

MUR 1506

FEDERAL ELECTION COMMISSION

Routing Slip

12-Day Report

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- |  |   |
|--|---|
| <input type="checkbox"/> (1) Classified Information                                | <input type="checkbox"/> (6) Personal privacy.                            |
| <input type="checkbox"/> (2) Internal rules and practices                          | <input type="checkbox"/> (7) Investigatory files                          |
| <input type="checkbox"/> (3) Exempted by other statute                             | <input type="checkbox"/> (8) Banking information                          |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well information (geographic or geophysical) |
| <input checked="" type="checkbox"/> (5) Internal Documents                         |   |

Signed

Stephen H. Hines

date

March 1, 1983

FEC 9-21-77

3304068345

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Washington Legal Foundation ) MUR 1506  
Daniel J. Popeo )  
Paul D. Kamenar )

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on February 17, 1983, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1506:

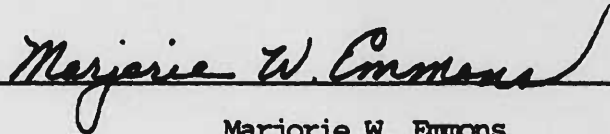
1. Find no reason to believe the Washington Legal Foundation, Daniel J. Popeo or Paul D. Kamenar violated 2 U.S.C. §437g(a)(12)(A).
2. Send to the respondents the letters attached to the FEC General Counsel's report dated February 3, 1983.
3. CLOSE THE FILE.

Commissioners Aikens, Elliott, Harris, McDonald, and McGarry voted affirmatively for the decision; Commissioner Reiche dissented.

Attest:

February 17, 1983

Date



Marjorie W. Emmons  
Secretary of the Commission

33040333



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 22, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Marc E. Lackritz, Esquire  
Wald, Harkrader & Ross  
1300 - 19th Street, N.W.  
Washington, D.C. 20036

Re: MUR 1506  
Council for a Livable World  
Peace PAC  
Jerome Grossman  
Paul Warnke  
William Tarlow

Dear Mr. Lackritz:

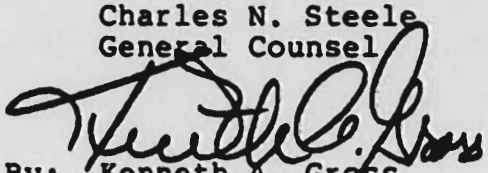
The Federal Election Commission has reviewed the allegations of your complaint dated November 18, 1982, and determined that on the basis of the information provided in your complaint and information provided by the Respondent there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Charles N. Steele  
General Counsel

  
By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
First General Counsel's Report



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

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Re: MUR 1506  
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Peace PAC  
Jerome Grossman  
Paul Warnke  
William Tarlow

Dear Mr. Lackritz:

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Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

RAM  
2/18/83



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 22, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Washington Legal Foundation  
Paul D. Kamenar, Esquire  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

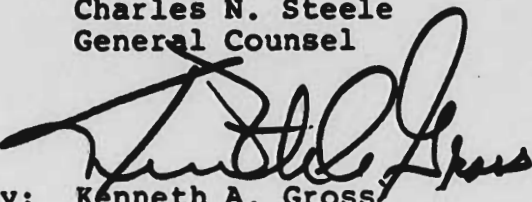
Dear Mr. Kamenar:

On November 22, 1982, the Commission notified the Washington Legal Foundation of a complaint alleging that it had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on February 17, 1983, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele  
General Counsel

  
By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
First General Counsel's Report



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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RETURN RECEIPT REQUESTED

Washington Legal Foundation  
Paul D. Kamenar, Esquire  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

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The Commission, on , 1983, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

slm  
2/18/83





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 22, 1983

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Washington Legal Foundation  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

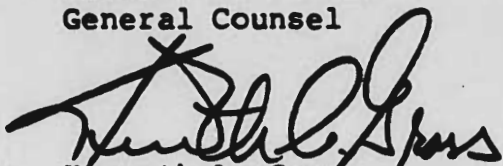
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Sincerely,

Charles N. Steele  
General Counsel

  
By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
First General Counsel's Report



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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RETURN RECEIPT REQUESTED

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Washington Legal Foundation  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

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Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

SWM  
2/18/83





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 22, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Daniel J. Popeo, Esquire  
Washington Legal Education  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Popeo:

On November 22, 1982, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on February 17, 1983, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele  
General Counsel

A handwritten signature in dark ink, appearing to read "Kenneth A. Gross", is written over the typed name.

By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
First General Counsel's Report



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Daniel J. Popeo, Esquire  
Washington Legal Education  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Popeo:

On November 22, 1982, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1983, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

344m  
2/18/83



FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL  
FROM: MARJORIE W. EMMONS/JODY C. RANSOM *JCR*  
DATE: FEBRUARY 8, 1983  
SUBJECT: OBJECTION - MUR 1506 First General Counsel's  
Report dated February 3, 1983

The above-named document was circulated to the  
Commission on Friday, February 4, 1983 at 2:00.

Objections have been received from the Commissioners  
as indicated by the name(s) checked:

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner Harris	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Reiche	_____X_____

This matter will be placed on the Executive Session  
agenda for Wednesday, February 23, 1983.

February 3, 1983

MEMORANDUM TO: ~~MA~~ Marjorie W. Emmons  
FROM: Phyllis A. Kapson  
SUBJECT: MUR 1506

Please have the attached First General Counsel's  
Report distributed to the Commission on a 48 hour tally  
basis as a sensitive matter. Thank you.

Attachment

cc: Mims

3304040381

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

RECEIVED  
OFFICE OF THE  
COMMISSION SECRETARY

83 FEB 3 P 4: 03

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY  
OGC TO THE COMMISSION 2-3-83

MUR NO. 1506  
DATE COMPLAINT RECEIVED  
BY OGC 11/18/82  
DATE OF NOTIFICATION TO  
RESPONDENT 11/22/82  
STAFF MEMBER Mims

**SENSITIVE**

COMPLAINANTS' NAMES: Council for a Livable World;  
Peace PAC; Paul C. Warnke;  
William Tarlow; Jerome Grossman

RESPONDENTS' NAMES: Washington Legal Foundation;  
Daniel J. Popeo; Paul D. Kamenar

RELEVANT STATUTE: 2 U.S.C. § 437g(a)(12)(A)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On October 15, 1982, respondents in this matter filed a complaint alleging numerous violations of the Federal Election Campaign Act of 1971, as amended, by complainants (MUR 1486). Complainants here now assert respondents violated the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) when they made public the nature of the complaint of October 15, 1982. Complainants insist that § 437g(a)(12)(A) prohibits any person from making public the content of complaints.

FACTUAL AND LEGAL ANALYSIS

Whether 2 U.S.C. § 437g(a)(12)(A) reaches complainants who make available to the public the substance of their complaint without the consent of a respondent has been previously addressed by the Commission.

In a series of MURs, \*/ the Commission has noted a distinction between the situation where a complainant makes public a complaint filed with the Commission and the instance where a complainant (or any other person) makes public either a notification of Commission action or the details of the investigation. The former has been viewed as permissible under the statute; the latter has not, unless authorized by the respondent.

In later MURs (1244 and 1266), the applicability of 11 C.F.R. § 111.21(a), which specifically refers to making a complaint public, was analyzed. It was, and still is, the view of this Office that the regulation cannot be read more broadly than the Act.

[T]he terms of the statute from which the regulations are drawn govern their application and...the regulations should therefore be read synonymously. Accordingly, it would be a violation of the regulation if a Commission notification or investigation was made public by a complainant, but it would not be a violation if the complainant made only the filing of a complaint and its substance public.

MUR 1266, First General Counsel's Report, dated September 10, 1980.

Respondents have not made public a Commission notification or investigation. The General Counsel recommends, therefore,

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\*/ See, e.g., MURs 804 and 1161.



that the Commission determine there is no reason to believe respondents Washington Legal Foundation, Daniel J. Popeo or Paul D. Kamenar violated 2 U.S.C. § 437g(a)(12)(A).

RECOMMENDATIONS

1. Find no reason to believe the Washington Legal Foundation, Daniel J. Popeo or Paul D. Kamenar violated 2 U.S.C. § 437g(a)(12)(A).
2. Send the attached letters to respondents.
3. Close the file.

33040383819  
Date January 31, 1983

Charles N. Steele  
General Counsel

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

Attachments

1. Response to complaint
2. Proposed letter to the Washington Legal Foundation
3. Proposed letter to Paul D. Kamenar
4. Proposed letter to Daniel Pepeo
5. Proposed letter to complainant

6-11-82 7:30 PM  
Mims

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Washington Legal Foundation )  
Daniel J. Popeo )  
Paul D. Kamenar )

MUR 1506

11/11/82 4:09 PM

RESPONSE TO COMPLAINT FILED  
BY COUNCIL FOR A LIVABLE WORLD

INTRODUCTION

On October 15, 1982, the Washington Legal Foundation (WLF) filed a comprehensive complaint with the Federal Election Commission against the Council for a Livable World (CLW), its affiliate Peace PAC, Paul C. Warnke, and other officers of the groups, for committing massive violations of the election laws. In particular, we documented how CLW has been acting as a fundraising agent and serving as a conduit for hundreds of thousands of dollars of political contributions to anti-defense, pro-nuclear freeze candidates, without fully counting as in-kind contributions all the money spent for that effort and other things of value. That complaint is still pending before the Commission.

On November 18, 1982, the Council for a Livable World filed a complaint against the Washington Legal Foundation<sup>\*/</sup>, Daniel J. Popeo, WLF's General Counsel, and Paul D. Kamenar, Director of Litigation, for allegedly violating the confidentiality provisions of 2 U.S.C. §437g(a)(12)(A) by issuing a few press releases concerning WLF's complaint. Several newspapers and wire services subsequently carried the story, samples of which were attached to CLW's counter-complaint.

<sup>\*/</sup> Throughout this response, we will refer to the three respondents collectively as "WLF".

Attachment 1, page 1

WASHINGTON LEGAL FOUNDATION 830403330  
1612 K STREET, N.W.  
SUITE 502  
WASHINGTON, D.C. 20006  
202-657-0240

CLW further claims, erroneously so, that our motive for filing the complaint was not to enforce the laws but "to harass, embarrass, and intimidate CLW, Peace PAC, and the candidates for the Senate." CLW's complaint at 17. In their own neo-McCarthy-like way, the attorneys for CLW accuse the Washington Legal Foundation and its attorneys of trying to "smear" CLW stating that "the obvious political and McCarthy-like motivation underlying this Complaint is clearly evidenced by the politically inflammatory and legally irrelevant material included in the. . . complaint." CLW's Counter-Complaint at 22. CLW further claims that "[s]uch irrelevant rhetoric and innuendo, intended solely to inflame rather than enlighten, have no place before this Commission in a proceeding involving basic Constitutional rights." Id.

CLW obviously does not believe what it says for they are themselves irresponsibly casting aspersion on WLF's motivations which is, to use their own words, "legally irrelevant" and "have no place before this Commission in a proceeding involving basic Constitutional rights," i.e., the First Amendment right of WLF to speak out against the illegal activities of CLW. The alleged breach of the confidentiality provision of the election laws have nothing to do with what CLW claims are our motivations in filing a complaint against them.

The truth of the matter is that everything in our complaint against CLW was fully documented and, not surprisingly, CLW does not dispute in their counter-complaint the accuracy of any statement we made in our original complaint. As for their allegation

that we violated the confidentiality provision of the election laws, it is clear that we have not done so, and CLW's counter-complaint should be summarily dismissed. If the Commission were to find, however, that there was a violation, such an application of the law to WLF would surely violate our Constitutional rights.

I. CLW HAS FAILED TO STATE A CLAIM  
AGAINST WLF FOR VIOLATING 2 U.S.C.  
§437g(a) (12) (A).

In its counter-complaint, CLW charges that WLF distributed several press releases and copies of its complaint to the media and others without CLW's written consent and that such disclosure violates 2 U.S.C. §437g(a) (12) (A).

However, the law does not prohibit the disclosure of a complaint filed with the Commission. The pertinent provision of 2 U.S.C. §437g(a) (12) (A) states:

Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

Id. (Emphasis added).

It is clear that what the law prohibits is the disclosure of only the "notification or investigation made under this section." The "notification" referred to, of course, is the notification to the respondent by the Federal Election Commission that a complaint has been filed against them. CLW does not allege that WLF made public any such "notification" nor could we since we are not privy to the Commission's actions.

Similarly, CLW does not allege that WLF disclosed any "investigation. . . made under this section." The "investigation" referred to is the investigation by the FEC under 2 U.S.C. §437g(a)(2) which does not occur until after the Commission has voted to find "reason to believe" that a violation has occurred. Again, CLW has not alleged in their countercomplaint that any of WLF's press releases or communications referred to any FEC investigation, nor could they, since, as far as we know, no formal investigation has yet begun.

Thus, CLW's complaint should be summarily dismissed since they present no evidence whatsoever nor do they even make a claim, that WLF or its officers made public a "notification or investigation" by the FEC of the complaint WLF filed.

II. PUBLICIZING THE FILING OF A COMPLAINT  
DOES NOT OTHERWISE VIOLATE COMMISSION  
RULES.

CLW clearly has not made out a claim against WLF for violating the confidentiality provision of the law. CLW does not allege that WLF violated any FEC regulation, but let's assume that they did. FEC regulation 11 C.F.R. §111.21(a) states in pertinent part that:

No complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public. . . (emphasis added).

At first blush, it might appear that the Commission was broadening the scope of the coverage of 2 U.S.C. §437g(a)(12)(A) to prohibit not only the "notification" or "investigation" by the Commission, but also the mere filing of the complaint itself.



However, the Commission has long since held that its regulation should not be read to prohibit the disclosure of the complaint and has thus effectively repealed that aspect of its regulation.\*

For example, in MUR 1266, the Commission dismissed a confidentiality complaint filed by NCPAC against then Senator George McGovern. In that case, Senator McGovern issued a press release on May 23, 1980, which made reference to a complaint filed against NCPAC on May 2, 1980, some 20 days earlier. The Commission quickly dismissed the complaint by NCPAC, stating in language that is dispositive here:

The conclusion reached by the Commission in MUR 1244 was that the confidentiality provision of the statute did not prevent a complainant from making public the fact that it had filed a complaint and the substance of the complaint. The language of the statute only prohibits a person from making public a Commission notification or investigation.

With regard to the Commission's regulations, 11 C.F.R. § 111.21, the Commission recognized in MUR 1244 that the terms of the statute from which the regulations are drawn govern their application and that the regulations should therefore be read synonymously. Accordingly, it would be a violation of the regulation if a Commission notification or investigation was made public by a complainant; but it would not be a violation if the complainant made only the filing of a complaint and its substance public.

In the present matter the press release does not refer to any notification or investigation by the Commission. It merely indicates that the complaint against NCPAC was then pending before the Commission. Accordingly, there appears to be no basis for finding a violation of the statute or regulations.

MUR 1266, First GC Report at 2. The Commission has similarly dismissed complaints alleging breaches of confidentiality filed

\*We suggest the Commission actually repeal the language lest any confusion remain as to the scope of the confidentiality provision.



33040033  
against the National Abortion Rights Action League (MUR 1161), the Massachusetts Teachers Association (MUR 1251), and the Carter/Mondale Re-election Committee (MUR 1275).

In this case, we do admit that we circulated a dozen or so press releases and copies of the complaint against CLW, but, for the most part, that activity was done prior to the filing of the complaint with the FEC. Consequently, there has been no violation of even a broad reading of the FEC regulation which prohibits the disclosing of only those complaints already "filed" with the FEC. Part of our activity to make the public aware of the illegal conduct of CLW admittedly "spilled over" after our complaint had been filed with the FEC, but even so, that post-filing activity does not violate FEC rules. See, e.g., MUR 1266.

Admittedly, the regulation and law would appear from CLW's point of view as underinclusive. For if nothing prohibits the disclosure of a complaint before it is actually filed, it would seem silly to prohibit that same disclosure after the proverbial cat is out of the bag. If CLW is serious about their complaint (and we think they are not) they could of course seek judicial review of the Commission's certain dismissal of their complaint, 2 U.S.C. §437g(a)(8), or lobby the Congress to change the laws. For our part, we intend to continue to exercise our First Amendment rights despite spurious threats by groups such as CLW to suppress the truth.

III. THE APPLICATION OF THE CONFIDENTIALITY  
PROVISION TO WLF WOULD VIOLATE OUR  
FIRST AND FIFTH AMENDMENT RIGHTS.

Although we have made it abundantly clear that WLF and its officers did not violate the confidentiality provisions, we submit that any application of the law to our conduct would clearly violate our First Amendment rights of freedom of speech and the press, and our Fifth Amendment rights of equal protection.

The First Amendment clearly prohibits Congress from making any laws that abridge the freedom of speech. The courts have allowed some regulation in this area for compelling purposes, but no such compelling purpose can be shown in this case. As noted earlier, if the law under anyone's reading does not prohibit advance publicity before a complaint is actually filed, there is clearly no reason, let alone a compelling one, to prohibit that same disclosure after the complaint has been filed.

In fact, there are good reasons to publicize the complaint so that the public and those involved are aware of the charges filed in order to prevent further violations of the law, and to assess whether the charges are indeed substantial and serious or spurious. Any prior restraint by a regulatory agency to limit the disclosure of the complaint violates the First Amendment. See New York Times Co. v. U.S., 403 U.S. 713 (1971); Bridges v. California, 314 U.S. 252 (1972).

In addition to our First Amendment rights, it is also clear that our Fifth Amendment rights of equal protection would be violated by proceeding against WLF. This is clear by an examination of CLW's own countercomplaint against us.

In their countercomplaint, CLW appears to be quite disturbed about the broad dissemination of information about our complaint in the press. And it is the press to whom they are really directing their objections. They have attached clippings from various newspapers reporting about our complaint. All we did was circulate a dozen or two copies of our press release and the complaint to certain persons. If those persons had simply discarded our materials, no one would have really known about this complaint and CLW would not be filing this countercomplaint against us.

Instead, it was the Associated Press and various publishing companies which distributed thousands of newspapers carrying accounts of our complaint that caused the publicity CLW objects to. We certainly have no control over these entities and were powerless to force them to print the stories. They apparently felt that our complaint was serious enough that it deserved widespread attention.

It would indeed be a violation of our rights to equal protection if we were singled out and punished for exercising our rights by distributing only a handful of accounts of our complaint and yet the entire media was exempted for distributing thousands of accounts of the same story.

It should be noted that the confidentiality provision, 2 U.S.C. §437g(a)(12)(A), does not contain a press exemption, but applies to any "person" which is defined in 2 U.S.C. §431(11) as "an individual. . . association, corporation. . . or any other organization or group of persons. . . ." Id. Thus, publishing

WASHINGTON LEGAL FOUNDATION

1612 K STREET, N.W.

SUITE 502

WASHINGTON, D.C. 20006

202-657-0240

8304033839

companies and newspapers are covered by this law, and perhaps more so than an individual since it is the press that CLW really is complaining about.

Note that Congress made it clear in other provisions of the FEC law when it felt that the press should be exempted from the law. For example, 2 U.S.C. §431(9)(B) exempts "any news story, commentary, or editorial" from the definition of "expenditure." See also 26 U.S.C. §9012(f)(2) which expressly exempts the media from any limits in making expenditures to further the election of Presidential candidates.

Accordingly, we submit that inasmuch as the CLW has submitted evidence to the Commission that various publishing companies and reporters have violated 2 U.S.C. §437g(a)(12)(A) under CLW's interpretation of that provision, it would violate our constitutional rights to be singled out by the FEC for an enforcement action.

#### CONCLUSION

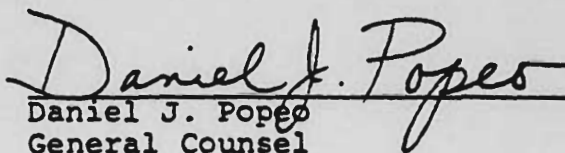
For the foregoing reasons, we submit that the spurious countercomplaint be dismissed because (1) it fails to allege any facts showing a violation by WLF of 2 U.S.C. §437g(a)(12)(A); (2) Commission practice and policy authorizes the complained of conduct, and (3) the application of the law to WLF and its attorneys would violate our First and Fifth Amendment rights.

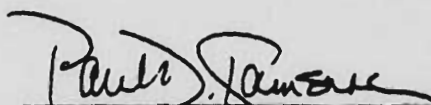
We are sending a copy of this reply to the attorneys for CLW so that they can understand how meritless their countercomplaint is, and to give them an opportunity to respond if they can. They,

on the other hand, refuse to supply us with a copy of their response to our original complaint. We suspect that their reason for doing so is that they are afraid that we would be able to rebut effectively their response to the Commission about our original charges. They certainly could not claim a desire of confidentiality since the press has already covered this story. If anything, we would think that they would be forthcoming if indeed they were serious about their characterization of our charges as a "smear" campaign.

This response is submitted on behalf of all three named respondents.

Respectfully submitted,

  
Daniel J. Popeo  
General Counsel

  
Paul D. Kamenev  
Director of Litigation

Washington Legal Foundation  
1612 K Street, N.W.  
Suite 502  
Washington, DC 20006  
(202) 857-0240

DATE: January 10, 1983



AFFIDAVIT OF PAUL D. KAMENAR

I hereby swear under oath that the foregoing response is based upon the personal knowledge of this affiant and is true.

Paul D. Kamenar

Paul D. Kamenar  
Washington Legal Foundation  
1612 K Street, N.W. - Suite 502  
Washington, D.C. 20006  
(202) 857-0240

Washington )  
District of Columbia ) ss  
)

Subscribed and sworn to before me this 11th day of January, 1983.

Lee S. Taub

Notary Public

My Commission expires: Sept. 14, 1985.

WASHINGTON LEGAL FOUNDATION 833040383860

1612 K STREET, N.W.

SUITE 502

WASHINGTON, D.C. 20006

202-857-0240

attachment 1, page 11





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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

Washington Legal Foundation  
Paul D. Kamenar, Esquire  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Kamenar:

On November 22, 1982, the Commission notified the Washington Legal Foundation of a complaint alleging that it had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1983, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
First General Counsel's Report

attachment 2



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Paul D. Kamenar, Esquire  
Washington Legal Foundation  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Kamenar:

On November 22, 1982, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1983, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
First General Counsel's Report

attachment 3



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Daniel J. Popeo, Esquire  
Washington Legal Education  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Popeo:

On November 22, 1982, the Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on , 1983, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
First General Counsel's Report

attachment 4



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Marc E. Lackritz, Esquire  
Wald, Harkrader & Ross  
1300 - 19th Street, N.W.  
Washington, D.C. 20036

Re: MUR 1506  
Council for a Livable World  
Peace PAC  
Jerome Grossman  
Paul Warnke  
William Tarlow

Dear Mr. Lackritz:

The Federal Election Commission has reviewed the allegations of your complaint dated November 18, 1982, 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 ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

Enclosure  
First General Counsel's Report

attachment 5



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 21, 1982

Paul D. Kamenar, Esquire  
Washington Legal Foundation  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Kamenar:

This letter is in response to your request for a 30-day extension during which to file a response in the above-captioned matter. Your request is approved. Any materials which you wish to submit for the Commission's consideration in this matter must be received by the Office of General Counsel no later than January 10, 1982.

Should you have any additional questions, please contact Stephen Mims at 523-4039.

Sincerely,

Charles N. Steele  
General Counsel

A handwritten signature in dark ink, appearing to read "Kenneth A. Gross", is written over the typed name of the Associate General Counsel.

By: Kenneth A. Gross  
Associate General Counsel

83040385



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Paul D. Kamenar, Esquire  
Washington Legal Foundation  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Kamenar:

This letter is in response to your request for a 30-day extension during which to file a response in the above-captioned matter. Your request is approved. Any materials which you wish to submit for the Commission's consideration in this matter must be received by the Office of General Counsel no later than January 10, 1982.

Should you have any additional questions, please contact Stephen Mims at 523-4039.

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

Stm  
12/21/82



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 1506  
Washington Legal Foundation )  
Paul D. Kamenar )  
Daniel J. Popeo )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 21, 1982, the Commission decided by a vote of 5-0 to take the following actions in MUR 1506:

1. Approve the request submitted by the respondents for an extension of time to file a response to the notification, not to exceed January 10, 1983.
2. Approve the letter as attached to the General Counsel's December 16, 1982, Memorandum to the Commission.

Commissioners Aikens, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter; Commissioner Elliott did not cast a vote.

Attest:

12/21/82

Date

Marjorie W. Emmons

Marjorie W. Emmons  
Secretary of the Commission

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

12-16-82, 3:05  
12-17-82, 2:00

33040686367

December 16, 1982

MEMORANDUM TO: Marjorie W. Emmons  
FROM: Phyllis A. Kayson  
SUBJECT: MUR 1506

Please have the attached Memo to the Commission distributed to the Commission on a 48 hour tally basis on a sensitive circulation. Thank you.

Attachment

cc: Mims

830403385



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
OFFICE OF THE  
COMMISSION SECRETARY

82 DEC 16 P 3: 05

December 16, 1982

MEMORANDUM TO: The Commission

FROM: Charles N. Steele  
General Counsel

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

SUBJECT: Request For An Extension Of Time To  
Respond To MUR 1506

**SENSITIVE**

On December 14, 1982, the Office of General Counsel received a request from the respondents in this matter for a 30 day extension in which to file a response. That letter, dated December 10, 1982, was mailed after the 15-day deadline for submitting a response to the complaint. \*/

On February 26, 1981, the Commission voted to authorize this Office to grant requests for extensions of time when, inter alia, the request is for good cause and "the request is received prior to the expiration of the original response period ...." See Agenda Document #81-50. The Office of General Counsel has reviewed the request and believes that the circumstances would warrant approval of this request. Accordingly it is our recommendation that the Commission approve the request for a 30-day extension not to exceed January 10, 1982.

\*/ The notifications were mailed on November 22, 1982, and were received on November 24, 1982. The fifteen-day deadline terminated on December 9, 1982.

Recommendation

1. Approve the request submitted by respondents Washington Legal Foundation, Paul D. Kamenar and Daniel J. Popeo for an extension for filing a response to the notification not to exceed January 10, 1982.
2. Approve the attached letter.

Attachment

- 1) Request for extension
- 2) Letter to Paul D. Kamenar

33040503870

WASHINGTON LEGAL FOUNDATION

1612 K STREET, N.W.  
SUITE 502  
WASHINGTON, D. C. 20006  
202-657-0240

December 10, 1982

HAND-DELIVER

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

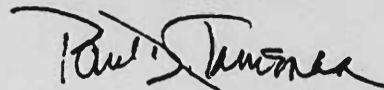
RE: MUR 1506

Dear Commissioners:

On behalf of the Washington Legal Foundation, Daniel J. Popeo, and myself, all respondents in the above-captioned MUR, I hereby request an extension of time within which to respond to the complaint.

Due to the press of business and the holiday season, we are unable to respond within the 15-day period. Consequently, we request an extension of 30 days, until January 10, 1983, to file our response.

Very truly yours,

  
Paul D. Kamenar

Attachment 1  
page 1 of 1



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Paul D. Kamenar, Esquire  
Washington Legal Foundation  
1612 K Street, N.W.  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Kamenar:

This letter is in response to your request for a 30-day extension during which to file a response in the above-captioned matter. Your request is approved. Any materials which you wish to submit for the Commission's consideration in this matter must be received by the Office of General Counsel no later than January 10, 1982.

Should you have any additional questions, please contact Stephen Mims at 523-4039.

Sincerely,

Charles N. Steele  
General Counsel

By: Kenneth A. Gross  
Associate General Counsel

Attachment 2  
Page 1 of 1



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Washington Legal Foundation )  
Daniel J. Popeo )  
Paul D. Kamenar )

MUR 1506

31111  
p4:09

RESPONSE TO COMPLAINT FILED  
BY COUNCIL FOR A LIVABLE WORLD

INTRODUCTION

On October 15, 1982, the Washington Legal Foundation (WLF) filed a comprehensive complaint with the Federal Election Commission against the Council for a Livable World (CLW), its affiliate Peace PAC, Paul C. Warnke, and other officers of the groups, for committing massive violations of the election laws. In particular, we documented how CLW has been acting as a fundraising agent and serving as a conduit for hundreds of thousands of dollars of political contributions to anti-defense, pro-nuclear freeze candidates, without fully counting as in-kind contributions all the money spent for that effort and other things of value. That complaint is still pending before the Commission.

On November 18, 1982, the Council for a Livable World filed a complaint against the Washington Legal Foundation<sup>\*/</sup>, Daniel J. Popeo, WLF's General Counsel, and Paul D. Kamenar, Director of Litigation, for allegedly violating the confidentiality provisions of 2 U.S.C. §437g(a)(12)(A) by issuing a few press releases concerning WLF's complaint. Several newspapers and wire services subsequently carried the story, samples of which were attached to CLW's counter-complaint.

<sup>\*/</sup> Throughout this response, we will refer to the three respondents collectively as "WLF".

3304068387

CLW further claims, erroneously so, that our motive for filing the complaint was not to enforce the laws but "to harass, embarrass, and intimidate CLW, Peace PAC, and the candidates for the Senate." CLW's complaint at 17. In their own neo-McCarthy-like way, the attorneys for CLW accuse the Washington Legal Foundation and its attorneys of trying to "smear" CLW stating that "the obvious political and McCarthy-like motivation underlying this Complaint is clearly evidenced by the politically inflammatory and legally irrelevant material included in the. . . complaint." CLW's Counter-Complaint at 22. CLW further claims that "[s]uch irrelevant rhetoric and innuendo, intended solely to inflame rather than enlighten, have no place before this Commission in a proceeding involving basic Constitutional rights." Id.

CLW obviously does not believe what it says for they are themselves irresponsibly casting aspersions on WLF's motivations which is, to use their own words, "legally irrelevant" and "have no place before this Commission in a proceeding involving basic Constitutional rights," i.e., the First Amendment right of WLF to speak out against the illegal activities of CLW. The alleged breach of the confidentiality provision of the election laws have nothing to do with what CLW claims are our motivations in filing a complaint against them.

The truth of the matter is that everything in our complaint against CLW was fully documented and, not surprisingly, CLW does not dispute in their counter-complaint the accuracy of any statement we made in our original complaint. As for their allegation

that we violated the confidentiality provision of the election laws, it is clear that we have not done so, and CLW's counter-complaint should be summarily dismissed. If the Commission were to find, however, that there was a violation, such an application of the law to WLF would surely violate our Constitutional rights.

I. CLW HAS FAILED TO STATE A CLAIM  
AGAINST WLF FOR VIOLATING 2 U.S.C.  
§437g(a)(12)(A).

In its counter-complaint, CLW charges that WLF distributed several press releases and copies of its complaint to the media and others without CLW's written consent and that such disclosure violates 2 U.S.C. §437g(a)(12)(A).

However, the law does not prohibit the disclosure of a complaint filed with the Commission. The pertinent provision of 2 U.S.C. §437g(a)(12)(A) states:

Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

Id. (Emphasis added).

It is clear that what the law prohibits is the disclosure of only the "notification or investigation made under this section." The "notification" referred to, of course, is the notification to the respondent by the Federal Election Commission that a complaint has been filed against them. CLW does not allege that WLF made public any such "notification" nor could we since we are not privy to the Commission's actions.

Similarly, CLW does not allege that WLF disclosed any "investigation. . . made under this section." The "investigation" referred to is the investigation by the FEC under 2 U.S.C. §437g(a)(2) which does not occur until after the Commission has voted to find "reason to believe" that a violation has occurred. Again, CLW has not alleged in their countercomplaint that any of WLF's press releases or communications referred to any FEC investigation, nor could they, since, as far as we know, no formal investigation has yet begun.

Thus, CLW's complaint should be summarily dismissed since they present no evidence whatsoever nor do they even make a claim, that WLF or its officers made public a "notification or investigation" by the FEC of the complaint WLF filed.

II. PUBLICIZING THE FILING OF A COMPLAINT  
DOES NOT OTHERWISE VIOLATE COMMISSION  
RULES.

CLW clearly has not made out a claim against WLF for violating the confidentiality provision of the law. CLW does not allege that WLF violated any FEC regulation, but let's assume that they did. FEC regulation 11 C.F.R. §111.21(a) states in pertinent part that:

No complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public. . . (emphasis added).

At first blush, it might appear that the Commission was broadening the scope of the coverage of 2 U.S.C. §437g(a)(2)(A) to prohibit not only the "notification" or "investigation" by the Commission, but also the mere filing of the complaint itself.



However, the Commission has long since held that its regulation should not be read to prohibit the disclosure of the complaint and has thus effectively repealed that aspect of its regulation.\*

For example, in MUR 1266, the Commission dismissed a confidentiality complaint filed by NCPAC against then Senator George McGovern. In that case, Senator McGovern issued a press release on May 23, 1980, which made reference to a complaint filed against NCPAC on May 2, 1980, some 20 days earlier. The Commission quickly dismissed the complaint by NCPAC, stating in language that is dispositive here:

The conclusion reached by the Commission in MUR 1244 was that the confidentiality provision of the statute did not prevent a complainant from making public the fact that it had filed a complaint and the substance of the complaint. The language of the statute only prohibits a person from making public a Commission notification or investigation.

With regard to the Commission's regulations, 11 C.F.R. § 111.21, the Commission recognized in MUR 1244 that the terms of the statute from which the regulations are drawn govern their application and that the regulations should therefore be read synonymously. Accordingly, it would be a violation of the regulation if a Commission notification or investigation was made public by a complainant; but it would not be a violation if the complainant made only the filing of a complaint and its substance public.

In the present matter the press release does not refer to any notification or investigation by the Commission. It merely indicates that the complaint against NCPAC was then pending before the Commission. Accordingly, there appears to be no basis for finding a violation of the statute or regulations.

MUR 1266, First GC Report at 2. The Commission has similarly dismissed complaints alleging breaches of confidentiality filed

\*/We suggest the Commission actually repeal the language lest any confusion remain as to the scope of the confidentiality provision.

against the National Abortion Rights Action League (MUR 1161), the Massachusetts Teachers Association (MUR 1251), and the Carter/Mondale Re-election Committee (MUR 1275).

In this case, we do admit that we circulated a dozen or so press releases and copies of the complaint against CLW, but, for the most part, that activity was done prior to the filing of the complaint with the FEC. Consequently, there has been no violation of even a broad reading of the FEC regulation which prohibits the disclosing of only those complaints already "filed" with the FEC. Part of our activity to make the public aware of the illegal conduct of CLW admittedly "spilled over" after our complaint had been filed with the FEC, but even so, that post-filing activity does not violate FEC rules. See, e.g., MUR 1266.

Admittedly, the regulation and law would appear from CLW's point of view as underinclusive. For if nothing prohibits the disclosure of a complaint before it is actually filed, it would seem silly to prohibit that same disclosure after the proverbial cat is out of the bag. If CLW is serious about their complaint (and we think they are not) they could of course seek judicial review of the Commission's certain dismissal of their complaint, 2 U.S.C. §437g(a)(8), or lobby the Congress to change the laws. For our part, we intend to continue to exercise our First Amendment rights despite spurious threats by groups such as CLW to suppress the truth.



III. THE APPLICATION OF THE CONFIDENTIALITY  
PROVISION TO WLF WOULD VIOLATE OUR  
FIRST AND FIFTH AMENDMENT RIGHTS.

Although we have made it abundantly clear that WLF and its officers did not violate the confidentiality provisions, we submit that any application of the law to our conduct would clearly violate our First Amendment rights of freedom of speech and the press, and our Fifth Amendment rights of equal protection.

The First Amendment clearly prohibits Congress from making any laws that abridge the freedom of speech. The courts have allowed some regulation in this area for compelling purposes, but no such compelling purpose can be shown in this case. As noted earlier, if the law under anyone's reading does not prohibit advance publicity before a complaint is actually filed, there is clearly no reason, let alone a compelling one, to prohibit that same disclosure after the complaint has been filed.

In fact, there are good reasons to publicize the complaint so that the public and those involved are aware of the charges filed in order to prevent further violations of the law, and to assess whether the charges are indeed substantial and serious or spurious. Any prior restraint by a regulatory agency to limit the disclosure of the complaint violates the First Amendment. See New York Times Co. v. U.S., 403 U.S. 713 (1971); Bridges v. California, 314 U.S. 252 (1972).

In addition to our First Amendment rights, it is also clear that our Fifth Amendment rights of equal protection would be violated by proceeding against WLF. This is clear by an examination of CLW's own countercomplaint against us.

WASHINGTON LEGAL FOUNDATION 8 3 0 4 0 0 9 3 3 0 0

1612 K STREET, N. W.

SUITE 502

WASHINGTON, D. C. 20006

202-857-0240

In their countercomplaint, CLW appears to be quite disturbed about the broad dissemination of information about our complaint in the press. And it is the press to whom they are really directing their objections. They have attached clippings from various newspapers reporting about our complaint. All we did was circulate a dozen or two copies of our press release and the complaint to certain persons. If those persons had simply discarded our materials, no one would have really known about this complaint and CLW would not be filing this countercomplaint against us.

Instead, it was the Associated Press and various publishing companies which distributed thousands of newspapers carrying accounts of our complaint that caused the publicity CLW objects to. We certainly have no control over these entities and were powerless to force them to print the stories. They apparently felt that our complaint was serious enough that it deserved widespread attention.

It would indeed be a violation of our rights to equal protection if we were singled out and punished for exercising our rights by distributing only a handful of accounts of our complaint and yet the entire media was exempted for distributing thousands of accounts of the same story.

It should be noted that the confidentiality provision, 2 U.S.C. §437g(a)(12)(A), does not contain a press exemption, but applies to any "person" which is defined in 2 U.S.C. §431(11) as "an individual. . . association, corporation. . . or any other organization or group of persons. . . ." Id. Thus, publishing

companies and newspapers are covered by this law, and perhaps more so than an individual since it is the press that CLW really is complaining about.

Note that Congress made it clear in other provisions of the FEC law when it felt that the press should be exempted from the law. For example, 2 U.S.C. §431(9)(B) exempts "any news story, commentary, or editorial" from the definition of "expenditure." See also 26 U.S.C. §9012(f)(2) which expressly exempts the media from any limits in making expenditures to further the election of Presidential candidates.

Accordingly, we submit that inasmuch as the CLW has submitted evidence to the Commission that various publishing companies and reporters have violated 2 U.S.C. §437g(a)(12)(A) under CLW's interpretation of that provision, it would violate our constitutional rights to be singled out by the FEC for an enforcement action.

#### CONCLUSION

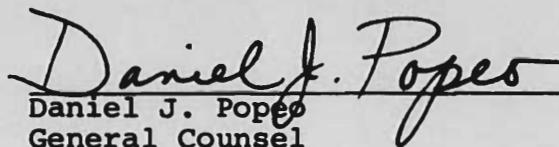
For the foregoing reasons, we submit that the spurious countercomplaint be dismissed because (1) it fails to allege any facts showing a violation by WLF of 2 U.S.C. §437g(a)(12)(A); (2) Commission practice and policy authorizes the complained of conduct, and (3) the application of the law to WLF and its attorneys would violate our First and Fifth Amendment rights.

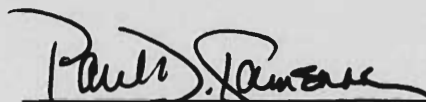
We are sending a copy of this reply to the attorneys for CLW so that they can understand how meritless their countercomplaint is, and to give them an opportunity to respond if they can. They,

on the other hand, refuse to supply us with a copy of their response to our original complaint. We suspect that their reason for doing so is that they are afraid that we would be able to rebut effectively their response to the Commission about our original charges. They certainly could not claim a desire of confidentiality since the press has already covered this story. If anything, we would think that they would be forthcoming if indeed they were serious about their characterization of our charges as a "smear" campaign.

This response is submitted on behalf of all three named respondents.

Respectfully submitted,

  
Daniel J. Popeo  
General Counsel

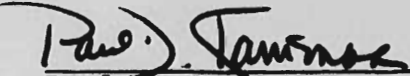
  
Paul D. Kamenev  
Director of Litigation

Washington Legal Foundation  
1612 K Street, N.W.  
Suite 502  
Washington, DC 20006  
(202) 857-0240

DATE: January 10, 1983

AFFIDAVIT OF PAUL D. KAMENAR

I hereby swear under oath that the foregoing response is based upon the personal knowledge of this affiant and is true.

  
Paul D. Kamenar  
Washington Legal Foundation  
1612 K Street, N.W. - Suite 502  
Washington, D.C. 20006  
(202) 857-0240

Washington )  
District of Columbia ) ss  
)

Subscribed and sworn to before me this 11th day of January, 1983.

  
Notary Public

My Commission expires: Sept. 14, 1985.

WASHINGTON LEGAL FOUNDATION  
1612 K STREET, N.W.  
SUITE 502  
WASHINGTON, D.C. 20006  
202-857-0240



83040583884

WASHINGTON LEGAL FOUNDATION  
1612 K STREET N.W., SUITE 502  
WASHINGTON, D.C. 20006

To

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

MAIL ID-DTELETYPE

FIRST CLASS MAIL

*5-B, 1-2-83, 1-2-83, 1-2-83*

83 JAN 11

P 1: 07

RECEIVED AT THE FEC



203586  
RECEIVED BY THE FED  
CCH# 9/16  
82 DEC 14 2:26  
DEC 14 P 3:44

**WASHINGTON LEGAL FOUNDATION**

1612 K STREET, N. W.  
SUITE 502  
WASHINGTON, D. C. 20006  
202-857-0240

December 10, 1982

HAND-DELIVER

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

RE: MUR 1506

Dear Commissioners:

On behalf of the Washington Legal Foundation, Daniel J. Popeo, and myself, all respondents in the above-captioned MUR, I hereby request an extension of time within which to respond to the complaint.

Due to the press of business and the holiday season, we are unable to respond within the 15-day period. Consequently, we request an extension of 30 days, until January 10, 1983, to file our response.

Very truly yours,

*Paul D. Kamenar*  
Paul D. Kamenar

830403837

WASHINGTON LEGAL FOUNDATION

1612 K STREET, N. W.

SUITE 502

WASHINGTON, D. C. 20006

8 3 0 4 0 0 8 3 8 3 6



Commissioners  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

02 DEC 13 AM 11:47



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 22, 1982

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Daniel J. Popeo, Esquire  
Washington Legal Foundation  
1612 K Street, NW  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Popeo:

This letter is to notify you that on November 18, 1982, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1506. Please refer to this number in all future correspondence.

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

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

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

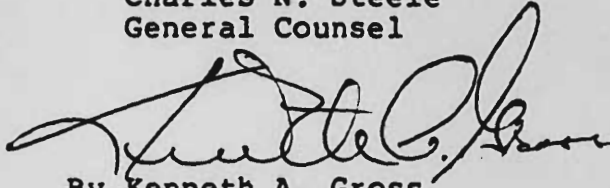
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

- 2 -

If you have any questions, please contact Stephen Mims, the staff member assigned to this matter at (202) 523-4039. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele  
General Counsel



By Kenneth A. Gross  
Associate General Counsel

Enclosures

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

8304038339



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 22, 1982

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Paul D. Kamenar, Esquire  
Washington Legal Foundation  
1612 K Street, NW  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

Dear Mr. Kamenar:

This letter is to notify you that on November 18, 1982, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1506. Please refer to this number in all future correspondence.

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

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

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

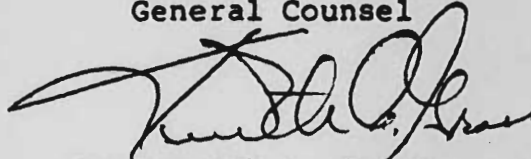
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

- 2 -

If you have any questions, please contact Stephen Mims, the staff member assigned to this matter at (202) 523-4039. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele  
General Counsel



By Kenneth A. Gross  
Associate General Counsel

Enclosures

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

83040683870





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 22, 1982

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Washington Legal Foundation  
1612 K Street, NW  
Suite 502  
Washington, D.C. 20006

Re: MUR 1506

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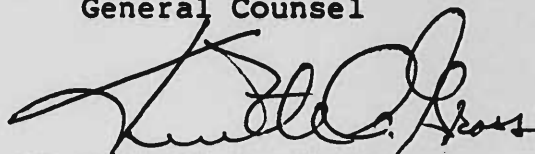
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Sincerely,

Charles N. Steele  
General Counsel



By Kenneth A. Gross  
Associate General Counsel

Enclosures

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

83040685972



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 22, 1982

Marc E. Lachritz, Esquire  
Wald, Harkrader & Ross  
1300 19th Street, NW  
Washington, D.C. 20036-1697

Dear Mr. Lachritz:

This letter is to acknowledge receipt of your complaint of November 18, 1982, against the Washington Legal Foundation, Mr. Paul D. Kamenar, and Mr. Daniel J. Popeo which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Steven Barndollar at (202) 523-4073.

Sincerely,

Charles N. Steele  
General Counsel

A handwritten signature in dark ink, appearing to read "Kenneth A. Gross", is written over the typed name.

By Kenneth A. Gross  
Associate General Counsel

Enclosure

C. COUNTERCLAIM OF COUNCIL FOR A LIVABLE WORLD

1. Introduction

It is clear from the timing of and the public relations effort surrounding the filing of the Complaint herein that the principal motive in filing this Complaint was not to enforce the election laws, but to harass, embarrass, and intimidate CLW, PeacePAC, and the candidates for the Senate and House whom they have endorsed. All of these public relations efforts surrounding the filing of the Complaint, and subsequent efforts to gain publicity for the Complaint, are in direct violation of 2 U.S.C. § 437g(a)(12)(A). Moreover, such violations of this non-disclosure provision by the Foundation and two of its officers, Messrs. Popeo and Kamenar, were clear, knowing, and willful.

2. Purpose of 2 U.S.C. § 437g(a)(12)(A).

2 U.S.C. § 437g(a)(12)(A) provides in pertinent part that:

Any notification or investigation made under this section shall not be made public by the commission or by any person without written consent of the person receiving such notification or the person with respect to whom such investigation is made.

2 U.S.C. § 437g(a)(12)(A) (emphasis added).

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& ROSS  
300 19TH ST., N.W.  
WASHINGTON, D.C. 20036

202 828-1200

The self-evident purpose of this non-disclosure provision is to ensure that unscrupulous, partisan individuals and groups do not exploit the pendency of an FEC investigation to malign and embarrass an opposing candidate for federal office. Absent such non-disclosure provisions, partisan groups could file groundless complaints with the FEC, alleging wholly frivolous election law violations by candidates they oppose, and then smear those candidates by publicizing that they were under investigation by the Commission for illegal campaign activities. These types of "smears" are not unknown in American political history.

Moreover, these smears, once set loose in the public domain, are virtually impossible to counteract effectively. As often happens with news stories, denials are usually given far less coverage than, and lag behind, the original allegations, thereby providing the wrongful accusations with a life of their own in a political campaign.

Thus, in the closing days of a campaign, a "smear attack" is especially hard to counteract effectively, given the limitations of time and the realities of election coverage. Because the Act's non-disclosure provision is the sole defense that candidates have against the use of the FEC complaint procedure as a smear tactic, the Commission should vigorously enforce the non-disclosure provision to preserve the integrity of the Commission's complaint procedures and to protect the federal election process against abusive tactics.

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& ROSS  
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WASHINGTON, D. C. 20036

202 828-1200



Such an eleventh-hour political smear by the Foundation, and its officers, against CLW, PeacePAC and their endorsed candidates, is exactly what occurred here, and the fact that the smear failed is not a reason to leave the violations of law unenforced.

3. Foundation Actions That Violated 2 U.S.C.  
§ 437g(a)(12)(A).

a. On October 15, 1982, a mere two and a half weeks prior to the elections, the Complaint herein was filed by the Foundation, and signed by two of its principal officers, Daniel J. Popeo and Paul D. Kamenar. The Complaint, however, was not merely filed with the FEC, but was also heralded by a press release that was widely distributed to the national media. Press Release attached hereto at Tab J. This "story" was picked up by the wire services and, in fact, it was through inquiries from the wire services that CLW was first informed that the Complaint had been filed against it.

b. Because of this public relations effort, a number of newspapers across the country including, but not limited to the St. Louis Post Dispatch, the Washington Times, the Bangor Daily News, and many other newspapers not presently known to CLW, carried the story announcing the filing, summarizing the charges in the Complaint, and listing the candidates endorsed by the CLW. A sample of the articles that appeared soon after the filing of the Complaint, as a result of the press release issued by the Foundation, are attached hereto at Tab K.

c. Not content with the coverage obtained by its own press release, the Foundation and its officers, Messrs. Popeo

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and Kamenar, then, upon information and belief, distributed copies of their press release and Complaint to the campaigns of the opponents of the CLW-endorsed candidates. In at least three instances known to CLW, this Complaint became a public campaign issue as a direct result of the efforts of the Foundation and its officers.

d. In Maryland, Senate candidate Lawrence J. Hogan accused Senator Paul Sarbanes of accepting more than the legal maximum contribution from the CLW. A newspaper article referring to Hogan's charges against Sarbanes is attached hereto at Tab L.

e. Similarly, in Wyoming, a campaign spokesman for Senator Malcolm Wallop told members of the press that Wallop's opponent, Rodger McDaniel, had received illegal campaign contributions from CLW. A newspaper article partially reporting these charges is attached hereto at Tab M.

f. In addition, on October 22, 1982, a reporter from Tennessee contacted CLW concerning both this Complaint and the amount of the CLW contributions to Senator Sasser. The reporter had obviously been briefed at a press conference by Congressman Robin Beard, Senator Sasser's opponent, about the Complaint and its allegations. There were, no doubt, other instances, of which CLW is presently unaware, of opponents of CLW-endorsed or PeacePAC-endorsed candidates injecting the Complaint into their campaigns.

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4. Effects of Public Disclosure of the Complaint

a. The effects of the Foundation's disclosure and massive public relations efforts concerning its Complaint were quite serious, especially during the last few weeks of bitterly contested election campaigns. In these last few weeks of the campaign, critical resources of CLW, PeacePAC, and the campaign staffs of their endorsed candidates were diverted to informing the CLW- and PeacePAC-endorsed candidates of this possible issue arising, fending off reporters' questions, and focusing campaigns' attention on this Complaint and away from the real policy issues involved in the campaigns.

b. The actions of the Foundation and its officers here are quite similar to those comprising the tort of "abuse of process" in the civil litigation context. Abuse of process lies when "there has been a perversion of court processes to accomplish some end which the process was not intended by law to accomplish," Goodall v. Frank R. Jelleff, Inc. 130 A.2d 781, 782 (D.C. Mun. App. 1957). For abuse of process, a party must prove: (1) an ulterior motive in instituting the suit; and (2) an act in the use of process other than one which would be proper in the regular prosecution of the charge. Morowitz v. Marvel 423 A.2d 196, 198 (D.C. App. 1980). Both of the elements necessary for an abuse of process claim have been satisfied by the Foundation's actions.

c. The improper motive here -- to influence the outcome of elections, rather than to enforce the election laws -- was accompanied by an improper act -- publicly disclosing the

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FEC Complaint in direct violation of 2 U.S.C. § 437g(a)(12)(A). The FEC here should initiate an investigation into these violations both to punish and to deter such reprehensible conduct. Advocacy groups of whatever political persuasion masquerading in the guise of the "public interest" should not be allowed to flout the FEC's laws or regulations with impunity. These groups, like all other PAC's, should have to play by the rules.

d. Moreover, the Complaint itself continues the "smear" against CLW; the obvious political and McCarthy-like motivation underlying this Complaint is clearly evidenced by the politically inflammatory and legally irrelevant material included in the footnotes at pages 5 and 6 of the Complaint. Neither Leo Szilard's views, whatever they may have been, nor Senator Weicker's views of Paul Warnke are relevant at all to the rights of CLW, PeacePAC, or anyone else before the Federal Election Commission. Such irrelevant rhetoric and innuendo, intended solely to inflame rather than enlighten, have no place before this Commission in a proceeding involving basic Constitutional rights.

e. The previous activities of the Foundation and the prior experience of its officers<sup>\*/</sup> are such that they certainly had knowledge that public disclosure of an FEC Complaint was a direct violation of the election laws. Therefore, the Commission should conduct a full investigation of the Foundation's actions relating to the filing of this Com-

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\*/ Paul Kamenar worked for the Federal Election Commission in 1975-76.

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& ROSS  
1300 19TH ST., N. W.  
WASHINGTON, D.C. 20036

202 828-1200

plaint, and should find that the Foundation and Messrs. Popeo and Kamenar have clearly, knowingly and willfully violated 2 U.S.C. § 437g(a)(12)(A).

For all of the foregoing reasons, the Commission should find no reason to believe that the Complaint sets forth a possible violation of law and close the file therein, and should investigate the Foundation's and its officers' actions surrounding the filing of the Complaint.

Respectfully submitted,

*Marc E. Lackritz*  
Marc E. Lackritz  
A. Richard Metzger, Jr.

WALD, HARKRADER & ROSS  
1300 19th Street, N.W.  
Washington, D.C. 20036

Counsel for CLW, PeacePAC, and  
Messrs. Warnke, Tarlow and  
Grossman

November 18, 1982

LAW OFFICES

WALD, HARKRADER  
& ROSS  
1300 19TH ST., N. W.  
WASHINGTON, D. C. 20036

202 828-1200

33040383900

CERTIFICATE

Washington )  
 )  
District of Columbia) ss.

I hereby swear that all of the information and charges contained herein are true and correct to the best of my knowledge and belief.

Marc E. Lackritz  
Marc E. Lackritz

Subscribed and sworn to before  
me this 18<sup>th</sup> day of November,  
1982.

Loanna L. Johnson  
Notary Public

My Commission expires: 12-14-83

83040385901

LAW OFFICES  
WALD, HARKRADER  
& ROSS  
1300 19TH ST., N. W.  
WASHINGTON, D. C. 20036

202 828-1200



1612 K STREET, N.W., SUITE 502, WASHINGTON, D.C. 20006

WASHINGTON LEGAL FOUNDATION BLASTS ANTI-NUKE GROUPS  
FOR MASSIVE ELECTION LAW VIOLATIONS; SEEKS COMPLETE  
"SHUT DOWN" AND MILLION DOLLAR FINES

October 15, 1982 . . . The Washington Legal Foundation, a nonprofit public interest organization, filed a 20-page complaint with 30 pages of exhibits at the Federal Election Commission (FEC) today against the Council for a Livable World (CLW), Peace PAC, Paul C. Warnke who is Peace PAC's Chairman and Director of CLW, Nuclear Freeze PAC and other officers of the pro-nuclear freeze, anti-defense groups for a multitude of election law violations. The charges accuse CLW, which is larger than 98% of all PACs, of acting as a professional fundraiser for a few dozen pro-nuclear freeze candidates such as Howard Metzenbaum, Toby Moffet, and Don Reigle, giving them as a conduit \$20-30,000 and more each despite the election law's limit of \$5,000 from a PAC to a candidate. WLF charges that the costs of the massive fundraising effort is intentionally undervalued and not fully reported as "in-kind" contributions to the campaigns.

WLF also charges CLW with failing to file certain pre-election reports, and that Peace PAC failed to file its quarterly report on July 15; soliciting and receiving foreign contributions; failing to properly disclose on the groups materials who paid for and authorized them; and for illegal transfer of funds from CLW to Peace PAC.

"WLF calls upon the FEC to order a complete "shut down" of these groups illegal fundraising schemes, a return of all contributions received by the candidates, and fines up to \$3 million to remedy the injurious effects from the political fall-out from these outlaw groups," said Paul D. Kamenar, WLF's Director of Litigation. CLW was founded in 1962 by a Dr. Leo Szilard who once advocated the death penalty for anyone violating "peace" and deputizing all Americans to carry out the sentence. The Washington Legal Foundation is a public interest group with 85,000 members nationwide that advocates the free enterprise system, a strong national defense and rights of crime victims. WLF has testified before the FEC and Congress in the past and sharply criticized rules that unduly restrict the First Amendment rights of businesses to participate in the electoral process.

\* \* \* \*

FOR MORE INFORMATION CONTACT: PAUL D. KAMENAR, TEL. 857-0240.



## Complaint Names PACs Backing Candidates Who Favor A Freeze

WASHINGTON (UPI) — A conservatively oriented legal group has filed a complaint with the Federal Election Commission against political action committees backing candidates who favor a freeze on nuclear weapons.

The complaint was filed Friday by the Washington Legal Foundation. It singles out the Council for a Livable World, the Peace Political Action Committee, the Nuclear Freeze Political Action Committee, former U.S. arms reduction negotiator Paul Warnke, chairman of PeacePAC and other officers of the groups.

The complaint says the groups violated contribution limits and

reporting requirements of federal election law and undervalued campaign services to candidates, including Democratic Sens. Paul S. Sarbanes of Maryland, Edward M. Kennedy of Massachusetts, Howard M. Metzenbaum of Ohio and Donald W. Riegle Jr. of Michigan and Rep. Toby Moffett, candidate for the Senate in Connecticut.

John Isaacs, legislative director of the Council for a Livable World, said the complaint "sounds basically like harassment" because the group received an FEC ruling before the 1980 elections approving its method of fund-raising.

over the past several months, he had spoken at forums in West Virginia, Montana, Wisconsin, Pennsylvania, New Jersey and New York. Christopher Lehman has made anti-freeze appearances in Wisconsin and Michigan.

Most recently, he took part in a radio forum last Wednesday in Miami, where a freeze resolution is on the Dade County ballot, and participated Friday in a debate in New Jersey.

Christopher Lehman noted that he and his brother John had received a Jesuit education at St. Joseph's College in Philadelphia and said, "Basically, yes, I do have a personal commitment on this."

"I'm no theologian, but others far more expert have concluded there is such a thing as a just-war doctrine, that self-defense is morally acceptable, that nuclear deterrence is morally acceptable... I don't take a back seat to anyone on being a moral person."

John Lehman is scheduled to address the freeze question in an appearance next Thursday before the Los Angeles Junior Chamber of Commerce. He spelled out his own views in a strongly-worded address last March at Philadelphia's Chapel of the Four Chaplains, which honors four chaplains who died in World War II.

"We can be thankful," Lehman told the chapel audience, "that, in their time, they did not support the kind of pacifist ideology that has — most unfortunately — now captured a small and idealistic but vocal minority within the religious community."

"We must realize — and remind our fellow countrymen — that this fashionable pacifism we see and hear today... cannot and will not lead to peace. To disarm before a totalitarian aggressor does not lead to peace. More often, as history teaches, it leads to war."

our relationship with the Soviet Union... You've got to look for those windows when people are interested."

Several sources on both sides of the nuclear-freeze issue said the administration's campaign could backfire by generating more publicity for the freeze movement.

The senior administration officials behind the anti-freeze drive, these sources suggest, are driven less by political considerations than by deep personal commitment. This is particularly true, they say, for an influential group of administration Catholics who are offended by the leading role that several Catholic bishops have taken in the freeze movement.

Among those administration officials who are Catholic and who have taken a strong interest in countering the freeze movement are National Security Advisor William P. Clark; Edward Rowley, chief negotiator for the Arms Control and Disarmament Agency; and the three Lehman brothers — John, secretary of the Navy; Joseph, chief spokesman for Arms Control and Disarmament Agency, and Christopher, director of strategic nuclear planning for the State Department.

Clark made public a long letter earlier this month outlining his views on a landmark "Pastoral Letter on Peace and War" under preparation by the National Conference of Catholic Bishops.

A preliminary draft of the bishops' pastoral letter, now being revised, had expressed "profound doubts about whether the use or threatened use of nuclear weapons can be truly reconciled with traditional principles of just war."

The Lehman brothers have made public appearances against the freeze initiatives. Joseph Lehman said that

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# Funding violations laid to peace lobbies

By Tom Diaz

WASHINGTON TIMES STAFF

A public interest law firm has charged several pro-nuclear freeze political action committees and their officers with violating federal election laws while channeling campaign funds to "pro-nuclear freeze, anti-defense spending" candidates.

The Washington Legal Foundation charged in a complaint filed with the Federal Election Commission that the committees have not filed required reports and have not properly declared the value of their "in-kind" services to candidates such as senators Paul Sarbanes, D.-Md., Ted Kennedy, D.-Mass., and Howard Metzenbaum, D.-Ohio, and congressmen Mike Barnes, D.-Md. and Barney Frank, D.-Mass., among others.

The complaint — filed last Friday — asked the FEC to conduct a "complete

and expeditious investigation" of alleged violations by the Council for a Liveable World (CLW), the Peace Political Action Committee and the Nuclear Freeze Political Action Committee. The foundation asked the FEC to impose civil penalties of from \$500,000 to \$3 million against the respondents, and to require candidates to return any funds they have received from the committees.

Paul Warnke, former director of the Arms Control and Disarmament Agency, was named in the complaint in his capacity as a director of CLW and chairman of the Peace PAC, along with William E. Darlow, treasurer of CLW, and Jerome Griesman, president and treasurer of Peace PAC and CLW's registered lobbyist.

The foundation charges that CLW and Peace PAC have violated election laws by failing to report as in-kind

contributions the full cost of expenses such as developing mailing list — which the committees incur in their fundraising efforts on behalf of pro-freeze candidates, and that Peace PAC and Nuclear Freeze had failed to file reports required by federal election laws.

According to the complaint, CLW and Peace PAC are affiliated organizations, with the only difference between them being that CLW supports Senate candidates and Peace PAC supports House candidates (Nuclear Freeze is not affiliated with the other two groups).

John Isaacs, legislative director of CLW, said on behalf of CLW, Peace PAC, and their officers that, "The complaint was filed two weeks before the election simply as harassment."

Isaacs also said that the FEC has already ruled on the pro-freeze groups' fundraising methods and found them legal. But Paul Kammerer, the foundation's director of litigation, said that the FEC ruling to which Isaacs referred does not cover either the failure to report the full value of in-kind contributions, or the report filing violations alleged in the complaint.

# Peace-PAC's Violate Law

Two "peace"-oriented PACs have been charged with massive campaign law violations and contributing four to six times the legal limit of \$5,000 to candidates. The "peace" PACs were also charged with being liable for millions in funds.

What the two PACs have been doing is sending funds directly to the candidates with the checks made out to the candidates, which is legal. They have been acting as a fund-raiser for the candidates, like a Richard Viguerie or a Carver Matthews. That is legal, but the two peace PACs have not been charging the candidates the full cost of their fundraising activities, the Washington Legal Foundation charges. The Foundation asserts that this makes their procedures illegal.

The Washington Legal Foundation, a nonprofit public interest organization, filed a 20-page complaint with 30 pages of exhibits at the Federal Election Commission (FEC) against the Council for a Livable World (CLW);

Peace PAC; Paul C. Warnke, who is Peace PAC's Chairman and Director of CLW; Nuclear Freeze PAC; and other officers of pro-nuclear freeze, anti-defense groups, for a multitude of election law violations.

The charges accuse CLW, which is larger than 98% of all PACs, of acting as a professional fundraiser for a few dozen pro-nuclear freeze candidates such as Howard Metzenbaum, Toby Moffet, and Don Riegle, channeling \$20-30,000 and more to each, despite the election law's limit of \$5,000 from a PAC to a candidate. The Washington Legal Foundation charges that the costs of the massive fundraising effort are intentionally "low-balled" and not fully reported as "in-kind" contributions to the campaigns.

WLF also charges CLW with failing to file certain pre-election reports, and that Peace PAC failed to file its quarterly report on July 15; soliciting and receiving for-

Continued on Page 2

## Peace PAC's

Continued from Page 1

eign contributions; failing to properly disclose on the groups' materials who paid for and authorized them; and for illegal transfer of funds from CLW to Peace PAC.

"WLF calls upon the FEC to order a complete 'shut-down' of these groups' illegal fundraising schemes, a return of all contributions received by the candidates, and fines up to \$3 million to remedy the injurious effects from the political fall-out from these outlaw groups," said Paul D. Kamenar, WLF's Director of Litigation.

CLW was founded in 1962 by Dr. Leo Szilard, who once advocated the death penalty for anyone violating "peace" and deputizing all Americans to carry out the sentence. The Washington Legal Foundation is a public interest group with 85,000 members nationwide that advocates the free enterprise system, a strong national defense and rights of crime victims. WLF has testified before the FEC and Congress in the past and sharply criticized rules that unduly restrict the First Amendment rights of businesses to participate in the electoral process.

BANGOR DAILY NEWS  
BANGOR, ME  
8. 70.470

OCT 25 1982

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# Legal firm sues N-freeze proponents

By John Day  
Of the NEWS Staff

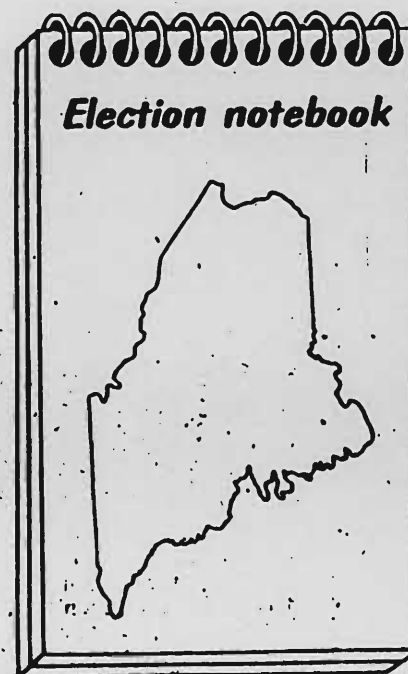
A public interest law firm is suing several pro-nuclear freeze groups, charging that the organizations have violated federal election laws while channelling campaign funds to "pro-freeze" candidates.

Sen. George J. Mitchell, D-Maine, is reported to have received more than \$30,000 from one of the pro-freeze groups. Larry Benoit, Mitchell's campaign manager, indicated he was aware of the suit but not acquainted with "its details."

In its suit, the Washington Legal Foundation charges that the Council for a Livable World (CLW) and several smaller anti-nuclear organizations are circumventing the \$5,000 federal ceiling on campaign contributions by political action committees. CLW's political action committee expects to contribute slightly under \$1 million to 12 Senate and 14 House candidates this year who have endorsed the freeze resolution. That resolution seeks a moratorium on the construction of nuclear weapons by both the United States and Soviet Union.

Mitchell's opponent, Rep. David F. Emery, voted against the freeze resolution when it failed by a two-vote margin in the House of Representatives last Aug. 5. Emery was the only member of Congress from New England to oppose the freeze, a fact Mitchell has repeatedly pointed out in their campaign.

The Washington Legal Foundation asserts in its suit that CLW method's of fund raising is a ruse to launder campaign contributions. The anti-nuclear



group reportedly urges its members to send checks made out to individual candidates to its Washington office. The funds are then turned over to individual candidates and logged as individual contributions, not covered by the \$5,000 PAC ceiling.

The suit also claims that "in-kind" contributions by the anti-nuclear groups have not been properly

logged. It asks the Federal Elections Commission to impose civil penalties of \$500,000 to \$3 million against CLW and to require pro-freeze candidates to return contributions received from CLW.

John Isaacs, legislative director for CLW, told reporters in Washington that the suit was "simply harassment." He reported that the FEC has already ruled that CLW's method for raising political contributions is legal. Paul Kramensar, a spokesman for the Washington Legal Foundation, stated the FEC ruling did not address itself to the issue of his group's allegations of unreported "in-kind" contributions.

Benoit said Mitchell's campaign committee "has duly reported both individual and in-kind contributions from CLW."

Speaking of the freeze, Mitchell and Democratic party leaders in Washington were successful in persuading another pro-freeze group not to air a strident pro-freeze commercial on Maine television stations. Democratic party officials in Washington sought to block the commercials, fearful they would provoke a backlash that would hurt pro-freeze candidates more than help them.

"Our legal counsel wrote to all the stations in Maine, communicating our concern about commercials sponsored by independent political committees, regardless of whether the ads attack Mitchell or Emery," said Larry Benoit, Mitchell's campaign manager.

The pro-freeze group announced they were voluntarily pulling its commercials in the wake of strong opposition by Democratic leaders.



# Hogan Says Sarbanes Took Illegal Campaign Contribution

By Sandra Saperstein  
Washington Post Staff Writer

BALTIMORE, Oct. 23—Republican Lawrence J. Hogan, in a last-minute effort to sell himself as an alternative to Democratic Sen. Paul S. Sarbanes in Maryland's Senate race, stepped up his attack on the incumbent yesterday, charging him with accepting illegal campaign contributions.

In a live debate on Baltimore's WMAR-TV, Hogan accused Sarbanes of holding an illegal fund-raiser outside the country and of accepting more than the maximum allowable contribution from a single group. Hogan, the Prince George's County executive, asserted that Sarbanes had received \$23,000 from the Council for a Livable World, a contribution \$18,000 in excess of the maximum allowed by law.

Sarbanes, who holds a strong lead over Hogan in recent polls and has raised \$1.3 million in contributions—more than three times the amount raised by Hogan—denied both allegations.

The fund-raiser outside the country, Sarbanes said, was held by Americans meeting in Toronto for a Greek-American fraternal organization's yearly conference. Sarbanes, who is of Greek ancestry, said he attends the function every year.

After the debate, a Sarbanes aide

said that the \$23,000 Hogan referred to had been raised through individual contributions from people who had been solicited by the Council for a Livable World. The council has solicited money for as many as 20 candidates, the aide said.

Hogan's attack appeared to be an attempt to blunt what has become a major issue in the race: the \$625,000 anti-Sarbanes media campaign mounted by the National Conservative Political Action Committee (NCPAC). In earlier debates and again last night, Sarbanes said that the NCPAC, which also has paid for television commercials favorable to Hogan, is involved in "a vicious campaign . . . of political deceit and deception."

Sarbanes urged voters to "send them a message on Nov. 2" that such tactics will not work in Maryland.

Hogan replied that Sarbanes "has whined about little else in the campaign," and accused Sarbanes of using the NCPAC issue to distract voters from his "do-nothing record."

The two candidates squared off on other familiar territory. Sarbanes attacked Reagan's economic program as a course "heading the country downward."

Hogan retorted that the country's economic problems "didn't all start the day Ronald Reagan took office" and said the economy is showing "hopeful signs."

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# Wallop spending three times more

By PHILIP WHITE  
Star-Tribune staff writer

CHEYENNE — Sen. Malcolm Wallop has outspent his Democratic challenger by more than 3-1 during 1982, and has received contributions during September amounting to almost twice those of Rodger McDaniel.

Reports filed with the Wyoming secretary of state on Monday show Wallop receiving \$116,472 in contributions during September, including several donations from oil company political action committees. McDaniel's report shows he received \$56,201 during the month, much of it from labor union PACs.

McDaniel's campaign manager denied a report appearing in the afternoon paper in Cheyenne on Monday that quoted Cheyenne attorney Byron Hirst as saying McDaniel had received a campaign contribution of \$25,000-\$30,000 from the Boston-based Council for a Livable World.

Kathy Karpan said federal law prohibits an organization from contributing more than \$10,000 during a campaign, "and Mr. Hirst knew that and Wallop's campaign staff knew that when they prepared the release." She said McDaniel has received 300 individual contributions totaling about \$25,000 from people all over the U.S. as a result of his endorsement by the council.

Karpan said the council has also endorsed Republican Senate candidate Millicent Fenwick in New Jersey.

The Federal Election Com-

mission reports filed Monday show that Wallop has spent \$683,172 on his re-election campaign this year while McDaniel has spent only \$214,147. The reports show that 52 percent of Wallop's contributions have come from PACs, while 36 percent of McDaniel's funds have come from that source.

THE REPORTS indicate that during September, Wallop's biggest contribution of \$10,000 came from the state Republican committee. Campaign America and the American Trial Lawyers PAC each donated \$5,000.

The Associated General Contractors of America PAC gave \$4,000 and oil company PACs donated as follows: Mobil Oil \$500; Exxon \$100; Tenneco \$2,000; Union Oil \$1,500; American Petroleum Refiners \$1,000; and Ashland Oil \$1,000.

McDaniel's biggest contributors were the Communication Workers of America PAC and the AFL-CIO Committee on Political Education, both \$2,500. He also received \$1,000 apiece from Democrats for the '80s, the Sierra Club, COPE and the Florida Congressional Committee.

The American Postal Workers PAC contributed 2,500, as did the United Mine Workers PAC and the Machinists PAC. The State, County and Municipal Employees donated \$2,500 and the International Ladies Garment Workers Union PAC gave \$1,500.

The reports list Wallop with \$68,290 in cash on hand at the end of September while McDaniel had \$14,771.



MALCOLM WALLOP  
Donations from oil



RODGER McDANIEL  
Favored by labor

Forecast: Cloudy with chance of snow tapering off and clearing by late morning. The low 40s. Clear tonight, low in the upper 20s. Sunny a Wednesday, high in the 40s. Prevailing wind direct from the north. Sunset Tuesday at 6:05. Sunrise Wednesday at 6:05. Sunset Wednesday at 6:05.

Snow





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
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