

Date Filmed 10/22/81 Camera No. --- 2

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*Mun 1324- Gentry*

PS Form 3811, Jan. 1978

● SENDER: Complete items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)  
☐ Show to whom and date delivered.....  
☐ Show to whom, date and address of delivery.....  
☐ RESTRICTED DELIVERY  
 Show to whom and date delivered.....  
☐ RESTRICTED DELIVERY.  
 Show to whom, date, and address of delivery.\$\_\_\_\_  
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
*William C. Oldaker*

3. ARTICLE DESCRIPTION:  
 REGISTERED NO. CERTIFIED NO. INSURED NO.  
                     438541  
 (Always obtain signature of addressee or agent)

I have received the article described above.  
 SIGNATURE ☒ Addressee ☐ Authorized agent  
*[Signature]*

4. DATE OF DELIVERY POSTMARK  
                                     20  
                                     1981

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

☆GPO : 1979-300-499

PS Form 3811, Jan. 1978

● SENDER: Complete items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)  
☐ Show to whom and date delivered.....  
☐ Show to whom, date and address of delivery.....  
☐ RESTRICTED DELIVERY  
 Show to whom and date delivered.....  
☐ RESTRICTED DELIVERY.  
 Show to whom, date, and address of delivery.\$\_\_\_\_  
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
*Carol C. Dan*  
*20702 Lin W*  
*NC 27036*

3. ARTICLE DESCRIPTION:  
 REGISTERED NO. CERTIFIED NO. INSURED NO.  
                     545384  
 (Always obtain signature of addressee or agent)

I have received the article described above.  
 SIGNATURE ☒ Addressee ☐ Authorized agent  
*Carol Dan*

4. DATE OF DELIVERY POSTMARK  
                                     JUL 21 1981  
                                     WASHINGTON

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

☆GPO : 1979-300-499

*1324 Gentry*





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 20, 1981

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Carol C. Darr  
Deputy Counsel  
Carter-Mondale Presidential  
Committee, Inc.  
2000 L Street, N.W.  
Washington, D.C. 20036

Re: MUR 1324

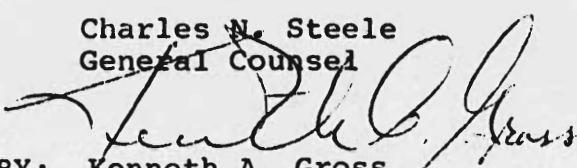
Dear Ms. Darr:

On October 28, 1980, the Commission received a complaint against the Carter-Mondale Reelection Committee. As you are aware from the Commission's letter of April 8, 1981, based on the allegations contained in the complaint the Commission has found reason to believe the Carter-Mondale Reelection Committee ("Carter-Mondale") violated 2 U.S.C. §§ 434(b)(2), 434(b)(3)(A) and (B), 434(b)(4)(A), 434(b)(5)(A), 441d(a); 11 C.F.R. § 104.13 (a), and 26 U.S.C. §§ 9003(b)(2) and 9012(d)(1)(A).

On July 14, 1981, the Commission determined to take no further action against Carter-Mondale with respect to the above cited statutory violations. Accordingly, the file in this matter as it concerns Carter-Mondale has been closed. This matter will therefore become a part of the public record within thirty (30) days.

Sincerely,

Charles N. Steele  
General Counsel

  
BY: Kenneth A. Gross  
Associate General Counsel

CERTIFIED TRUE  
BY: [Signature] REQUESTED

Carol C. Darr  
Deputy Counsel  
Carter-Mondale Presidential  
Committee, Inc.  
2000 L Street, N.W.  
Washington, D.C. 20036

Re: MUR 1234

Dear Ms. Darr:

On October 28, 1980, the Commission received a complaint against the Carter-Mondale Reelection Committee. As you are aware from the Commission's letter of April 8, 1981, based on the allegations contained in the complaint the Commission has found reason to believe the Carter-Mondale Reelection Committee ("Carter-Mondale") violated 2 U.S.C. §§ 434(b)(2), 434(b)(3)(A) and (B), 434(b)(4)(A), 434(b)(5)(A), 441d(a); 11 C.F.R. § 104.13 (a), and 26 U.S.C. §§ 9003(b)(2) and 9013(d)(1)(A).

On July 14, 1981, the Commission determined to take no further action against Carter-Mondale with respect to the above cited statutory violations. Accordingly, the file in this matter as it concerns Carter-Mondale has been closed. This matter will therefore become a part of the public record within thirty (30) days.

Sincerely,

Charles N. Steele  
General Counsel

BY: Kenneth A. Gross  
Associate General Counsel

MSS  
7/17/81





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 20, 1981

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Loren Smith  
Reagan Bush Committee  
901 South Highland Street  
Arlington, Virginia 22204

Re: MUR 1324

Dear Mr. Smith:

The Federal Election Commission has reviewed the allegations of your complaint filed October 28, 1980 and determined that, on the basis of the information provided in your complaint and information provided by the Respondents, the Commission will take no further action against the Carter-Mondale Reelection Committee and the Concerned Seniors for Better Government with respect to the allegations contained in the complaint.

Accordingly, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the federal election laws, please contact Marsha Gentner, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Charles W. Steele  
General Counsel

BY: Kenneth A. Gross  
Associate General Counsel

John Smith  
Rearman Smith Committee  
301 South Highland Street  
Arlington, Virginia 22204

Dear Mr. Smith:

The Federal Election Commission has reviewed the allegations of your complaint filed October 28, 1980 and determined that, on the basis of the information provided in your complaint and information provided by the respondents, the Commission will take no further action against the Carter-Mondale Re-election Committee and the Concerned Seniors for Better Government with respect to the allegations contained in the complaint.

Accordingly, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the federal election laws, please contact Marsha Gentner, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

**Charles N. Steele**  
**General Counsel**

BY: Kenneth A. Gross  
Associate General Counsel





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 17, 1981

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

William C. Oldaker  
Graham and James  
12th Floor  
1050 17th Street, N.W.  
Washington, D.C. 20036

RE: MUR 1324

Dear Mr. Oldaker:

By letter dated April 20, 1981, your client, Concerned Seniors for Better Government ("CSBG") was notified of a complaint filed against it. A copy of the complaint was enclosed.

The Commission has received your response on behalf of CSBG to the complaint, and inasmuch as that response acknowledges that CSBG is an arm of the AFL-CIO, the Commission determined on July 14, 1981, that there is reason to believe AFL-CIO violated 2 U.S.C. § 431(9)(B)(iii) for failing to report the expenditure of \$1,361.36 for a communication advocating the election of former President Carter which was internally distributed through AFL-CIO. The Commission also determined on that date to take no further action against AFL-CIO (or CSBG) with respect to the aforementioned reporting failure; however, the Commission has directed that, pursuant to 2 U.S.C. § 431(9)(B)(iii), an amended report disclosing the \$1,316.36 expenditure be filed by AFL-CIO upon receipt of this letter.

The Commission also wishes to take this opportunity to remind your client that the \$2000 limitation invoking the reporting requirement of 2 U.S.C. § 431(9)(B)(iii) applies

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Letter to William C. Oldaker  
Page Two  
MUR 1324

to the aggregate of all such expenditures, per election, by a labor organization (and its subparts and projects) for any communication(s) advocating the election of a particular candidate. See also 11 C.F.R. § 100.8(b)(4)(vii). The labor organization must take care to insure that all of its organizational arms and educational projects are aware of this single limitation of 2 U.S.C. § 431(9)(B)(iii) and that they adhere to it and the concurrent reporting obligation contained therein, as well.

Pursuant to the Commission's actions the file in this matter as it relates to your client has been closed. Accordingly, this matter will become part of the public record within thirty (30) days.

Sincerely,

Charles W. Steele  
General Counsel

BY:   
Kenneth A. Gross  
Associate General Counsel

cc: Lawrence Gold  
General Counsel, AFL-CIO

81040300893

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

William C. Oldaker  
Graham and James  
12th Floor  
1050 17th Street, N.W.  
Washington, D.C. 20036

RE: MUR 1324

Dear Mr. Oldaker:

By letter dated April 20, 1981, your client, Concerned Seniors for Better Government ("CSBG") was notified of a complaint filed against it. A copy of the complaint was enclosed.

The Commission has received your response on behalf of CSBG to the complaint, and inasmuch as that response acknowledges that CSBG is an arm of the AFL-CIO, the Commission determined on July 14, 1981, that there is reason to believe AFL-CIO violated 2 U.S.C. § 431(9)(B)(iii) for failing to report the expenditure of \$1,361.36 for a communication advocating the election of former President Carter which was internally distributed through AFL-CIO. The Commission also determined on that date to take no further action against AFL-CIO (or CSBG) with respect to the aforementioned reporting failure; however, the Commission has directed that, pursuant to 2 U.S.C. § 431(9)(B)(iii), an amended report disclosing the \$1,316.36 expenditure be filed by AFL-CIO upon receipt of this letter.

The Commission also wishes to take this opportunity to remind your client that the \$2000 limitation invoking the reporting requirement of 2 U.S.C. § 431(9)(B)(iii) applies



to the agencies... per election, in  
labor organizations and projects; for any  
communication... of a particular  
candidate. The law is 2 U.S.C. § 431(3)(vii). The labor  
organization must take care to insure that all of its organi-  
zational arms and educational projects are aware of this single  
limitation of 2 U.S.C. § 431(3)(vii) and that they adhere to  
it and the concurrent reporting obligation contained therein,  
as well.

Pursuant to the Commission's actions the file in this  
matter as it relates to your client has been closed. Accordingly,  
this matter will become part of the public record within thirty  
(30) days.

Sincerely,

Charles N. Steele  
General Counsel

BY: Kenneth A. Gross  
Associate General Counsel

cc: Lawrence Gold  
General Counsel, AFL-CIO

81040300895

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Carter-Mondale Reelection )  
Committee, et al. )

MUR 1324

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on July 14, 1981, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 1324:

1. Take no further action against the Carter-Mondale Reelection Committee with respect to the Commission's finding of reason to believe the Committee violated 2 U.S.C. §§434(b)(2)(A) and (D), 434(b)(3)(A) and (B), 434(b)(4)(A), 434(b)(5)(A), and 441d(a); 11 C.F.R. §104.13(a); and 26 U.S.C. §§9003(b)(2) and 9012(d)(a)(A).
2. Find reason to believe the AFL-CIO violated 2 U.S.C. §431(9)(B)(iii) and take no further action with respect to that alleged violation.
3. Take no further action with respect to the Commission's finding of reason to believe the Concerned Seniors for Better Government violated 2 U.S.C. §434(c)(1).
4. Close the File.
5. Send the appropriate letters.

Attest:

7-16-81

Date

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

81040300896



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*  
FROM: MARJORIE W. EMMONS/JODY CUSTER  
DATE: JULY 9, 1981  
SUBJECT: MUR 1324 - General Counsel's Report  
dated 7/7/81. OBJECTION FILED.

The above-named document was circulated on a 48  
hour vote basis at 4:00 p.m. on July 8, 1981.

Commissioner Thomson submitted an objection  
at 2:19 p.m. on July 18, 1981.

This matter will be placed on the Executive Session  
Agenda for July 14, 1981.

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MEMORANDUM TO: Marysville S. [unclear]

FROM: Elton S. [unclear]

SUBJECT: [unclear]

Please have the [unclear] Council's Report  
distributed to the Commission on a 48 hour tally basis.  
Thank you.

81040300898

**SENSITIVE**

BEFORE THE FEDERAL ELECTION COMMISSION

June 29, 1981

In the Matter of  
Carter-Mondale Reelection  
Committee, et al.

)  
)  
)  
)  
)  
NUR 1324

GENERAL COUNSEL'S REPORT

I. BACKGROUND

A. Facts Presented

This matter stems from a complaint filed by the Reagan/  
Bush Committee against the Carter-Mondale Reelection Committee  
("C-M") and its Oregon state office. 1/ From the complaint  
and affidavits filed therewith, and the responses of C-M  
(also containing affidavits) and the Concerned Seniors for  
Better Government, the Office of General Counsel has obtained  
the following factual evidence.

The complaint initiating this action concerns the presence  
of copies of a piece of campaign literature at the C-M Portland  
office in October of 1980. The literature, which expressly  
advocates the reelection of former President Carter (see  
Attachment I at 4) was designed and paid for by a group called  
the Concerned Seniors for Better Government, at a cost of  
\$1,361.36. See Attachment IV (Response of Concerned

1/ This office was not a separate political committee, but  
rather was part of C-M, and therefore is not an additional  
respondent in this matter.

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COMMUNICATIONS SECTION

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Seniors for Better Government). Concerned Seniors for Better Government ("CSBG") is an AFL-CIO organization with the self-described objectives of coordinating "voter registration and political education activities aimed at retired union members." Id. at 1, 3, 4.

According to CSBG, the leaflet in question was prepared in Washington (at Merkle Press) and was distributed to union locals throughout the United States "to be copied and distributed to retired union members", the financing of such distribution to be paid by the individual locals. Thus, the leaflet contained an identification/authorization notice as follows:

(Name) is an independent political committee.  
It does not ask for or accept authorization  
from any candidate and no candidate is responsible for its activities.

See Attachment IV at 1-2.

This campaign literature was subsequently found by three individuals, on separate occasions, at the C-M Portland office during the period of October 15 to October 21, 1980. See Attachment I. According to C-M, the literature was brought to the Portland office in the middle of October by an elderly gentleman who identified himself as a CSBG member<sup>2/</sup> and requested that he be permitted to leave the copies of the leaflet at the office for someone to pick up later. Ms. Shirley Glasby, the individual in charge of press relations for C-M in Oregon

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<sup>2/</sup> No one at C-M or CSBG has been able to identify this elderly gentleman.

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and the recipient of the elderly gentleman's request, permitted the gentleman to leave the leaflets in the C-M office for the stated purpose, purportedly as a "courtesy" to an apparent supporter. See Attachment II at 1-2, and at affidavits of Sandra Bell and of Shirley Glasby; and Attachment II at 9-11 and 12-13.

The C-M Portland office manager indicated in her affidavit that upon discovering that a "small amount" of the literature was still present in the front room of the C-M office,<sup>3/</sup> she moved the leaflets to a back room not accessible to the public. However, C-M acknowledges that someone, perhaps a volunteer,<sup>4/</sup> placed the literature back in the front of the office where it could be obtained by the public along with other literature paid for and distributed by C-M. On October 22, 1980, after receiving an inquiry from the Election Division of the Oregon Secretary of State's Office, and after conducting an inquiry of the office staff, Jane Hartley, C-M Oregon state coordinator, found some copies of the leaflet with other C-M campaign materials. Ms. Hartley avers that upon her instructions,

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3/ Ms. Bell's affidavit (Attachment II at 9-10) avers that it is her impression that someone did, in fact, pick up the literature, but that a portion of it was left behind. However, the General Counsel's Office has not obtained any evidence which would confirm this "impression".

4/ The C-M officials with authority to do so have denied placing or instructing someone to place the material in the front office, and have indicated their inability to to identify the individual who did so.

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the remaining leaflets were promptly removed and destroyed.  
See Attachment II, at 2 and at Affidavits of Sandra Bell and Jane Hartley.

B. Prior Commission Action

On March 25, 1981, the Commission found reason to believe C-M violated 2 U.S.C. § 434(b)(2)(A) and (D) for failing to report an apparent in-kind contribution from CSBG;<sup>5/</sup> § 434(b)(3)(A) and (B) for failing to identify CSBG as a contributor in excess of \$250;<sup>6/</sup> § 434(b)(4)(A) for failing to report the CSBG expenditure for the leaflets apparently made on behalf of C-M; § 434(b)(5)(A) for failing to report the name and address of the recipient of the CSBG expenditure, § 441d(a) for failing to indicate on the CSBG leaflets that the expenditure incurred in producing them was authorized by C-M; 11 C.F.R. § 104.13(a) for failing to report the receipt of an in-kind contribution from CSBG; 26 U.S.C. § 9003(b)(2) for accepting a contribution while receiving public funds;<sup>7/</sup> and § 9012(d)(1)(A) for knowingly and willfully submitting false, fictitious

5/ The Office of General Counsel notes that 2 U.S.C. § 434(b)(2)(A) and § 434(b)(2)(D) must be considered alternative violations in this matter in that the failure to report a single contribution can only give rise to a violation of one, but not both, of these statutory provisions.

6/ 2 U.S.C. § 434(b)(3)(A) and (B) also are alternative violations. See n. 5, supra.

7/ The Office of General Counsel notes that 26 U.S.C. § 9003(b)(2) sets forth the contents of the certification a candidate must make as a condition precedent to receiving public funding of his general election presidential campaign, and is not a prohibitive section or one which imposes an affirmative recordkeeping or reporting obligation on C-M. Accordingly, this section is not one which a committee can "violate".

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or fraudulent information to the Commission (apparently by certifying that no contributions would be accepted, but subsequently accepting an in-kind contribution from CSBG).

The Commission also found reason to believe CSBG violated 2 U.S.C. § 434(c)(1) by failing to report, as an independent expenditure, its payment of the costs of printing the leaflets in question.<sup>8/</sup> A motion to close the file in this matter at that time failed by a vote of 2-4. Rather, the Commission instructed this Office to attempt to secure the address of CSBG (at that time unavailable through non-investigative inquiries to Oregon election office and telephone directories) through a request to the printer of the leaflets. This request proved successful, in that the printer was able to provide the address of CSBG.<sup>9/</sup>

On April 18, 1981, C-M was notified of the Commission's preliminary findings against it. However, in that, due to the problems incurred in obtaining its address, CSBG had never received a copy of the complaint which triggered

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<sup>8/</sup> Of course, were the Commission to move forward on this violation it would represent a determination that there is probable cause to believe the printing and distribution of the leaflets was an independent expenditure. Therefore, it would be inconsistent to, at the same time, move forward with respect to the violations alleged to be committed by C-M, as they are premised on the theory that the CSBG expenditure was not independent, but was an in-kind contribution to C-M.

<sup>9/</sup> Also provided was the amount of the expenditure incurred in printing the leaflets. This is the same figure as given by CSBG in its response. See Attachment IV at 2.

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this matter and the finding against it, the General Counsel's Office mailed a copy of the complaint to CSBG and provided it 15 days to respond, as is mandated by 2 U.S.C. § 437g(a)(1).<sup>10/</sup>

In addition, because of the procedural requirement of 2 U.S.C. § 437g(a)(1) that no Commission vote of reason to believe can be made against a respondent named in a complaint until that respondent has received a copy of the complaint and has been provided 15 days to demonstrate to the Commission why no

action should be taken against it, notification of the Commission's March 25, 1981 finding of reason to believe against CSBG was not sent to the group.<sup>11/</sup> As previously indicated, responses have been received from both C-M and CSBG.

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<sup>10/</sup> Respondent CSBG has urged, in a separate letter dated May 27, 1981, (Attachment V), that the Commission take no action against it because CSBG did not receive a copy of the complaint within five days, see 2 U.S.C. § 437g(a)(1), and because CSBG was not "clearly identified" by the complaint. See 11 C.F.R. § 111.4(d)(1). With respect to the latter allegation, 11 C.F.R. § 111.4(d)(1) is a permissive section giving the Commission the discretion to decide if a complaint should be dismissed for that purpose. In any event, the complainant identified the respondent to the best of its ability from the information available to it. With respect to the former allegation, it would seem that where, as here, a respondent's address is not readily available, that the five day period would be tolled until the address could be secured. That was the procedure followed in this action.

<sup>11/</sup> The Commission was informed of this course of action, and the reasons for it, in Interim Investigative Report #1 in this matter (dated May 20, 1981).

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## II. LEGAL ANALYSIS AND RECOMMENDATIONS

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The Office of General Counsel recommends that, in light of the facts presented, the Commission take no further action against respondent C-M. The violations alleged against C-M assume that C-M received an in-kind contribution from CSBG by having the leaflets paid for by CSBG available in the C-M Portland office. However, the evidence presented demonstrates that the individual who permitted the literature to be placed in the C-M office (if only for a brief period and to be picked up at some later time) was not expressly or implicitly authorized to accept contributions on behalf of C-M, nor to determine what campaign materials would be used by C-M or placed for public distribution in its Portland office. See Attachment II and supporting affidavits, and Attachment III at 3-4.<sup>12/</sup>

Moreover, when those in a position with C-M with at least implied authority to accept such contributions on behalf of C-M, learned of the presence of the leaflets with C-M literature,

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<sup>12/</sup> The C-M response (Attachment III at 3) correctly states that in MUR 423, the Commission determined there was no reasonable cause to believe a contribution had been accepted and received by the respondent political committee, even though the person who "accepted" the contribution was a staff member of the respondent committee. The General Counsel's Report on MUR 423, recommending that the Commission follow the course of action it pursued, stated that the person who received the contribution, although a staff member of the committee, could not be said to be an agent of the committee within the meaning of 11 C.F.R. § 109.1(5) for purposes of accepting in-kind contributions, in that she had no authority, express or implied, to do so.

the leaflets were removed and destroyed. See Attachment II at 2 and supporting affidavits. The evidence further indicates that the leaflets were in the C-M Portland offices for only one to two weeks before they were destroyed. Id. See also Attachment I at supporting affidavits (indicating the flyer was obtained by the affiants from the C-M office only during the period of October 15 to October 21, 1980). No evidence of any connection between C-M and CSBG, other than the leaflets themselves, has been presented by complainant, and the affidavits and responses submitted by respondents unequivocally deny any cooperation or consultation between CSBG and C-M, and maintain that no one with C-M gave his or her prior consent to, or even had knowledge of, the CSBG design and expenditure for the literature in question.

In light of the above, it appears that, at most, C-M could be said to be guilty of a technical violation of the Act by permitting a situation to arise whereby literature paid for by someone other than C-M was found in the C-M Portland office with other campaign materials, and thus was available to the public, for a short period of time.<sup>13/</sup>

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<sup>13/</sup> The violations would be as follows: 2 U.S.C. § 434(b)(2) and (3) and 11 C.F.R. § 104.13(a) for failing to report an in-kind contribution, and § 434(b)(4) and (5) for failing to report the expenditure for the leaflets. However, there is no evidence of a violation by C-M of 2 U.S.C. § 441d(a) nor 26 U.S.C. § 9012(d) (the remaining reason to believe findings made by the Commission against C-M), as no facts exist which indicate that C-M authorized the CSBG expenditures or that C-M knowingly and willfully submitted false or misleading information to the Commission.

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Therefore, the Office of General Counsel believes this is not a matter which presents a factual and legal situation compelling further administrative proceedings and additional compliance action by the Commission.

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The Office of General Counsel also recommends the Commission proceed no further on its finding of reason to believe CSBG violated 2 U.S.C. § 434(c)(1). According to respondent CSBG, the leaflets were not intended for any public distribution or distribution to C-M, but rather were printed to be sent to AFL-CIO union locals, which would in turn distribute (and finance the distribution of) the leaflets to "retired union members". As such, the leaflets represented a partisan communication from one arm of the AFL-CIO to another arm of the AFL-CIO, an activity that is excluded from the Act's definition of "expenditure".<sup>14/</sup> See 2 U.S.C. § 431(9)(B)(iii). However, since the intent of this admitted arm of a labor organization (AFL-CIO) was to have this express advocacy modified, reproduced and ultimately distributed to "retired union members" by the union locals, there could have been an expenditure by CSBG in violation of 2 U.S.C. § 441b(a) in that, as the Commission has previously found in MUR 773, retirees may not necessarily be union members for purposes of the Act. Therefore, the payment of the costs for the

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<sup>14/</sup> The cost incurred in obtaining this communication was \$1,361.36, well under the \$2000 threshold which triggers the reporting requirements of 2 U.S.C. § 431(9)(B)(iii).



printing of the leaflets would not be an internal partisan communication exempt from regulation by the Act; rather, it would be a prohibited union expenditure within the meaning of 2 U.S.C. §§ 431(9) and 441b(a).

The only information the Commission has as to whether any union local in fact modified and distributed the CSBG prototype leaflet is a statement in a letter to the Oregon Elections Division from AFL-CIO Legislation and Political Education Director Nellie Fox, to the effect that to Ms. Fox's knowledge no reproduction of the leaflet was undertaken by any union. See Attachmet IV, at 3. To confirm this assertion, the General Counsel's office would have to embark on an extensive investigation of all local union recipients of the CSBG leaflet, and, if finding that some locals did reproduce and distribute the leaflet to retirees, undertake a further investigation of each of those unions to determine if their retirees are union "members" for purposes of the Act. Because such an investigation would require a significant investment of Commission time and resources for a somewhat attenuated violation, which resulted from a one-time activity by CSBG that occurred months ago and is not even the focus of the complaint filed with the Commission, the Office of General Counsel recommends that the Commission find reason to believe CSBG violated 2 U.S.C. § 441b(a) and take no further action.

However, even if the Commission decides to go forward in this matter with respect to CSBG, the factual information

obtained thus far indicates that 2 U.S.C. § 441b(a), not 2 U.S.C. § 434, would be the relevant and appropriate statutory basis on which to proceed against that respondent. Moreover, in that the Commission's previous finding of reason to believe CSBG violated 2 U.S.C. § 434(c)(1) is procedurally defective, as CSBG did not receive a copy of the complaint or an opportunity to respond before the Commission's vote took place, see 2 U.S.C. § 437g(a)(1) and Part I B. supra, the General Counsel's Office recommends that, in any event, the Commission determine to take no further action against CSBG regarding this initial finding.

SUMMARY OF RECOMMENDATIONS

1. Take no further action against the Carter-Mondale Reelection Committee with respect to the Commission's finding of reason to believe the Committee violated 2 U.S.C. §§ 434(b)(2)(A) and (D), 434(b)(3)(A) and (B), 434(b)(4)(A), 434(b)(5)(A), and 441d(a); 11 C.F.R. § 104.13(a); and 26 U.S.C. §§ 9003(b)(2) and 9012(d)(1)(A).

2. Find reason to believe the Concerned Seniors for Better Government violated 2 U.S.C. § 441b(a), and take no further action with respect to that alleged violation.

3. Take no further action with respect to the Commission's finding of reason to believe the Concerned Seniors for Better Government violated 2 U.S.C. § 434(c)(1).

4. Close the file.
5. Send the attached letters.

July 1, 1981  
Date

Charles N. Steele  
General Counsel

Attachments

- I. Complaint (10 pages)
- II. Response of C-M to Complaint (15 pages)
- III. Response of C-M to Notification of Reason to Believe Finding (5 pages)
- IV. Response of CSBG to Complaint (4 pages)
- V. Letter from W. C. Oldaker dated May 27, 1981 (2 pages)
- VI. Letter to Complainant
- VII. Letter to Carol Darr, Esq.
- VIII. Letter to W. C. Oldaker, Esq.

81040300910



October 24, 1980

Honorable Max J. Friedersdorf, Chairman  
Federal Election Commission  
1325 K Street N.W.  
Washington, D.C.

Dear Chairman Friedersdorf:

Pursuant to 2 USC § 437g we are filing this complaint against the Carter/Mondale Re-election Committee for illegally soliciting private contributions in violation of 26 USC § 9003(b)(2) and for attempting to hide this fact in violation of 2 USC § 434(b)(2)(A) and (D) which requires committees to report contributions from individuals and political committees; 2 USC 434(b)(3)(A) and (B) which requires committees to report the identification of each person who makes contributions aggregating more than \$200 per calendar year and of each political committee which makes a contribution during the reporting period; 2 USC 434 (b)(4)(A) which requires committees to report disbursements to meet committee operating expenses; and 2 USC 434 (b)(5)(A) which requires committees to report the name of each person to whom an expenditure exceeding \$200 is made. The Carter campaign is also suborning perjury by encouraging individuals to violate 2 USC § 434 (c)(2)(B) which requires individuals to certify under penalty of perjury whether or not an independent expenditure is made in cooperation consultation, or concert, with, or at the request or suggestions of any candidate, committee, or agent.

The proposed ad was printed in Glendale, Maryland and distributed in Portland, Oregon. If the Commission discovers that the proposed ads were distributed by the U.S. Postal Service, the case should be turned over to the Justice Department for prosecution under the mail fraud statutes.

The Carter/Mondale headquarters in Portland, Oregon, and an as yet undetermined number of other locations is distributing a proposed advertisement to be used as an independent expenditure for Carter and against the Reagan campaign. (See attached ad) The advertisement mock-up contains an independent expenditure

21:01A 821000

TELETYPE UNIT

81040300911

18:6V 01000

disclaimer in blank. The organization or individual who publishes the advertisement (and hence makes the illegal contribution and signs the perjured disclaimer) is apparently supposed to put their own name where the mock-up says (name). This advertisement was, according to the union bug on it, printed in Glendale, Maryland by Merkle Press (see code 17). We cannot understand why these advertisements would be printed in the Washington area unless they were part of a national effort.

Copies of the enclosed advertisement were given to Alex Hurtado on October 15 and 17; to Dick Richards on October 17; and to Bob Madison on October 21. The office appears to be the official Carter/Mondale headquarters and is located at 3rd and Main Streets, Portland, Oregon. (Affidavits enclosed)

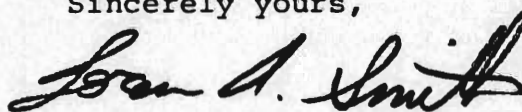
The advertisement is false and misleading and we can understand why the Carter/Mondale Committee doesn't want their name associated with it. We cannot understand Carter intentionally exposing his supporters to criminal prosecution under 2 USC § 9012(f) for illegal contributions or for perjury.

These actions should be fully investigated and appropriate penalties imposed. The Commission should immediately force the Carter/Mondale Committee to withdraw all such or similar, invitations to illegality and issue a public announcement that no proposed ads received from a campaign can be run as independent expenditures. We feel the Carter/Mondale Committee should be prosecuted civilly and criminally, but we do not want to see innocent people deceived by the Carter/Mondale Committee into violating this law.

We may have been over cautious in not filing a complaint sooner but this violation is so egregious and blatant that we didn't believe it when it was first brought to our attention. We demanded copies of the proposed advertisement and affidavits from the people who received the proposed ad. We hope the Commission will take immediate public steps (not mentioning the complaint or the campaign) to alert innocent voters that they will be in violation of the law if they place one of these ads and claim to be an independent expenditure committee.

I make the above complaint under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code.

Sincerely yours,



Loren A. Smith  
Chief Counsel

LAS/jac

Enclosures

Personally approved before me a notary of the State of Virginia this 27<sup>th</sup> day of October 1980, Loren Smith, who swore on oath the forgoing statement is true to the best of his knowledge and belief.

(2 of 10 pages)



MY COMMISSION EXPIRES NOVEMBER 5, 1982

81040300912

AFFIDAVIT

STATE OF OREGON       )  
                          )  
County of Multnomah )   ss.

I, Alex P. Hurtado, being first duly sworn, depose  
and say:

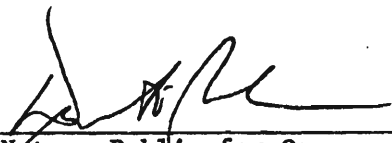
1. On two occasions, October 15, and October 17th, 1980,  
I obtained the attached flyer (hereinafter referred to as  
Exhibit A) at the offices of the Carter Mondale Campaign  
at S. W. 3rd and Main in Portland, Oregon.

2. This Affidavit is made in support of any complaint  
which may be made against the Carter Mondale Campaign for  
violation of election laws.

  
Alex P. Hurtado

Subscribed and Sworn to before me this 23rd day of  
October, 1980.

Before Me:

  
Notary Public for Oregon  
My Commission Expires 7/9/87

SEAL

81040300913



Oct. 15, 1980



## He isn't

## He isn't

**He isn't**

## He isn't

**He isn't**

—Ronald Reagan, quoted in *Human Events*, Nov. 1966

**Vote CARTER for President**  
**He Cares about the Elderly**  
*Concerned Seniors for Better Government*

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

(4 of 10 pages)

81040300915



## He isn't

## He isn't

He isn't

## He isn't

## He isn't

—Ronald Reagan, quoted in *Human Events*, Nov. 1966

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

(5 of 10 pages)

AFFIDAVIT

STATE OF OREGON       )  
                              )  
County of Multnomah   ) ss.

I, Richard Richards, being first duly sworn, depose and say:

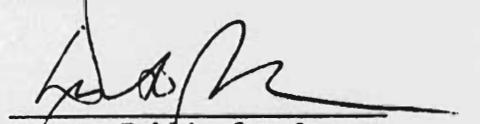
1. On Friday, October 17th, 1980, at 11:00 A.M., I obtained the attached flyer (hereinafter referred to as Exhibit A) at the offices of the Carter Mondale Campaign at S. W. 3rd and Main in Portland, Oregon.

2. This Affidavit is made in support of any complaint which may be made against the Carter Mondale Campaign for violation of election laws.

  
Richard Richards

Subscribed and Sworn to before me this 23rd day of October, 1980.

Before me:

  
Notary Public for Oregon  
My Commission Expires: 7/9/83

SEAL

81040300916





**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in *Human Events*, Nov. 1966**

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for  
or accept authorization from any candidate and no candidate is  
responsible for its activities.

AFFIDAVIT

STATE OF OREGON                    )  
                                      )  
County of Multnomah                )       ss.

I, William R. Madison, being first duly sworn, depose and say:

1. On Tuesday, October 21, 1980, at 11:30 A.M., I obtained the attached flyer (hereinafter referred to as Exhibit A) at the offices of the Carter Mondale campaign at S. W. 3rd and Main in Portland, Oregon.

2. I asked the woman, who gave me Exhibit A, whether she knew if I could obtain more copies of Exhibit A. She answered essentially:

"We have the master in the back. We can print some more."

3. This Affidavit is made in support of any complaint which may be made against the Carter Mondale Campaign for violation of election laws.

William R. Madison  
William R. Madison

Subscribed and Sworn to before me this 23rd day of October, 1980.

Before Me:

[Signature]  
Notary Public for Oregon  
My Commission Expires: 7/7/83



SEAL

81040300918



**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in Human Events, Nov. 1966**

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.



11:30 A.M.  
10-21-80 TUES  
3<sup>rd</sup> MAIN

WHO I  
ASKED HER  
IF SHE KNOWS  
WHERE I COULD  
GET SOME MORE

BEING CLOUT 2 PERS (HAIR GLASSES)  
" WE HAVE THE MASTON IN  
THE BACK. WE CAN  
PRINT SOME MORE " (HEAR!)  
YES. ↑

SHE HAD TO ASK A  
GUY IN THE BACK IF  
IT WAS OK & HE SAID  
SURE

6'1 MED. DRESS  
SHOULDER LENGTH  
HAIR (LIGHT BROWN)  
GLASSES

William R. Mad. 10-21-80

Witness

Printed  
10-21-80.

CARTER/MONDALE  
RE-ELECTION  
COMMITTEE, INC.

Robert S. Strauss, Chairman  
Tim Kraft, National Campaign Manager  
S. Lee Kling, Treasurer

2000 L STREET, N.W., WASHINGTON, D.C. 20036

(202) 887-4700

November 17, 1980

RE: MUR 1324(80)

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

Dear Mr. Steele and Ms. Gentner:

The Carter/Mondale Reelection Committee, Inc. (Committee) submits this response to your notification of October 28, 1980, that the Commission had received a complaint alleging that the Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended.

Background

The complaint, numbered MUR 1324(80), involves the appearance in our Portland, Oregon, headquarters of certain campaign flyers. Based on our own inquiry into this situation and the statements of campaign officials and employees, the Committee states that it had no part in coordinating the printing of the flyer, nor did the party or parties producing the flyer consult with the Committee before the literature was printed. No one at the Committee requested whatever party produced the piece to deliver it to the Oregon headquarters of the Carter/Mondale campaign, and no one in authority accepted delivery or approved the dissemination of the flyer. In fact, the Carter/Mondale committee was unaware of the existence of the flyer.

According to the affidavits of volunteers and employees of the Carter/Mondale Reelection Committee attached to this Response, the brochure apparently turned up in the Oregon campaign headquarters as a result of the following series of events.

An elderly gentleman who appeared to be a supporter of the Carter/Mondale campaign came to the headquarters during a particularly busy day with a batch of the flyers and identified himself as a member of the group whose name is listed at the bottom of the flyer. According to the affidavit of Shirley Glasby, who asked if

Attachment II (1 of 15 pages)

she could could help him, he stated that he wanted to leave the flyers in the headquarters so that an acquaintance of his could come by and pick them up for distribution elsewhere. No one in authority at the Carter/Mondale headquarters in Portland, Oregon, was aware that the flyers had been left in the office. Ms. Glasby had no authority to receive the materials, but accepted the materials as a courtesy to the gentlemen, and with no intention that copies would be distributed at the headquarters to the public.

According to the affidavit of Sandra Bell, the office manager, it was her impression that most of the literature was picked up by the acquaintance of the person who left them in the headquarters. She states that she noticed that a small amount of the material had been left behind and she moved the flyers to a back storage area. Several days later, she states, the literature was placed out in the front distribution area. She surmises that a volunteer, who assumed the literature was official campaign material, found the flyers in the back room and, without asking permission, brought them into a front reception area where they were intermingled with several authorized Carter/Mondale campaign pieces. To the best of her knowledge, the literature remained in the main area for about a week when Jane Hartley, campaign coordinator for Oregon, received a call from the Election Division of the Oregon Secretary of State's office regarding the flyers.

Ms. Hartley states in her affidavit that she then made inquiries of the office staff and discovered a few copies of the flyer intermingled with the regular campaign literature. She immediately had the flyers removed and destroyed.

In his affidavit, Leslie Francis, National Field Manager of the Carter Committee, states that prior to being shown the flyer on November 17, 1980, he had never before seen it. In addition, he declares that neither he nor, to the best of his knowledge, anyone else in the Carter committee "ever coöperated or consulted in the printing or distribution of this flyer, nor requested nor suggested that such activities be undertaken, nor acted in concert with those who are responsible for this unauthorized material...."

The affidavit and note by William Madison attached to the Reagan Bush complaint alleges that a woman with light brown shoulder-length hair and glasses said in response to Madison's request to obtain more copies of the flyers, "We have the master in the back; we can print some more."

Donna Fitzwater, who worked in the main reception area of the campaign headquarters where campaign literature was made available, has shoulder-length hair and glasses and believes she may be the woman referred to in Madison's affidavits.



In her sworn affidavit, Ms. Fitzwater says that, "I never stated to anyone that we would reproduce any piece of literature, including the flyer in question, from a master in the back room of the campaign headquarters." She further replies that, "I can state categorically that the campaign headquarters never had a 'master' of any piece of campaign literature distributed from the headquarters."

Fitzwater's statement is supported by the affidavit of Sandra Bell, the office manager, who states that, "We never had a 'master' of the flyer in question. Any documents we needed to produce in large numbers were commercially printed. We did not duplicate large amounts of literature in our office, having access only to a small and inefficient photocopy machine."

In sum, the Carter/Mondale headquarters in Portland had no "master" of the campaign flyer in question. Campaign workers did not offer to reproduce campaign literature from "masters" nor did masters exist for any regular campaign piece.

The evidence demonstrates that the material was present in the Carter/Mondale campaign headquarters as a result of inadvertence on the part of campaign volunteers, rather than as a result of intention or design on the part of the Carter/Mondale Reelection Committee. The literature was available in the campaign office for approximately one week and no one of policy-making authority for the Carter/Mondale campaign in the Oregon headquarters or on the national level approved the distribution of the flyer in question. Furthermore, the materials were immediately removed and destroyed as soon as their existence was brought to the attention of campaign officials.

#### Legal Analysis

There are numerous legal deficiencies in the Reagan Bush Committee's complaint and in its references to sections of the statute and regulations.

To begin with, 26 USC 9003(b)(2) does not prohibit the "solicitation" of private contributions by publicly-funded presidential candidates, nor does the Reagan Bush Committee provide one scintilla of evidence that the flyers in question were produced and distributed at the request or suggestion of the Carter/Mondale Committee. What 26 USC 9003(b)(2) does prohibit, and what the Reagan Bush Committee seems to be complaining about, is the alleged "acceptance" by the Carter/Mondale Committee of a "contribution" resulting from a possibly flawed attempt by someone unconnected with the campaign to make an independent expenditure.

Secondly, the Complaint charges that by attempting to hide "this fact"--presumably that we were "accepting" private contributions--the Committee is in violation of 2 USC 434(b)(2)(A) and (D) for failing to report unitemized contributions. Unless the Reagan Bush Committee is charging that the flyer in question was jointly produced by a political committee and persons other than a political committee, we assume that they meant to charge the Committee with violating (A) or (D), given that these two are mutually exclusive.

Furthermore, it should be noted that the receipt of campaign materials would constitute an in-kind contribution required by 11 CFR 104.13 to be itemized by the recipient committee regardless of value. Consequently, the reference in the subsequent allegation (2 USC 434(b)(3)(A) and (B)) is also inaccurate.

The Complaint goes on to assert that the Carter/Mondale campaign is guilty of violating 2 USC 434(b)(4)(A) for failure to report as corresponding unitemized "expenditures" those items "accepted" by the Committee as a "contribution." Again, the Complaint follows this allegation with a charge that the Carter/Mondale Committee failed to report the cost of the flyers as an itemized expenditure, repeating the inaccurate reference to the \$200 threshold.

The allegations that the Carter/Mondale Committee failed to report both in-kind contributions and corresponding "expenditures" of the materials in question collapses in the face of the Complaint's total failure to prove its underlying assumption, i.e., that the Carter/Mondale Committee legally "accepted" the materials in the first place.

More serious is the Reagan Bush Committee's charge that the Carter/Mondale Committee was suborning perjury by encouraging individuals to violate 2 USC 434(c)(2)(B) which required individuals to certify that an independent expenditure was not made in collusion with any candidate or his/her committee or agents.

Aside from the fact that the subornation of perjury requires a falsely sworn statement, and the "Concerned Seniors for Better Government" has filed no statements with the FEC,\* we are distressed and offended by such an unfounded and unwarranted attack on the integrity of our Committee.

---

\*This "committee" may not have registered with the FEC because it made an independent expenditure of less than \$250, or it made an unreportable internal communication (which was too broadly distributed), or it was simply in error regarding its reporting obligations.

Moreover, if the expenditures for the flyers were not made independently of the Carter/Mondale Committee, as the Complaint seems to suggest, there would be no requirement to file the statutorily prescribed statements for independent expenditures.

### Conclusion

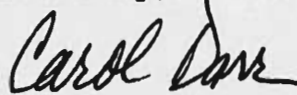
Leaving aside its numerous technical deficiencies, the essence of the Complaint, so far as we can determine, seems to be that the Carter/Mondale Committee colluded with individuals who were attempting to make an "independent expenditure." If true, this collusion would vitiate the independence of the expenditure, thereby requiring its reporting as an itemized contribution and expenditure by the Carter/Mondale Committee.

All available evidence, however, indicates that officials of the Carter/Mondale campaign, both nationally and in Oregon, had nothing to do with the publication of the flyers in question. Authorized campaign personnel had no prior knowledge of the existence of the flyer, were unaware that it was being distributed at the headquarters, and upon so learning immediately took steps to remove and destroy the flyers.

The inability of the Reagan Bush Committee to provide any substantive evidence of involvement by the Carter/Mondale Committee or its agents in the publication of the materials in question, combined with the reckless accusations of criminal activity made by the complainant, and the technical deficiencies and timing of the Complaint, suggest that it was motivated by other than legal considerations.

We urge that the Commission take no further action against the Carter/Mondale Reelection Committee on the basis of this Complaint.

Sincerely,



Carol Darr, Deputy Counsel  
Carter/Mondale Reelection  
Committee, Inc.

Of Counsel:

Richard M. Botteri, Esq.  
1215 Oregon National Building  
610 W.S. Alder  
Portland, Oregon 97205

CD:sjl

Attachments

(5 of 15 pages)

81040300925



AFFIDAVIT

I, Leslie C. Francis, being sworn, depose and say:

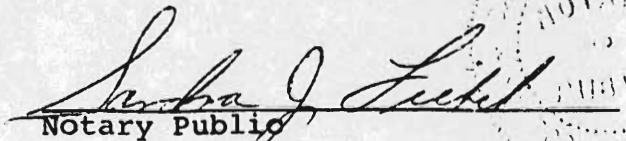
I was the National Field Director of the Carter/Mondale Reelection Committee, Inc. During the presidential campaign, it was my policy and the policy of the Carter campaign to discourage all independent expenditures on behalf of President Carter and Vice-President Mondale.

I have today been shown a copy of the flyer which is the subject of FEC MUR 1324 (80). I have never seen this flyer before. At no time have I ever cooperated or consulted in the printing or distribution of this flyer, nor requested nor suggested that such activities be undertaken, nor acted in concert with those who are responsible for this unauthorized material, and, to the best of my knowledge and belief, no one else in the campaign committee has done so either.

  
Leslie C. Francis

11-17-80  
Date

SUBSCRIBED AND SWORN to before me this 17th day of November, 1980.

  
Notary Public  
Comm. Expires: 4-1-82

(6 of 15 pages)

81040300926

AFFIDAVIT

1

2 STATE OF OREGON           )  
                                  )ss.  
3 County of Multnomah )

4 I, Shirley Glasby, being sworn depose and say:

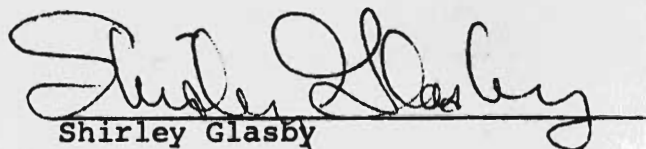
5 From the middle of September, 1980 onward I was in charge of  
6 press relations for the Carter/Mondale Re-election Committee in  
7 Oregon at the campaign headquarters in Portland.

8 Sometime in October I had a conversation with an elderly black  
9 man who came to the campaign headquarters and identified himself  
10 as being a member of the group whose name is listed on the bottom  
11 of the flyer in question in FEC MUR 1324(80). He came in with the  
12 flyers in question. I asked him what he wanted and he told me that  
13 he wanted to leave the flyers in the headquarters for someone coming  
14 from another community in Oregon who would pick them up. I told him  
15 that he could leave the material in the office for that purpose. I  
16 never saw the literature again.

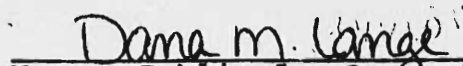
17 It was not my job to review literature that came into the cam-  
18 paign headquarters and I was not authorized to commit the Carter/  
19 Mondale campaign to the distribution of any sort of campaign lit-  
20 erature. I accepted the literature from the elderly gentleman,  
21 solely as a courtesy to him because he appeared to be a supporter  
22 of our campaign. I do not know the gentleman in question, but it  
23 did not occur to me that it was not appropriate to have the liter-  
24 ature in the campaign headquarters. I definitely did not accept  
25 the literature for the purpose of having copies available in our  
26 office for the campaign itself to distribute. I was unaware of

1 what happened to the literature after I accepted it from the  
2 gentleman and set it aside for his acquaintance to pick up.

3 Often I would assist visitors in selections of literature  
4 from that which was available in our main reception room, because  
5 my desk was located in that room. Several times I invited vis-  
6 itors to go to a back room where additional copies of literature  
7 were kept in the event they wanted pieces which were not avail-  
8 able in the front. However, to my knowledge, we had no "masters"  
9 of any campaign piece in the office and I never assured any vis-  
10 itor that he or she might have additional copies reproduced in  
11 the campaign headquarters.

  
Shirley Glasby

12  
13  
14  
15 SUBSCRIBED AND SWORN to before me this 12th day of November,  
16 1980.

  
Notary Public for Oregon  
My comm. exp.: 10/16/83

RICHARD M. BOTTERI  
ATTORNEY AT LAW  
1215 OREGON NATIONAL BUILDING  
610 S.W. ALDER STREET  
PORTLAND, OREGON 97205  
TELEPHONE 224-9675



AFFIDAVIT

STATE OF OREGON )  
 ) ss.  
County of Multnomah )

I, Jane Hartley, being sworn depose and say:.

I was the state coordinator of the Carter/Mondale Re-election Campaign in Oregon during the general election of 1980. In that capacity I had final authority over the distribution of campaign literature by the Carter/Mondale headquarters in Portland, Oregon.

I can state categorically that the flyer which is the basis of the Complaint in FEC MUR 1324(80) was not produced by the Carter/Mondale Re-election Campaign Committee, was not ordered to be printed by the Oregon campaign office, was not paid for by the Oregon campaign office, and our campaign office in Portland, Oregon never requested the party or parties which produced the piece to deliver it to our office. I also had instructed our office personnel about the necessity to distribute only official Carter/Mondale campaign literature in the headquarters.

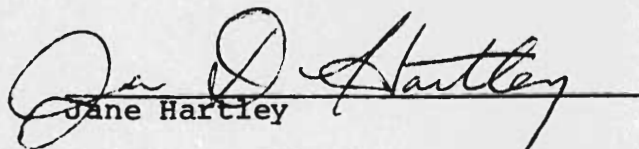
According to my investigation of the matter, the flyers were brought into our campaign office by an individual who wanted to leave them for another person to pick up and distribute elsewhere. These people have not been identified, but they were not employees of our campaign committee. I understand that some of the flyers were left in the headquarters and may have been included among stacks of official literature. At no time did any personnel of our campaign office, whether volunteer or employee, have authority of the Carter/Mondale Committee to accept such material and dis-

3009308104003

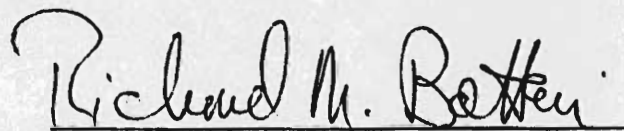
1 tribute it.

2 I understand that the flyer was only in the office for a few  
3 days. I was not aware of its existence during most of that time.  
4 On approximately October 22nd I received a telephone inquiry re-  
5 garding the flyer from the Election Division of the Oregon Secre-  
6 tary of State's office. I was confused by the phone call because  
7 I did not recognize the flyer as it was described to me as being  
8 one of the authorized pieces of literature published by the  
9 Carter/Mondale Campaign Committee. I also knew that "Concerned  
10 Seniors for Better Government" was not a group affiliated with  
11 the Carter/Mondale campaign. After the telephone conversation  
12 I inquired of our office staff about the flyer. I discovered  
13 that a few copies of it were intermingled with our regular cam-  
14 paign literature. I immediately <sup>HAD them</sup> removed ~~them~~ and ~~had them~~ de-  
15 stroyed. 104

16 No person with management authority of the Carter/Mondale  
17 Campaign in Oregon authorized the presence or the distribution  
18 of the flyer in the Carter/Mondale campaign headquarters in  
19 Portland, Oregon.

20  
21   
Jane Hartley

22 SUBSCRIBED AND SWORN to before me this 6th day of November,  
23 1980.

24  
25   
26 Notary Public for Oregon  
My comm. exp.: 6/2/84

**AFFIDAVIT**

**STATE OF OREGON            )**  
**) ss.**  
**County of Multnomah    )**

I, Sandra Bell, being sworn depose and say:

From the middle of September, 1980 onward, I was the office manager of the Oregon campaign headquarters of the Carter/Mondale Re-election Committee. The campaign headquarters was located at 1038 S. W. Third Avenue, Portland, Oregon. I am familiar with some of the facts regarding the flyer which is the subject of FEC MUR 1324(80).

The campaign headquarters had several hundred square feet of area and at least five large rooms staffed on any one day with numerous employees and volunteers. The headquarters is located close to the center of downtown Portland. As a consequence, large numbers of people visited the headquarters throughout the campaign; it was not unusual for more than one hundred people to visit the headquarters on any given day.

The large front room of the campaign headquarters has several counters, tables and shelves where campaign literature was placed for distribution. We distributed many thousands of copies of official campaign literature pieces. These included copies of over two hundred position papers and thirty to forty brochures, together with sample ballots and voter registration information. Our office also distributed approximately 100,000 pieces of mail.

During a particularly busy day during the middle of October, I remember an elderly black gentleman coming to the campaign office



1 with several copies of the flyer which forms the basis of this  
2 Complaint. I do not recall if I spoke to him directly or if I  
3 overheard what he said to a receptionist. I recall that he said  
4 that another acquaintance of his would come by the campaign head-  
5 quarters and pick up the literature in question. I did not pay  
6 close attention to the literature and never considered whether  
7 it was official campaign literature or whether it was appropriate  
8 for it to be left in the campaign headquarters.

9 It is my impression that the black gentleman's acquaintance  
10 must have come to the campaign headquarters and picked up the  
11 literature. I noticed that a small amount had been left behind  
12 and I removed it from the front room of the headquarters to a  
13 back storage area. Several days later, the literature was placed  
14 out in the front distribution area. I believe it was done by a  
15 volunteer who assumed that the literature was official campaign  
16 material.

17 One of the affidavits accompanying the Complaint states that  
18 a woman told the Reagan campaign informant who picked up the lit-  
19 erature, that the campaign office had a "master" in the back and  
20 could run off additional copies. We never had a "master" of the  
21 flyer in question. Any documents we needed to produce in large  
22 numbers were commercially printed. We did not duplicate large  
23 amounts of literature in our office, having access only to a  
24 small and inefficient photocopy machine. As far as I know, no  
25 copies of the flyer in question were ever photocopied in our  
26 office and we never had additional copies of the flyer made by

1 any commercial printer.

2 The presence and distribution of the flyer in the Carter/Mondale  
3 headquarters in Portland, Oregon was inadvertent. No person with  
4 policy making authority at the Oregon campaign headquarters author-  
5 ized the presence of the literature in the headquarters; or even  
6 knew of its existence, as far as I know. I did my best to keep  
7 unauthorized literature out of the office. I was aware of the  
8 necessity to do so. However, I am not a lawyer. In my very fleeting  
9 contact with the flyer I did not read the "disclaimer" at the  
10 bottom of the piece. If I had, I would have realized that it was  
11 not official literature, and I would not have allowed it in the  
12 office.

13 To the best of my knowledge, the literature was in our office  
14 less than a week.

15  
16 Sandra Lu Bell  
17 Sandra Bell

18 SUBSCRIBED AND SWORN to before me this 11 day of November,  
19 1980.

20  
21 Richard W. Batten  
22 Notary Public for Oregon  
23 My comm. exp.: 6/4/84  
24  
25  
26

**AFFIDAVIT**

1  
2 STATE OF OREGON           )  
                                  ) ss.  
3 County of Multnomah )

4 I, Donna Fitzwater, being sworn depose and say:

5 I worked at the Carter/Mondale campaign headquarters in Port-  
6 land, Oregon in October, 1980.

7 I worked in the main reception area of the campaign headquarters  
8 where campaign literature was made available to members of the pub-  
9 lic. I have shoulder length hair and wear glasses and may be the  
10 woman referred to in one of the affidavits filed in support of FEC  
11 MUR 1324(80).

12 One of my duties was to assist members of the public in selec-  
13 tion of campaign literature. I can state categorically that the  
14 campaign headquarters never had a "master" of any piece of campaign  
15 literature distributed from the headquarters. If a visitor to the  
16 headquarters wished copies of a campaign piece not present in the  
17 main reception area I would often tell the visitor that we had more  
18 supplies in the back and that additional copies could be brought  
19 out. I never stated to anyone that we would reproduce any piece  
20 of literature, including the flyer in question, from a master in  
21 the back room of the campaign headquarters.

22 I have some recollection of the flyer in question. My re-  
23 collection was refreshed principally because of the Complaint being  
24 raised about the literature and our office's investigation into  
25 the circumstances of its presence at the headquarters. Otherwise,  
26 it was not remarkable.



1 I paid very little attention to the piece. It is my impression  
2 that it was in the headquarters for about a week. I did not pay  
3 attention as to whether it was official literature. To my knowledge,  
4 no one with management authority for the campaign ever ordered its  
5 printing or distribution.  
6

7 Donna Fitzwater  
8 Donna Fitzwater

9 SUBSCRIBED AND SWORN to before me this 11th day of November,  
10 1980.  
11

12 Dana M. Lange  
13 Notary Public for Oregon  
14 My comm. exp.: 10/16/83  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

CARTER/MONDALE PRESIDENTIAL COMMITTEE, INC.  
2000 L STREET, N.W., WASHINGTON, D.C. 20036  
(202) 887-4700

Robert S. Strauss, Chairman  
Tim Kraft, National Campaign Manager  
S. Lee Kling, Treasurer

April 28, 1981

Marsha Gentner, Esq.  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1324

Dear Ms. Gentner:

The following response is made on behalf of the Carter/Mondale Reelection Committee to the Commission's notification that it has found "reason to believe" the Committee has violated the Act. At issue is whether the Carter/Mondale Reelection Committee, Inc. legally "accepted" copies of a piece of literature advocating the election of former President Carter and the defeat of President Reagan, which was paid for by the Concerned Seniors for Better Government, and whether the Commission, in the exercise of its discretion based on the mitigating circumstances of this case and consistent with a previous MUR, should take no further action in this matter.

#### BACKGROUND

This MUR arises from a complaint filed with the Commission on October 28, 1980, by the Reagan/Bush Committee, through its counsel, Loren Smith. The complaint alleged that a flyer purporting to be an "independent expenditure" by the Concerned Seniors for Better Government was being distributed at the Carter/Mondale headquarters in Oregon with the knowledge and consent of the campaign staff. By letter the following day, the Commission notified the Carter/Mondale committee of its opportunity to demonstrate that no action should be taken against it.

The Carter/Mondale committee responded on November 17, 1980 to the Commission's notification that a complaint had been filed against it. The gist of the response was that none of the committee's authorized personnel had any prior knowledge of the existence of the flyer, were unaware that it was being distributed at the headquarters, and upon so learning took steps to remove and destroy the flyers. Sworn affidavits in support of the response were submitted by headquarter's staff and by the Committee's national field director.

Attachment III (1 of 5 pages)

31 APR 28 P 4:19  
31 APR 28 P 4:19  
GENERAL COUNSEL  
FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C.

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Marsha Gentner, Esq.  
April 28, 1981  
Page 2.

On April 13, 1980, the Carter/Mondale committee was notified that the Commission had found "reason to believe" that the Committee had violated the Act by "accepting" the flyer and permitting it to be publicly distributed, actions which constituted receipt by the Committee of an in-kind contribution from the Concerned Seniors for Better Government.

This MUR is now before the Commission for its determination whether there is "probable cause" to believe a violation occurred.

#### ARGUMENT

The issue in this MUR is whether the individual who gave permission to the gentlemen to leave the flyers at the headquarters for someone else to pick up was an "agent" of the Committee as defined by 11 CFR 109.1(5). Only an individual who qualifies as a Committee's "agent" can vitiate the independence of what otherwise qualifies as independent expenditure.

"Independent expenditure" is defined at 11 CFR 109.1(a) as follows:

"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."

Section 109.1(b)(5) of the Regulations defines "agent" as follows:

"Any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate or ...any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures."

In this case, the question is whether the duties performed by Shirley Glasby placed her in such a position that, under 109.1(b)(5), she could authorize the corresponding expenditure that would have resulted from an acceptance by her of an in-kind contribution/independent expenditure.

(2 of 5 pages)

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Marsha Gentner, Esq.  
April 28, 1981  
Page 3.

As stated in her affidavit, Shirley Glasby was in charge of press relations for the Carter/Mondale Reelection Committee in Oregon at the campaign headquarters in Portland. Her authority was confined to those matters related to media coverage of the general election campaign. As she herself states, "It was not my job to review literature that came into the campaign headquarters and I was not authorized to commit the Carter/Mondale campaign to the distribution of any sort of campaign literature."

Shirley Glasby's role in the campaign gave her no authority, express or implied, to receive the flyers in question for distribution by the committee nor did she receive the materials with that intent. As she further states in her affidavit, "I accepted the literature from the elderly gentleman solely as a courtesy to him because he appeared to be a supporter of our campaign. I did not know the gentleman in question, but it did not occur to me that it was not appropriate to have the literature in the campaign headquarters. I definitely did not accept the literature for the purpose of having copies available in our office for the campaign itself to distribute." It is the Committee's position that Ms. Glasby's receipt of the materials under the above described conditions does not constitute legal acceptance of an in-kind contribution by an "agent" of the committee.

In MUR 423(76)\*, the Commission previously considered whether an individual's duties on a campaign "placed her in such a position that, under 109.1(5), she should be considered the agent of the candidate." Although the individual's "cooperation" with the independent expender was deliberate, and went far beyond the circumstances present in the case at bar, the Commission properly found no reasonable cause to believe that the campaign committee had violated the Act because the individual was not an "agent" authorized to make expenditures and because no person in authority at the campaign committee was aware of her activities.

In the present situation, there were two other members of the staff who had contact with the flyer, and while their authority to act on behalf of the Committee exceeded Ms. Glasby's, neither of them had any part in accepting or distributing the

---

\* In the Matter of Robert Varley, Nathan Popkin and the Tonry for Congress Committee, See General Counsel's Report, January 19, 1978.

Marsha Gentner, Esq.  
April 28, 1981  
Page 4.

material, nor were they aware that Ms. Glasby had received the materials as a courtesy. Sandra Bell, the office manager, states that she did not pay close attention to the literature, but moved a small amount which had been left behind to a back storage area. Her previously submitted affidavit states, "In my fleeting contact with the flyer, I did not read the disclaimer at the bottom of the page. If I had, I would have realized that it was not official literature, and I would not have allowed it in the office." Ms. Bell did not distribute the flyer in question, and was not conscious of the troublesome nature of the material.

Ms. Hartley, who was the Oregon state coordinator, did not even know of the flyers' existence until she received an inquiry from the Oregon Secretary of State's office. She made inquiries regarding the flyers and immediately had them removed and destroyed. While Ms. Hartley may have been an "agent" of the campaign with the authority to make expenditures, she did not consent to or cooperate in the acceptance or distribution of the literature; to the contrary, she removed the materials as soon as she learned of them.

#### CONCLUSION

In conclusion, the only two people who might have qualified as agents of the campaign did not accept or distribute the flyers. The receipt of these materials was effected by an individual with no authority, express or implied, to make such an "expenditure" on behalf of the campaign. Moreover, she did not accept the materials with the intent of publicly distributing them on the Committee's behalf, and certainly no one qualified as the Committee's agent did so either.

The few flyers that were disseminated on the Committee's premises escaped everyone's attention during the final hectic weeks of the campaign. There is no evidence whatsoever of any deliberate attempt by the committee to evade the strictures of the Act. Instead, as documented by Ms. Hartley's sworn affidavit, the materials were removed and destroyed as soon as she learned of their existence.

(4 of 5 pages)

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Marsha Gentner, Esq.  
April 28, 1981  
Page 5.

The Commission's finding of "reason to believe" that the Committee violated the Act is sufficient reprimand for the Committee's inadvertance. The Carter/Mondale Reelection Committee respectfully urges the Commission to take no further action on this matter.

Sincerely,

*Carol C. Darr*

Carol C. Darr  
Deputy Counsel

81040300940

(5 of 5 pages)



WILLIAM G. OLDAKER  
ATTORNEY AT LAW  
1080 SEVENTEENTH STREET, N. W.  
WASHINGTON, D. C. 20036

RECEIVED  
GCC#4751  
81 MAY 22 P 1: 46

TELEPHONE  
202 296-0506

CABLE ADDRESS: "CHALORAY"  
710-622-0867

May 20, 1981

Ms. Marsha Gentner  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1324

Dear Ms. Gentner:

I have been retained to represent the Concerned Seniors for Better Government in MUR 1324.

The complaint filed by Mr. Loren Smith of the Reagan Bush Committee encloses a flyer over the name of the Concerned Seniors for Better Government that compares President Carter's and then Governor Reagan's positions on various issues of interest to senior citizens. The complaint alleges that these flyers were obtained from a Carter/Mondale office in Portland, Oregon, and contends that the Concerned Seniors for Better Government thereby made an unreported independent expenditure in violation of 2 U.S.C. §434(c)(2)(B) (Supp. III 1979) and the Carter/Mondale Committee thereby accepted a private contribution in violation of 26 U.S.C. §9003(b)(2) (1976). Setting aside the fact that it is theoretically impossible to violate these two sections at the same time, the flyers were not distributed by Concerned Seniors as an independent expenditure nor was there any cooperation with the Carter/Mondale Committee in their preparation or distribution.

Concerned Seniors for Better Government is an organization within the AFL-CIO formed to coordinate voter registration and political education activities aimed at retired union members. Such activities are exempt from the definition of contribution or expenditure under 2 U.S.C. §431(8)(B)(vi) and (9)(B)(iii) (Supp. III 1979).

The flyers were prepared in Washington and distributed to local unions across the country where they were to be copied and distributed to retired union members. It was intended that the individual union PAC organizations would finance the local distribution and therefore the notice contained on the master flyers stated:

Attachment IV (1 of 4 pages)

81040300941

81 MAY 22 P 2: 41

GENERAL COUNSEL

Ms. Marsha Gentner  
May 20, 1981  
Page 2.

(Name) is an independent political committee.  
It does not ask for or accept authorization from  
any candidate and no candidate is responsible  
for its activities.

The total amount spent on the flyers was \$1,361.36. Therefore  
there was no need to report the amounts spent as an internal  
partisan communication. (See, 2 U.S.C. §431(9)(B)(iii) (Supp.  
III 1979)).

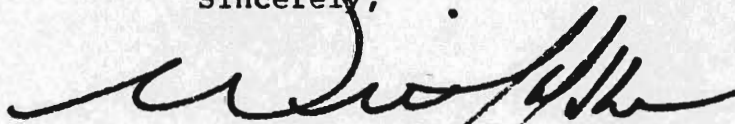
It is not known how the flyers found their way into the  
Carter/Mondale Committee's office in Portland, Oregon. It was  
never the intention of the AFL-CIO or Concerned Seniors that they  
be distributed in this manner.

As you are aware, this matter has already been looked  
into by the Oregon Secretary of State's office which concluded  
that the local distribution was inadvertent and that the flyer  
was not intended for public distribution. This finding was based  
on information provided by Nellie Fox, Director of Legislation  
and Public Education for the Oregon AFL-CIO. Copies of this  
correspondence are enclosed.

Any public distribution which may have taken place was  
unauthorized and incidental to the primary purpose of distribut-  
ing the flyers: internal union partisan communication. At no  
time was there any cooperation or consultation with the Carter/  
Mondale Committee on this project. Accordingly, Concerned  
Seniors has not violated the Act either by making an unreported  
independent expenditure or by making a contribution in kind to  
the Carter/Mondale Committee.

Please do not hesitate to contact me if you desire any  
further information on this matter.

Sincerely,



William C. Oldaker

WCO/pm  
Enclosures  
cc: Mr. Chuck Senci

(2 of 4 pages)

81040300942



R. G. (BOB) KENNEDY, PRESIDENT  
GLENN E. (PAT) RANDALL, SECRETARY-TREASURER  
NELLIE FOX, DIRECTOR, LEGISLATION & POLITICAL EDUCATION

SALEM OFFICE:  
530 CENTER STREET N.E. • SUITE 210, SALEM, OREGON 97301

TELEPHONE: 585-6320  
(FROM PORTLAND DIAL 274-3165)

October 27, 1980

Ray Phelps, Jr.  
Director  
Elections and Public Records Div.  
State of Oregon  
141 State Capitol  
Salem, Oregon 97310

Dear Ray:

Concerned Seniors for Better Government is a support arm of the AFL-CIO. Therefore, we are responding to the letter sent to Elmer Mencer.

This group of retired union members is loosely constructed. Their main activity is to help us as volunteers in our voter registration and education mailings to our union members.

The piece of literature in question was designed by their national office as a prototype for local unions to reproduce and send to their retirees with each identifying their own P.A.C. If you will note, the instructions on the bottom indicate this. It was not intended as public information, or distribution in any way.

Judging from the small number of unions that have active retiree groups, I would estimate that the example was only a couple of hundred pieces, and to my knowledge no union did any reproduction.

How the material found its way to the Carter-Mondale offices can only be surmised. When you have so many volunteers, it is difficult to keep track, or for all of them to be aware of the laws. Needless to say, we have made effort to rectify this.

Sincerely,

Nellie Fox  
Director  
Legislation and Political Education

NF:jz  
opeiu #11  
afl-cio

(3 of 4 pages)

81040300943



OFFICE OF THE SECRETARY OF STATE

NORMA PAULUS  
SECRETARY OF STATE

C. GREGORY MCMURDO  
ASSISTANT SECRETARY OF STATE



November 13, 1980

ELECTIONS AND PUBLIC RECORDS DIVISION

RAYMOND A. PHELPS, JR.  
DIRECTOR

141 STATE CAPITOL  
SALEM, OREGON  
(503) 378-4144

Ms. Nellie Fox  
Director  
Legislation and Political Education  
530 Center Street NE  
Suite 210  
Salem, Oregon 97301

Dear Ms. Fox:

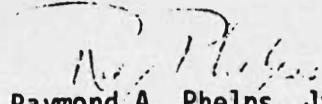
This will acknowledge receipt of your letter responding to a letter we sent to Mr. Elmer Mencer regarding an alleged violation of the election laws. Specifically, it is alleged that Mr. Mencer circulated without proper identification a flyer advocating support for the candidacy of President Carter.

It is my understanding from your letter that Mr. Mencer serves as a volunteer member of a national organization called "Concerned Seniors for Better Government". This organization, whose members are retired AFL-CIO members, is a support arm of the AFL-CIO.

Furthermore, I understand that the national office of the Concerned Seniors for Better Government designed the flyer as a prototype for local unions to reproduce and send to the union's members who had retired. Each local union reproducing the flyer was to identify the flyer with the appropriate name of the union's political committee. The flyer in question in our investigation was not intended for distribution without proper identification.

It is my opinion that the distribution of the prototype flyer in its present form would be in violation of ORS 260.522(1). However, as you explained in your letter of October 27, 1980, the prototype flyer was not intended for distribution. Also, we have found no evidence of an effort to cause distribution of the prototype flyer nor any evidence of deliberate intent to violate the election laws associated with the incidental distribution of this prototype flyer. For this reason, we do not intend to pursue this matter any further.

Sincerely,

  
Raymond A. Phelps, Jr.

RAP:cg

(4 of 4 pages)

81040300944

**GRAHAM & JAMES**

ATTORNEYS AT LAW

1050-17TH STREET, N.W.  
WASHINGTON, D.C. 20036

TELEPHONE (202) 396-0808

CABLE ADDRESS ALL OFFICES  
"CHALGRAY"

May 1 All 1981 A 9-3p 225 9887

OTHER OFFICES  
SAN FRANCISCO  
LOS ANGELES  
LONG BEACH  
IRVINE  
ANCHORAGE  
SINGAPORE  
LONDON  
ROME  
MILAN

May 27, 1981

Ms. Marsha Gentner  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1324

Dear Ms. Gentner:

I am writing as counsel for the Concerned Seniors for Better Government ("Concerned Seniors") in MUR 1324 to supplement my letter of May 20, 1981. On behalf of Concerned Seniors I hereby lodge an objection to the Commission's failure to adhere to the procedural requirements of the Federal Election Campaign Act in the handling of this matter.

The Act requires that the respondent be sent a copy of a complaint filed against him within five days after the Commission receives it. 2 U.S.C. §437g(a)(1) (Supp. III 1979). The Commission did not notify Concerned Seniors of the complaint filed against it until April 20, 1981, almost six months after the complaint was filed on October 28, 1980. The reason given for this delay was the Commission's inability to secure Concerned Seniors' address. Commission regulations, however, state that a complaint should "clearly identify as a respondent each person or entity who is alleged to have committed a violation." 11 CFR §111.4(d)(1) (1981). The Explanation and Justification to 11 CFR §111.4 states that, in the event a complaint fails to provide the information listed in paragraph (d), the Commission may vote to take no action on the complaint on the basis of insufficient information.

The statutory requirement that the respondent be notified within five days after receipt of a complaint is clear and mandatory. The Commission's failure to adhere to it in this matter has forced Concerned Seniors to respond to a stale complaint long after the end of the campaign. The proper course

Attachment V (1 of 2 pages)

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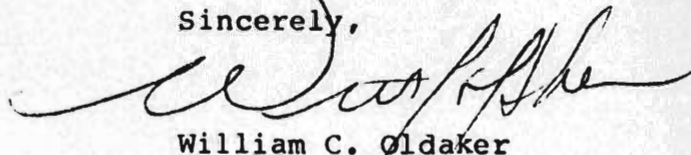
Ms. Marsha Gentner  
May 27, 1981  
Page 2.

for the Commission to have taken when it found itself unable to locate Concerned Seniors was to dismiss the complaint for insufficient information in accordance with Commission regulations. The complainant could then refile the complaint with the information necessary for the Commission to comply with the Act's procedural requirements. Instead, the Commission chose to ignore the Act's procedural requirements and defeat the policy behind the five day notification requirement.

81040300946  
The five day notification requirement is not merely intended to provide the respondent with an opportunity to respond. If that were the case no time would be necessary, only a prohibition against further Commission action until the respondent was notified. The five day limit reflects Congress' concern that complaints not languish unresolved. This Congressional policy is further evidenced by the Act's 120 day overall time limit on enforcement matters. See, 2 U.S.C. §437g(a)(8) (Supp. III 1979). An additional concern reflected by the five day limit is that respondents not be placed in a position where the complainant may use a complaint for publicity purposes while the respondent remains unapprised of the contents of the complaint and therefore unable to answer the complainant's charges. While we have no information that this has occurred in this particular enforcement matter, the precedent set by the Commission's handling of this complaint makes such an occurrence far more likely.

To rectify the error committed, Concerned Seniors hereby requests that the complaint be dismissed on the basis of insufficient information. To proceed with this enforcement matter would compound the Commission's original mistake and subject Concerned Seniors to irreparable prejudice by requiring them to respond to a complaint outside the statutory enforcement procedure.

Sincerely,



William C. Oldaker

WCO/pm

(2 of 2 pages)





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Loren Smith, Chief Counsel  
Reagan Bush Committee  
901 South Highland Street  
Arlington, Virginia 22204

Re: MUR 1324

Dear Mr. Smith:

The Federal Election Commission has reviewed the allegations of your complaint filed October 28, 1980 and determined that, on the basis of the information provided in your complaint and information provided by the Respondents, the Commission will take no further action against the Carter-Mondale Reelection Committee and the Concerned Seniors for Better Government with respect to the allegations contained in the complaint.

Accordingly, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the federal election laws, please contact Marsha Gentner, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Charles N. Steele  
General Counsel

Attachment ~~III~~

81040300947



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Carol C. Darr  
Deputy Counsel  
Carter-Mondale Presidential  
Committee, Inc.  
2000 L Street, N.W.  
Washington, D.C. 20036

Re: MUR 1324

Dear Ms. Darr:

On October 28, 1980, the Commission received a complaint against the Carter-Mondale Reelection Committee. As you are aware from the Commission's letter of April 8, 1981, based on the allegations contained in the complaint the Commission has found reason to believe the Carter-Mondale Reelection Committee ("Carter-Mondale") violated 2 U.S.C. §§ 434(b)(2), 434(b)(3)(A) and (B), 434(b)(4)(A), 434(b)(5)(A), 441d(a); 11 C.F.R. § 104.13 (a), and 26 U.S.C. §§ 9003(b)(2) and 9012(d)(1)(A).

On 1981, the Commission determined to take no further action against Carter-Mondale with respect to the above cited statutory violations. Accordingly, the file in this matter as it concerns Carter-Mondale has been closed. This matter will therefore become a part of the public record within thirty (30) days.

Sincerely,

Charles N. Steele  
General Counsel

Attachment VII

81040300948



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

William C. Oldaker, Esquire  
Graham and James  
12th Floor  
1050 17th Street, N.W.  
Washington, D.C. 20036

Re: MUR 1324

Dear Mr. Oldaker:

By letter dated April 20, 1981, your client, Concerned Citizens for Better Government ("CSBG") was notified of a complaint filed against it. (A copy of the complaint was enclosed.) On 1981, the Commission determined that there is reason to believe CSBG violated 2 U.S.C. § 441b(a) by financing a partisan communication which may have been distributed to retirees who were not members of any AFL-CIO union local. However, the Commission also determined on that date to take no further action against CSBG with respect to the aforementioned statutory violation, and to close the file in this matter as it concerns CSBG. Accordingly, this matter will become part of the public record within thirty (30) days.

Sincerely,

Charles N. Steele  
General Counsel

Attachment VIII



OTHER OFFICES  
SAN FRANCISCO  
LOS ANGELES  
LONG BEACH  
IRVINE  
ANCHORAGE  
SINGAPORE  
LONDON  
ROME  
MILAN

GRAHAM & JAMES

ATTORNEYS AT LAW

1080-17th STREET, N.W.

WASHINGTON, D.C. 20036

TELEPHONE (202) 596-0908

RECEIVED

OFFICE OF THE  
GENERAL COUNSEL

CABLE ADDRESS ALL OFFICES  
"CHALDRAY"

100628  
MAY 1 11 1981  
A9-3  
TW 10 522 5287

May 27, 1981

Ms. Marsha Gentner  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1324

Dear Ms. Gentner:

I am writing as counsel for the Concerned Seniors for Better Government ("Concerned Seniors") in MUR 1324 to supplement my letter of May 20, 1981. On behalf of Concerned Seniors I hereby lodge an objection to the Commission's failure to adhere to the procedural requirements of the Federal Election Campaign Act in the handling of this matter.

The Act requires that the respondent be sent a copy of a complaint filed against him within five days after the Commission receives it. 2 U.S.C. §437g(a)(1) (Supp. III 1979). The Commission did not notify Concerned Seniors of the complaint filed against it until April 20, 1981, almost six months after the complaint was filed on October 28, 1980. The reason given for this delay was the Commission's inability to secure Concerned Seniors' address. Commission regulations, however, state that a complaint should "clearly identify as a respondent each person or entity who is alleged to have committed a violation." 11 CFR §111.4(d)(1) (1981). The Explanation and Justification to 11 CFR §111.4 states that, in the event a complaint fails to provide the information listed in paragraph (d), the Commission may vote to take no action on the complaint on the basis of insufficient information.

The statutory requirement that the respondent be notified within five days after receipt of a complaint is clear and mandatory. The Commission's failure to adhere to it in this matter has forced Concerned Seniors to respond to a stale complaint long after the end of the campaign. The proper course

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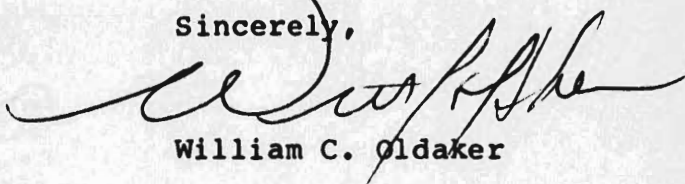
Ms. Marsha Gentner  
May 27, 1981  
Page 2.

for the Commission to have taken when it found itself unable to locate Concerned Seniors was to dismiss the complaint for insufficient information in accordance with Commission regulations. The complainant could then refile the complaint with the information necessary for the Commission to comply with the Act's procedural requirements. Instead, the Commission chose to ignore the Act's procedural requirements and defeat the policy behind the five day notification requirement.

The five day notification requirement is not merely intended to provide the respondent with an opportunity to respond. If that were the case no time would be necessary, only a prohibition against further Commission action until the respondent was notified. The five day limit reflects Congress' concern that complaints not languish unresolved. This Congressional policy is further evidenced by the Act's 120 day overall time limit on enforcement matters. See, 2 U.S.C. §437g(a)(8) (Supp. III 1979). An additional concern reflected by the five day limit is that respondents not be placed in a position where the complainant may use a complaint for publicity purposes while the respondent remains unapprised of the contents of the complaint and therefore unable to answer the complainant's charges. While we have no information that this has occurred in this particular enforcement matter, the precedent set by the Commission's handling of this complaint makes such an occurrence far more likely.

To rectify the error committed, Concerned Seniors hereby requests that the complaint be dismissed on the basis of insufficient information. To proceed with this enforcement matter would compound the Commission's original mistake and subject Concerned Seniors to irreparable prejudice by requiring them to respond to a complaint outside the statutory enforcement procedure.

Sincerely,



William C. Oldaker

WCO/pm

81040300951

6104030052

SUITE 1200

1050 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036



21 JUN 1 A9:31

Ms. Marsha Gentner  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463





**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

**MEMORANDUM TO:** CHARLES STEELE *mwe*  
**FROM:** MARJORIE W. EMMONS/JODY CUSTER  
**DATE:** MAY 22, 1981 *jc*  
**SUBJECT:** MUR 1324 - Interim Investigative Report #1,  
dated 5-18-81; Signed 5-20-81; Received  
in OCS 5-20-81, 3:44.

The above-named document was circulated on a 24 hour  
no-objection basis at 11:00, May 21, 1981.

No objections were received in the Office of the  
Commission Secretary to the Interim Investigative Report  
at the time of the deadline.

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May 26, 1961

MEMORANDUM TO: Marjorie W. Hanson  
FROM: Elissa T. Carr  
SUBJECT: MUR 1324

Please have the attached Interior Invest Report  
distributed to the Commission. Thank you.

81040300954

• SENSITIVE •

BEFORE THE FEDERAL ELECTION COMMISSION  
May 18, 1981

RECEIVED  
OFFICE OF THE  
COMMISSION SECRETARY

81 MAY 20 P 3: 44

In the Matter of )  
 ) MUR 1324  
Carter-Mondale Reelection )  
Committee, et al )

INTERIM INVESTIGATIVE REPORT #1

On March 25, 1981, the Commission found reason to believe the Carter-Mondale Reelection Committee ("C-M") violated the Federal Election Campaign Act of 1971, as amended ("the Act") and the Presidential Election Campaign Fund Act ("Fund Act") by permitting copies of a leaflet advocating Mr. Carter's election, which was paid for by a group called the Concerned Seniors for Better Government ("CSBG"), to be distributed from the C-M Portland, Oregon office. 1/ See generally First General Counsel's Report in MUR 1324 (March 12, 1981). The Commission also found reason to believe against CSBG for violating the Act by failing to register with the Commission as a political committee, and for failing to report the expenditure incurred in obtaining the aforementioned leaflets. Aware that an address for CSBG had not yet been obtained by this Office through normal inquiries to state election offices and telephone directories, the Commission also instructed the General Counsel to send a letter to the printer of the leaflet to inquire as to whether the company could make CSBG's address, if known, available to the Commission.

1/ This matter arose upon a complaint filed by the Reagan/Bush General Election Committee.

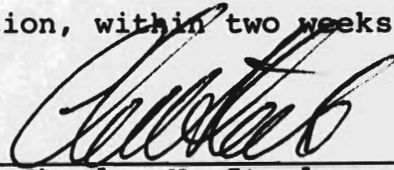
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Such a letter was sent to the printer of the leaflets in question, Merkle Press of Glenn Dale, Maryland, which informed this Office of the address of CSBG, as well as the cost incurred in printing the leaflets (in excess of \$1,000). At that point this Office, concerned that CSBG had never received a copy of the complaint in this matter (due to the unavailability of CSBG's address at the time the complaint was received), immediately mailed a copy of the complaint to CSBG, and, pursuant to 2 U.S.C. § 437g(a)(1) provided CSBG with 15 days in which to respond to the complaint. 2/

CSBG has retained outside counsel in this matter to prepare its response to the complaint, which must be received by this Office no later than close of business on May 20, 1981. This Office has already received the response of C-M to the Commission's finding of reason to believe. Therefore, the Office of General Counsel will be prepared to forward a General Counsel's Report (and, if appropriate, a probable cause brief) to the Commission, with recommendations concerning any necessary further action or investigation, within two weeks of receipt of the CSBG response.

20 May 1981  
Date

  
Charles N. Steele  
General Counsel

2/ The Commission has already made a finding of reason to believe against CSBG. However, in that the making of such a finding prior to the receipt by respondent of the complaint in this matter (and the completion of the 15 day response period) does not comport with the procedural requirements of 2 U.S.C. § 437g(a)(1), the notification of the Commission's finding has not yet been sent. Rather, the Office of General Counsel proposes that once the 15 day period for CSBG's response has ended, a General Counsel's Report be prepared for the Commission containing a recommendation as to any necessary further action by the Commission.

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100605  
RECEIVED  
GCC#4751  
81 MAY 22 P1:48

WILLIAM C. OLDAKER  
ATTORNEY AT LAW  
1080 SEVENTEENTH STREET, N. W.  
WASHINGTON, D. C. 20036

TELEPHONE  
202 295-0808

CABLE ADDRESS: "ORALGRAY"  
710-288-2887

May 20, 1981

Ms. Marsha Gentner  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1324

Dear Ms. Gentner:

I have been retained to represent the Concerned Seniors for Better Government in MUR 1324.

The complaint filed by Mr. Loren Smith of the Reagan Bush Committee encloses a flyer over the name of the Concerned Seniors for Better Government that compares President Carter's and then Governor Reagan's positions on various issues of interest to senior citizens. The complaint alleges that these flyers were obtained from a Carter/Mondale office in Portland, Oregon, and contends that the Concerned Seniors for Better Government thereby made an unreported independent expenditure in violation of 2 U.S.C. §434(c)(2)(B) (Supp. III 1979) and the Carter/Mondale Committee thereby accepted a private contribution in violation of 26 U.S.C. §9003(b)(2) (1976). Setting aside the fact that it is theoretically impossible to violate these two sections at the same time, the flyers were not distributed by Concerned Seniors as an independent expenditure nor was there any cooperation with the Carter/Mondale Committee in their preparation or distribution.

Concerned Seniors for Better Government is an organization within the AFL-CIO formed to coordinate voter registration and political education activities aimed at retired union members. Such activities are exempt from the definition of contribution or expenditure under 2 U.S.C. §431(8)(B)(vi) and (9)(B)(iii) (Supp. III 1979).

The flyers were prepared in Washington and distributed to local unions across the country where they were to be copied and distributed to retired union members. It was intended that the individual union PAC organizations would finance the local distribution and therefore the notice contained on the master flyers stated:

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81 MAY 22 P2:41

GENERAL COUNSEL

Ms. Marsha Gentner  
May 20, 1981  
Page 2.

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

The total amount spent on the flyers was \$1,361.36. Therefore there was no need to report the amounts spent as an internal partisan communication. (See, 2 U.S.C. §431(9)(B)(iii) (Supp. III 1979)).

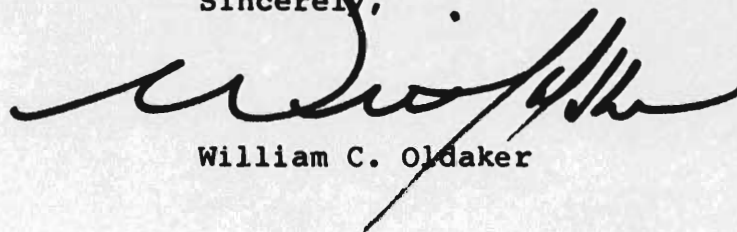
It is not known how the flyers found their way into the Carter/Mondale Committee's office in Portland, Oregon. It was never the intention of the AFL-CIO or Concerned Seniors that they be distributed in this manner.

As you are aware, this matter has already been looked into by the Oregon Secretary of State's office which concluded that the local distribution was inadvertent and that the flyer was not intended for public distribution. This finding was based on information provided by Nellie Fox, Director of Legislation and Public Education for the Oregon AFL-CIO. Copies of this correspondence are enclosed.

Any public distribution which may have taken place was unauthorized and incidental to the primary purpose of distributing the flyers: internal union partisan communication. At no time was there any cooperation or consultation with the Carter/Mondale Committee on this project. Accordingly, Concerned Seniors has not violated the Act either by making an unreported independent expenditure or by making a contribution in kind to the Carter/Mondale Committee.

Please do not hesitate to contact me if you desire any further information on this matter.

Sincerely,



William C. Oldaker

WCO/pm  
Enclosures  
cc: Mr. Chuck Senci

81040300958





R. G. (BOB) KENNEDY, PRESIDENT  
GLENN E. (PAT) RANDALL, SECRETARY-TREASURER  
NELLIE FOX, DIRECTOR, LEGISLATION & POLITICAL EDUCATION

SALEM OFFICE:  
530 CENTER STREET N.E. - SUITE 210, SALEM, OREGON 97301

TELEPHONE: 585-6320  
(FROM PORTLAND DIAL 274-3165)

October 27, 1980

Ray Phelps, Jr.  
Director  
Elections and Public Records Div.  
State of Oregon  
141 State Capitol  
Salem, Oregon 97310

Dear Ray:

Concerned Seniors for Better Government is a support arm of the AFL-CIO. Therefore, we are responding to the letter sent to Elmer Mencer.

This group of retired union members is loosely constructed. Their main activity is to help us as volunteers in our voter registration and education mailings to our union members.

The piece of literature in question was designed by their national office as a prototype for local unions to reproduce and send to their retirees with each identifying their own P.A.C. If you will note, the instructions on the bottom indicate this. It was not intended as public information, or distribution in any way.

Judging from the small number of unions that have active retiree groups, I would estimate that the example was only a couple of hundred pieces, and to my knowledge no union did any reproduction.

How the material found its way to the Carter-Mondale offices can only be surmised. When you have so many volunteers, it is difficult to keep track, or for all of them to be aware of the laws. Needless to say, we have made effort to rectify this.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nellie", is written above the typed name.

Nellie Fox  
Director  
Legislation and Political Education

NF:jz  
opeiu #11  
afl-cio

81040300959

OFFICE OF THE SECRETARY OF STATE

NORMA PAULUS  
SECRETARY OF STATE

C. GREGORY MCMURDO  
ASSISTANT SECRETARY OF STATE



November 13, 1980

ELECTIONS AND PUBLIC RECORDS DIVISION

RAYMOND A. PHELPS, JR.  
DIRECTOR

141 STATE CAPITOL  
SALEM, OREGON  
(503) 378-4144

Ms. Nellie Fox  
Director  
Legislation and Political Education  
530 Center Street NE  
Suite 210  
Salem, Oregon 97301

Dear Ms. Fox:

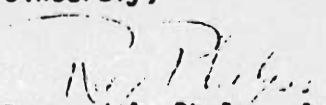
This will acknowledge receipt of your letter responding to a letter we sent to Mr. Elmer Mencer regarding an alleged violation of the election laws. Specifically, it is alleged that Mr. Mencer circulated without proper identification a flyer advocating support for the candidacy of President Carter.

It is my understanding from your letter that Mr. Mencer serves as a volunteer member of a national organization called "Concerned Seniors for Better Government". This organization, whose members are retired AFL-CIO members, is a support arm of the AFL-CIO.

Furthermore, I understand that the national office of the Concerned Seniors for Better Government designed the flyer as a prototype for local unions to reproduce and send to the union's members who had retired. Each local union reproducing the flyer was to identify the flyer with the appropriate name of the union's political committee. The flyer in question in our investigation was not intended for distribution without proper identification.

It is my opinion that the distribution of the prototype flyer in its present form would be in violation of ORS 260.522(1). However, as you explained in your letter of October 27, 1980, the prototype flyer was not intended for distribution. Also, we have found no evidence of an effort to cause distribution of the prototype flyer nor any evidence of deliberate intent to violate the election laws associated with the incidental distribution of this prototype flyer. For this reason, we do not intend to pursue this matter any further.

Sincerely,

  
Raymond A. Phelps, Jr.

RAP:cg

81040300960

SUITE 1200

1050 SEVENTEENTH STREET, N W

WASHINGTON, D. C. 20036



21 MAY 22 P 1:45

Ms. Marsha Gentner  
Office of General Counsel  
Federal Election Commission  
1325 K Street, NW  
Washington, D.C. 20463



# Concerned Seniors for Better Government



CHAIRMAN  
GEORGE J. KOURPIAS

VICE CHAIRMAN  
JAMES J. KENNEDY

SECRETARY-TREASURER  
PETER E. McGUIRE

EXECUTIVE DIRECTOR  
C. L. "CHUCK" SENCI

100 606 RECEIVED  
600#4752  
81 MAY 22 P 1: 43  
1346 CONNECTICUT AVENUE, N.W. (ROOM 2013)  
WASHINGTON, D.C. 20036  
202-466-6140



May 20, 1981

Ms. Marsha Gentner  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1324

Dear Ms. Gentner:

This is to notify you that we have retained William C. Oldaker, Esquire, to represent the Concerned Seniors for Better Government as counsel in the above referenced matter before the Federal Election Commission.

Sincerely, -

C.L. "Chuck" Senci  
Executive Director

81040300962

81 MAY 22 P 2: 41

GENERAL COUNSEL

81040300863

**Concerned Seniors for Better Government**

1346 CONNECTICUT AVENUE, N.W. (ROOM 1213) • WASHINGTON, D.C. 20036



81 MAY 22

US Postage

Ms. Marsha Gentner  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Gcc#4664

RECEIVED  
OFFICE OF THE  
GENERAL COUNSEL

GRAHAM & JAMES  
ATTORNEYS AT LAW  
1050-17th STREET, N.W.  
WASHINGTON, D.C. 20036  
TELEPHONE (202) 596-0505

CABLE ADDRESS ALL OFFICES  
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TWN 710 522 9287

OTHER OFFICES  
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IRVINE  
ANCHORAGE  
SINGAPORE  
LONDON  
ROME  
MILAN

MAY 13 P 6: 02

May 13, 1981

81 MAY 14 49:35

RECEIVED  
GENERAL COUNSEL

Kenneth Gross, Esquire  
Associate General Counsel  
Federal Election Commission  
1525 K Street, N.W.  
Washington, D.C. 20036

Re: Extension of Time MUR 1324

Dear Mr. Gross: *Ken*

During the week of May 4 when I was out of town on business I was retained by Concerned Citizens for Better Government to represent them in an investigation currently pending at the Federal Election Commission. The matter under review is numbered 1324. I respectfully ask for an extension of time in which to answer your letter of April 20, 1981 until Wednesday, May 20, 1981.

Sincerely,

*William C. Oldaker*  
William C. Oldaker

WCO/pcm

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1

7th Floor

By Hand

600-4579  
CARTER/MONDALE PRESIDENTIAL COMMITTEE, INC.

2000 L STREET, N.W., WASHINGTON, D.C. 20036

(202) 887-4700

Robert S. Strauss, Chairman

Tim Kraft, National Campaign Manager

S. Lee Kling, Treasurer

April 28, 1981

Marsha Gentner, Esq.  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 1324

Dear Ms. Gentner:

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The following response is made on behalf of the Carter/Mondale Reelection Committee to the Commission's notification that it has found "reason to believe" the Committee has violated the Act. At issue is whether the Carter/Mondale Reelection Committee, Inc. legally "accepted" copies of a piece of literature advocating the election of former President Carter and the defeat of President Reagan, which was paid for by the Concerned Seniors for Better Government, and whether the Commission, in the exercise of its discretion based on the mitigating circumstances of this case and consistent with a previous MUR, should take no further action in this matter.

BACKGROUND

This MUR arises from a complaint filed with the Commission on October 28, 1980, by the Reagan/Bush Committee, through its counsel, Loren Smith. The complaint alleged that a flyer purporting to be an "independent expenditure" by the Concerned Seniors for Better Government was being distributed at the Carter/Mondale headquarters in Oregon with the knowledge and consent of the campaign staff. By letter the following day, the Commission notified the Carter/Mondale committee of its opportunity to demonstrate that no action should be taken against it.

The Carter/Mondale committee responded on November 17, 1980 to the Commission's notification that a complaint had been filed against it. The gist of the response was that none of the committee's authorized personnel had any prior knowledge of the existence of the flyer, were unaware that it was being distributed at the headquarters, and upon so learning took steps to remove and destroy the flyers. Sworn affidavits in support of the response were submitted by headquarter's staff and by the Committee's national field director.

81 APR 28 4:19  
81 APR 28 4:19  
GENERAL COUNSEL  
FEDERAL ELECTION COMMISSION

Marsha Gentner, Esq.  
April 28, 1981  
Page 2.

On April 13, 1980, the Carter/Mondale committee was notified that the Commission had found "reason to believe" that the Committee had violated the Act by "accepting" the flyer and permitting it to be publicly distributed, actions which constituted receipt by the Committee of an in-kind contribution from the Concerned Seniors for Better Government.

This MUR is now before the Commission for its determination whether there is "probable cause" to believe a violation occurred.

#### ARGUMENT

The issue in this MUR is whether the individual who gave permission to the gentlemen to leave the flyers at the headquarters for someone else to pick up was an "agent" of the Committee as defined by 11 CFR 109.1(5). Only an individual who qualifies as a Committee's "agent" can vitiate the independence of what otherwise qualifies as independent expenditure.

"Independent expenditure" is defined at 11 CFR 109.1(a) as follows:

"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."

Section 109.1(b)(5) of the Regulations defines "agent" as follows:

"Any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate or ...any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures."

In this case, the question is whether the duties performed by Shirley Glasby placed her in such a position that, under 109.1(b)(5), she could authorize the corresponding expenditure that would have resulted from an acceptance by her of an in-kind contribution/independent expenditure.



Marsha Gentner, Esq.  
April 28, 1981  
Page 3.

As stated in her affidavit, Shirley Glasby was in charge of press relations for the Carter/Mondale Reelection Committee in Oregon at the campaign headquarters in Portland. Her authority was confined to those matters related to media coverage of the general election campaign. As she herself states, "It was not my job to review literature that came into the campaign headquarters and I was not authorized to commit the Carter/Mondale campaign to the distribution of any sort of campaign literature."

Shirley Glasby's role in the campaign gave her no authority, express or implied, to receive the flyers in question for distribution by the committee nor did she receive the materials with that intent. As she further states in her affidavit, "I accepted the literature from the elderly gentleman solely as a courtesy to him because he appeared to be a supporter of our campaign. I did not know the gentleman in question, but it did not occur to me that it was not appropriate to have the literature in the campaign headquarters. I definitely did not accept the literature for the purpose of having copies available in our office for the campaign itself to distribute." It is the Committee's position that Ms. Glasby's receipt of the materials under the above described conditions does not constitute legal acceptance of an in-kind contribution by an "agent" of the committee.

In MUR 423(76)\*, the Commission previously considered whether an individual's duties on a campaign "placed her in such a position that, under 109.1(5), she should be considered the agent of the candidate." Although the individual's "cooperation" with the independent expender was deliberate, and went far beyond the circumstances present in the case at bar, the Commission properly found no reasonable cause to believe that the campaign committee had violated the Act because the individual was not an "agent" authorized to make expenditures and because no person in authority at the campaign committee was aware of her activities.

In the present situation, there were two other members of the staff who had contact with the flyer, and while their authority to act on behalf of the Committee exceeded Ms. Glasby's, neither of them had any part in accepting or distributing the

---

\* In the Matter of Robert Varley, Nathan Popkin and the Tonry for Congress Committee, See General Counsel's Report, January 19, 1978.

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Marsha Gentner, Esq.  
April 28, 1981  
Page 4.

material, nor were they aware that Ms. Glasby had received the materials as a courtesy. Sandra Bell, the office manager, states that she did not pay close attention to the literature, but moved a small amount which had been left behind to a back storage area. Her previously submitted affidavit states, "In my fleeting contact with the flyer, I did not read the disclaimer at the bottom of the page. If I had, I would have realized that it was not official literature, and I would not have allowed it in the office." Ms. Bell did not distribute the flyer in question, and was not conscious of the troublesome nature of the material.

Ms. Hartley, who was the Oregon state coordinator, did not even know of the flyers' existence until she received an inquiry from the Oregon Secretary of State's office. She made inquiries regarding the flyers and immediately had them removed and destroyed. While Ms. Hartley may have been an "agent" of the campaign with the authority to make expenditures, she did not consent to or cooperate in the acceptance or distribution of the literature; to the contrary, she removed the materials as soon as she learned of them.

#### CONCLUSION

In conclusion, the only two people who might have qualified as agents of the campaign did not accept or distribute the flyers. The receipt of these materials was effected by an individual with no authority, express or implied, to make such an "expenditure" on behalf of the campaign. Moreover, she did not accept the materials with the intent of publicly distributing them on the Committee's behalf, and certainly no one qualified as the Committee's agent did so either.

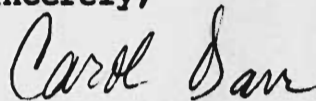
The few flyers that were disseminated on the Committee's premises escaped everyone's attention during the final hectic weeks of the campaign. There is no evidence whatsoever of any deliberate attempt by the committee to evade the strictures of the Act. Instead, as documented by Ms. Hartley's sworn affidavit, the materials were removed and destroyed as soon as she learned of their existence.

81040300969

Marsha Gentner, Esq.  
April 28, 1981  
Page 5.

The Commission's finding of "reason to believe" that the Committee violated the Act is sufficient reprimand for the Committee's inadvertence. The Carter/Mondale Reelection Committee respectfully urges the Commission to take no further action on this matter.

Sincerely,



Carol C. Darr  
Deputy Counsel

81040300970



CARTER/MONDALE  
RE-ELECTION  
COMMITTEE, INC.

L STREET, N.W., WASHINGTON, D.C. 20036

Marsha Gentner, Esq.  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 8, 1981

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Steven L. Humphrey  
Hamel, Park, McCabe and  
Saunders  
1776 F Street, N.W.  
Washington, D.C. 20006

RE: MUR 1324

Dear Mr. Humphrey:

On October 28, 1980, the Federal Election Commission notified your client, the Carter-Mondale Reelection Committee ("C-M") of a complaint which alleges that your client has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") and Chapter 95 of Title 26, U.S. Code ("Fund Act"). A copy of the complaint was forwarded to C-M at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on March 25, 1981, determined that there is reason to believe that C-M has violated 2 U.S.C. §§ 434(b)(2), 434(b)(3)(A) and (B), 434(b)(4)(A), 434(b)(5)(A), 441d(a); 11 C.F.R. § 104.13(a) and (2), and 26 U.S.C. §§ 9003(b)(2) and 9012(d)(1)(A). Specifically, it appears that the Portland office of C-M may have accepted and permitted to be publically distributed from that office, copies of a piece of literature advocating the election of former President Carter and the defeat of President Reagan, which was paid for and submitted to C-M by the Concerned Seniors for Better Government. Such acceptance and use thereby resulted in C-M's receipt of an in-kind contribution from CSBG, a contribution which was not reported as required by 2 U.S.C. § 434. Receipt of an in-kind contribution by C-M would also result in a breach of the certification and agreements made pursuant to 26 U.S. § 9003, and further indicates that there may have been a violation of 26 U.S.C. § 9012(d)(1)(A) due to that breach, as well.

81040300972

Letter to Steven L. Humphrey  
Page Two  
MUR 1324

You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Your response should be submitted within ten days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against C-M, the Commission may find probable cause to believe that a violation has occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if C-M so desires.

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 C-M wishes the investigation to be made public. If you have any questions, please contact Marsha Gentner, the attorney assigned to this matter, at (202) 523-5071.

Sincerely,



JOHN WARREN MCGARRY  
Chairman

146 1324

SENDER: Complete items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):  
☐ Show to whom and date delivered.....  
☐ Show to whom, date and address of delivery.....  
☐ RESTRICTED DELIVERY  
Show to whom and date delivered.....  
☐ RESTRICTED DELIVERY.  
Show to whom, date, and address of delivery.....

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
Steven L. Humphrey  
176 F. NW  
D.C.

3. ARTICLE DESCRIPTION:  
REGISTERED NO. CERTIFIED NO. INSURED NO.  
E99546

(Always obtain signature of addressee or agent)

I have received the article described above.  
SIGNATURE ☐ Address ☐ Authorized agent

4. DATE OF DELIVERY

5. ADDRESS (Complete only if registered)  
08:30 APR 14

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

RECEIVED

18-8-81

17 U.S.C. § 437g(a)(4)(B)



1970-1-10  
Washington, D.C.

ME- 500 1324

Dear Mr. [redacted]:

On March 25, 1961, the Federal Election Commission notified you, Mr. [redacted], the Carter-Bushnell Foundation, Inc. ("C-B") of a complaint which alleges that C-B has violated certain provisions of the Federal Election Campaign Act of 1947, as amended ("the Act") and Chapter 91 of Title 26, U.S. Code ("Fund Act"). A copy of the complaint was forwarded to C-B at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission on March 25, 1961, determined that there is reason to believe that C-B has violated 2 U.S.C. §§ 434(b)(2), 434(b)(3)(A) and (B), 434(b)(4)(A), 434(b)(5)(A), 4612(a), 11 C.F.R. § 104.12(b) and (c), and 26 U.S.C. §§ 9003(b)(2) and 9012(d)(1)(A). Specifically, it appears that the Portland office of C-B has have received and permitted to be publicly distributed from that office, copies of a plan of literature advocating the election of former President Carter and the defeat of President Johnson, which was paid for and submitted to C-B by the [redacted] [redacted] for Senator [redacted]. Such acceptance and use thereby resulted in C-B's receipt of an in-kind contribution from C-B, a contribution which was not reported as required by 2 U.S.C. § 434. Receipt of an in-kind contribution by C-B would also result in a violation of the certification and accounting made pursuant to 2 U.S.C. § 9003, and further indicates that there may have been a violation of 26 U.S.C. § 9012(d)(1)(A) as to that branch, as well.







FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 6, 1981

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Charles W. Lockyer  
President  
Merckle Press, Inc.  
11 200 Prospect Hill Road  
Glenn Dale, Md. 20769

RE: MUR 1324

Dear Mr. Lockyer:

The Federal Election Commission is currently investigating the Matter Under Review referenced above, concerning possible violations of the Federal Election Campaign Act, as amended. 2 U.S.C. §§ 431 - 455. Pursuant to that investigation, the Commission is attempting to locate the name and address of the person(s) or entity which requested and purchased Merckle Press, Inc.'s services in printing the attached piece of literature. (The union "bug" at the bottom identifies Merckle Press, Inc. as the printer of this literature.) Please submit this or any other information you may have which would aid the Federal Election Commission in locating these persons, or if applicable, indicate its unavailability to Merckle Press, Inc., within ten (10) days of your receipt of this letter by mailing or telephoning same, to Marsha Gentner, Office of General Counsel, 1325 K Street, N.W., 20463, (202) 523-5071.

I want to point out that 2 U.S.C. § 437g(a)(12) prohibits any person from making public the fact of "any notification or investigation" by the Commission if, as here, no written consent to that effect from those being investigated has been received by the Commission. You are therefore advised to treat this as a confidential matter and to discuss it with others only to the extent it becomes necessary to comply with the Commission's request.

61040300976



Letter to Merckle Press, Inc.  
Page Two  
MUR 1324

If you have any questions or problems concerning the Commission's request, please do not hesitate to call Ms. Gentner, who is the attorney handling this matter. Your cooperation and assistance in this matter is much appreciated.

Sincerely,

*Charles N. Steele*  
Charles N. Steele  
General Counsel

Enclosure

81040300977

MUR 1324 - Merckle

1. The following service is requested (check one)  
☒ Show to whom and date delivered.....  
☐ Show to whom, date and address of delivery.....  
☐ RESTRICTED DELIVERY  
Show to whom and date delivered.....  
☐ RESTRICTED DELIVERY.  
Show to whom, date, and address of delivery.....

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
Charles W. Lockyer

3. ARTICLE DESCRIPTION:  
REGISTERED NO. CERTIFIED NO. INSURED NO.  
657546

(Always obtain a signature of addressee or agent)

I have received the article described above.  
SIGNATURE ☐ Addressee ☐ Authorized agent  
DATE OF DELIVERY

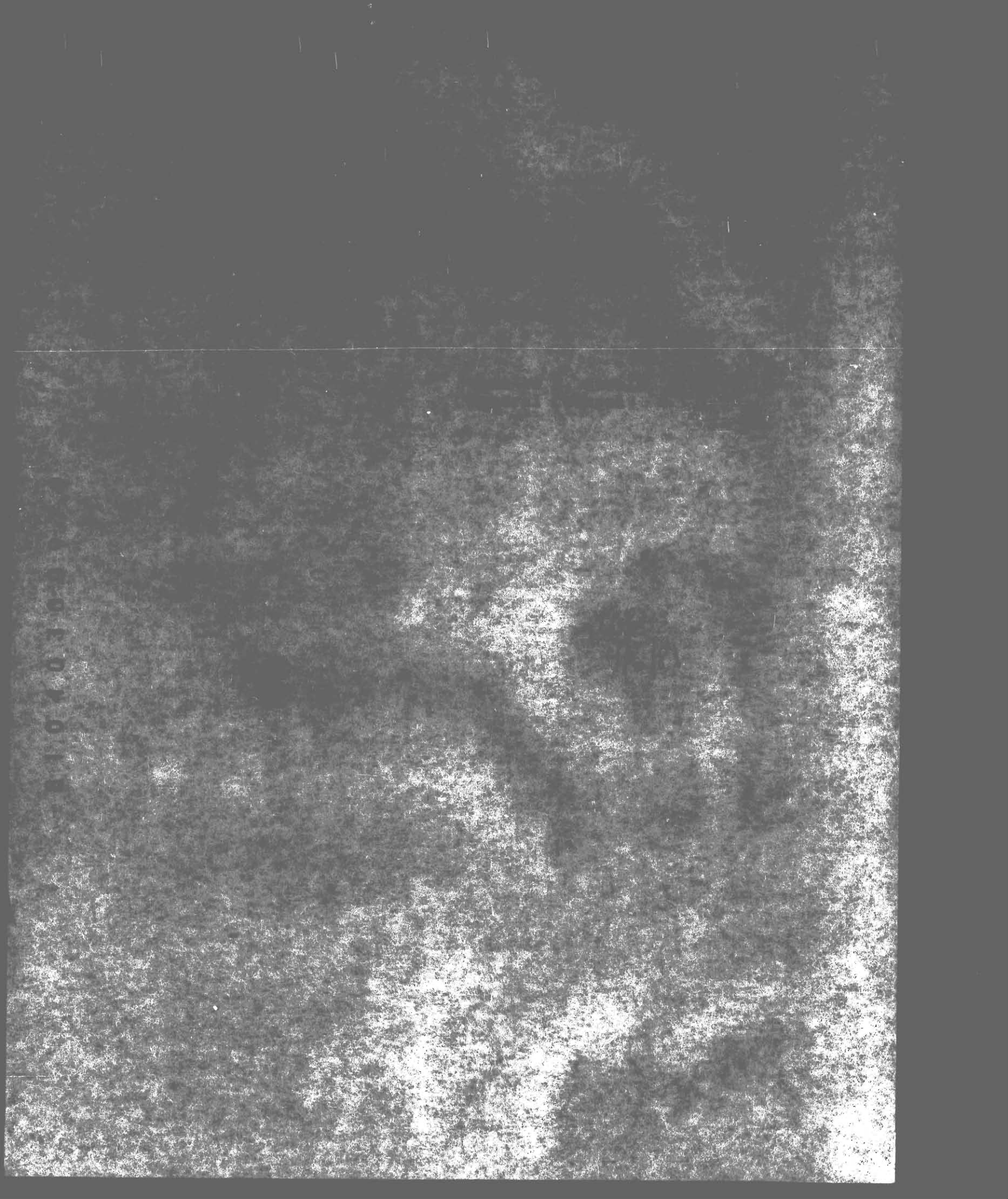
4. ADDRESS (Complete only if requested)

5. COPIES TO DELIVER TO ADDRESSEE

RECEIVED  
APR 8 1981  
GLENN DALE, MO.  
POSTMARK

RECEIVED  
APR 8 1981  
GLENN DALE, MO.  
POSTMARK







Epstein H. Hume

Oct. 15, 1980



**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in Human Events, Nov. 1966**

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for  
or accept authorization from any candidate and no candidate is  
responsible for its activities.

81040300980



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*  
FROM: MARJORIE W. EMMONS/JODY CUSTER *JC*  
DATE: APRIL 1, 1981  
SUBJECT: MUR 1324 Memorandum to the Commission,  
dated 3-31-81; Received in OCS, 3-31-81,  
12:33

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 4:00, March 31, 1981.

There were no objections to the Memorandum to the Commission at the time of the deadline.

81040300981



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *MWEE*  
FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*  
DATE: APRIL 1, 1981  
SUBJECT: COMMENTS REGARDING MUR 1324

Attached is a copy of Commissioner Harris' vote sheet with comments regarding a typographical error in the Memorandum to the Commission, dated March 31, 1981.

81040300982

ATTACHMENT:  
Copy of Vote Sheet





FEDERAL ELECTION COMMISSION

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

RECEIVED  
APR 1 1981  
SECRETARY

81 APR 1 11:14

DATE AND TIME OF TRANSMITTAL TUESDAY, 3-31-81,

4:00

Commissioner McGARRY, AIKENS, TIERNAN, THOMSON, REICHE, HARRIS

RETURN TO THE OFFICE OF COMMISSION SECRETARY BY: WEDNESDAY, APRIL 1, 1981,

4:00

MUR No. 1324 Memorandum to the Commission dated March 31, 1981

( ) I object to the recommendation in the attached report.

COMMENTS: None of New Firm is fouled up.

Date 4-1-81

Signature Thomas E. Harris

OBJECTIONS, SIGNED AND DATED, MUST BE RECEIVED IN THE COMMISSION SECRETARY'S OFFICE NO LATER THAN THE DATE AND TIME SHOWN ABOVE OR THE MATTER WILL BE DEEMED APPROVED. PLEASE RETURN ONLY THE VOTE SHEET TO THE OFFICE OF THE SECRETARY TO THE COMMISSION.



81040300983

MEMORANDUM TO: Marjorie W. Brown

FROM: Elton T. Carr

SUBJECT: MUR 1324

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

81040300984



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
OFFICE OF THE  
COMMISSION SECRETARY

81 MAR 31 PI2: 33

March 31, 1981

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele *CN*  
General Counsel

SUBJECT: Letters in MUR 1324

Attached as the letter of notification of the Commission's reason to believe finding against the Carter-Mondale Reelection Committee, which was drafted and is being circulated pursuant to the Commission's direction at the March 25, 1981, Executive Session. As we do not know the address of the other respondent in this matter, the Concerned Seniors for Better Government (CSBG), the notification letter to that group is not attached; in lieu of that letter, the letter to the printer of the CSBG material, requesting the address of CSBG, if available, is attached for the Commission's review.

Recommendation

Send the attached letters.

Attachments:

- I - Letter to Respondent's attorney
- II - Letter to Merckle Press, Inc.

31040300985





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Steven L. Humphrey  
Hannel, Park, McCabe and  
Saunders  
1776 F Street, N.W.  
Washington, D.C. 20006

RE: MUR 1324

Dear Mr. Humphrey:

On October 28, 1981, the Federal Election Commission notified your client, the Carter-Mondale Reelection Committee ("C-M") of a complaint which alleges that your client has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") and Chapter 95 of Title 26, U.S. Code ("Fund Act"). A copy of the complaint was forwarded to C-M at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on March 25, 1981, determined that there is reason to believe that C-M has violated 2 U.S.C. §§ 434(b)(2), 434(b)(3)(A) and (B), 434(b)(4)(A), 434(b)(5)(A), 441d(a); 11 C.F.R. § 104.13(a) and (2), and 26 U.S.C. §§ 9003(b)(2) and 9012(d)(11)(A). Specifically, it appears that the Portland office of C-M may have accepted and permitted to be publically distributed from that office, copies of a piece of literature advocating the election of former President Carter and the defeat of President Reagan, which was paid for and submitted to C-M by the Concerned Seniors for Better Government. Such acceptance and use thereby resulted in C-M's receipt of an in-kind contribution from CSBG, a contribution which was not reported as required by 2 U.S.C. § 434. Receipt of an in-kind contribution by C-M would also result in a breach of the certification and agreements made pursuant to 26 U.S.C. § 9003, and further indicates that there may have been a violation of 26 U.S.C. § 9012(d)(1)(A) due to that breach, as well.

Attachment I  
(1 of 2 pages)

81040300986

Letter to Steven L. Humphrey  
Page Two  
MUR 1324

You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Your response should be submitted within ten days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information which demonstrates that no further action should be taken against C-M, the Commission may find probable cause to believe that a violation has occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe if C-M so desires.

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 C-M wishes the investigation to be made public. If you have any questions, please contact Marsha Gentner, the attorney assigned to this matter, at (202) 523-5071.

Sincerely,

81040300987



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

President  
Merckle Press, Inc.  
11 200 Prospect Hill Road  
Glenn Dale, Md.

RE: MUR 1324

Dear Sir or Madam:

The Federal Election Commission is currently investigating the Matter Under Review referenced above, concerning possible violations of the Federal Election Campaign Act, as amended. 2 U.S.C. §§ 431 - 455. Pursuant to that investigation, the Commission is attempting to locate the name and address of the person(s) or entity which requested and purchased Merckle Press, Inc.'s services in printing the attached piece of literature. (The union "bug" at the bottom identifies Merckle Press, Inc. as the printer of this literature.) Please submit this information, or if applicable, indicate its unavailability to Merckle Press, Inc., within ten (10) days of your receipt of this letter by mailing or telephoning same, to Marsha Gentner, Office of General Counsel, 1325 K Street, N.W., 20463, (202) 523-5071.

I want to point out that 2 U.S.C. § 437g(a)(12) prohibits any person from making public the fact of "any notification or investigation" by the Commission if, as here, no written consent to that effect from those being investigated has been received by the Commission. You are therefore advised to treat this as a confidential matter and to discuss it with others only to the extent it becomes necessary to comply with the Commission's request.

Attachment II

(1 of 2 pages)

81040300988



Letter to Merckle Press, Inc.  
Page Two  
MUR 1324

If you have any questions or problems concerning the Commission's request, please do not hesitate to call Ms. Gentner, who is the attorney handling this matter. Your cooperation and assistance in this matter is much appreciated.

Sincerely,

Charles N. Steele  
General Counsel

Enclosure

81040300989

(2 of 2 pages)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Carter-Mondale Reelection Committee )

MUR 1324

CERTIFICATION

I, Marjorie W. Emons, Recording Secretary for the Federal Election Commission's Executive Session on March 25, 1981, do hereby certify that the Commission took the following actions in MUR 1324:

1. Decided by a vote of 6-0 to find reason to believe the Carter-Mondale Reelection Committee or its Portland office violated 2 U.S.C. §§434(b) (2) (A) and (D), 434(b) (3) (A) and (B), 434(b) (4) (A), 434(b) (5) (A), and 441d(a); 11 C.F.R. §§ 104.13(a) and (2); 26 U.S.C. §§9003(b) (2) and 9012(d) (1) (A).
2. Decided by votes of 4-2 to find reason to believe the Concerned Seniors for Better Government violated 2 U.S.C. §434(c) (a).

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

3. Failed on a vote of 2-4 to pass a motion to close the file.

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

Attest:

3/31/81

Date

Marjorie W. Emons

Marjorie W. Emons  
Secretary of the Commission

81040300990



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

**MEMORANDUM TO: CHARLES STEELE**

**FROM: MARJORIE W. EMMONS** *mwe*  
**OFFICE OF THE SECRETARY TO THE COMMISSION**

**DATE: MARCH 17, 1981**

**SUBJECT: ADDITIONAL OBJECTION TO MUR 1324**  
**First General Counsel's Report, dated**  
**3-12-81**

You were notified previously of an objection by  
Commissioner Harris.

Commissioner Aikens submitted an objection at 2:01,  
March 17, 1981.

This matter will be discussed in executive session  
on March 24, 1981.

B1040300991





**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

**MEMORANDUM TO:** CHARLES STEELE

**FROM:** MARJORIE W. EMMONS/JODY CUSTER *mc* *Je*

**DATE:** MARCH 17, 1981

**SUBJECT:** OBJECTION - MUR 1324, First General Counsel's  
Report, dated 3-12-81; Received in OCS, 3-12-81,  
5:03

The above-named document was circulated on a 48  
hour vote basis at 2:00, March 13, 1981.

Commissioner Harris submitted an objection at 2:37,  
March 16, 1981.

This matter will be placed on the Executive Session  
Agenda for March 24, 1981.

81040300992

March 12, 1991

MEMORANDUM TO: Marjorie W. Simons  
FROM: Elissa T. Carr  
SUBJECT: MUR 1324

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

81040300993

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

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL  
BY OGC TO THE COMMISSION 3-12-81

MUR# 1324  
DATE COMPLAINT RECEIVED  
BY OGC 10/28/80

STAFF MEMBER Gentner

COMPLAINANT'S NAME: Reagan/Bush Committee

RESPONDENT'S NAME: Carter-Mondale Reelection Committee

RELEVANT STATUTE: 2 U.S.C. §§ 434(b)(2)(A) and (D), 431(b)(3)  
(A) and (B), 434 (b)(4)(A), 434(b)(5)(A)  
11 C.F.R. § 104.13(a)(1) and (2); 2 U.S.C.  
§§ 434(c)(1) and (2)(B); 441d(a), 26 U.S.C.  
§§ 9003(b)(2); 9012(d)(1)(A)

INTERNAL REPORTS CHECKED:

FEDERAL AGENCIES CHECKED: NONE - Checked Election Division of Oregon  
Secretary of State's Office for registration  
of Concerned Seniors for Better Government-none

SUMMARY OF ALLEGATIONS

Complainant alleges that an expenditure of a self-styled independent expenditure committee was made in cooperation, consultation or concert with the Carter-Mondale Reelection Committee, thereby resulting in an unlawful in-kind contribution to the Carter-Mondale Committee. Complainant further alleges that attempts to conceal this in-kind contribution resulted in several reporting violations, as well.

FACTUAL AND LEGAL ANALYSIS

I. PROCEDURAL BACKGROUND

This matter stems from a complaint filed by the Reagan/Bush Committee against the Carter-Mondale Reelection Committee and its Oregon state office. The complaint concerns a piece of literature (Attachment II) expressly advocating the reelection of President Carter and the defeat of President-elect Reagan. The flyer in question was apparently sponsored by a group called "Concerned Seniors for Better Government"; however the identification/authorization notice at the bottom of the flyer following the name of this group states:

81 MAR 12 P 5: 08

SECRETARY

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(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

The complaint alleges that a copy of the flyer in question was obtained at the Carter-Mondale Reelection Committee ("CMRC") offices in Portland, Oregon, on three separate occasions by three individuals, who have submitted affidavits to that effect along with the complaint.

These facts, complainant contends, evidence the following statutory provisions were violated by the Oregon state and national offices of CMRC:

- (1) 26 U.S.C. §9003(b)(2) by soliciting contributions in violation of the Candidate Certifications and Agreements signed by President Carter
- (2) 2 U.S.C. § 434(b)(2)(A) and (D) for failure to itemize a contribution in excess of \$200
- (3) 2 U.S.C. § 434(b)(3)(A) and (B) for failure to report contributions received
- (4) 2 U.S.C. §§ 434(b)(4)(A) and 434 (b)(5)(A) for failure to report and itemize a committee expenditure.

In addition, complainant alleges these facts indicate that CMRC has suborned perjury by encouraging a violation by others of 2 U.S.C. § 434(c)(2)(B).

A copy of the complaint was sent to Carter-Mondale national headquarters and to the Carter-Mondale Portland, Oregon office. On October 17, 1980, a response denying the allegations of the complaint, and supporting affidavits were submitted on behalf of the respondent.

## II. Factual Background

The factual evidence supplied by the complainant consists of a copy of the flyer purported to be put out by the Concerned Seniors for Better Government ("CSBG") (Attachment II), and affidavits from three individuals attesting to the fact they each separately obtained a copy of that flyer from the Carter-Mondale Portland office during the time period from October 15 to October 21, 1980. In addition, one of these affiants states that he was informed by a woman working in the office that more flyers could be obtained if he wished. Carter-Mondale has submitted a response which does not deny the representations of

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the aforementioned affiants with respect to their procurement of the flyer at the times and location noted, but denies that Carter-Mondale had any role in the production or distribution of the flyers.

Neither the complainant's affidavits nor the response and affidavits submitted by respondent shed much light on the question of how the flyers became available to the individuals who procured them from the Carter-Mondale Portland office during the week of October 15 to October 21, 1980. The affidavits submitted with the complaint merely state that copies of the flyer were "obtained" at the Carter-Mondale Portland office, but do not state if they were distributed, if they were with other literature paid for and distributed by Carter-Mondale, or if they were found in some other place. Affidavits filed by the Carter-Mondale National Field Director, by the Oregon state coordinator (who had final authority over the distribution of campaign literature in the Carter-Mondale Portland office), and by the office manager of the Carter-Mondale Portland office state that Carter-Mondale did not authorize or participate in any way in the printing and production of the flyer in question, and did not request its delivery to the Carter-Mondale office. See Attachments IV, V, and VI. The affidavit of the Carter-Mondale Oregon state coordinator further avers that no employee, volunteer or other staff of the Portland office had authority to accept the flyer for use or distribution. Attachment V.

Respondent contends that the appearance of the flyers in its Portland office was due to inadvertent staff error. In support of this contention, Carter-Mondale supplies the affidavit of Shirley Glasby, the campaign staff person who claims to be responsible for that error. Attachment VII. Ms. Glasby states that an elderly man came into Carter-Mondale Portland headquarters and identified himself to her as a member of CSBG, and asked if he could leave the flyers that are now the subject of the complaint in the office for someone from another community in Oregon to pick up later. 1/ Ms. Glasby further states that, as a courtesy to an apparent supporter, she informed the man that he could leave the flyers there for that purpose, but did not follow what subsequently became of the flyers. Id. This account of the events in mid-October leading to the appearance of copies of the flyer in the Carter-Mondale office is confirmed by the affidavit of the Carter-Mondale Portland office manager. See Attachment VI, at 1-2.

The affidavit of the Carter-Mondale office manager further states that she removed the flyers from the front room, where

---

1/ The affidavits submitted by respondent do not make clear whether someone from CSBG actually did pick up the flyers at some later time. The affidavit of the Carter-Mondale Portland office manager states that it is her "impression" that some, but not all, of the flyers were subsequently claimed by someone from CSBG. See Attachment VI.

Carter-Mondale literature was placed for distribution, to a "back storage area", but that subsequently some unidentified person moved the flyers back out to the front room. Jane Hartley, Oregon state coordinator for Carter-Mondale, states in her affidavit that she learned of the existence of the flyers on October 22, 1980 after receiving a telephone inquiry concerning the literature from the Election Division of the Oregon Secretary of State's Office, and that she inquired about and discovered a "few" copies of the flyer with Carter-Mondale literature, and that she immediately had them removed and destroyed.

One of the affidavits submitted by the complainant states that not only was he able to obtain a copy of the flyer from the Carter-Mondale office, but that he also was told that there was a "master" for the flyer in the back of the office and that more could be printed. The affidavits filed in response to this claim state that Carter-Mondale did not print, order to be printed, request, or pay for the flyers in question. See Attachments IV, V, and VI. The affidavits further state that Carter-Mondale Portland headquarters never had a "master" of the campaign literature in question, and that the office's limited photocopying facilities prohibited the production of large amounts of literature by any means other than commercial printing. Attachments V and VI. In addition, respondent has submitted the affidavit of the woman who believes she is the person referred to in complainant's affidavit, Donna Fitzwater, who maintains that she would often tell visitors that the committee had more supplies in back which could be made available, but that she never stated any piece of literature would be reproduced from a master in the back room of the campaign office. See Attachment VIII at 1.

### III. Legal Analysis

Complainant essentially contends that the ability of the three individuals to each obtain a copy of Attachment II in the Carter-Mondale Portland office during the week of October 15 to October 21, 1980, indicates that Carter-Mondale's possession of these materials was the result of an in-kind contribution of the flyers by CSBG to Carter-Mondale. This in turn, the complainant alleges, resulted in a violation of the Candidate Agreement not to accept contributions which was signed by President Carter pursuant to 26 U.S.C. § 9003(b), as well as resulting in violations by Carter-Mondale of various provisions of 2 U.S.C. § 434(b) for failure to report the receipt of the in-kind contribution and to list it as an expenditure. Thus, the focus of the analysis that must be applied to the factual picture presented by complainant and respondent centers on the provisions of 2 U.S.C. § 441a(f) and the standard contained therein, requiring "knowing acceptance" of a contribution in order for it to be attributed to a committee for purposes of the statutory contribution limitations.

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In applying the prohibition of 2 U.S.C. § 441a(f), a serious question could be raised as to the implications of acceptance of some property or service by a committee staff person not actually or apparently authorized to make such acceptance on behalf of the candidate committee, and whether such unauthorized acceptance would place the committee in receipt of an in-kind contribution. This issue need not be reached in this matter, however, as the evidence presented indicates that the CSBG flyers were not "accepted", within the meaning of 2 U.S.C. § 441a(f), by any staff member of the Carter-Mondale Portland office.

According to her affidavit, the individual who permitted the flyers to be temporarily left in the Carter-Mondale office did not accept the flyers for distribution or use by Carter-Mondale, nor place them as a part of the authorized campaign literature. See Attachment VII at 1. This sworn statement is buttressed by the affidavit of the Carter-Mondale Oregon coordinator, attesting to her actions in seeing that the flyers were destroyed upon learning of their existence a short time after the CSBG representative left them at the office. See Attachment V at 2. It would be difficult, at best, to prove that, under the circumstances presented in this matter, the Carter-Mondale staff member's action in permitting a person to leave campaign material to be subsequently claimed by another amounted to a knowing acceptance of an in-kind contribution by Carter-Mondale and a breach by President Carter of his candidate agreement. Therefore, as it appears that there was no intent on the part of Carter-Mondale or its Portland staff to accept the CSBG flyers for use or distribution by the respondent, the Office of General Counsel recommends that the Commission find there is no reason to believe that Carter-Mondale accepted an in-kind contribution in violation of 26 U.S.C. § 9003(b)(2), and, accordingly, that there is no reason to believe Carter-Mondale violated 2 U.S.C. 434(b) and 11 C.F.R. § 104.13 for failure to properly report an in-kind contribution.

Complainant also contends that the strange nature of the disclaimer at the bottom of the CSBG flyer, see Part I, supra, at 2, coupled with the statement attributed to a Carter-Mondale staff person that more flyers could be printed by respondent from a master in the back of its office, indicates the existence of a pervasive scheme on the part of Carter-Mondale to produce the flyer in question and have it falsely attributed to various so-called independent expenditure groups. This, in turn, complainant alleges, created a situation whereby Carter-Mondale abetted such groups in their violation of 2 U.S.C. § 434 (c)(2)(B) (requiring each independent expendor to file a statement attesting to the independent nature of the expenditure) and suborned perjury. The Office of General Counsel notes that if this allegation is true, a violation of 2 U.S.C. § 441d(a), requiring campaign literature

to state if it was paid for or authorized by the candidate or any of his committees, and a violation of 26 U.S.C. § 9012(d)(1)(A) (furnishing of false or misleading information relevant to a Commission certification determination) might also have occurred.

81040300999  
The evidence presented does not support these latter allegations of the complainant. In addition to the sworn statements of the Carter-Mondale National Field Director, the Carter-Mondale Oregon coordinator, and the Carter-Mondale Portland office manager that the flyer in question was not printed by, paid for, or directly or indirectly authorized by Carter-Mondale, that no "master" of the flyer was even in the possession of the Carter-Mondale Portland office, see Attachments IV, V and VI, the Office of General Counsel also notes the statements of the complainant itself recognizing that the union bug notation on the flyer identifies the printer as a commercial one. See Attachment I at 1. Furthermore, the affidavit submitted by complainant concerning the existence of a master for the flyer in the Carter-Mondale office admittedly paraphrases what was communicated to him in this regard, so that this statement presented as evidence of a serious violation does not even amount to direct hearsay. In light of these circumstances, as well as the denial by the Carter-Mondale staff member to whom the statements were attributed that she made other than a general statement about the availability of more campaign materials in the back storage room of respondent's Portland office, see part II, above, at 4, the Office of General Counsel recommends that the Commission find no reason to believe that Carter-Mondale was involved, directly or indirectly, in the production of the CSBG flyer, and, accordingly, that there is no reason to believe Carter-Mondale encouraged others to violate 2 U.S.C. 434(c)(2)(B) and 441d(a), or itself violated 26 U.S.C. § 9012(d)(1)(A). Similarly, the Office of General Counsel also recommends the Commission decline to refer this matter to the Justice Department for investigation of complainant's allegation of subornation of perjury by Carter-Mondale. 2/

The question of CSBG, its status under the federal election laws, and the existence of possible violations of those laws by that committee presents a difficult practical problem. 3/ CSBG is not registered with the Commission nor with the Election Division of the Oregon Secretary of State, and efforts to secure an address or telephone number for the group have proved unsuccessful. Yet, if CSBG paid more than \$250 for the printing of the flyer that is the subject of this matter, it has violated 2 U.S.C. § 434(c)(1) by its failure to file a report of the contributions received by it. If CSBG spent more than \$1,000 on the flyer it has violated 2 U.S.C. § 433 for failing to register as a political committee, as well as 26 U.S.C. § 9012(f) and possibly 2 U.S.C. § 434(c)(2). However,

2/ In this regard the Office of General Counsel notes that complainant makes no reference to any specific sworn statement to which it alleges Carter-Mondale suborned perjury. See Attachment I.

3/ CSBG was not named as a respondent by the complainant.

the inability to locate CSBG or to identify any person who has knowledge of the committee prevents the Commission from effectively investigating these possible violations. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe CSBG violated 2 U.S.C. § 434(c)(1), and take no further action with respect to such violation.

#### RECOMMENDATIONS

1. Find no reason to believe the Carter-Mondale Reelection Committee or its Portland state committee violated 2 U.S.C. §§ 434(b)(2)(A) and (D), 434(b)(3)(A) and (B), 434(b)(4)(A); 434(b)(5)(A); and 441d(a); 11 C.F.R. § 104.13(a)(1) and (2); 26 U.S.C. §§ 9003(b)(2), and 9012(d)(1)(A).

2. Find there is reason to believe the Concerned Seniors for Better Government violated 2 U.S.C. § 434(c)(1), and take no further action.

3. Close the file.

4. Send the attached letters.

#### Attachments

- I. Complaint
- II. CSBG Flyer
- III. Response of Respondent
- IV. Affidavit of Carter-Mondale Field Director
- V. Affidavit of Carter-Mondale Oregon State Coordinator
- VI. Affidavit of Carter-Mondale Oregon Office Manager
- VII. Affidavit of Shirley Glasby
- VIII. Affidavit of Donna Fitzwater
- IX. Letter to Respondent
- X. Letter to Complainant

81040301000



# Reagan & Bush

## Reagan Bush Committee

901 South Highland Street, Arlington, Virginia 22204 (703) 685-3400

MUR 1324 910960  
ACC#  
3/155

October 24, 1980

Honorable Max I. Friedersdorf, Chairman  
Federal Election Commission  
1325 K Street N.W.  
Washington, D.C.

Dear Chairman Friedersdorf:

81040301001  
Pursuant to 2 USC § 437g we are filing this complaint against the Carter/Mondale Reelection Committee for illegally soliciting private contributions in violation of 26 USC § 9003(b)(2) and for attempting to hide this fact in violation of 2 USC § 434(b)(2)(A) and (D) which requires committees to report contributions from individuals and political committees; 2 USC 434(b)(3)(A) and (B) which requires committees to report the identification of each person who makes contributions aggregating more than \$200 per calendar year and of each political committee which makes a contribution during the reporting period; 2 USC 434(b)(4)(A) which requires committees to report disbursements to meet committee operating expenses; and 2 USC 434(b)(5)(A) which requires committees to report the name of each person to whom an expenditure exceeding \$200 is made. The Carter campaign is also suborning perjury by encouraging individuals to violate 2 USC § 434(c)(2)(B) which requires individuals to certify under penalty of perjury whether or not an independent expenditure is made in cooperation consultation, or concert, with, or at the request or suggestions of any candidate, committee, or agent.

The proposed ad was printed in Glendale, Maryland and distributed in Portland, Oregon. If the Commission discovers that the proposed ads were distributed by the U.S. Postal Service, the case should be turned over to the Justice Department for prosecution under the mail fraud statutes.

The Carter/Mondale headquarters in Portland, Oregon, and an as yet undetermined number of other locations is distributing a proposed advertisement to be used as an independent expenditure for Carter and against the Reagan campaign. (See attached ad) The advertisement mock-up contains an independent expenditure

21:01A 82100 C

A Hach ment I

Paid for by Reagan Bush Committee. United States Senator Paul Laxalt, Chairman. Bay Buchanan, Treasurer.

13:6V 011601

disclaimer in blank. The organization or individual who publishes the advertisement (and hence makes the illegal contribution and signs the perjured disclaimer) is apparently supposed to put their own name where the mock-up says (name). This advertisement was, according to the union bug on it, printed in Glendale, Maryland by Merkle Press (see code 17). We cannot understand why these advertisements would be printed in the Washington area unless they were part of a national effort.

Copies of the enclosed advertisement were given to Alex Hurtado on October 15 and 17; to Dick Richards on October 17; and to Bob Madison on October 21. The office appears to be the official Carter/Mondale headquarters and is located at 3rd and Main Streets, Portland, Oregon. (Affidavits enclosed)

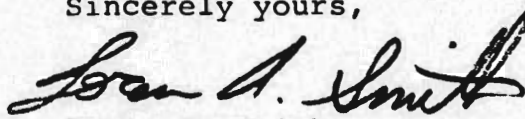
The advertisement is false and misleading and we can understand why the Carter/Mondale Committee doesn't want their name associated with it. We cannot understand Carter intentionally exposing his supporters to criminal prosecution under 2 USC § 9012(f) for illegal contributions or for perjury.

These actions should be fully investigated and appropriate penalties imposed. The Commission should immediately force the Carter/Mondale Committee to withdraw all such or similar, invitations to illegality and issue a public announcement that no proposed ads received from a campaign can be run as independent expenditures. We feel the Carter/Mondale Committee should be prosecuted civilly and criminally, but we do not want to see innocent people deceived by the Carter/Mondale Committee into violating this law.

We may have been over cautious in not filing a complaint sooner but this violation is so egregious and blatant that we didn't believe it when it was first brought to our attention. We demanded copies of the proposed advertisement and affidavits from the people who received the proposed ad. We hope the Commission will take immediate public steps (not mentioning the complaint or the campaign) to alert innocent voters that they will be in violation of the law if they place one of these ads and claim to be an independent expenditure committee.

I make the above complaint under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code.

Sincerely yours,

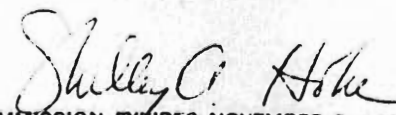


Loren A. Smith  
Chief Counsel

LAS/jac

Enclosures

Personally approved before me a notary of the State of Virginia this 27<sup>th</sup> day of October 1980, Loren Smith, who swore on oath the forgoing statement is true to the best of his knowledge and belief.



MY COMMISSION EXPIRES NOVEMBER 5, 1982

81040301002

AFFIDAVIT

STATE OF OREGON       )  
                          )  
County of Multnomah )       ss.

I, Alex P. Hurtado, being first duly sworn, depose  
and say:

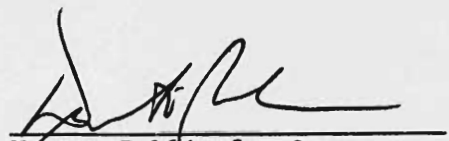
1. On two occasions, October 15, and October 17th, 1980,  
I obtained the attached flyer (hereinafter referred to as  
Exhibit A) at the offices of the Carter Mondale Campaign  
at S. W. 3rd and Main in Portland, Oregon.

2. This Affidavit is made in support of any complaint  
which may be made against the Carter Mondale Campaign for  
violation of election laws.

  
\_\_\_\_\_  
Alex P. Hurtado

Subscribed and Sworn to before me this 23rd day of  
October, 1980.

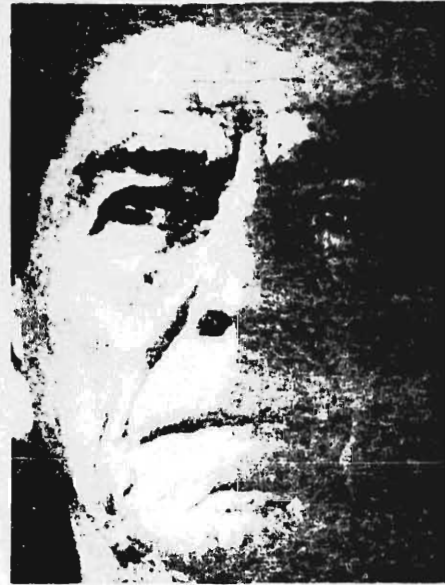
Before Me:

  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires 7/7/87

SEAL

81040301003

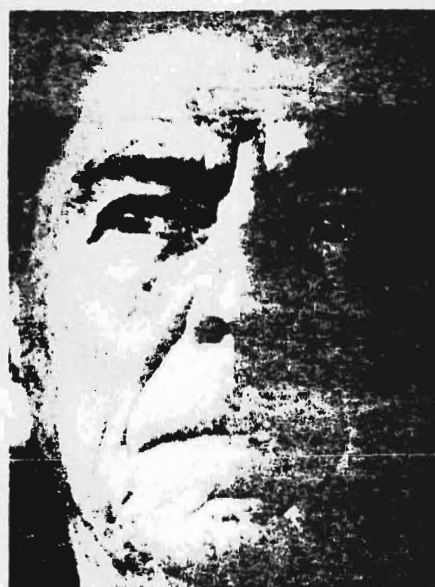
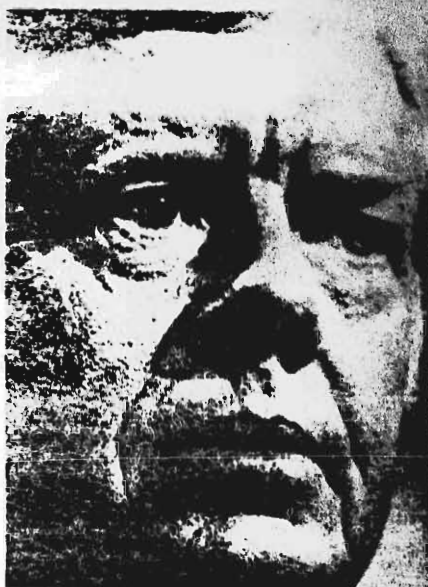




(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

81040301004

244 10 15 *Handwritten signature* Oct. 17, 1982



**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in *Human Events*, Nov. 1966**

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

81040301005

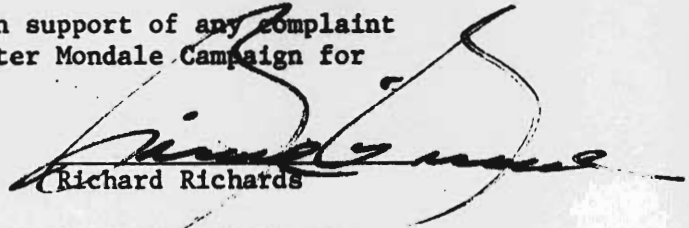
AFFIDAVIT

STATE OF OREGON       )  
                          )  
County of Multnomah ) ss.

I, Richard Richards, being first duly sworn, depose and say:


1. On Friday, October 17th, 1980, at 11:00 A.M., I obtained the attached flyer (hereinafter referred to as Exhibit A) at the offices of the Carter Mondale Campaign at S. W. 3rd and Main in Portland, Oregon.

2. This Affidavit is made in support of any complaint which may be made against the Carter Mondale Campaign for violation of election laws.

  
Richard Richards

Subscribed and Sworn to before me this 23rd day of October, 1980.

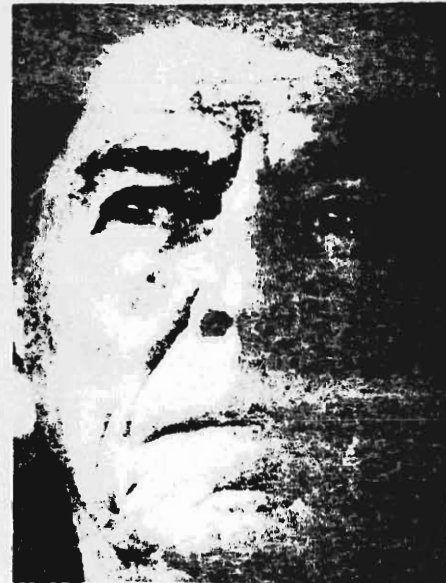
Before me:

  
Notary Public for Oregon  
My Commission Expires: 7/9/87

SEAL

81040301006





**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

—Ronald Reagan, quoted in *Human Events*, Nov. 1966

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

81040301007

AFFIDAVIT

STATE OF OREGON           )  
                                  )  
County of Multnomah       )       ss.

I, William R. Madison, being first duly sworn, depose and say:

1. On Tuesday, October 21, 1980, at 11:30 A.M., I obtained the attached flyer (hereinafter referred to as Exhibit A) at the offices of the Carter Mondale campaign at S. W. 3rd and Main in Portland, Oregon.

2. I asked the woman, who gave me Exhibit A, whether she knew if I could obtain more copies of Exhibit A. She answered essentially:

"We have the master in the back. We can print some more."

3. This Affidavit is made in support of any complaint which may be made against the Carter Mondale Campaign for violation of election laws.

William R. Madison  
William R. Madison

Subscribed and Sworn to before me this 23rd day of October, 1980.

Before Me:

[Signature]  
Notary Public for Oregon  
My Commission Expires: 2/9/83

SEAL

81040301008



**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in *Human Events*, Nov. 1966**

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

81040301009





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**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."  
—Ronald Reagan, quoted in Human Events, Nov. 1966**

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

Robert S. Strauss, Chairman  
Tim Kraft, National Campaign Manager  
S. Lee Kling, Treasurer

CARTER/MONDALE  
RE-ELECTION  
COMMITTEE, INC.

2000 L STREET, N.W., WASHINGTON, D.C. 20036

(202) 887-4700

November 17, 1980

RE: MUR 1324(80)

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

Dear Mr. Steele and Ms. Gentner:

The Carter/Mondale Reelection Committee, Inc. (Committee) submits this response to your notification of October 28, 1980, that the Commission had received a complaint alleging that the Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended.

Background

The complaint, numbered MUR 1324(80), involves the appearance in our Portland, Oregon, headquarters of certain campaign flyers. Based on our own inquiry into this situation and the statements of campaign officials and employees, the Committee states that it had no part in coordinating the printing of the flyer, nor did the party or parties producing the flyer consult with the Committee before the literature was printed. No one at the Committee requested whatever party produced the piece to deliver it to the Oregon headquarters of the Carter/Mondale campaign, and no one in authority accepted delivery or approved the dissemination of the flyer. In fact, the Carter/Mondale committee was unaware of the existence of the flyer.

According to the affidavits of volunteers and employees of the Carter/Mondale Reelection Committee attached to this Response, the brochure apparently turned up in the Oregon campaign headquarters as a result of the following series of events.

An elderly gentleman who appeared to be a supporter of the Carter/Mondale campaign came to the headquarters during a particularly busy day with a batch of the flyers and identified himself as a member of the group whose name is listed at the bottom of the flyer. According to the affidavit of Shirley Glasby, who asked if

Attachment III

she could could help him, he stated that he wanted to leave the flyers in the headquarters so that an acquaintance of his could come by and pick them up for distribution elsewhere. No one in authority at the Carter/Mondale headquarters in Portland, Oregon, was aware that the flyers had been left in the office. Ms. Glasby had no authority to receive the materials, but accepted the materials as a courtesy to the gentlemen, and with no intention that copies would be distributed at the headquarters to the public.

According to the affidavit of Sandra Bell, the office manager, it was her impression that most of the literature was picked up by the acquaintance of the person who left them in the headquarters. She states that she noticed that a small amount of the material had been left behind and she moved the flyers to a back storage area. Several days later, she states, the literature was placed out in the front distribution area. She surmises that a volunteer, who assumed the literature was official campaign material, found the flyers in the back room and, without asking permission, brought them into a front reception area where they were intermingled with several authorized Carter/Mondale campaign pieces. To the best of her knowledge, the literature remained in the main area for about a week when Jane Hartley, campaign coordinator for Oregon, received a call from the Election Division of the Oregon Secretary of State's office regarding the flyers.

Ms. Hartley states in her affidavit that she then made inquiries of the office staff and discovered a few copies of the flyer intermingled with the regular campaign literature. She immediately had the flyers removed and destroyed.

In his affidavit, Leslie Francis, National Field Manager of the Carter Committee, states that prior to being shown the flyer on November 17, 1980, he had never before seen it. In addition, he declares that neither he nor, to the best of his knowledge, anyone else in the Carter committee "ever cooperated or consulted in the printing or distribution of this flyer, nor requested nor suggested that such activities be undertaken, nor acted in concert with those who are responsible for this unauthorized material...."

The affidavit and note by William Madison attached to the Reagan Bush complaint alleges that a woman with light brown shoulder-length hair and glasses said in response to Madison's request to obtain more copies of the flyers, "We have the master in the back; we can print some more."

Donna Fitzwater, who worked in the main reception area of the campaign headquarters where campaign literature was made available, has shoulder-length hair and glasses and believes she may be the woman referred to in Madison's affidavits.

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In her sworn affidavit, Ms. Fitzwater says that, "I never stated to anyone that we would reproduce any piece of literature, including the flyer in question, from a master in the back room of the campaign headquarters." She further replies that, "I can state categorically that the campaign headquarters never had a 'master' of any piece of campaign literature distributed from the headquarters."

Fitzwater's statement is supported by the affidavit of Sandra Bell, the office manager, who states that, "We never had a 'master' of the flyer in question. Any documents we needed to produce in large numbers were commercially printed. We did not duplicate large amounts of literature in our office, having access only to a small and inefficient photocopy machine."

In sum, the Carter/Mondale headquarters in Portland had no "master" of the campaign flyer in question. Campaign workers did not offer to reproduce campaign literature from "masters" nor did masters exist for any regular campaign piece.

The evidence demonstrates that the material was present in the Carter/Mondale campaign headquarters as a result of inadvertence on the part of campaign volunteers, rather than as a result of intention or design on the part of the Carter/Mondale Reelection Committee. The literature was available in the campaign office for approximately one week and no one of policy-making authority for the Carter/Mondale campaign in the Oregon headquarters or on the national level approved the distribution of the flyer in question. Furthermore, the materials were immediately removed and destroyed as soon as their existence was brought to the attention of campaign officials.

#### Legal Analysis

There are numerous legal deficiencies in the Reagan Bush Committee's complaint and in its references to sections of the statute and regulations.

To begin with, 26 USC 9003(b)(2) does not prohibit the "solicitation" of private contributions by publicly-funded presidential candidates, nor does the Reagan Bush Committee provide one scintilla of evidence that the flyers in question were produced and distributed at the request or suggestion of the Carter/Mondale Committee. What 26 USC 9003(b)(2) does prohibit, and what the Reagan Bush Committee seems to be complaining about, is the alleged "acceptance" by the Carter/Mondale Committee of a "contribution" resulting from a possibly flawed attempt by someone unconnected with the campaign to make an independent expenditure.

81040301013

Secondly, the Complaint charges that by attempting to hide "this fact"--presumably that we were "accepting" private contributions--the Committee is in violation of 2 USC 434(b)(2)(A) and (D) for failing to report unitemized contributions. Unless the Reagan Bush Committee is charging that the flyer in question was jointly produced by a political committee and persons other than a political committee, we assume that they meant to charge the Committee with violating (A) or (D), given that these two are mutually exclusive.

Furthermore, it should be noted that the receipt of campaign materials would constitute an in-kind contribution required by 11 CFR 104.13 to be itemized by the recipient committee regardless of value. Consequently, the reference in the subsequent allegation (2 USC 434(b)(3)(A) and (B)) is also inaccurate.

The Complaint goes on to assert that the Carter/Mondale campaign is guilty of violating 2 USC 434(b)(4)(A) for failure to report as corresponding unitemized "expenditures" those items "accepted" by the Committee as a "contribution." Again, the Complaint follows this allegation with a charge that the Carter/Mondale Committee failed to report the cost of the flyers as an itemized expenditure, repeating the inaccurate reference to the \$200 threshold.

The allegations that the Carter/Mondale Committee failed to report both in-kind contributions and corresponding "expenditures" of the materials in question collapses in the face of the Complaint's total failure to prove its underlying assumption, i.e., that the Carter/Mondale Committee legally "accepted" the materials in the first place.

More serious is the Reagan Bush Committee's charge that the Carter/Mondale Committee was suborning perjury by encouraging individuals to violate 2 USC 434(c)(2)(B) which required individuals to certify that an independent expenditure was not made in collusion with any candidate or his/her committee or agents.

Aside from the fact that the subornation of perjury requires a falsely sworn statement, and the "Concerned Seniors for Better Government" has filed no statements with the FEC,\* we are distressed and offended by such an unfounded and unwarranted attack on the integrity of our Committee.

---

\*This "committee" may not have registered with the FEC because it made an independent expenditure of less than \$250, or it made an unreportable internal communication (which was too broadly distributed), or it was simply in error regarding its reporting obligations.

81040301014

Moreover, if the expenditures for the flyers were not made independently of the Carter/Mondale Committee, as the Complaint seems to suggest, there would be no requirement to file the statutorily prescribed statements for independent expenditures.

Conclusion

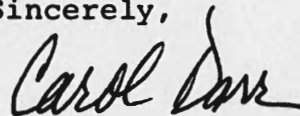
Leaving aside its numerous technical deficiencies, the essence of the Complaint, so far as we can determine, seems to be that the Carter/Mondale Committee colluded with individuals who were attempting to make an "independent expenditure." If true, this collusion would vitiate the independence of the expenditure, thereby requiring its reporting as an itemized contribution and expenditure by the Carter/Mondale Committee.

All available evidence, however, indicates that officials of the Carter/Mondale campaign, both nationally and in Oregon, had nothing to do with the publication of the flyers in question. Authorized campaign personnel had no prior knowledge of the existence of the flyer, were unaware that it was being distributed at the headquarters, and upon so learning immediately took steps to remove and destroy the flyers.

The inability of the Reagan Bush Committee to provide any substantive evidence of involvement by the Carter/Mondale Committee or its agents in the publication of the materials in question, combined with the reckless accusations of criminal activity made by the complainant, and the technical deficiencies and timing of the Complaint, suggest that it was motivated by other than legal considerations.

We urge that the Commission take no further action against the Carter/Mondale Reelection Committee on the basis of this Complaint.

Sincerely,



Carol Darr, Deputy Counsel  
Carter/Mondale Reelection  
Committee, Inc.

Of Counsel:

Richard M. Botteri, Esq.  
1215 Oregon National Building  
610 W.S. Alder  
Portland, Oregon 97205

CD:sjl

Attachments

81040301015

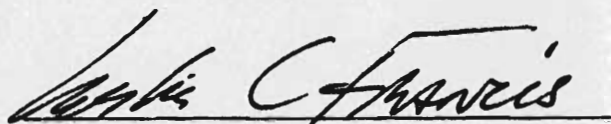


AFFIDAVIT

I, Leslie C. Francis, being sworn, depose and say:

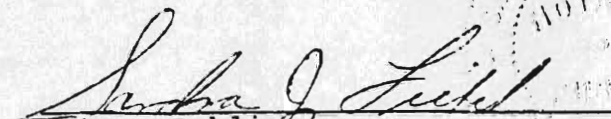
I was the National Field Director of the Carter/Mondale Reelection Committee, Inc. During the presidential campaign, it was my policy and the policy of the Carter campaign to discourage all independent expenditures on behalf of President Carter and Vice-President Mondale.

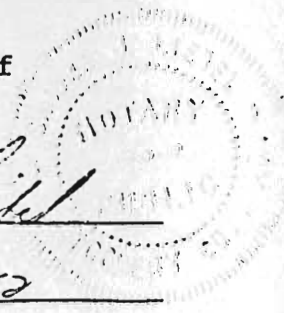
I have today been shown a copy of the flyer which is the subject of FEC MUR 1324 (80). I have never seen this flyer before. At no time have I ever cooperated or consulted in the printing or distribution of this flyer, nor requested nor suggested that such activities be undertaken, nor acted in concert with those who are responsible for this unauthorized material, and, to the best of my knowledge and belief, no one else in the campaign committee has done so either.

  
Leslie C. Francis

11-17-80  
Date

SUBSCRIBED AND SWORN to before me this 17th day of November, 1980.

  
Notary Public  
Comm. Expires: 4-1-82



Attachment IV

81040301016

AFFIDAVIT

1  
2 STATE OF OREGON )  
3 ) ss.  
4 County of Multnomah )

5 I, Jane Hartley, being sworn depose and say:

6 I was the state coordinator of the Carter/Mondale Re-election  
7 Campaign in Oregon during the general election of 1980. In that  
8 capacity I had final authority over the distribution of campaign  
9 literature by the Carter/Mondale headquarters in Portland, Oregon.

10 I can state categorically that the flyer which is the basis  
11 of the Complaint in FEC MUR 1324(80) was not produced by the Carter/  
12 Mondale Re-election Campaign Committee, was not ordered to be  
13 printed by the Oregon campaign office, was not paid for by the  
14 Oregon campaign office, and our campaign office in Portland, Oregon  
15 never requested the party or parties which produced the piece to  
16 deliver it to our office. I also had instructed our office per-  
17 sonnel about the necessity to distribute only official Carter/  
18 Mondale campaign literature in the headquarters.

19 According to my investigation of the matter, the flyers were  
20 brought into our campaign office by an individual who wanted to  
21 leave them for another person to pick up and distribute elsewhere.  
22 These people have not been identified, but they were not employees  
23 of our campaign committee. I understand that some of the flyers  
24 were left in the headquarters and may have been included among  
25 stacks of official literature. At no time did any personnel of  
26 our campaign office, whether volunteer or employee, have authority  
of the Carter/Mondale Committee to accept such material and dis-

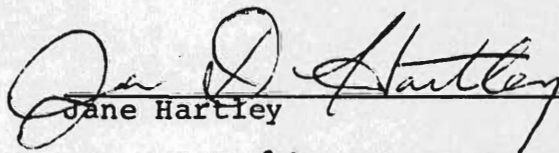
Attachment IV

301017  
81040  
RICHARD M. BOTTERI  
ATTORNEY AT LAW  
1215 OREGON NATIONAL BUILDING  
810 S.W. ALDER STREET  
PORTLAND, OREGON 97205  
TELEPHONE 224.9675

1 tribute it.

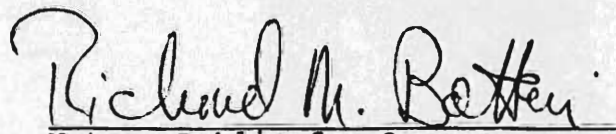
2 I understand that the flyer was only in the office for a few  
3 days. I was not aware of its existence during most of that time.  
4 On approximately October 22nd I received a telephone inquiry re-  
5 garding the flyer from the Election Division of the Oregon Secre-  
6 tary of State's office. I was confused by the phone call because  
7 I did not recognize the flyer as it was described to me as being  
8 one of the authorized pieces of literature published by the  
9 Carter/Mondale Campaign Committee. I also knew that "Concerned  
10 Seniors for Better Government" was not a group affiliated with  
11 the Carter/Mondale campaign. After the telephone conversation  
12 I inquired of our office staff about the flyer. I discovered  
13 that a few copies of it were intermingled with our regular cam-  
14 paign literature. I immediately <sup>HAD them</sup> removed ~~them~~ and ~~had them~~ de-  
15 stroyed. JPH

16 No person with management authority of the Carter/Mondale  
17 Campaign in Oregon authorized the presence or the distribution  
18 of the flyer in the Carter/Mondale campaign headquarters in  
19 Portland, Oregon.

20  
21   
Joane Hartley

22 SUBSCRIBED AND SWORN to before me this 6th day of November,

23 1980.

24   
25 Notary Public for Oregon  
26 My comm. exp.: 6/4/84



AFFIDAVIT

1

2 STATE OF OREGON )  
3 County of Multnomah ) ss.

4 I, Sandra Bell, being sworn depose and say:

5 From the middle of September, 1980 onward, I was the office  
6 manager of the Oregon campaign headquarters of the Carter/Mondale  
7 Re-election Committee. The campaign headquarters was located at  
8 1038 S. W. Third Avenue, Portland, Oregon. I am familiar with  
9 some of the facts regarding the flyer which is the subject of FEC  
10 MUR 1324(80).

11 The campaign headquarters had several hundred square feet of  
12 area and at least five large rooms staffed on any one day with  
13 numerous employees and volunteers. The headquarters is located  
14 close to the center of downtown Portland. As a consequence, large  
15 numbers of people visited the headquarters throughout the campaign;  
16 it was not unusual for more than one hundred people to visit the  
17 headquarters on any given day.

18 The large front room of the campaign headquarters has several  
19 counters, tables and shelves where campaign literature was placed  
20 for distribution. We distributed many thousands of copies of off-  
21 icial campaign literature pieces. These included copies of over  
22 two hundred position papers and thirty to forty brochures, together  
23 with sample ballots and voter registration information. Our office  
24 also distributed approximately 100,000 pieces of mail.

25 During a particularly busy day during the middle of October,  
26 I remember an elderly black gentleman coming to the campaign office

21

1 with several copies of the flyer which forms the basis of this  
2 Complaint. I do not recall if I spoke to him directly or if I  
3 overheard what he said to a receptionist. I recall that he said  
4 that another acquaintance of his would come by the campaign head-  
5 quarters and pick up the literature in question. I did not pay  
6 close attention to the literature and never considered whether  
7 it was official campaign literature or whether it was appropriate  
8 for it to be left in the campaign headquarters.

9 It is my impression that the black gentleman's acquaintance  
10 must have come to the campaign headquarters and picked up the  
11 literature. I noticed that a small amount had been left behind  
12 and I removed it from the front room of the headquarters to a  
13 back storage area. Several days later, the literature was placed  
14 out in the front distribution area. I believe it was done by a  
15 volunteer who assumed that the literature was official campaign  
16 material.

17 One of the affidavits accompanying the Complaint states that  
18 a woman told the Reagan campaign informant who picked up the lit-  
19 erature, that the campaign office had a "master" in the back and  
20 could run off additional copies. We never had a "master" of the  
21 flyer in question. Any documents we needed to produce in large  
22 numbers were commercially printed. We did not duplicate large  
23 amounts of literature in our office, having access only to a  
24 small and inefficient photocopy machine. As far as I know, no  
25 copies of the flyer in question were ever photocopied in our  
26 office and we never had additional copies of the flyer made by

81040301020



1 any commercial printer.

2 The presence and distribution of the flyer in the Carter/Mondale  
3 headquarters in Portland, Oregon was inadvertent. No person with  
4 policy making authority at the Oregon campaign headquarters author-  
5 ized the presence of the literature in the headquarters; or even  
6 knew of its existence, as far as I know. I did my best to keep  
7 unauthorized literature out of the office. I was aware of the  
8 necessity to do so. However, I am not a lawyer. In my very fleeting  
9 contact with the flyer I did not read the "disclaimer" at the  
10 bottom of the piece. If I had, I would have realized that it was  
11 not official literature, and I would not have allowed it in the  
12 office.

13 To the best of my knowledge, the literature was in our office  
14 less than a week.

15  
16 Sandra Lu Bell  
Sandra Bell

17  
18 SUBSCRIBED AND SWORN to before me this 11 day of November,  
19 1980.

20  
21 Richard W. Batten  
Notary Public for Oregon  
My comm. exp.: 6/4/84  
22  
23  
24  
25  
26



AFFIDAVIT

1

2 STATE OF OREGON )  
3 County of Multnomah ) ss.

4 I, Shirley Glasby, being sworn depose and say:

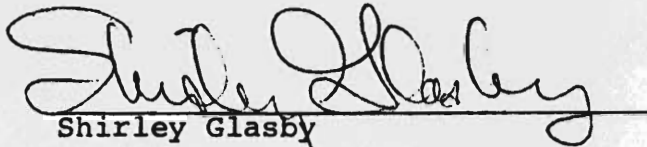
5 From the middle of September, 1980 onward I was in charge of  
6 press relations for the Carter/Mondale Re-election Committee in  
7 Oregon at the campaign headquarters in Portland.

8 Sometime in October I had a conversation with an elderly black  
9 man who came to the campaign headquarters and identified himself  
10 as being a member of the group whose name is listed on the bottom  
11 of the flyer in question in FEC MUR 1324(80). He came in with the  
12 flyers in question. I asked him what he wanted and he told me that  
13 he wanted to leave the flyers in the headquarters for someone coming  
14 from another community in Oregon who would pick them up. I told him  
15 that he could leave the material in the office for that purpose. I  
16 never saw the literature again.

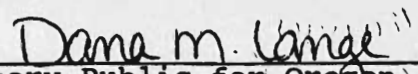
17 It was not my job to review literature that came into the cam-  
18 paign headquarters and I was not authorized to commit the Carter/  
19 Mondale campaign to the distribution of any sort of campaign lit-  
20 erature. I accepted the literature from the elderly gentleman,  
21 solely as a courtesy to him because he appeared to be a supporter  
22 of our campaign. I do not know the gentleman in question, but it  
23 did not occur to me that it was not appropriate to have the liter-  
24 ature in the campaign headquarters. I definitely did not accept  
25 the literature for the purpose of having copies available in our  
26 office for the campaign itself to distribute. I was unaware of

1 what happened to the literature after I accepted it from the  
2 gentleman and set it aside for his acquaintance to pick up.

3 Often I would assist visitors in selections of literature  
4 from that which was available in our main reception room, because  
5 my desk was located in that room. Several times I invited vis-  
6 itors to go to a back room where additional copies of literature  
7 were kept in the event they wanted pieces which were not avail-  
8 able in the front. However, to my knowledge, we had no "masters"  
9 of any campaign piece in the office and I never assured any vis-  
10 itor that he or she might have additional copies reproduced in  
11 the campaign headquarters.

  
Shirley Glasby

12  
13  
14  
15 SUBSCRIBED AND SWORN to before me this 12th day of November,  
16 1980.

  
Notary Public for Oregon  
My comm. exp.: 10/16/83

RICHARD M. BOTTERI  
ATTORNEY AT LAW  
1215 OREGON NATIONAL BUILDING  
610 S. W. ALDER STREET  
PORTLAND, OREGON 97205  
TELEPHONE 224-9675

AFFIDAVIT

1

2 STATE OF OREGON )  
3 County of Multnomah ) ss.

4 I, Donna Fitzwater, being sworn depose and say:

5 I worked at the Carter/Mondale campaign headquarters in Port-  
6 land, Oregon in October, 1980.

7 I worked in the main reception area of the campaign headquarters  
8 where campaign literature was made available to members of the pub-  
9 lic. I have shoulder length hair and wear glasses and may be the  
10 woman referred to in one of the affidavits filed in support of FEC  
11 MUR 1324(80).

12 One of my duties was to assist members of the public in selec-  
13 tion of campaign literature. I can state categorically that the  
14 campaign headquarters never had a "master" of any piece of campaign  
15 literature distributed from the headquarters. If a visitor to the  
16 headquarters wished copies of a campaign piece not present in the  
17 main reception area I would often tell the visitor that we had more  
18 supplies in the back and that additional copies could be brought  
19 out. I never stated to anyone that we would reproduce any piece  
20 of literature, including the flyer in question, from a master in  
21 the back room of the campaign headquarters.

22 I have some recollection of the flyer in question. My re-  
23 collection was refreshed principally because of the Complaint being  
24 raised about the literature and our office's investigation into  
25 the circumstances of its presence at the headquarters. Otherwise,  
26 it was not remarkable.

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1 I paid very little attention to the piece. It is my impression  
2 that it was in the headquarters for about a week. I did not pay  
3 attention as to whether it was official literature. To my knowledge,  
4 no one with management authority for the campaign ever ordered its  
5 printing or distribution.

6  
7 Donna Fitzwater  
8 Donna Fitzwater

9 SUBSCRIBED AND SWORN to before me this 11th day of November,  
10 1980.

11  
12 Dana M. Lange  
13 Notary Public for Oregon  
14 My comm. exp.: 10/16/83

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RICHARD M. BUTLER  
ATTORNEY AT LAW  
1215 OREGON NATIONAL BUILDING  
610 S.W. ALDER STREET  
PORTLAND, OREGON 97205  
TELEPHONE 224-9675



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Steven L. Humphrey  
Hammel, Park, McCabe  
and Saunder  
1776 F Street, N.W.  
Washington, D.C. 20006

RE: MUR 1324

Dear Mr. Humphrey:

On October 28, 1980, the Commission notified your client, the Carter-Mondale Reelection Committee, of a complaint alleging that your client may have violated certain sections of the Federal Election Campaign Act of 1971, as amended and Chapters 95 and 96 of Title 26, U.S. Code.

The Commission, on , 1980, determined that, on the basis of the information in the complaint (and information provided by you on behalf of the Carter-Mondale Reelection Committee) there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission has closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele  
General Counsel

cc: Richard Botteri, Esq.

81040301026



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Loren Smith, Chief Counsel  
Reagan Bush Committee  
901 South Highland Street  
Arlington, VA 22204

RE: MUR 1324

Dear Mr. Smith:

The Federal Election Commission has reviewed the allegations of your complaint filed October 28, 1980 and determined that, on the basis of the information provided in your complaint (and information provided by the Respondent), there is no reason to believe that a violation of the Federal Election Campaign Act of 1971 as amended or Chapters 95 and 96 of Title 26, U.S. Code has been committed.

Accordingly, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the federal election laws, please contact Marsha Gentner, the attorney assigned to this matter, at (202) 523-5071.

Sincerely,

Charles N. Steele  
General Counsel

81040301027



**CARTER/MONDALE  
RE-ELECTION  
COMMITTEE, INC.**

600-3354  
Robert S. Strauss, Chairman  
Tim Kraft, National Campaign Manager  
S. Lee Kling, Treasurer

2000 L STREET, N.W., WASHINGTON, D.C. 20036

(202) 887-4700

November 17, 1980

RE: MUR 1324(80)

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

Dear Mr. Steele and Ms. Gentner:

The Carter/Mondale Reelection Committee, Inc. (Committee) submits this response to your notification of October 28, 1980, that the Commission had received a complaint alleging that the Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended.

Background

The complaint, numbered MUR 1324(80), involves the appearance in our Portland, Oregon, headquarters of certain campaign flyers. Based on our own inquiry into this situation and the statements of campaign officials and employees, the Committee states that it had no part in coordinating the printing of the flyer, nor did the party or parties producing the flyer consult with the Committee before the literature was printed. No one at the Committee requested whatever party produced the piece to deliver it to the Oregon headquarters of the Carter/Mondale campaign, and no one in authority accepted delivery or approved the dissemination of the flyer. In fact, the Carter/Mondale committee was unaware of the existence of the flyer.

According to the affidavits of volunteers and employees of the Carter/Mondale Reelection Committee attached to this Response, the brochure apparently turned up in the Oregon campaign headquarters as a result of the following series of events.

An elderly gentleman who appeared to be a supporter of the Carter/Mondale campaign came to the headquarters during a particularly busy day with a batch of the flyers and identified himself as a member of the group whose name is listed at the bottom of the flyer. According to the affidavit of Shirley Glasby, who asked if

she could could help him, he stated that he wanted to leave the flyers in the headquarters so that an acquaintance of his could come by and pick them up for distribution elsewhere. No one in authority at the Carter/Mondale headquarters in Portland, Oregon, was aware that the flyers had been left in the office. Ms. Glasby had no authority to receive the materials, but accepted the materials as a courtesy to the gentlemen, and with no intention that copies would be distributed at the headquarters to the public.

According to the affidavit of Sandra Bell, the office manager, it was her impression that most of the literature was picked up by the acquaintance of the person who left them in the headquarters. She states that she noticed that a small amount of the material had been left behind and she moved the flyers to a back storage area. Several days later, she states, the literature was placed out in the front distribution area. She surmises that a volunteer, who assumed the literature was official campaign material, found the flyers in the back room and, without asking permission, brought them into a front reception area where they were intermingled with several authorized Carter/Mondale campaign pieces. To the best of her knowledge, the literature remained in the main area for about a week when Jane Hartley, campaign coordinator for Oregon, received a call from the Election Division of the Oregon Secretary of State's office regarding the flyers.

Ms. Hartley states in her affidavit that she then made inquiries of the office staff and discovered a few copies of the flyer intermingled with the regular campaign literature. She immediately had the flyers removed and destroyed.

In his affidavit, Leslie Francis, National Field Manager of the Carter Committee, states that prior to being shown the flyer on November 17, 1980, he had never before seen it. In addition, he declares that neither he nor, to the best of his knowledge, anyone else in the Carter committee "ever cooperated or consulted in the printing or distribution of this flyer, nor requested nor suggested that such activities be undertaken, nor acted in concert with those who are responsible for this unauthorized material...."

The affidavit and note by William Madison attached to the Reagan Bush complaint alleges that a woman with light brown shoulder-length hair and glasses said in response to Madison's request to obtain more copies of the flyers, "We have the master in the back; we can print some more."

Donna Fitzwater, who worked in the main reception area of the campaign headquarters where campaign literature was made available, has shoulder-length hair and glasses and believes she may be the woman referred to in Madison's affidavits.

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In her sworn affidavit, Ms. Fitzwater says that, "I never stated to anyone that we would reproduce any piece of literature, including the flyer in question, from a master in the back room of the campaign headquarters." She further replies that, "I can state categorically that the campaign headquarters never had a 'master' of any piece of campaign literature distributed from the headquarters."

Fitzwater's statement is supported by the affidavit of Sandra Bell, the office manager, who states that, "We never had a 'master' of the flyer in question. Any documents we needed to produce in large numbers were commercially printed. We did not duplicate large amounts of literature in our office, having access only to a small and inefficient photocopy machine."

In sum, the Carter/Mondale headquarters in Portland had no "master" of the campaign flyer in question. Campaign workers did not offer to reproduce campaign literature from "masters" nor did masters exist for any regular campaign piece.

The evidence demonstrates that the material was present in the Carter/Mondale campaign headquarters as a result of inadvertence on the part of campaign volunteers, rather than as a result of intention or design on the part of the Carter/Mondale Reelection Committee. The literature was available in the campaign office for approximately one week and no one of policy-making authority for the Carter/Mondale campaign in the Oregon headquarters or on the national level approved the distribution of the flyer in question. Furthermore, the materials were immediately removed and destroyed as soon as their existence was brought to the attention of campaign officials.

#### Legal Analysis

There are numerous legal deficiencies in the Reagan Bush Committee's complaint and in its references to sections of the statute and regulations.

To begin with, 26 USC 9003(b)(2) does not prohibit the "solicitation" of private contributions by publicly-funded presidential candidates, nor does the Reagan Bush Committee provide one scintilla of evidence that the flyers in question were produced and distributed at the request or suggestion of the Carter/Mondale Committee. What 26 USC 9003(b)(2) does prohibit, and what the Reagan Bush Committee seems to be complaining about, is the alleged "acceptance" by the Carter/Mondale Committee of a "contribution" resulting from a possibly flawed attempt by someone unconnected with the campaign to make an independent expenditure.

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Secondly, the Complaint charges that by attempting to hide "this fact"--presumably that we were "accepting" private contributions--the Committee is in violation of 2 USC 434(b)(2)(A) and (D) for failing to report unitemized contributions. Unless the Reagan Bush Committee is charging that the flyer in question was jointly produced by a political committee and persons other than a political committee, we assume that they meant to charge the Committee with violating (A) or (D), given that these two are mutually exclusive.

Furthermore, it should be noted that the receipt of campaign materials would constitute an in-kind contribution required by 11 CFR 104.13 to be itemized by the recipient committee regardless of value. Consequently, the reference in the subsequent allegation (2 USC 434(b)(3)(A) and (B)) is also inaccurate.

The Complaint goes on to assert that the Carter/Mondale campaign is guilty of violating 2 USC 434(b)(4)(A) for failure to report as corresponding unitemized "expenditures" those items "accepted" by the Committee as a "contribution." Again, the Complaint follows this allegation with a charge that the Carter/Mondale Committee failed to report the cost of the flyers as an itemized expenditure, repeating the inaccurate reference to the \$200 threshold.

The allegations that the Carter/Mondale Committee failed to report both in-kind contributions and corresponding "expenditures" of the materials in question collapses in the face of the Complaint's total failure to prove its underlying assumption, i.e., that the Carter/Mondale Committee legally "accepted" the materials in the first place.

More serious is the Reagan Bush Committee's charge that the Carter/Mondale Committee was suborning perjury by encouraging individuals to violate 2 USC 434(c)(2)(B) which required individuals to certify that an independent expenditure was not made in collusion with any candidate or his/her committee or agents.

Aside from the fact that the subornation of perjury requires a falsely sworn statement, and the "Concerned Seniors for Better Government" has filed no statements with the FEC,\* we are distressed and offended by such an unfounded and unwarranted attack on the integrity of our Committee.

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\*This "committee" may not have registered with the FEC because it made an independent expenditure of less than \$250, or it made an unreportable internal communication (which was too broadly distributed), or it was simply in error regarding its reporting obligations.

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Moreover, if the expenditures for the flyers were not made independently of the Carter/Mondale Committee, as the Complaint seems to suggest, there would be no requirement to file the statutorily prescribed statements for independent expenditures.

### Conclusion

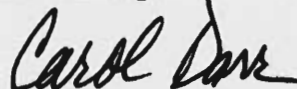
Leaving aside its numerous technical deficiencies, the essence of the Complaint, so far as we can determine, seems to be that the Carter/Mondale Committee colluded with individuals who were attempting to make an "independent expenditure." If true, this collusion would vitiate the independence of the expenditure, thereby requiring its reporting as an itemized contribution and expenditure by the Carter/Mondale Committee.

All available evidence, however, indicates that officials of the Carter/Mondale campaign, both nationally and in Oregon, had nothing to do with the publication of the flyers in question. Authorized campaign personnel had no prior knowledge of the existence of the flyer, were unaware that it was being distributed at the headquarters, and upon so learning immediately took steps to remove and destroy the flyers.

The inability of the Reagan Bush Committee to provide any substantive evidence of involvement by the Carter/Mondale Committee or its agents in the publication of the materials in question, combined with the reckless accusations of criminal activity made by the complainant, and the technical deficiencies and timing of the Complaint, suggest that it was motivated by other than legal considerations.

We urge that the Commission take no further action against the Carter/Mondale Reelection Committee on the basis of this Complaint.

Sincerely,



Carol Darr, Deputy Counsel  
Carter/Mondale Reelection  
Committee, Inc.

Of Counsel:

Richard M. Botteri, Esq.  
1215 Oregon National Building  
610 W.S. Alder  
Portland, Oregon 97205

CD:sjl

Attachments

81040301032

AFFIDAVIT

I, Leslie C. Francis, being sworn, depose and say:

I was the National Field Director of the Carter/Mondale Reelection Committee, Inc. During the presidential campaign, it was my policy and the policy of the Carter campaign to discourage all independent expenditures on behalf of President Carter and Vice-President Mondale.

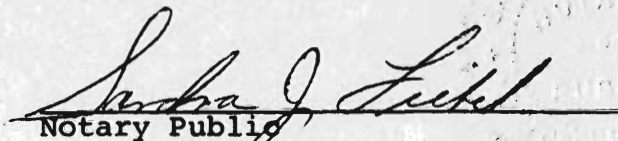
I have today been shown a copy of the flyer which is the subject of FEC MUR 1324 (80). I have never seen this flyer before. At no time have I ever cooperated or consulted in the printing or distribution of this flyer, nor requested nor suggested that such activities be undertaken, nor acted in concert with those who are responsible for this unauthorized material, and, to the best of my knowledge and belief, no one else in the campaign committee has done so either.



Leslie C. Francis

11-17-80  
Date

SUBSCRIBED AND SWORN to before me this 17th day of November, 1980.

  
Notary Public

Comm. Expires: 4-1-82

81040301033



AFFIDAVIT

STATE OF OREGON )

) ss.

County of Multnomah )

I, Shirley Glasby, being sworn depose and say:

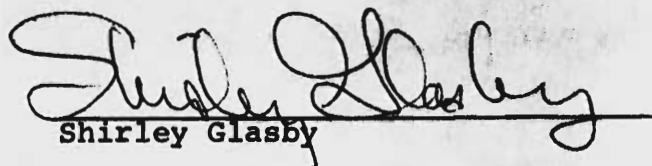
From the middle of September, 1980 onward I was in charge of press relations for the Carter/Mondale Re-election Committee in Oregon at the campaign headquarters in Portland.

Sometime in October I had a conversation with an elderly black man who came to the campaign headquarters and identified himself as being a member of the group whose name is listed on the bottom of the flyer in question in FEC MUR 1324(80). He came in with the flyers in question. I asked him what he wanted and he told me that he wanted to leave the flyers in the headquarters for someone coming from another community in Oregon who would pick them up. I told him that he could leave the material in the office for that purpose. I never saw the literature again.

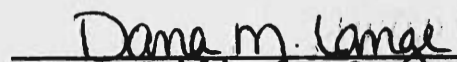
It was not my job to review literature that came into the campaign headquarters and I was not authorized to commit the Carter/Mondale campaign to the distribution of any sort of campaign literature. I accepted the literature from the elderly gentleman, solely as a courtesy to him because he appeared to be a supporter of our campaign. I do not know the gentleman in question, but it did not occur to me that it was not appropriate to have the literature in the campaign headquarters. I definitely did not accept the literature for the purpose of having copies available in our office for the campaign itself to distribute. I was unaware of

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1 what happened to the literature after I accepted it from the  
2 gentleman and set it aside for his acquaintance to pick up.  
3 Often I would assist visitors in selections of literature  
4 from that which was available in our main reception room, because  
5 my desk was located in that room. Several times I invited vis-  
6 itors to go to a back room where additional copies of literature  
7 were kept in the event they wanted pieces which were not avail-  
8 able in the front. However, to my knowledge, we had no "masters"  
9 of any campaign piece in the office and I never assured any vis-  
10 itor that he or she might have additional copies reproduced in  
11 the campaign headquarters.

  
Shirley Glasby

15 SUBSCRIBED AND SWORN to before me this 12th day of November,  
16 1980.

  
Notary Public for Oregon  
My comm. exp.: 10/16/83

AFFIDAVIT

STATE OF OREGON )  
 )ss.  
County of Multnomah )

I, Jane Hartley, being sworn depose and say:

I was the state coordinator of the Carter/Mondale Re-election Campaign in Oregon during the general election of 1980. In that capacity I had final authority over the distribution of campaign literature by the Carter/Mondale headquarters in Portland, Oregon.

I can state categorically that the flyer which is the basis of the Complaint in FEC MUR 1324(80) was not produced by the Carter/Mondale Re-election Campaign Committee, was not ordered to be printed by the Oregon campaign office, was not paid for by the Oregon campaign office, and our campaign office in Portland, Oregon never requested the party or parties which produced the piece to deliver it to our office. I also had instructed our office personnel about the necessity to distribute only official Carter/Mondale campaign literature in the headquarters.

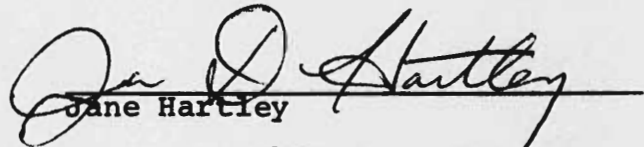
According to my investigation of the matter, the flyers were brought into our campaign office by an individual who wanted to leave them for another person to pick up and distribute elsewhere. These people have not been identified, but they were not employees of our campaign committee. I understand that some of the flyers were left in the headquarters and may have been included among stacks of official literature. At no time did any personnel of our campaign office, whether volunteer or employee, have authority of the Carter/Mondale Committee to accept such material and dis-



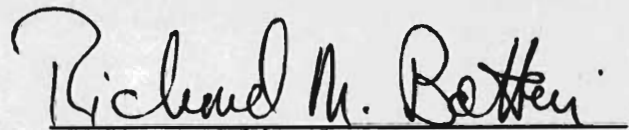
1 tribute it.

2 I understand that the flyer was only in the office for a few  
3 days. I was not aware of its existence during most of that time.  
4 On approximately October 22nd I received a telephone inquiry re-  
5 garding the flyer from the Election Division of the Oregon Secre-  
6 tary of State's office. I was confused by the phone call because  
7 I did not recognize the flyer as it was described to me as being  
8 one of the authorized pieces of literature published by the  
9 Carter/Mondale Campaign Committee. I also knew that "Concerned  
10 Seniors for Better Government" was not a group affiliated with  
11 the Carter/Mondale campaign. After the telephone conversation  
12 I inquired of our office staff about the flyer. I discovered  
13 that a few copies of it were intermingled with our regular cam-  
14 paign literature. I immediately <sup>had them</sup> removed ~~them~~ and ~~had them~~ de-  
15 stroyed. 10th

16 No person with management authority of the Carter/Mondale  
17 Campaign in Oregon authorized the presence or the distribution  
18 of the flyer in the Carter/Mondale campaign headquarters in  
19 Portland, Oregon.

20  
21   
Jane Hartley

22 SUBSCRIBED AND SWORN to before me this 6th day of November,  
23 1980.

24  
25   
26 Notary Public for Oregon  
My comm. exp.: 6/2/84

AFFIDAVIT

STATE OF OREGON )  
 ) ss.  
County of Multnomah )

I, Sandra Bell, being sworn depose and say:

From the middle of September, 1980 onward, I was the office manager of the Oregon campaign headquarters of the Carter/Mondale Re-election Committee. The campaign headquarters was located at 1038 S. W. Third Avenue, Portland, Oregon. I am familiar with some of the facts regarding the flyer which is the subject of FEC MUR 1324(80).

The campaign headquarters had several hundred square feet of area and at least five large rooms staffed on any one day with numerous employees and volunteers. The headquarters is located close to the center of downtown Portland. As a consequence, large numbers of people visited the headquarters throughout the campaign; it was not unusual for more than one hundred people to visit the headquarters on any given day.

The large front room of the campaign headquarters has several counters, tables and shelves where campaign literature was placed for distribution. We distributed many thousands of copies of official campaign literature pieces. These included copies of over two hundred position papers and thirty to forty brochures, together with sample ballots and voter registration information. Our office also distributed approximately 100,000 pieces of mail.

During a particularly busy day during the middle of October, I remember an elderly black gentleman coming to the campaign office

1 with several copies of the flyer which forms the basis of this  
2 Complaint. I do not recall if I spoke to him directly or if I  
3 overheard what he said to a receptionist. I recall that he said  
4 that another acquaintance of his would come by the campaign head-  
5 quarters and pick up the literature in question. I did not pay  
6 close attention to the literature and never considered whether  
7 it was official campaign literature or whether it was appropriate  
8 for it to be left in the campaign headquarters.

9 It is my impression that the black gentleman's acquaintance  
10 must have come to the campaign headquarters and picked up the  
11 literature. I noticed that a small amount had been left behind  
12 and I removed it from the front room of the headquarters to a  
13 back storage area. Several days later, the literature was placed  
14 out in the front distribution area. I believe it was done by a  
15 volunteer who assumed that the literature was official campaign  
16 material.

17 One of the affidavits accompanying the Complaint states that  
18 a woman told the Reagan campaign informant who picked up the lit-  
19 erature, that the campaign office had a "master" in the back and  
20 could run off additional copies. We never had a "master" of the  
21 flyer in question. Any documents we needed to produce in large  
22 numbers were commercially printed. We did not duplicate large  
23 amounts of literature in our office, having access only to a  
24 small and inefficient photocopy machine. As far as I know, no  
25 copies of the flyer in question were ever photocopied in our  
26 office and we never had additional copies of the flyer made by



FOX RIVER BOND  
25% COTTON

1 any commercial printer.

2 The presence and distribution of the flyer in the Carter/Mondale  
3 headquarters in Portland, Oregon was inadvertent. No person with  
4 policy making authority at the Oregon campaign headquarters author-  
5 ized the presence of the literature in the headquarters; or even  
6 knew of its existence, as far as I know. I did my best to keep  
7 unauthorized literature out of the office. I was aware of the  
8 necessity to do so. However, I am not a lawyer. In my very fleeting  
9 contact with the flyer I did not read the "disclaimer" at the  
10 bottom of the piece. If I had, I would have realized that it was  
11 not official literature, and I would not have allowed it in the  
12 office.

13 To the best of my knowledge, the literature was in our office  
14 less than a week.

15  
16 Sandra Lu Bell  
17 Sandra Bell

18 SUBSCRIBED AND SWORN to before me this 11 day of November,  
19 1980.

20  
21 Richard W. Battens  
22 Notary Public for Oregon  
23 My comm. exp.: 6/4/84  
24  
25  
26

RICHARD M. BOTTERI  
ATTORNEY AT LAW  
1215 OREGON NATIONAL BUILDING  
1215 OREGON NATIONAL BUILDING  
PORTLAND, OREGON 97205  
TELEPHONE 224-9675

1 AFFIDAVIT

2 STATE OF OREGON )  
3 ) ss.  
4 County of Multnomah )

5 I, Donna Fitzwater, being sworn depose and say:

6 I worked at the Carter/Mondale campaign headquarters in Port-  
7 land, Oregon in October, 1980.

8 I worked in the main reception area of the campaign headquarters  
9 where campaign literature was made available to members of the pub-  
10 lic. I have shoulder length hair and wear glasses and may be the  
11 woman referred to in one of the affidavits filed in support of FEC  
12 MUR 1324(80).

13 One of my duties was to assist members of the public in selec-  
14 tion of campaign literature. I can state categorically that the  
15 campaign headquarters never had a "master" of any piece of campaign  
16 literature distributed from the headquarters. If a visitor to the  
17 headquarters wished copies of a campaign piece not present in the  
18 main reception area I would often tell the visitor that we had more  
19 supplies in the back and that additional copies could be brought  
20 out. I never stated to anyone that we would reproduce any piece  
21 of literature, including the flyer in question, from a master in  
22 the back room of the campaign headquarters.

23 I have some recollection of the flyer in question. My re-  
24 collection was refreshed principally because of the Complaint being  
25 raised about the literature and our office's investigation into  
26 the circumstances of its presence at the headquarters. Otherwise,  
it was not remarkable.

1 I paid very little attention to the piece. It is my impression  
2 that it was in the headquarters for about a week. I did not pay  
3 attention as to whether it was official literature. To my knowledge,  
4 no one with management authority for the campaign ever ordered its  
5 printing or distribution.

6  
7 Donna Fitzwater  
8 Donna Fitzwater

9 SUBSCRIBED AND SWORN to before me this 11th day of November,  
10 1980.

11  
12 Dana M. Lange  
13 Notary Public for Oregon  
14 My comm. exp.: 10/16/83  
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RICHARD M. BOTTERI  
ATTORNEY AT LAW  
1215 OREGON NATIONAL BUILDING  
510 S. W. ALDER STREET  
PORTLAND, OREGON 97205  
TELEPHONE: 224-9075



81040301043

CARTER/MONDALE REELECTION COMMITTEE, INC.  
2000 L Street, N.W.  
Washington, D.C. 20036

Charles N. Steele, Esq.  
General Counsel  
Federal Election Commission

CARTER/MONDALE  
RE-ELECTION  
COMMITTEE, INC.

2000 L STREET, N.W., WASHINGTON, D.C. 20036

910240  
HAND DELIVERED

Robert S. Strauss, Chairman  
Tim Kraft, National Campaign Manager  
S. Lee Kling, Treasurer

80 NOV 14 P 4: 38

(202) 887-4700

300 # 3347

November 13, 1980

Ms. Marsha Gentner  
Federal Election Commission  
1325 K Street, NW  
Washington, DC 20463

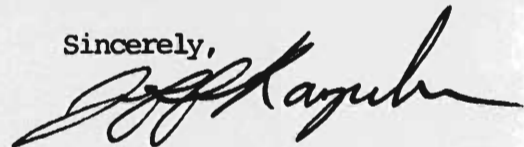
Dear Ms. Gentner:

This is to confirm our telephone conversation of November 12, 1980 wherein you stated that the Carter-Mondale Re-election Committee's response to the complaint filed by the Reagan Bush Committee (MUR 1324(80)) is due by the close of business on Monday, November 17, 1980.

As I told you over the phone, we will hand-deliver our response to you.

Thank you for your cooperation.

Sincerely,



Jeff Kampelman  
Legal Staff

81040301044

NOV 17 11:03

CARTER/MONDALE  
RE-ELECTION  
COMMITTEE, INC.

1000 L STREET, N.W., WASHINGTON, D.C. 20036

**HAND DELIVERED**

00 NOV 14 P 4:36

Ms. Marsha Gentner  
Federal Election Commission  
1325 K Street, NW  
Washington, DC 20463

81040301



91170 600-3284

# CARTER/MONDALE RE-ELECTION COMMITTEE, INC.

Robert S. Strauss, Chairman  
Tim Kraft, National Campaign Manager  
S. Lee Kling, Treasurer

2000 L STREET, N.W., WASHINGTON, D.C. 20036

80 NOV 10 P 1 (202) 87-4700

November 6, 1980

Marsha Gentner, Esq.  
Office of General Counsel  
Federal Elections Commission  
1325 K Street, NW  
Washington, DC 20463

Dear Ms. Gentner,

This is to advise you that the attorneys listed below will be representing the Committee in responding to MUR 1324(80).

Richard Botteri, Esq.  
1215 Oregon National Building  
610 S.W. Alder Street  
Portland, Oregon 97205  
(503) 224-9675

Steven L. Humphrey  
Hamel, Park, McCabe and Saunders  
1776 F Street, NW  
Washington, D.C. 20006  
(202) 785-1234

They are authorized to receive any notifications or other communications from the Commission concerning this matter.

Sincerely,

*Carol Darr*

Carol Darr  
Deputy Counsel

cc: Richard Botteri

81040301047

CARTER/MONDALE  
RE-ELECTION  
COMMITTEE, INC.

2000 L STREET, N.W., WASHINGTON, D.C. 20036

Marsha Gentner, Esq.  
Office of General Counsel  
Federal Election Commission  
1325 K Street, NW  
Washington, DC 20463

NOV 10 1980  
FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C.  
30 NOV 10 P1:14



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 17, 1981

MEMORANDUM TO: The File (MUR 1324)  
FROM: Marsha Gentner *MB*  
SUBJECT: Telephone Call from Charles Lockyer  
of Merkle Press

I received a telephone call from Charles Lockyer of Merkle Press, Inc., in response to Charles Steele's letter requesting information. Mr. Lockyer informed me that the flyer sent to him with our letter was paid for by the Concerned Seniors for Better Government ("CSBG"), 1346 Connecticut Avenue, N.W., Washington D.C. 20036, at a cost of \$1351.94. In light of this information, I am preparing a letter to accompany a copy of the complaint in this matter so that CSBG can respond. I will then prepare a memorandum for the Commission, probably recommending reason to believe against CSBG for failure to register as a political committee.

*OK WH*

81040301048





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 20, 1981

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Concerned Seniors for  
Better Government  
1346 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Re: MUR 1324

Dear Sir or Madam:

This letter is to notify you that on October 28, 1980, the Federal Election Commission received a complaint which alleged facts that may implicate the Concerned Seniors for Better Government ("CSBG") in a violation of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, due to our inability to secure the address of CSBG, we have been unable until now to send the Committee a copy of the complaint (enclosed). We have numbered this matter MUR 1324. 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 CSBG in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

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

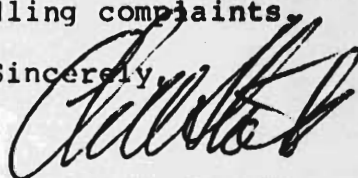
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Letter to Concerned Seniors for  
Better Government  
Page two

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Marsha Gentner, the attorney assigned to this matter at (202) 523-5071. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,



Charles N. Steele  
General Counsel

Enclosures

1. Complaint
2. Procedures

81040301050

MUR 1324

Form 3811, Jan. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1. SENDER: Complete items 1, 2, and 3. Add your address in the "TO" space on reverse.

1. The following service is requested (check one):  
☐ Show to whom and date delivered.....  
☐ Show to whom, date and address of delivery.....  
☐ RESTRICTED DELIVERY  
Show to whom and date delivered.....  
☐ RESTRICTED DELIVERY.  
Show to whom, date, and address of delivery.....  
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
Concerned Seniors for Better Government  
1346 Conn. Ave., N.W., Wash.  
D.C. 20036

3. ARTICLE DESCRIPTION: D.C. 20036  
REGISTERED NO. CERTIFIED NO. INSURED NO.  
949729

(Always obtain signature of addressee or agent)

I have received the article described above.  
SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

81 APR 24 11:04 AM '78



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

**October 28, 1980**

**SPECIAL DELIVERY  
RETURN RECEIPT REQUESTED**

**Carter/Mondale Re-Election  
Committee  
2000 L Street, N.W.  
Washington, D.C. 20036**

**RE: MUR 1324(80)**

**Dear Sir or Madam:**

This letter is to notify you that on October 28, 1980 1980, the Federal Election Commission received a complaint which alleges that your Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1324. Please refer to this number in all future correspondence.

The Commission has adopted special procedures to expedite compliance matters during the pre-General Election period. A summary of these procedures is enclosed. Where possible, within five days after receipt of a complaint, the Commission will determine whether the complaint should be dismissed prior to receipt of your response to this notice. If the Commission dismisses the complaint, you will be so notified by mailgram followed by an explanatory letter. A copy of the Commission's determination to dismiss the complaint may also be picked up in person by you, or your authorized agent, from our Associate General Counsel, Mr. Kenneth A. Gross.

Under the Act, you have the opportunity to demonstrate, in writing, that no further action should be taken against your Committee in connection with this matter. If the Commission is unable to expeditiously dismiss the complaint as outlined above, it will take no further action until we receive your response or 15 days after your receipt of this notification. If the Commission does not receive a response from you within 15 days after your receipt of this letter, it may take further action based on available information.

81040301051



Letter to Carter/Mondale Re-Election Committee  
Page Two

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.


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

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

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Marsha Gentner the attorney assigned to this matter at (202) 523-5071.

Sincerely,

  
Charles N. Steele  
General Counsel

Enclosures:

Complaint  
Procedures  
Envelope

81040301052

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1. The following service is requested (check one):  
☐ Show to whom and date delivered.  
☐ Show to whom, date and address of delivery.  
☐ RESTRICTED DELIVERY  
☐ RESTRICTED DELIVERY  
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Show to whom, date, and address of delivery.

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
Carter/Mondale  
Re-Election Comm

3. ARTICLE DESCRIPTION:  
947069

4. REGISTERED NO. 947069

5. INSURED NO.

6. I have received the article described above.  
Signature of addressee or agent  
Marsha Gentner

7. DATE OF DELIVERY  
10-29-80

8. POSTMARK

9. POSTAGE PAID NO. 9000731 A9:03

10. POSTAGE PAID NO. 1613006

11. CLERK'S SIGNATURE

12. CLERK'S NAME

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PS Form 3871, JAN 31 1979

SENDER: Complete Items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)  
☐ Show to whom and date delivered.....  
☐ Show to whom, date and address of delivery.....  
☒ RESTRICTED DELIVERY  
Show to whom and date delivered.....  
☒ RESTRICTED DELIVERY.  
Show to whom, date, and address of delivery \$\_\_\_\_\_  
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
*Karen A Smith*

3. ARTICLE DESCRIPTION:  
REGISTERED NO. CERTIFIED NO. INSURED NO.  
*947062*  
(Always obtain signature of addressee or agent)  
I have received the article described above.  
SIGNATURE ☐ Addressee ☐ Authorized agent  
*Ken Sheffer*

4. DATE OF DELIVERY POSTMARK  
*OCT 29 1980*

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:  
*69 : 116 08100000*  
*1324 Sentries*

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆ GPO : 1979-288-648



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 28, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Loren A. Smith  
Chief Counsel  
Reagan Bush Committee  
901 South Highland Street  
Arlington, Virginia 22204

Dear Mr. Smith:

This letter is to acknowledge receipt of your complaint of October 24, 1980, against the Carter/Mondale Re-Election Committee, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent will be notified of this complaint within 24 hours and a recommendation to the Federal Election Commission as to how this matter should be initially handled will be made 15 days after the respondent's notification. You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Please be advised that this matter shall remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless the respondent notifies the Commission in writing that they wish the matter to be made public.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles N. Steele", is written over the typed name.

Charles N. Steele  
General Counsel

Enclosure

81040301054





**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

October 28, 1980

**SPECIAL DELIVERY**  
**RETURN RECEIPT REQUESTED**

Carter/Mondale Re-Election  
Committee  
1038 S. W. Third Street  
Portland, Oregon

RE: MUR 1324(80)

Dear Sir or Madam:

This letter is to notify you that on October 28, 1980 1980, the Federal Election Commission received a complaint which alleges that your Committee has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1324. Please refer to this number in all future correspondence.

The Commission has adopted special procedures to expedite compliance matters during the pre-General Election period. A summary of these procedures is enclosed. Where possible, within five days after receipt of a complaint, the Commission will determine whether the complaint should be dismissed prior to receipt of your response to this notice. If the Commission dismisses the complaint, you will be so notified by mailgram followed by an explanatory letter. A copy of the Commission's determination to dismiss the complaint may also be picked up in person by you, or your authorized agent, from our Associate General Counsel, Mr. Kenneth A. Gross.

Under the Act, you have the opportunity to demonstrate, in writing, that no further action should be taken against your Committee in connection with this matter. If the Commission is unable to expeditiously dismiss the complaint as outlined above, it will take no further action until we receive your response or 15 days after your receipt of this notification. If the Commission does not receive a response from you within 15 days after your receipt of this letter, it may take further action based on available information.

Letter to Carter/Mondale Re-Election Committee - Oregon  
Page Two

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

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

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

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Marsha Gentner the attorney assigned to this matter at (202) 523-5071.

Sincerely,

*Charles N. Steele*  
Charles N. Steele  
General Counsel

PS Form 3811, Jan. 1978

1. The following service is requested (check one):  
☒ Show to whom and date delivered.  
☐ Show to whom, date and address of delivery.  
☐ RESTRICTED DELIVERY  
Show to whom and date delivered.  
☐ RESTRICTED DELIVERY.  
Show to whom, date, and address of delivery.

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESS TO:  
Carter/Mondale  
Oregon

3. ARTICLE DESCRIPTION:  
REGISTERED NO. 947068  
INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.  
SIGNATURE *James H. Clark*  
ADDRESS ☐ ADDRESS ☐

DATE OF DELIVERY 10-20-78

ADDRESS (Complete only if return is required)  
NOV 3 12:44

UNABLE TO DELIVER REASON

POST OFFICE

1324 4261

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

MUR 1324 910960  
GOCW  
5135

October 24, 1980

Honorable Max I. Friedersdorf, Chairman  
Federal Election Commission  
1325 K Street N.W.  
Washington, D.C.

Dear Chairman Friedersdorf:

Pursuant to 2 USC § 437g we are filing this complaint against the Carter/Mondale Reelection Committee for illegally soliciting private contributions in violation of 26 USC § 9003(b)(2) and for attempting to hide this fact in violation of 2 USC § 434(b)(2)(A) and (D) which requires committees to report contributions from individuals and political committees; 2 USC 434(b)(3)(A) and (B) which requires committees to report the identification of each person who makes contributions aggregating more than \$200 per calendar year and of each political committee which makes a contribution during the reporting period; 2 USC 434 (b)(4)(A) which requires committees to report disbursements to meet committee operating expenses; and 2 USC 434 (b)(5)(A) which requires committees to report the name of each person to whom an expenditure exceeding \$200 is made. The Carter campaign is also suborning perjury by encouraging individuals to violate 2 USC § 434 (c)(2)(B) which requires individuals to certify under penalty of perjury whether or not an independent expenditure is made in cooperation consultation, or concert, with, or at the request or suggestions of any candidate, committee, or agent.

The proposed ad was printed in Glendale, Maryland and distributed in Portland, Oregon. If the Commission discovers that the proposed ads were distributed by the U.S. Postal Service, the case should be turned over to the Justice Department for prosecution under the mail fraud statutes.

The Carter/Mondale headquarters in Portland, Oregon, and an as yet undetermined number of other locations is distributing a proposed advertisement to be used as an independent expenditure for Carter and against the Reagan campaign. (See attached ad) The advertisement mock-up contains an independent expenditure

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disclaimer in blank. The organization or individual who publishes the advertisement (and hence makes the illegal contribution and signs the perjured disclaimer) is apparently supposed to put their own name where the mock-up says (name). This advertisement was, according to the union bug on it, printed in Glendale, Maryland by Merkle Press (see code 17). We cannot understand why these advertisements would be printed in the Washington area unless they were part of a national effort.

Copies of the enclosed advertisement were given to Alex Hurtado on October 15 and 17; to Dick Richards on October 17; and to Bob Madison on October 21. The office appears to be the official Carter/Mondale headquarters and is located at 3rd and Main Streets, Portland, Oregon. (Affidavits enclosed)

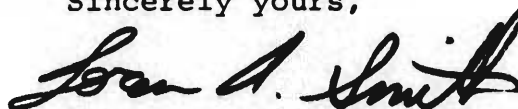
The advertisement is false and misleading and we can understand why the Carter/Mondale Committee doesn't want their name associated with it. We cannot understand Carter intentionally exposing his supporters to criminal prosecution under 2 USC § 9012(f) for illegal contributions or for perjury.

These actions should be fully investigated and appropriate penalties imposed. The Commission should immediately force the Carter/Mondale Committee to withdraw all such or similar, invitations to illegality and issue a public announcement that no proposed ads received from a campaign can be run as independent expenditures. We feel the Carter/Mondale Committee should be prosecuted civilly and criminally, but we do not want to see innocent people deceived by the Carter/Mondale Committee into violating this law.

We may have been over cautious in not filing a complaint sooner but this violation is so egregious and blatant that we didn't believe it when it was first brought to our attention. We demanded copies of the proposed advertisement and affidavits from the people who received the proposed ad. We hope the Commission will take immediate public steps (not mentioning the complaint or the campaign) to alert innocent voters that they will be in violation of the law if they place one of these ads and claim to be an independent expenditure committee.

I make the above complaint under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code.

Sincerely yours,



Loren A. Smith  
Chief Counsel

LAS/jac

Enclosures

Personally approved before me a notary of the State of Virginia this 21<sup>st</sup> day of October 1980, Loren Smith, who swore on oath the forgoing statement is true to the best of his knowledge and belief.

  
MY COMMISSION EXPIRES NOVEMBER 5, 1982

81040301058

AFFIDAVIT

STATE OF OREGON       )  
                          )  
County of Multnomah )   ss.

I, Alex P. Hurtado, being first duly sworn, depose  
and say:

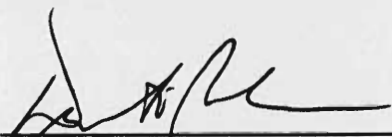
1. On two occasions, October 15, and October 17th, 1980,  
I obtained the attached flyer (hereinafter referred to as  
Exhibit A) at the offices of the Carter Mondale Campaign  
at S. W. 3rd and Main in Portland, Oregon.

2. This Affidavit is made in support of any complaint  
which may be made against the Carter Mondale Campaign for  
violation of election laws.

  
\_\_\_\_\_  
Alex P. Hurtado

Subscribed and Sworn to before me this 23rd day of  
October, 1980.

Before Me:

  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires 7/7/87

SEAL

81040301059

Exhibit "A." Hunt

Oct. 15, 1980



**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in *Human Events*, Nov. 1966**

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

31040301060



Exhibit "B" *Am. Sen. Oct. 17, 1980*



**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in *Human Events*, Nov. 1966**

**Vote CARTER for President**  
**He Cares about the Elderly**  
***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for  
or accept authorization from any candidate and no candidate is  
responsible for its activities.

81040301061

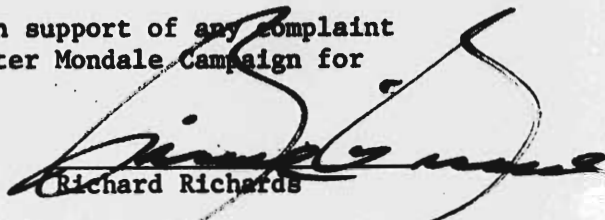
AFFIDAVIT

STATE OF OREGON       )  
                          )  
County of Multnomah   ) ss.

I, Richard Richards, being first duly sworn, depose and say:

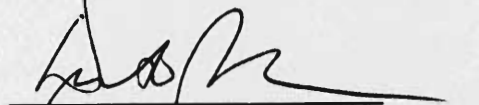
1. On Friday, October 17th, 1980, at 11:00 A.M., I obtained the attached flyer (hereinafter referred to as Exhibit A) at the offices of the Carter Mondale Campaign at S. W. 3rd and Main in Portland, Oregon.

2. This Affidavit is made in support of any complaint which may be made against the Carter Mondale Campaign for violation of election laws.

  
Richard Richards

Subscribed and Sworn to before me this 23rd day of October, 1980.

Before me:

  
Notary Public for Oregon  
My Commission Expires: 7/9/83

SEAL

81040301062



**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in Human Events, Nov. 1966**

**Vote CARTER for President**

**He Cares about the Elderly**

***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

81040301063



AFFIDAVIT

STATE OF OREGON           )  
                              )  
County of Multnomah       )   ss.

I, William R. Madison, being first duly sworn, depose and say:

1. On Tuesday, October 21, 1980, at 11:30 A.M., I obtained the attached flyer (hereinafter referred to as Exhibit A) at the offices of the Carter Mondale campaign at S. W. 3rd and Main in Portland, Oregon.

2. I asked the woman, who gave me Exhibit A, whether she knew if I could obtain more copies of Exhibit A. She answered essentially:

"We have the master in the back. We can print some more."

3. This Affidavit is made in support of any complaint which may be made against the Carter Mondale Campaign for violation of election laws.

William R. Madison  
William R. Madison

Subscribed and Sworn to before me this 23rd day of October, 1980.

Before Me:

[Signature]  
Notary Public for Oregon  
My Commission Expires: 2/1/83

SEAL

81040301064



**He's for Medicare**

**He isn't**

**He's for national  
health program**

**He isn't**

**He's for stronger  
social security**

**He isn't**

**He's for pension  
protection**

**He isn't**

**He's for special housing  
for the elderly**

**He isn't**

**"Social Security ought to be voluntary."**

**—Ronald Reagan, quoted in Human Events, Nov. 1966**

**Vote CARTER for President**

**He Cares about the Elderly**

***Concerned Seniors for Better Government***

(Name) is an independent political committee. It does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

81040301065

**Reagan Bush Committee**  
901 South Highland Street, Arlington, Virginia 22204

**HAND DELIVERED**

OCT 20 4 3: 20

Honorable Max L. Friedersdorf, Chairman  
Federal Election Commission  
1325 K Street N.W.  
Washington, D.C.





FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1324

Date Filmed 10/22/81 Camera No. --- 2

Cameraman BPC

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