



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4394

DATE FILMED 3/11/98 CAMERA NO. 2

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June 20, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 25 11 51 AM '96

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

MUR 4394

FEDERAL ELECTIONS COMPLAINT

RESPONDENT: **Americans for Limited Terms**
Bob Costello, President
Paul Farago, Vice-President
Evanston, Illinois
847-475-8186

COMPLAINANT: **Bob Kustra**
Lt. Governor
100 West Randolph
15th Floor
Chicago, Illinois 60601

Dear General Counsel:

The purpose of the Federal Elections Law is to require full disclosure and reporting by individuals and groups who are expending money to advocate one candidate or another. Congress enacted these laws to provide for fair elections and to let the citizens of the United States know who is supporting the various candidates. I believe the **Americans for Term Limits** group has circumvented the laws governing reporting of independent expenditures. Please investigate this group immediately and order a full hearing into this matter.

1. On information and belief, **Americans for Term Limits** (hereinafter AFTL) is just another name for a group called **U.S. Term Limits**. Bob Costello is President of AFTL and is a former board member of U.S. Term Limits. Paul Farago is Vice-President of AFTL and is currently on the Board of U.S. Term Limits (Exhibit A). Both of these groups advocate term limits for Representatives and Senators.
2. On information and belief, the AFTL sent out 400,000 copies of the attached brochure, (Exhibit B) just two weeks prior to the March 19, 1996 Illinois primary. This brochure clearly advocates the support of Al Salvi over Bob Kustra.

This advertisement clearly falls within the scope of 2 U.S.C. 431(17) which defines an "Independent expenditure means an expenditure by a person for a

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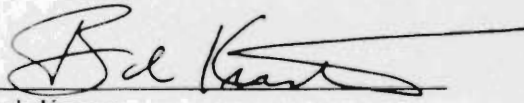
This advertisement clearly falls within the scope of 2 U.S.C. 431(17) which defines an "Independent expenditure means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate."

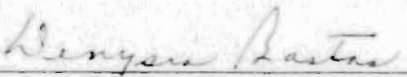
3. On information and belief, this expenditure exceeded \$250.00 and AFTL has failed to report this independent expenditure as required by 2 U.S.C. 434(c).
4. On information and belief, AFTL spent \$140,000 in direct mail and cable TV advertisements (Exhibit C).
5. On information and belief, both Exhibit B and the cable TV advertisements failed to contain a disclaimer as required by 2 U.S.C. 441d(a)(iii).

Clearly, Americans for Term Limits has failed to comply with the reporting requirements and disclaimer provisions of the Federal Elections law. Please investigate this matter pursuant to your authority under 2 U.S.C. 437g.

On information and belief, all of the matters alleged above are true and correct based on the documentation submitted with this complaint.

Subscribed and sworn this date.


Bob Kustra


Notary Public

My commission expires on 10-18-97

Enclosures



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8TH STORY of Level 1 printed in FULL format.

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Roll Call

October 24, 1994

LENGTH: 2334 words

HEADLINE: Late, Outside Money Begins to Flow Through Independent Expenditures

BYLINE: By Tim Curran

BODY:

Independent expenditures - the late and massive spending that is every incumbent's biggest nightmare - began last week with television and direct-mail campaigns around the country. Among the first on the air was the National Rifle Association's Political Victory Fund, which began running attack ads against Democratic Senate incumbents in six states.

Other groups expected to undertake major independent campaigns this year include the National Association of Realtors, the American Medical Association, and Auto Dealers and Drivers for Free Trade. And several other interest groups, ranging from the Christian Coalition

to Americans for Limited Terms, are running massive "voter education campaigns," which avoid direct appeals for the election or defeat of candidates but clearly have an effect on the political environment in key contests.

In fact, the airwaves this year are as crowded with politics as they've ever been - between candidates' own spots and the advertisements being bought by outside groups.

In Spokane, the main media market in Speaker Tom Foley's (D-Wash) district, air time is "virtually sold out" until the election, according to a memo obtained by Roll Call from one media firm.

Slots next to the late news are unavailable in both Spokane and Knoxville, Tenn., where there are two Senate seats, a governor's race, and two competitive House races in the market. And Houston is also virtually booked, according to a Democratic source.

Several of the biggest independent expenditure groups are taking different tacks with this year's late spending. The NRA, for instance, has decided to put its muscle not into races that are already seen as dead heats but rather into contests where Democrats are currently slightly favored.

Sources say the NRA - which vowed campaigns of retaliation after high-profile losses on the Brady Bill and the assault weapons ban included in this year's crime bill - then hopes to be able to take credit for turning the tide against those Democratic incumbents.

Its targets are Sens. Dick Bryan (Nev), Kent Conrad (ND), Jeff Bingaman (NM), Jim Sasser (Tenn), and Bob Kerrey (Neb), as well as open-seat nominee Rep. Dave

A

McCurdy (D) in Oklahoma.

Most of the ads feature actor and noted gun owners' rights spokesman Charlton Heston criticizing the incumbents' anti-gun votes. Several stations in Tennessee have refused to air the ads.

But in House races, the NRA doesn't have the financial resources for as broad a push as it would like, according to a well-placed source, and may not be as active as originally anticipated.

The NRA, however, will send a mailing to its national membership before the elections and make clear which candidates it supports.

Tanya Metaka, director of the Institute for Legislative Action at the NRA, said the group would concentrate on "trying to elect those that have been with us in the past and bring in some new faces."

"In any political campaign you could always use more money," she said.

The NRA is already running radio ads in some districts, including one against top gunner target Rep. Dick Swett (D-NH). Swett is also facing an independent expenditure from a group called Citizens Against Corruption.

Kerrey - who now has Charlton Heston criticizing him on the airwaves, thanks to the NRA - "was also the target of another major independent expenditure this year.

The American Council for Health Care Reform ran ads - a significant buy of several weeks - earlier this fall saying that Kerrey was working on a secret health care proposal that would "take \$400 billion out of Medicare."

Those ads resulted in an attorney for Kerrey warning broadcasters that the ads included blatant misrepresentations and that they were not obligated to carry them.

In 1990, the auto dealers PAC single-handedly outspent former Sen. John Durkin (D-NH) in his open-seat comeback bid and helped send him to an overwhelming defeat.

But this year the group is taking another approach: Instead of TV ads, it's offering a detailed demographic database as an in-kind contribution and has already handed the information out to roughly 90 campaigns.

"We are contemplating some independent expenditures," PAC director Frank Glacken said Friday but stressed that the auto dealers have so far focused primarily on the demographic database and maps they've provided.

Glacken said the system, which allows candidates to target voter identification and get-out-the-vote efforts, has gone to a slightly higher number of Republicans than Democrats.

Glacken and PAC founder Tom Nemet gave the system a workout in an independent expenditure on behalf of embattled former Ways and Means Chairman Dan Rostenkowski (D-Ill) in his March primary, targeting undecideds and pro-Rostenkowski voters and making more than 110,000 persuasion calls on his

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behalf.

They believe they helped turn the race around for Rostenkowski, who ultimately won with 50 percent, and that their system can do the same for others.

The group is now "watching several races," according to Glacken, and weighing whether to become more involved.

Nemet echoed the sentiments shared by practically anyone considering an independent expenditure and declined to identify potential targets.

"If they're waiting for you, then they're loaded," Nemet said.

Foley has been perhaps the most high-profile target of independent expenditures this year.

Before his primary he faced independent ads from Countdown to Majority, a PAC sponsored by Florida Rep. Bill McCollum (R), and a group opposed to DC statehood. Both of those groups have promised to run more anti-Foley ads, and he has become a magnet for groups looking to be in on the first defeat of a Speaker since 1960.

Term-limits groups have turned him into their number-one target, focusing on Foley's lawsuit to overturn the term-limits law passed by the state in 1992.

Americans for Limited Terms, a newly formed pro-term limits group, is already on the air across the nation - and in Foley's district - but its expenditures won't show up at the Federal Election Commission, since the group contends it is merely trying to educate voters rather than sway the outcome of a contest.

Nonetheless, it plans to spend big money - as much as \$1.4 million in the month or so before the election - airing ads that make it clear which candidate takes the right position in favor of term limits.

Foley's district was one of the first targets of ALT, with ads highlighting the lawsuit that went up two weeks ago. Foley's opponent, Republican George Nethercutt, also assails the Speaker's lawsuit in his ads.

Another target of the Americans for Limited Terms campaign is Massachusetts, where the contest between Sen. Ted Kennedy (D) and businessman Mitt Romney (R) has focused attention on politics. Here, too, the ads play into the Republican candidate's campaign theme - in this case, that Kennedy, a Senate veteran since 1962, has been in office too long.

Overall, Americans for Limited Terms will run ads in "12 to 14 areas," according to Bob Costello, the Illinois-based businessman who is the group's president. Another likely spot, according to Keith Appell, one of the group's media consultants, is the Texas district of Rep. Jack Brooks (D), who is in a closer than expected race after 42 years on the Hill.

"Our key criteria is where there's a lot of visibility, and the visibility is in competitive races," Costello said.

That is very similar to independent expenditure techniques from a closely

related term limits group that drew fire from the Democratic Congressional Campaign Committee after two high-profile special election defeats last spring.

The DCCC argued in a complaint filed with the Federal Election Commission that U.S. Term Limits, which ran ads in both specials touting the fact that the Republican candidate supported limits while the Democrat did not, should be required to disclose its activities since they were clearly related to the elections and intended to influence their outcome.

That complaint is still pending and isn't likely to be resolved until well after the 1994 elections are over. The new group, Americans for Limited Terms, not only works closely with U.S. Term Limits - which has provided research assistance, according to Costello - but also includes a current U.S. Term Limits board of directors member, Paul Farago, as its vice president. Costello is a former U.S. Term Limits board of directors member.

"We believe we're protected under the First Amendment," Costello said. He defended the group's argument for why it doesn't have to report its fundraising to the FEC saying, "If you contribute to somebody's campaign, you're trying to buy access. When you contribute to term limits, you're not buying access. You're making a statement."

Like both term-limits groups, the Christian Coalition also stays out of the direct independent expenditure business. But the main organizational arm of the religious right plans to distribute 33 million voter guides the week before the election, highlighting the positions of candidates in every Senate race and about 350 House districts.

Among the items on the Christian Coalition's scorecard this fall are positions on abortion, prayer in schools, and other "family" issues. The voter guides leave little doubt which candidate the coalition favors.

Previous Christian Coalition voter guides drew unsuccessful complaints from the

Democrats in 1992, and it is also part of the complaint the DCCC filed this spring after the special election defeats.

"I think our people are excited about this election cycle," a Christian Coalition spokesman said last week.

Other independent expenditures are difficult if not impossible to track in advance, since disclosure isn't required until the last minute and airtime is usually bought by specialized firms rather than the interested parties themselves.

And the groups are not about to volunteer the information.

"Our policy is to make our statements to the FEC," an AMA spokesman said last week. But with health care reform sure to be on the agenda again in the 104th Congress, the AMA is expected to be a major player.

Even groups not attacking a specific candidate could help drive the brewing

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Roll Call, October 24, 1994

anti-incumbent sentiment. Empower America, the conservative group associated with 1996 presidential contender Jack Kemp and ex-Rep. Vin Weber (R-Minn), is running ads in about 20 cities across the nation which are crafted to boost the organization's membership, but the ads are also highly critical of Congress.

The ads "go straight at Congress," said spokesman Bill Dal Col. "We tried to pick places... where there was enough pent-up frustration with what's going on in Washington" to help drive up grassroots support for Empower America.

One of the two 15-second ads begins: "What has two bodies, 535 heads and an insatiable appetite for pork?" while the other opens: "What do you call someone who spends \$1.50 for every dollar you give him? A Congressman."

LANGUAGE: ENGLISH

LOAD-DATE: October 24, 1994

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THE POWER TO FORCE ENACT TERM LIMITS.

Americans for Limited Terms
needs your help to get all the
candidates for the U.S. Senate to
support real term limits by signing
the U.S. Term Limits Pledge. The
Pledge calls on candidates to

support a 2-term limit in the Senate
and a 3-term limit in the House.

Below are the positions of the
major candidates for the
Republican nomination for U.S.
Senate. Please act!

ROBERT KUSTRA



- Refused to sign the U.S. Term Limits Pledge.
- Is on record supporting a no-limit "limit" of 24 years in Congress!

**Contact Kustra today and demand he sign the
U.S. Term Limits Pledge for real reform in
Congress now!**

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ONLY YOU HAVE THE THE POLITICIANS TO

The career politicians will do everything in their power to stop the enactment of term limits. They will go so far as to try to sell you a bill of goods — try to “look like they support term limits” without

actually doing anything to support real reform. Don't be fooled.

You must let all candidates seeking office know that you want them to support real term limits.

To help get them to take a stand,

AL SALVI



- Signed the U.S. Term Limits Pledge for real term limits.
- Pledges to serve no more than 2 terms in the Senate.

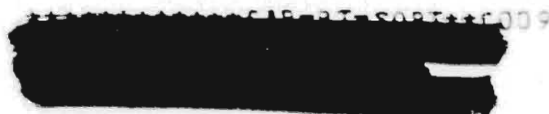
***Contact Al Salvi and thank him for his stand
in favor of real term limits.***

**DON'T FALL FOR THE
OLD SHILL GAME!**



Americans for Limited Terms

Bulk Rate
U.S. Postage
P A I D
Mailed From
Zip Code 21233
PERMIT No. 1



Back to:

[Congressional & State Term Limits](#) [Americans for Limited Terms](#)

Rogue Term Limits Group Hits GOP Candidates

(This article by Doug Obey appeared in The Hill of Mar. 27, 1996 See [letter to the editor](#), in response, below)

For GOP congressional candidates, term limits have always been a good campaign issue. But this year some fear they could prove to be a double-edged sword.

One Republican who felt the wrath of supporters of term limits was Lt. Gov. Bob Kustra, who last week narrowly lost to Al Salvi in the GOP primary to seek election to the seat being vacated by Sen. Paul Simon (D-Ill.). According to exit polls, Salvi's success was due primarily to his hard line on taxes, his mobilization of pro-life supporters, and a lackluster campaign by an overconfident Kustra.

But Kustra, who had signed a pledge (from the GOP front-group, Americans Back in Charge) to support a term limit of no more than 12 years for members of the House and Senate, also was targeted by Americans for Limited Terms. The group, the campaign arm of U.S. Term Limits (see correction below), wants six-year term limits for House members, and took its case to the people with a \$140,000 direct mail and cable TV campaign.

"Americans and the people of Illinois support term limits of three terms for members of the U.S. House," said an ad aired on CNN in the Chicago suburbs. "But not all the candidates for U.S. Senate apparently care what the people want."

The 30-second spot attacked Kustra and Senate candidate Rep. Richard Durbin (D-Ill.) for not signing a U.S. Term Limits pledge to support stricter limits -- and praised Salvi and Democratic candidate Pat Quinn for getting on board.

"This was a contrast between someone who was a hypocrite and someone who was the real thing," said Paul Farago, vice president for Americans for Limited Terms. "The voters chose the real thing."

It is the kind of attack that raises the blood pressure of term-limits advocates, who say they fear the potential of the movement to devour its young.

"It is a real problem," said Rep. Bob Inglis (R-S.C.), who has long favored a six-year limit in the House, but who adds that term limits advocates have to cooperate in order to succeed.

"Twelve years is good, eight years is better, six years is best," Inglis added.

At issue -- a festering division between Americans Back in Charge, which advocates a reform

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strategy spearheaded in Congress — and the more strident U.S. Term Limits, which has written off lobbying Congress in favor of a state by state push for a constitutional convention called for by state legislators.

As an incentive, proponents of the convention strategy said they are pushing to get initiatives on the 1996 ballot in roughly 15 states — initiatives that would punish recalcitrant state legislators with ballot citations saying they "violated voter instruction" on the subject.

Although the more militant term limits backers say they want to concentrate on the states, they also have periodically turned up the heat on those in Washington, including presidential candidate, Sen. Bob Dole (R-Kan.)

"We are the group that spend \$55,000 (see correction below) in New Hampshire informing GOP voters that there is no difference [on term limits] between Bob Dole and Bill Clinton," added Farago.

In reference to congressional campaign, Farago said the group would not be in every district, but would target areas in which there was a "clear distinction" between the candidates.

"When we go in, we go in in a massive way," he added.

Freshman Rep. Mark Souder (R-Ind.), a term limits proponent, conceded that the strategy has the potential to hurt his party if differences like those between GOPers Salvi and Kustra pop up in more primaries.

"There is always the risk that you can knock out the best candidate in the fall," said Souder. "I am not saying that happened in Illinois," he added.

Congressional term-limits backers emphasized what they said was the potential for disunity within the movement.

"They divide the movement and it makes it more difficult," said Rep. Bill McCollum (R-Fla.), who favors a 12-year limit on House service.

Yet, backers of a more hard-hitting approach said their impatience is justified, after attempts to pass term limits in both Houses dies with a whimper.

"We don't expect Congress to move on this until they have no other choice," said Jonathan Ferry, spokesman for U.S. Term Limits. "Congress has a pretty large conflict of interest on the subject." Speaker Newt Gingrich (R-Ga.) has promised that a vote on term limits will be the first vote of the 105th Congress, while the Senate has tentatively scheduled a second vote on term limits in April.

In an effort to both jump start momentum in the House and to give term-limits proponents something to campaign on in the fall, a House task force met with grass-roots groups last week to work towards legislative language for a term-limits constitutional amendment. They also mailed a term-limits survey to House members after their first attempt during the recess met with a lackluster response, according to Rep. Tille Fowler (R-Fla.).

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The task force agreed upon a general set of principles, including: The proposal should be a constitutional amendment; there should be a single up or down vote; the limit should apply prospectively; and it should be a lifetime limit.

Term Limits Ads

The Hill

Mar. 29, 1996

Dear Editor

"Rogue Term Limits Group Hits GOP" (The Hill, Mar. 27) was generally on target but contained several errors.

First, *Americans for Limited Terms* is not the "campaign arm" of U.S. Term Limits. That falsely implies that the two groups are not separate organizations. *Americans for Limited Terms* is headquartered in Evanston, Ill., with an independent Board of Directors and a 100% volunteer staff. We do use the Pledge programs of U.S. Term Limits and other grassroots term-limit groups to determine if candidates support or oppose the limits passed by voters in the states.

Secondly, ALT does not "attack" candidates in our ads. Candidates themselves will not advertise their opposition to limits favored by the voters, but we will. We suggest voters contact those candidates and ask them to change their mind. When they do, we discontinue our ads. We do not care who wins elections but we do believe that representatives ought to be on the people's side of the term limit debate, not the career politicians'. That's why our very predictable program is criticized by partisans who oppose term limits. In your article, Rep. Bob Inglis (R-S.C.) called our work "a real problem." The GOP's problem is simply solved: adopt the voters' definition of term limits -- 2 in the Senate, 3 in the House -- and abandon the disguised defense of the discredited House seniority system, trying to convince voters that a "6 House terms" proposal is something other than a "no-limit limit." There isn't a term limit on the planet that permits reelection five (5) times.

Thirdly, *Americans for Limited Terms* spent \$550,000 -- not \$55,000, as reported in the article -- in New Hampshire this year informing GOP voters by radio, TV, and mail that there was no difference on term limits between Bob Dole and Bill Clinton. N.H. voters narrowly rejected presidential candidate Dole. Faced with more important priorities in 1996, we were unable to inform presidential primary voters elsewhere.

Lastly, the "festering division" is not between advocates, as wishfully suggested in your article by 16-year incumbent Rep. Bill McCollum (R-Fla.), author of the "no-limit limit." It is between the anti-limits Congress and the 25 million citizens who have voted for congressional term limits (just from among the 23 states where voters can initiate laws by signing petitions.) The group called *Americans Back in Charge* and its congressional clientele led by McCollum, contrary to their claim, do not support term limits defined by these voters. They propose a vague "tenure limit", measured in an uncertain number of years, not terms.

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and defined by Congress' mood of the moment. The American people see that as phony, uninteresting, typical congressional posturing.

Congress just isn't paying attention to the voters on term limits. For that reason, citizens in 12 states are now signing petitions to place measures on November ballots that would instruct Congress to pass the term limits amendment to the U.S. Constitution backed by the voters -- but not the fakery promoted by this Congress. Earlier this century citizens forced Congress to pass the 17th Amendment -- the popular election of U.S. Senators -- by passing state election laws providing that when incumbents seeking reelection had not followed the voters' instruction, then the ballot would so inform voters. Term-limit laws modeled after that historical precedent are likely to be enacted in all states which permit voter initiatives. Further, states have already begun to apply to Congress (under Article V of the Constitution) for an amendment-proposing convention to circumvent the congressional conflict of interest on the term limits amendment. Advocates' goal is 34 applications by 1999. Of course, 38 states must separately ratify any proposed amendment.

The forces that have always created the congressional term limit movement's pressure are from outside the Beltway, not from Congress itself nor from groups "representing" it to the public. Congressional abuse of the popular term limits issue for -- of all things -- re-electioneering, is not sustainable politics, even in the short term. But after Congress will have accepted the voters' judgment on term limits, ALT can discontinue its ads for the last time.

Paul Farago, Vice President
Americans for Limited Terms

Your comments & suggestions are welcomed!

 Email to: U.S. Term Limits 800-733-6440 -- the nation's leading advocacy, research, and legal defense group, Americans for Limited Terms 708-475-8186 -- the nation's leading Voter Education group, Term Limits Leadership Council 800-554-6487 -- a coalition of state-based term-limits groups that believes Congress should play no role in the term limits debate

This page was last modified Tuesday, 09-Apr-96 09:15:12 PDT by admin@termlimits.org and has been accessed 34 times at www.termlimits.org since this counter was added. ©1996 Paul R. Farago.

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Term-Limit Group's Shameful Tactics

Your April 22 editorial "Conflict of Congress" is right when it stated that I cite Americans for Limited Terms (ALT) and their tactics as a contributing factor to my primary defeat in the race for the U.S. Senate. Yet, your editorial would lead your readers to draw the conclusion that ALT was noble in its call for term limits while I was just another politician opposing such limits. Let me set the record straight.

I support term limits—always have, always will. More important, I signed the Americans Back in Charge pledge even before I announced my candidacy for the U.S. Senate. ALT, however, doesn't agree with the Americans Back in Charge pledge, even though both groups support a two-term limit for U.S. senators. They differ in how many terms members of the House should serve—an office for which I was not running.

So, through 440,000 mailings that ALT blanketed the Chicago suburbs with during the last week of the campaign, they told voters I opposed term limits—that I was against "real" term limits. There was no mention that I was on record supporting a two-term limit for senators. There was no mention that I had supported term limits throughout my career and would limit my terms with or without a constitutional amendment in place, unlike my primary opponent.

ALT's tactics were shameful and deceitful to the voters. In addition, it refuses to report any of its fund-raising efforts or its expenditures. It is not held accountable for what it mails or what it broadcasts in commercials. Its mailings to Illinois voters contained no return address, offered no phone number for the organization, or any disclaimer that it was supporting my primary opponent.

With multiple organizations saying what are and what aren't "tough" term limits, the truth sometimes gets left behind. If Americans Back in Charge, ALT and U.S. Term Limits are serious about reform, they should form a united front instead of pitting one pledge against the other. After all, isn't the goal to elect officials who support term limits?

BOB KUSTRA
Lieutenant Governor
State of Illinois

Springfield, Ill.

93043861513



FEDERAL ELECTION COMMISSION

Washington, DC 20463

July 1, 1996

The Honorable Bob Kustra
Lt. Governor of Illinois
100 West Randolph
Chicago, IL 60601

RE: MUR 4394

Dear Mr. Kustra:

This letter acknowledges receipt on June 25, 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.

The respondents 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 4394. 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".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION

Washington, DC 20463

July 1, 1996

Bob Costello, President
Americans for Limited Terms
2135 Sherman Avenue
Evanston, IL 60201

RE: MUR 4394

Dear Mr. Costello:

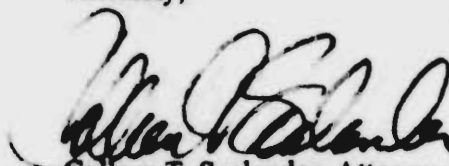
The Federal Election Commission received a complaint which indicates that Americans for Limited Terms may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4394. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Americans for Limited Terms 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.

If you have any questions, please contact Alva E. Smith 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

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Americans For Limited Terms

July 16, 1996

General Counsel
Federal Elections Commission
999 E Street, NW
Washington, D.C. 20463

RE: MUR 4394

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUL 22 3 35 PM '96

Dear Sir,

I am in receipt of your letter informing me of allegations made by Mr. Bob Kustra against Americans for Limited Terms.

The complaint is completely without merit.

Mr. Kustra notes in two separate instances in his letter of June 20 that the law applies to groups who "advocate" the election of one candidate over another. He further quotes 2 U.S.C. 431 (17), which defines an independent expenditure as an expenditure, "... expressly advocating the election or defeat of a clearly identified candidate. "

As is clear from the copies of ALT materials Mr. Kustra provided the Commission, our organization is engaged in issue discussion. At no time did we advocate the election or defeat of a candidate for any office. Our issue promotion is clearly protected speech as defined by the Courts and the First Amendment to the Constitution and is outside the scope or jurisdiction of the Commission. As such, we are under no obligation to register or report our activities to the Commission.

Thank you for your prompt dismissal of this groundless complaint.

Sincerely,



Robert Costello
President

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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)
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CASE CLOSURES UNDER
ENFORCEMENT PRIORITY

FEB 11 3 15 PM '93

GENERAL COUNSEL'S REPORT

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 cases permits the

Commission to focus its limited resources on more important cases presently

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pending before it. Based upon this review, we have identified 16 cases that do not warrant further action relative to other pending matters.¹ The attachment 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 difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of this fact, EPS provides us with the means to identify those cases which remained unassigned for a significant period due to a lack of staff resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources

¹ These cases are: MUR 4631 (Perot/McClure); MUR 4661 (Cox and Amplicon, Inc.); MUR 4667 (Specter & Greenwood); MUR 4668 (Schakowsky for Congress); MUR 4672 (Friends of John O'Toole); MUR 4673 (Papan for Assembly); MUR 4676 (Warren County Democratic Committee); MUR 4677 (Patrick Kennedy); MUR 4681 (Jack Block); MUR 4683 (Janice Schakowsky for Congress); MUR 4684 (Spartanburg County Republicans); MUR 4694 (Jan Schakowsky for Congress); MUR 4695 (Schakowsky for Congress); MUR 4696 (Janice Schakowsky for Congress); MUR 4703 (Dumont Institute / Robert M. Gre); and Pre-MUR 356 (Pritzker for Congress).

We have identified cases which have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We recommend 27 of these cases be closed.³ Nine of these cases were part of the so-called "Major 96" cases that have not been able to be activated due to a lack of resources to effectively pursue them in a timely fashion.⁴ Since the time period rendering them stale has now passed, we recommend their closure at this time.

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective February 24, 1998. Closing

³ These cases are: MUR 4350 (Republican Party of Minnesota), MUR 4355 (Aqua-Leisure Industries, Inc.), MUR 4372 (Nebraska Democratic Party), MUR 4394 (Americans for Term Limits), MUR 4472 (Committee to Elect Winston), MUR 4483 (Nebraska Democratic State Central Committee), MUR 4504 (NH Democratic State Party Committee), MUR 4507 (People for Boschunz), MUR 4509 (Wellstone for Senate), MUR 4565 (Bell for Congress), MUR 4570 (Congresswoman Andrea Seastrand), MUR 4571 (Subert for Congress Committee), MUR 4572 (Friends of Dick B. Durbin), MUR 4575 (Dana Corrington), MUR 4585 (Hughes for Congress Committee), MUR 4589 (Congressman Bart Gordon), MUR 4592 (Iowa Public Television), MUR 4593 (Public Interest Institute), MUR 4599 (Bruce W. Hapanowicz), MUR 4601 (Christian Nation of Oklahoma), MUR 4602 (WFSB-TV Channel 3), MUR 4604 (Dana Corrington), MUR 4605 (Christian Coalition), Pre-MUR 346 (Coalition of Politically Active Christians), RAD 96NF-09 (O'Sullivan for Congress), RAD 96L-12 (Alaska Democratic Party), and RAD 97NF-02 (Zien for Congress).

⁴ These cases are: MUR 4350 (Republican Party of Minnesota), MUR 4372 (Nebraska Democratic Party), MUR 4394 (Americans for Term Limits), MUR 4472 (Committee to Elect Winston), MUR 4483 (Nebraska Democratic State Central Committee), MUR 4504 (NH Democratic State Party Committee), MUR 4507 (People for Boschunz), MUR 4509 (Wellstone for Senate), and MUR 4565 (Bell for Congress).

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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.

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective February 24, 1998, and approve the appropriate letters in the following matters:

- | | | |
|----------------|----------------|----------------|
| 1. RAD 96NF-09 | 3. RAD 97NF-02 | 5. Pre-MUR 356 |
| 2. RAD 96L-12 | 4. Pre-MUR 346 | |

B. Take no action, close the file effective March 2, 1998, and approve the appropriate letters in the following matters:

- | | | |
|--------------|--------------|--------------|
| 1. MUR 4350 | 14. MUR 4575 | 27. MUR 4668 |
| 2. MUR 4355 | 15. MUR 4585 | 28. MUR 4672 |
| 3. MUR 4372 | 16. MUR 4589 | 29. MUR 4673 |
| 4. MUR 4394 | 17. MUR 4592 | 30. MUR 4676 |
| 5. MUR 4472 | 18. MUR 4593 | 31. MUR 4677 |
| 6. MUR 4483 | 19. MUR 4599 | 32. MUR 4681 |
| 7. MUR 4504 | 20. MUR 4601 | 33. MUR 4683 |
| 8. MUR 4507 | 21. MUR 4602 | 34. MUR 4684 |
| 9. MUR 4509 | 22. MUR 4604 | 35. MUR 4694 |
| 10. MUR 4565 | 23. MUR 4605 | 36. MUR 4695 |
| 11. MUR 4570 | 24. MUR 4631 | 37. MUR 4696 |
| 12. MUR 4571 | 25. MUR 4661 | 38. MUR 4703 |
| 13. MUR 4572 | 26. MUR 4667 | |

2/1/98
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA R. DAVIS
COMMISSION SECRETARY

DATE: FEBRUARY 19, 1998

SUBJECT: Case Closures Under Enforcement Priority. General
Counsel's Report dated February 11, 1998.

The above-captioned document was circulated to the Commission
on Thursday, February 12, 1998

Objection(s) have been received from the Commissioner(s) as
indicated by the name(s) checked below:

| | |
|-----------------------|------------|
| Commissioner Aikens | — |
| Commissioner Elliott | — |
| Commissioner McDonald | <u>XXX</u> |
| Commissioner McGarry | — |
| Commissioner Thomas | <u>XXX</u> |

This matter will be placed on the meeting agenda for

Tuesday, February 24, 1998

Please notify us who will represent your Division before the Commission on this
matter.

AGENDA DOCUMENT NO. X98-13

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In the Matter of)
)
Case Closures Under) Agenda Document
Enforcement Priority) No. X98-13

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on February 24, 1998, do hereby certify that the Commission took the following actions with respect to Agenda Document No. X98-13:

1. Failed in a vote of 3-2 to pass a motion to approve the General Counsel's recommendations, subject to amendment of the closing date in recommendation A to read March 2, 1998, and subject to deletion of those cases listed in footnote 4 on Page 3 of the staff report.

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

2. Decided by a vote of 5-0 to
- A. Decline to open a MUR, close the file effective March 2, 1998, and approve the appropriate letters in the following matters:
- | | |
|----------------|----------------|
| 1. RAD 96NF-09 | 4. Pre-MUR 346 |
| 2. RAD 96L-12 | 5. Pre-MUR 356 |
| 3. RAD 97NF-02 | |

(continued)

- B. Take no action, close the file effective March 2, 1998, and approve the appropriate letters in the following matters:

| | |
|--------------|--------------|
| 1. MUR 4350 | 20. MUR 4601 |
| 2. MUR 4355 | 21. MUR 4602 |
| 3. MUR 4372 | 22. MUR 4604 |
| 4. MUR 4394 | 23. MUR 4605 |
| 5. MUR 4472 | 24. MUR 4631 |
| 6. MUR 4483 | 25. MUR 4661 |
| 7. MUR 4504 | 26. MUR 4667 |
| 8. MUR 4507 | 27. MUR 4668 |
| 9. MUR 4509 | 28. MUR 4672 |
| 10. MUR 4565 | 29. MUR 4673 |
| 11. MUR 4570 | 30. MUR 4676 |
| 12. MUR 4571 | 31. MUR 4677 |
| 13. MUR 4572 | 32. MUR 4681 |
| 14. MUR 4575 | 33. MUR 4683 |
| 15. MUR 4585 | 34. MUR 4684 |
| 16. MUR 4589 | 35. MUR 4694 |
| 17. MUR 4592 | 36. MUR 4695 |
| 18. MUR 4593 | 37. MUR 4696 |
| 19. MUR 4599 | 38. MUR 4703 |

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

Attest:

2-25-98
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 2, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Bob Kustra
Lt. Governor of Illinois
100 West Randolph
Chicago, IL 60601

RE: MUR 4394

Dear Mr. Kustra

On June 25, 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 exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 2, 1998. 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. § 437(g)(2)(B).

Sincerely,

F. Andrew Tuttle
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 2, 1998

Mr. Bob Costello, President
Americans for Limited Terms
2135 Sherman Avenue
Evanston, IL 60201

RE: MUR 4394

Dear Mr. Costello

On July 1, 1997, 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 exercised its prosecutorial discretion to take no action against Americans for Limited Terms. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on March 2, 1998.

The confidentiality provisions of 2 U.S.C. § 437g(a)(2) 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 Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 694-1650.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4394

DATE FILMED 3/11/98 CAMERA NO. 2

CAMERAMAN EES

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20541

Date: 4/6/98

 Microfilm

 ✓ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4394

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Americans for Limited Terms

Eric O'Keefe
President

March 13, 1998

Federal Election Commission
999 E St., NW
Washington, D.C. 20463

CLOSED

RE: MUR 4394

Dear FEC:

In February and March of 1996, Americans for Limited terms advertised in Illinois for citizens to press Republican U.S. Senate candidate Bob Kustra to sign the U.S. Term Limits pledge. The ads were similar to ads run by Americans for Limited Terms in several dozen regions around the country in 1994 and 1996, none of which drew FEC complaints. The ads are all meticulous in avoiding express advocacy of candidates. In fact, the ads do not criticize candidates for past actions that they cannot change; they call for signing a pledge, and we have pulled ads from the air in cases where candidates signed a pledge during our advertising efforts.

The ads are clearly speech that no politician or government agency has any business regulating. The ads are fully protected political speech on their face; any real or supposed discussions, intentions, or actions by our organization cannot change that. Protected political speech does not become illegal because of the unspoken thoughts or intentions of the speaker.

This complaint from an early 1996 campaign should have been dismissed immediately. The fact that it was dismissed in a summary fashion indicates that it was groundless.

The rule allowing anyone to file a complaint for any reason without any evidence invites the use of your agency to chill the political speech of citizens. The fact that your agency did not act expeditiously to dismiss this complaint, and the fact that the decision to "take no action" does not include a conclusion that the ads were protected political speech suggests that the agency values the chilling effect that it is able to provide on behalf of politicians attacking citizens who criticize them.

Incumbent fund-raising advantages over challengers and incumbent re-election rates have soared since the creation of the FEC, so it is likely that the agency is accomplishing what Congress intended. It is doing so in a way that alternately chills and crushes the First Amendment rights of citizens.

Sincerely,

