in their later years. I want Rep. Hostettler to know that I disapprove of cutting Medicare to fund tax cuts for his rich friends.

Not only will Medicare cuts hurt individual seniors, but they may also hurt the hospitals who serve them. If, as Doris said, MSA accounts force a lot of people off of Medicare, many of the hospitals which take Medicare patients could be devastated. With only the sickest and poorest people on Medicare, those hospitals would be serving a shrinking population with harder health problems. This is a recipe for withering hospitals as well as Medicare. If Rep. Hostettler cuts Medicare, it will mean converting Medicare into a second-class system. Newt Gingrich and John Hostettler's plans to wither Medicare will end up putting more vulnerable seniors like me in a hard place. We would have to either choose MSAs, which Republicans are pushing hard now, or face the prospect of a withering system in Medicare. This is a false choice, and I personally resent Rep. Hostettler's effort to force this on me.

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Thank you very much for letting me have some input into this very serious Medicare issue, Don. I hope we convince Rep. Hostettler to drop these misguided plans to wither Medicare and the people who depend on it. Rep. Hostettler, sign the pledge to protect Medicare!

Don Walker

Thank you Oscar. Thank you everyone for coming today. We have shown that it is our representative's responsibility to protect these seniors and the others who need Medicare. It is time to recognize the facts and stop attacking our seniors. Sign the pledge, Rep. Hostettler.

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JOHN N. HOSTETTLER
8TH DISTRICT, INDIANA

COMMITTEE ON NATIONAL SECURITY

SUBCOMMITTEES:

MILITARY INSTALLATIONS AND FACILITIES
MILITARY RESEARCH AND DEVELOPMENT

COMMITTEE ON AGRICULTURE

SUBCOMMITTEES:

DEPARTMENT OPERATIONS, NUTRITION AND FOREIGN AGRICULTURE
RESOURCE CONSERVATION, RESEARCH AND FORESTRY



Congress of the United States
House of Representatives

NEWS FROM U.S. REP. JOHN HOSTETTLER

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(202) 225-4636

INTERNET: JOHNHOST@HR.HOUSE.GOV

COUNTRIES:

DAVIES	MONROE
GIBSON	ORANGE
GREENE	PIKE
KNOX	POSEY
LAWRENCE	SULLIVAN
MARTIN	WARRICK
	VANDERBURGH

IMMEDIATE RELEASE
CONTACT: MICHAEL JAHR
202-225-4636
May 17, 1996

HOSTETTLER GAINS "SENIOR FRIENDLY" LABEL

WASHINGTON - U.S. Rep. John Hostettler (8-IN) earned the designation "Senior Friendly" by the 60 Plus Association for his votes and legislative initiatives in the first session of the 104th Congress.

"Clearly, Rep. Hostettler is a champion of senior rights," said Jim Martin, president of the 425,000-member nonpartisan seniors advocacy group, in releasing the final tabulation of key votes in the 1995 session. "He is a deserving recipient of our 'senior friendly' designation."

The seniors' group cited Hostettler's support for legislation to preserve and protect Medicare and to save it from impending bankruptcy while increasing funding from \$5,200 per beneficiary to \$7,000 by the year 2002. The association also hailed Hostettler's votes for the Senior Citizens Right-to-Work Act -- which increased the limit that seniors can earn without losing Social Security benefits from \$11,520 to \$30,000 -- capital gains tax cuts, an increase in the estate tax exemption and other "senior friendly" items.

"The Senior Citizens Right-to-Work Act alone qualifies Rep. Hostettler as a major friend of seniors, their children and their grandchildren," Martin said.

60 Plus Chairman Roger Zion, who represented Southwest Indiana in the U.S. House from 1967 to 1975, also praised the freshman congressman. "Rep. Hostettler is owed a debt of gratitude by seniors," he said.

JOHN N. HOSTETTLER
8TH DISTRICT, INDIANA

COMMITTEE ON NATIONAL SECURITY

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SENIORS AND THE GOP FY 1997 BUDGET

May 17, 1996

Yesterday, the House of Representatives passed the FY 1997 Budget Resolution, the provisions of which are in keeping with my promise to balance the budget by the year 2002. Included in this budget are a number of provisions that will go far to address and improve the immediate needs of our nation's seniors.

* Last April, the Medicare Board of Trustees reported in their annual report that the Medicare Trust Fund is going bankrupt. This April, it was reported that not only is the Trust Fund going bankrupt, but it is currently running a deficit and it is expected that the fund will be bankrupt in 2001.

* This budget recognizes the impending disaster by recommending a plan that will preserve Medicare through 2008. This plan calls for a **45% overall increase in Medicare spending**, which will provide an increase in the average per beneficiary spending from \$5200 in 1996 to \$7000 in 2002. Furthermore, the plan retains the 25% Medicare Part B individual premium that is part of current law.

* Just as important, this plan would modernize and improve the program as we head into the 21st century, benefitting seniors of today and tomorrow and providing choices to all who are part of the program.

* The House has already passed legislation that rolls back President Clinton's 1993 tax increase on seniors and Congress has further recognized that working seniors should be able to keep more of the money they earn by passing legislation to raise the Social Security earnings limit imposed on working seniors between the ages of 65 and 69.

* This resolution ~~does not~~ cut Social Security spending. On the contrary, the Social Security Trust Fund is running a \$65 billion surplus this year, and the budget resolution recommends \$368.1 billion in outlays for over 42 million Social Security beneficiaries in FY 1997. In fact, balancing the budget will help us continue to protect the Social Security Trust Fund upon which so many seniors depend.

JOHN N. HOSTETTLER
8TH DISTRICT, INDIANA
COMMITTEE ON NATIONAL SECURITY
SUBCOMMITTEES:
MILITARY INSTALLATIONS AND FACILITIES
MILITARY RESEARCH AND DEVELOPMENT



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COMMITTEE ON AGRICULTURE
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Congress of the United States
House of Representatives
NEWS FROM U.S. REP. JOHN HOSTETTLER

IMMEDIATE RELEASE
CONTACT: MICHAEL JAHR
202-225-4636
May 17, 1996

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60 Plus Chairman Roger Zion, who represented Southwest Indiana in the U.S. House from 1967 to 1975, also praised the freshman congressman. "Rep. Hostettler is owed a debt of gratitude by seniors," he said.

Contact: DON WALKER
(812) 422-2552

May 17, 1996

SENIORS URGE HOSTETTTLER TO SIGN MEDICARE PLEDGE

(Evansville) -- A group of concerned seniors met outside of Representative John Hostettler's office at the Federal Building today to voice their concerns and to ask him to sign a pledge not to cut Medicare.

Oscar Bippus, a retired sheet metal worker, said, "I think when Representative Hostettler cuts Medicare, he does not recognize how fragile seniors' budgets really are. His votes in favor of tax cuts for the wealthy are a slap in the face to seniors who are trying to maintain a sense of dignity and stability for themselves and their families in their later years."

"I want Representative Hostettler to know that I disapprove of cutting Medicare to fund tax cuts for his rich friends," he said.

Mr. Bippus' comments summed up the group's feelings as they requested that Representative Hostettler sign a pledge not to cut Medicare. The pledge is part of a local campaign which includes radio and television ads which urge Hostettler to act responsibly on seniors' health issues.

Norb Woolly said that Representative Hostettler has voted five times to cut Medicare in the 104th Congress.

According to him, "there will be fewer health care services for seniors under his plan. Any time there is a reduction in services, a cut has happened. Therefore, calling this a 'reduction in growth' is ludicrous."

"This whole argument that this is just slowing the rate of growth is silly. It would be similar to me sitting in a barber's chair and asking the barber to slow the rate of growth on my hair," he said.

In addition, Doris Strause said that Medical Savings Accounts

(MSAs) are another word for "wither Medicare on the vine." This withering is what Newt Gingrich and Representative Hostettler want. The group also wanted Representative Hostettler to pledge to oppose MSAs.

- END -

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11:25 11:40 AM '97

In the Matter of

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ENFORCEMENT PRIORITY

SENSITIVE

GENERAL COUNSEL'S REPORT

MAR 11 1997

EXECUTIVE SESSION

I. INTRODUCTION

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

II. CASES RECOMMENDED FOR CLOSURE.

A. Cases Not Warranting Further Action Relative to Other Cases Pending Before the Commission

EPS was created to identify pending cases which, due to the length of their pendency in inactive status or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria which results in a numerical rating of each case.

Closing such cases permits the

Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified 25 cases which do

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not warrant further action relative to other pending matters.¹ Attachment 1 to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more remote and consequently more difficult to develop. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community.

¹ These cases are: MUR 4332 (Bill Thomas Campaign Committee); MUR 4347 (Anonymous Respondent); MUR 4354 (Brian Steel for Congress); MUR 4367 (Philipstown Republicans); MUR 4371 (Employment Group); MUR 4373 (Cannon for Congress); MUR 4374 (Mark Stodola for Congress Primary Committee); MUR 4375 (Westchester County Conservative Party); MUR 4377 (Braxton for Congress); MUR 4379 (Teamsters Local Union No. 135); MUR 4383 (Pauken for Congress); MUR 4384 (Willie Colon for U.S. Congress); MUR 4388 (Bill Witt for Senate and Congress); MUR 4390 (Kolbe 96); MUR 4391 (Pat Roberts for Congress Committee); MUR 4393 (Cecil J. Banks); MUR 4397 (AFL-CIO); MUR 4405 (Katz for Congress Committee); MUR 4411 (First Evangelical Presbyterian Church); MUR 4414 (Turietta-Koury for Congress Committee); MUR 4418 (Bell Atlantic); MUR 4421 (Butler for Mayor); MUR 4448 (Friends for Jim Rapp); Pre-MUR 334 (Kinnamon for Congress); and Pre-MUR 335 (Davis for Congress).

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We have identified cases which have remained on the Central Enforcement Docket for a sufficient period of time to render them stale 12 are not worthy of further action, and merit closure.⁴

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective April 1, 1997. Closing these cases as of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

⁴ These cases are: MUR 4139 (*Enid 94*); MUR 4150 (*Frank Fasi*); MUR 4257 (*DSCC*); MUR 4258 (*NRSC*); MUR 4260 (*Packwood & Auto Dealers*); MUR 4261 (*NRA Institute for Legis.*); MUR 4262 (*Oregon Republican Party*); MUR 4265 (*NRSC; Sen. Phil Gramm*); MUR 4272 (*Bishop for Congress*); MUR 4279 (*Russ Berrie Co.*); MUR 4284 (*United We Stand America*); and Pre-MUR 322 (*Royal Hawaiian Country Club*).

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III. RECOMMENDATIONS.

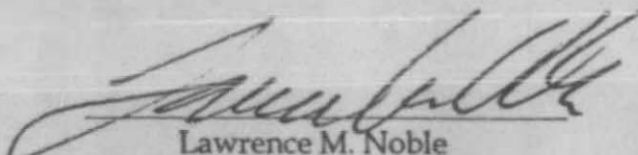
A. Decline to open a MUR, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

1. Pre-MUR 322
2. Pre-MUR 334
3. Pre-MUR 335.

B. Take no action, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

- | | | |
|--------------|--------------|--------------|
| 1. MUR 4139 | 13. MUR 4347 | 25. MUR 4390 |
| 2. MUR 4150 | 14. MUR 4354 | 26. MUR 4391 |
| 3. MUR 4257 | 15. MUR 4367 | 27. MUR 4393 |
| 4. MUR 4258 | 16. MUR 4371 | 28. MUR 4397 |
| 5. MUR 4260 | 17. MUR 4373 | 29. MUR 4405 |
| 6. MUR 4261 | 18. MUR 4374 | 30. MUR 4411 |
| 7. MUR 4262 | 19. MUR 4375 | 31. MUR 4414 |
| 8. MUR 4265 | 20. MUR 4377 | 32. MUR 4418 |
| 9. MUR 4272 | 21. MUR 4379 | 33. MUR 4421 |
| 10. MUR 4279 | 22. MUR 4383 | 34. MUR 4448 |
| 11. MUR 4284 | 23. MUR 4384 | |
| 12. MUR 4332 | 24. MUR 4388 | |

3/5/97
Date


Lawrence M. Noble
General Counsel

97043792641

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) Agenda Document #X97-16
Enforcement Priority)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 11, 1997, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to the above-captioned matter:

- A. Decline to open a MUR, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

1. Pre-MUR 322;
2. Pre-Mur 334;
3. Pre-MUR 335.

- B. Take no action, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

- | | |
|--------------|---------------|
| 1. MUR 4139; | 10. MUR 4279; |
| 2. MUR 4150; | 11. MUR 4284; |
| 3. MUR 4257; | 12. MUR 4332; |
| 4. MUR 4258; | 13. MUR 4347; |
| 5. MUR 4260; | 14. MUR 4354; |
| 6. MUR 4261; | 15. MUR 4367; |
| 7. MUR 4262; | 16. MUR 4371; |
| 8. MUR 4265; | 17. MUR 4373; |
| 9. MUR 4272; | 18. MUR 4374; |

(continued)

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Federal Election Commission
Certification: Enforcement Priority
March 11, 1997

Page 2

19. MUR 4375;	27. MUR 4393;
20. MUR 4377;	28. MUR 4397;
21. MUR 4379;	29. MUR 4405;
22. MUR 4383;	30. MUR 4411;
23. MUR 4384;	31. MUR 4414;
24. MUR 4388;	32. MUR 4418;
25. MUR 4390;	33. MUR 4421;
26. MUR 4391;	34. MUR 4448.

Commissioners Aikens, Elliott, McDonald, McGarry,
and Thomas voted affirmatively for the decision.

Attest:

3-12-97
Date

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

97043792643



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chris Crabtree, Campaign Manager
Friends of John Hostettler Committee
P.O. Box 3676
Evansville, IN 47735

RE: MUR 4379

Dear Mr. Crabtree:

On June 7, 1996, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 1997. This matter will become part of the public record within 30 days.

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

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043792644

Chris Crabtree, campaign manager for Hostettler for Congress, alleges that respondent Teamsters Local No. 135 illegally used union resources to defeat Hostettler and promote his opponent, Jonathan Weinzapfel, by staging a "media stunt" in front of the Congressman Hostettler's office using about a dozen people, including persons claimed to be "union activists." The stunt concerned asking Hostettler to sign a pledge regarding the Federal Budget which complainant claims was not even presented to him at the event. Complainant suggests that expenses and salaries for the event and its participants may have been paid with union resources; speculates there may be communication and coordination between the participants and Weinzapfel; and asserts that Weinzapfel's staff who were present at the event may have been paid to attend.

Respondent Local 135 states that the complaint failed to show that this event constituted any express advocacy for or against Hostettler. According to the Union, the newspaper article accompanying the complaint supports its conclusion that this event constituted permissible issue advocacy. The Union argues further that the complaint should be dismissed because it was based on one news article, citing *FEC v. GOPAC, Inc.*, 917 F. Supp. 851 (D.D.C. 1996). The Union states that the complainant's suggestion that the pledge which Mr. Hostettler did not receive and the general statement from a union leader (not a member of 135) that "organized labor was working to defeat Representative Hostettler" are not enough to change the event from issue to express advocacy.

Rosalie Weinzapfel, Treasurer of the Weinzapfel for Congress (WFC) committee, responds that neither Weinzapfel nor any member of the Weinzapfel campaign staff had any prior knowledge of or involvement in the event from which the complaint arose. She further denied any communication, cooperation, or coordination regarding the event with any of the players and indicated that none of the Weinzapfel staff were present at the event. She concludes by generally disavowing receipt of any improper donations of resources, staff, or anything else of value to the campaign. Marianna Weinzapfel, John Thornton, Jonathan Weinzapfel and Jason Simpson separately responded in a substantially similar manner.

Respondent Central Labor Council of Southern Indiana, AFL-CIO ("CLC") states that the protest constituted issue advocacy. CLC further asserts that the purpose of the event was to call attention to recent votes by Rep. Hostettler and to urge him to change his vote when the issue arises in the future. In further support of its position that this event constituted issue advocacy, the respondent believed that the pledge had been sent to Rep. Hostettler for his signature sometime prior by another organization. CLC acknowledged payment for the event, and disavowed a quotation in a news article on the event which tended to show that the protest was in opposition of Hostettler and in favor of his opponent.

This matter is less significant relative to other matters pending before the Commission.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

Roselle Weinzapfel, Treasurer
Weinzapfel for Congress
P.O. Box 6893
Evansville, IN 47719

RE: MUR 4379

Dear Ms. Weinzapfel:

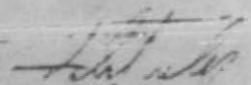
On June 14, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Weinzapfel for Congress and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 1997.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Jennifer Henry at (202) 219-3400.

Sincerely


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043792646

Chris Crabtree, campaign manager for Hostettler for Congress, alleges that respondent Teamsters Local No. 135 illegally used union resources to defeat Hostettler and promote his opponent, Jonathan Weinzapfel, by staging a "media stunt" in front of the Congressman Hostettler's office using about a dozen people, including persons claimed to be "union activists." The stunt concerned asking Hostettler to sign a pledge regarding the Federal Budget which complainant claims was not even presented to him at the event. Complainant suggests that expenses and salaries for the event and its participants may have been paid with union resources; speculates there may be communication and coordination between the participants and Weinzapfel; and asserts that Weinzapfel's staff who were present at the event may have been paid to attend.

Respondent Local 135 states that the complaint failed to show that this event constituted any express advocacy for or against Hostettler. According to the Union, the newspaper article accompanying the complaint supports its conclusion that this event constituted permissible issue advocacy. The Union argues further that the complaint should be dismissed because it was based on one news article, citing *FEC v. GOPAC, Inc.*, 917 F. Supp. 851 (D.D.C. 1996). The Union states that the complainant's suggestion that the pledge which Mr. Hostettler did not receive and the general statement from a union leader (not a member of 135) that "organized labor was working to defeat Representative Hostettler" are not enough to change the event from issue to express advocacy.

Rosalie Weinzapfel, Treasurer of the Weinzapfel for Congress (WFC) committee, responds that neither Weinzapfel nor any member of the Weinzapfel campaign staff had any prior knowledge of or involvement in the event from which the complaint arose. She further denied any communication, cooperation, or coordination regarding the event with any of the players and indicated that none of the Weinzapfel staff were present at the event. She concludes by generally disavowing receipt of any improper donations of resources, staff, or anything else of value to the campaign. Marianna Weinzapfel, John Thornton, Jonathan Weinzapfel and Jason Simpson separately responded in a substantially similar manner.

Respondent Central Labor Council of Southern Indiana, AFL-CIO ("CLC") states that the protest constituted issue advocacy. CLC further asserts that the purpose of the event was to call attention to recent votes by Rep. Hostettler and to urge him to change his vote when the issue arises in the future. In further support of its position that this event constituted issue advocacy, the respondent believed that the pledge had been sent to Rep. Hostettler for his signature sometime prior by another organization. CLC acknowledged payment for the event, and disavowed a quotation in a news article on the event which tended to show that the protest was in opposition of Hostettler and in favor of his opponent.

This matter is less significant relative to other matters pending before the Commission.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

Jonathan D. Weinzapfel
10433 Altheide Road
Mt. Vernon, IN 47620

RE: MUR 4379

Dear Mr. Weinzapfel:

On June 14, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 1997.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Jennifer Henry at (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043792648

Chris Crabtree, campaign manager for Hostettler for Congress, alleges that respondent Teamsters Local No. 135 illegally used union resources to defeat Hostettler and promote his opponent, Jonathan Weinzapfel, by staging a "media stunt" in front of the Congressman Hostettler's office using about a dozen people, including persons claimed to be "union activists." The stunt concerned asking Hostettler to sign a pledge regarding the Federal Budget which complainant claims was not even presented to him at the event. Complainant suggests that expenses and salaries for the event and its participants may have been paid with union resources; speculates there may be communication and coordination between the participants and Weinzapfel; and asserts that Weinzapfel's staff who were present at the event may have been paid to attend.

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Respondent Central Labor Council of Southern Indiana, AFL-CIO ("CLC") states that the protest constituted issue advocacy. CLC further asserts that the purpose of the event was to call attention to recent votes by Rep. Hostettler and to urge him to change his vote when the issue arises in the future. In further support of its position that this event constituted issue advocacy, the respondent believed that the pledge had been sent to Rep. Hostettler for his signature sometime prior by another organization. CLC acknowledged payment for the event, and disavowed a quotation in a news article on the event which tended to show that the protest was in opposition of Hostettler and in favor of his opponent.

This matter is less significant relative to other matters pending before the Commission.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

Margaret E. McCormick, Esq.
American Federation of Labor and Congress of Industrial Organizations
815 Sixteenth Street, NW
Washington, DC 20006

RE: MUR 4379
Central Labor Council of Southern Indiana, AFL-CIO

Dear Ms. McCormick:

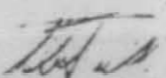
On June 14, 1996, the Federal Election Commission notified your client of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 1997.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Jennifer Henry at (202) 219-3400.

Sincerely,


F. Andrew Tarley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043792650

Chris Crabtree, campaign manager for Hostettler for Congress, alleges that respondent Teamsters Local No. 135 illegally used union resources to defeat Hostettler and promote his opponent, Jonathan Weinzapfel, by staging a "media stunt" in front of the Congressman Hostettler's office using about a dozen people, including persons claimed to be "union activists." The stunt concerned asking Hostettler to sign a pledge regarding the Federal Budget which complainant claims was not even presented to him at the event. Complainant suggests that expenses and salaries for the event and its participants may have been paid with union resources; speculates there may be communication and coordination between the participants and Weinzapfel; and asserts that Weinzapfel's staff who were present at the event may have been paid to attend.

Respondent Local 135 states that the complaint failed to show that this event constituted any express advocacy for or against Hostettler. According to the Union, the newspaper article accompanying the complaint supports its conclusion that this event constituted permissible issue advocacy. The Union argues further that the complaint should be dismissed because it was based on one news article, citing *FEC v. GOPAC, Inc.*, 917 F. Supp. 851 (D.D.C. 1996). The Union states that the complainant's suggestion that the pledge which Mr. Hostettler did not receive and the general statement from a union leader (not a member of 135) that "organized labor was working to defeat Representative Hostettler" are not enough to change the event from issue to express advocacy.

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This matter is less significant relative to other matters pending before the Commission.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 1, 1997

David E. Frulla, Esq.
Brand, Lowell & Ryan, P.C.
923 Fifteenth Street, NW
Washington, DC 20005

RE: MUR 4379
Teamsters Local #135

Dear Mr. Frulla:

On June 14, 1996, the Federal Election Commission notified your client of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 1997.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Jennifer Henry at (202) 219-3400.

Sincerely

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043792652

MUR 4379

TEAMSTERS LOCAL UNION NO. 135

Chris Crabtree, campaign manager for Hostettler for Congress, alleges that respondent Teamsters Local No. 135 illegally used union resources to defeat Hostettler and promote his opponent, Jonathan Weinzapfel, by staging a "media stunt" in front of the Congressman Hostettler's office using about a dozen people, including persons claimed to be "union activists." The stunt concerned asking Hostettler to sign a pledge regarding the Federal Budget which complainant claims was not even presented to him at the event. Complainant suggests that expenses and salaries for the event and its participants may have been paid with union resources; speculates there may be communication and coordination between the participants and Weinzapfel; and asserts that Weinzapfel's staff who were present at the event may have been paid to attend.

Respondent Local 135 states that the complaint failed to show that this event constituted any express advocacy for or against Hostettler. According to the Union, the newspaper article accompanying the complaint supports its conclusion that this event constituted permissible issue advocacy. The Union argues further that the complaint should be dismissed because it was based on one news article, citing *FEC v. GOPAC, Inc.*, 917 F. Supp. 851 (D.D.C. 1996). The Union states that the complainant's suggestion that the pledge which Mr. Hostettler did not receive and the general statement from a union leader (not a member of 135) that "organized labor was working to defeat Representative Hostettler" are not enough to change the event from issue to express advocacy.

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This matter is less significant relative to other matters pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4379

DATE FILMED 4-25-97 CAMERA NO. 1

CAMERAMAN Jm W

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