

QC# 452

MUR 195

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COMMISSION

**DOBBS, DOYLE & NIELSEN**

*Attorneys and Counselors at Law*

SUITE 2500, THE ALCOA BUILDING  
ONE MARITIME PLAZA  
SAN FRANCISCO, CA 94111  
TELEPHONE (415) 362-1940

76 AUG 27 9:09

August 25, 1976

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

RE: Hayakawa Campaign

Dear Ms. Oliphant:

I want to thank you for taking the time to speak with me concerning our complaint of the activities of the organization known as "Friends for Hayakawa." I received in today's mail a letter setting forth in full the Commission's response.

Once again, thank you for your courtesy and cooperation.

Very truly yours,

  
James R. Parrinello

JRP:aeo

FEDERAL ELECTION COMMISSION  
OFFICIAL COPY  
OFFICE OF GENERAL COUNSEL

77040021833

770400213  
DOBBS, DOYLE & NIELSEN

*Attorneys and Counselors at Law*

SUITE 2500, THE ALCOA BUILDING  
ONE MARITIME PLAZA  
SAN FRANCISCO, CA 94111



MS. LYN OLIPHANT  
FEDERAL ELECTION COMMISSION  
1325 K STREET, N.W.  
WASHINGTON, D.C. 20463

25:8A 1230V 82  
FEDERAL ELECTION COMMISSION  
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OFFICE OF GENERAL COUNSEL

20 AUG 1976

Mr. Howard Jarvis  
Chairman, Friends of Hayakawa  
6200 Wilshire Blvd., Suite 903  
Los Angeles, California 90036

Re: MUR 195 (76)

Dear Mr. Jarvis:

I am forwarding the enclosed complaint pursuant to Section 437g(a)(2) of the Federal Election Campaign Act for your information. As shown by the attached copy of my letter to complainant, the Commission believes that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission does not intend to investigate the matter any further.

Sincerely yours,

Signed: John G. Murphy, Jr.

John G. Murphy, Jr.  
General Counsel

Enclosure

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Loliphant:amh:7/23/76

77040021837



FEDERAL ELECTION COMMISSION

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

20 AUG 1976

Mr. Vigo Nielsen, Jr.  
Dobbs, Doyle & Nielsen  
Suite 2500, The Alcoa Bldg.  
One Maritime Plaza  
San Francisco, CA 94111

Re: MUR 195 (76)

Dear Mr. Nielsen:

770400:1833

This acknowledges receipt of your letter dated July 16, 1976, alleging violations of the Federal Election Campaign Act of 1971, as amended, by Friends of Hayakawa. Although I appreciate the problems raised by your allegations, I must conclude on the basis of the information in your letter that there is no reason to believe that any violation within the jurisdiction of the Federal Election Commission has been committed. Specifically, 2 U.S.C. §441h is applicable only to misrepresentation by candidates and their employees or agents. Since you state that Friends of Hayakawa is not acting as your employee or agent and is not representing that it is, §441h is inapplicable. Furthermore, telephone solicitations are not covered by 2 U.S.C. §441d. This provision requires a notice of non-authorization on forms of general public political advertising. This appears to reach only to types of mass media and would not be applicable to telephone calls. Finally, with regard to your allegations on the alleged independent status of Friends of Hayakawa, pursuant to 2 U.S.C. §431(p) and proposed regulations, §109.1, independent expenditures are those "made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate." Based on the information provided in your letter there is no indication that the proposed regulations on independent expenditures have been violated.

RECEIVED BY COMMISSION  
EX-104 THE COPY  
JUL 20 1976

Elephant, page 5/17/76

Should additional information come to your attention which you believe establishes a violation of the Federal Election Campaign Laws, please contact me. The staff member assigned to this matter was Lyn Oliphant (telephone no. 202/382-4055). The file reference number was MUR 195 (76).

Sincerely yours,

Signed: John G. Murphy, Jr.

John G. Murphy, Jr.  
General Counsel

770400:1831

FEDERAL ELECTION COMMISSION  
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OFFICE OF GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Friends of Hayakawa/Howard Jarvis )  
and Charles Reade )

MUR 195 (76)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on August 19, 1976, the Commission adopted the recommendation of the General Counsel that it finds no reason to believe that a violation of the Federal Election Campaign Act, as amended, had been committed in the above-captioned matter.

Accordingly, the file in this case has been closed.

*Marjorie W. Emmons*

Marjorie W. Emmons  
Secretary to the Commission

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OFFICE OF GENERAL COUNSEL

770400:1841

August 20, 1976

MEMORANDUM TO: BILL OLDAKER

FROM: MARGE EMMONS *ME (32)*

All of the MURS listed below were transmitted to the  
Commission on August 19, 1976 - 9:00 a.m.. As of  
August 20, 1976 - 9:30 a.m., no objections were received  
in MURS 195 (76). Objections were received  
in 207 (76) and 212 (76).

7704184  
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OFFICE OF GENERAL COUNSEL

DATE AND TIME OF TRANSMITTAL: AUG 19 1976

NO. MUR 195 (76)  
REC'D: 7/20/76

FEDERAL ELECTION COMMISSION  
Washington, D. C.

Complainant's Name: Vigo Nielsen, Jr., on behalf of Hayakawa for U.S.  
Senate Committee (unnotarized)

Respondent's Name: Friends of Hayakawa/Howard Jarvis and Charles Reade

Relevant Statute: 2 U.S.C. Sections 441d and 441h; 15 U.S.C. Section 1125

Internal Reports Checked: Friends of Hayakawa

Federal Agencies Checked: None

SUMMARY OF ALLEGATION

1) That Friends of Hayakawa is in violation of 2 U.S.C. Section 441h by  
misrepresenting its authority to act on behalf of the candidate; 2) that  
telephone solicitations made by respondent did not include any disclaimer,  
in violation of 2 U.S.C. Section 441d(2) and 15 U.S.C. Section 1125. 3)  
possible violation of proposed regulations Sections 109 and 110 regarding  
independent expenditures.

PRELIMINARY LEGAL ANALYSIS

There is a preliminary question as to whether the provision is applicable  
here; in any event, since Friends of Hayawaka printed literature contains  
a notice of non-authorization according to the complainant, there appears to  
be no misrepresentation of authority; 2) telephone solicitations are not  
covered by 2 U.S.C. Section 441d, and 15 U.S.C. Section 1125 is not under  
Commission jurisdiction; (see continuation sheet)

RECOMMENDATION

Close file. Send attached letters.

Date of Next Commission Review:



CONTINUATION SHEET:

PRELIMINARY LEGAL ANALYSIS:

3) There is no evidence that respondent violated  
Section 109.1 of the proposed regulations on independent expendi-  
tures as there is no indication of cooperation and Hayakawa dis-  
owned the committee.

770400:1184

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CC #327  
MUR 195

RECEIVED  
FEDERAL ELECTION  
COMMISSION

DOBBS, DOYLE & NIELSEN

*Attorneys and Counselors at Law*  
SUITE 2500, THE ALCOA BUILDING  
ONE MARITIME PLAZA  
SAN FRANCISCO, CA 94111  
TELEPHONE (415) 362-1940

76 JUL 20 4 9:28

July 16, 1976

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

76-1123

Attn: Compliance Division

Re: Complaint Against "Friends of Hayakawa"  
a Committee Registered Under the Federal  
Election Campaign Act, as Amended.

Dear Commissioners:

770400133

This office is legal counsel to the Hayakawa for U. S. Senate Committee, the principal campaign and only authorized committee, and we file this complaint on its behalf pursuant to the Federal Election Act of 1971, as amended, and your proposed regulations, Part 111.

This complaint is filed against the above captioned committee, only after our efforts to correct the situation have been unsuccessful. A summary of the situation is contained in a newspaper article that appeared in the Los Angeles Times on July 15, 1976, which is attached. A copy of my letter to the Chairman of the "Friends" committee is also attached, including the candidate's statement that is attached thereto.

This committee is advertising itself as a "Hayakawa committee," whose purpose is to raise and spend funds on television on behalf of Dr. S. I. Hayakawa. We believe this violates 2 USC 441(h) and 2 USC 441(d)(2). Their chairman has informed me that all written solicitation includes the proper disclaimer stating that it is not an authorized committee, but we have been informed that the fundraising is by telephone and such disclaimer is not part of the conversation. Consequently this activity also violates 15 USC 1125 and California Civil Code §3344.

FEDERAL ELECTION COMMISSION  
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OFFICE OF GENERAL COUNSEL

Federal Election Commission  
July 16, 1976  
Page two

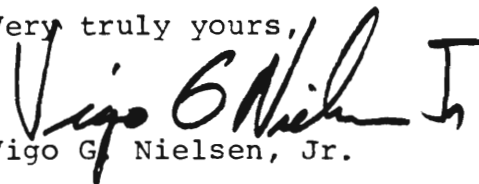
The Hayakawa for U. S. Senate campaign first learned about this committee when John G. Eidell, Room 1204, 235 Montgomery Street, San Francisco, visited in our campaign offices in San Francisco. He stated he was the Northern Chairman of the Friends of Hayakawa Committee. We believe this is a violation of your proposed regulations Parts 109 and 110.

Upon learning of this contact, members of the Hayakawa for U. S. Senate Committee met with Mr. Jarvis and Charles Reade, their campaign manager in Los Angeles, to advise them to create a true independence from the Hayakawa campaign or join it. I then telephoned Mr. Jarvis and subsequently Mr. Reade to explain that Dr. Hayakawa required all his supporters to abide by not only the letter but the spirit of the \$1,000 limitation. I requested that their committee become part of the principal campaign committee, or reconstitute itself such that it was not in any way identified as a "Hayakawa committee." Mr. Jarvis refused.

Because of Dr. Hayakawa's strong commitment to the principles of freedom of speech, we are aware that persons connected with this committee have a legal right to solicit funds to spend for the defeat of the Democratic Senatorial candidate in California. But they must not claim to be a Hayakawa committee, nor can they have any communication with our campaign.

We request that you take swift and decisive action in this matter.

Very truly yours,

  
Vigo G. Nielsen, Jr.

VGN:km  
enclosures  
cc: Hayakawa for U. S. Senate Committee

DOBBS, DOYLE & NIELSEN

*Attorneys and Counselors at Law*

SUITE 2500, THE ALCOA BUILDING  
ONE MARITIME PLAZA  
SAN FRANCISCO, CA 94111  
TELEPHONE (415) 362-1940

July 16, 1976

Mr. Howard Jarvis, Chairman  
"Friends of Hayakawa" -  
an Unauthorized Committee  
6200 Wilshire Boulevard, Suite 903  
Los Angeles, California 90036

Dear Mr. Jarvis:

This is to confirm my telephone conversation with you of July 16, 1976, during which you informed me that it was being recorded. I read to you the statement of Dr. S. I. Hayakawa, made on July 15, 1976, which I enclose with this letter.

You informed me as legal counsel to the Hayakawa for U. S. Senate Committee that you would not or could not disband as an independent committee to work within the Hayakawa for U. S. Senate Committee, the only committee authorized by Dr. Hayakawa to raise funds on his behalf.

We hope that your decision is not irrevocable. We hope that you will shortly inform us that you have decided to disband your committee and work within the Hayakawa for U. S. Senate Committee. But at the present time, you have informed us that you plan to continue your fundraising activities in similar fashion to that fundraising that you have conducted since early July, 1976.

Since we believe your activities are in violation of Federal and State law and since Dr. Hayakawa wishes to limit all individual contributions on behalf of his campaign effort to \$1,000 in the general election, we are compelled to bring to the attention of the United States Department of Justice, the Federal Election Commission and the California Attorney General's office the facts about activities

FEDERAL ELECTION COMMISSION  
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Mr. Howard Jarvis, Chairman  
July 16, 1976  
page two

of your group. And if you continue your fundraising in similar fashion, we will seek court order for placing all funds raised into a constructive trust and seek recovery from the officers of all funds expended from funds previously raised by you.

Since we are both working for the election of the same person and since it is his strong desire that we proceed as a single, unified committee, I trust you will accede to his urging and communicate this to me at your earliest convenience.

Very truly yours,

*Vigo C. Nielsen, Jr.*  
Vigo C. Nielsen, Jr.

VGN:jy  
enc.

cc: Hayakawa for U. S. Senate Committee

FEDERAL ELECTION COMMISSION  
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# Hayakawa Backers Skirt U.S. Limits on Donations

BY PAUL HOUSTON

Times Staff Writer

WASHINGTON—A new device for helping special-interest groups and the wealthy get around federal campaign contribution limits has been created by supporters of S.I. Hayakawa. It could greatly increase spending on behalf of the California Republican nominee for the U.S. Senate.

Senate records show that Hayakawa supporters, headed by antitax advocate Howard Jarvis of Los Angeles, have set up a campaign organization which they assert is completely independent of Hayakawa's official campaign committee.

This enables individuals and groups to make much larger contributions to the Jarvis organization than to the Hayakawa committee.

A federal election official called it the first effort of its kind at the congressional level to make effective use of the so-called "independent expenditures" loophole opened by the Supreme Court last Jan. 30.

Hayakawa campaign officials professed unhappiness with the Jarvis enterprise and said they have tried to discourage it ever since it went into operation June 8, the day Hayakawa won the Republican primary.

Alan Swanson, treasurer of Hayakawa's campaign committee, said there was concern that the independents' advertising activities would conflict with Hayakawa's and that questions raised about independents violating the spirit of contribution limits would divert attention from more important issues.

Also, he suggested, a big-spending independent effort would undercut Hayakawa's attempt to make a virtue out of running a low-budget campaign.

Hayakawa spent a relatively paltry \$166,000 on his lopsided primary win.

Please Turn to Page 28, Col. 1

28 Part I—Thurs., July 15, 1976 • Los Angeles Times

## HAYAKAWA BACKERS SKIRT FUND LIMITS

(Continued from Third Page)

One-fifth of the outlay by the biggest GOP spender, Alphonzo Bell, and one-sixth of the spending by either Sen. John V. Tunney or Tom Hayden in the Democratic primary. Swanson indicated that Hayakawa hoped to make thrift an issue in his favor in the general election campaign against Tunney.

Charles Reade, campaign manager for the Jarvis organization, contended that little if any attempt was made to discourage the independent effort. He said it would push ahead because of a need to offset heavy labor contributions to Tunney.

Reade said that most of the funds raised by the independents would be used for airing 15-minute and 30-minute television "documentaries" on Hayakawa in Southern California, where the president emeritus of San Francisco State University is not as well known as he is in the north.

A fund-raising goal will not be set, Reade said, until talks are held today with Los Angeles advertising consultant Jim Packer. About \$12,000 has been raised to date, including \$1,000 from Upland publisher Jerene C. Appleby.

In its decision last January, the Supreme Court upheld Congress' attempt to curb Watergate-related abuses by imposing limits of \$1,000 per individual and \$5,000 per special interest group on contributions made to a candidate's campaign committee.

But the court said individuals and groups had a First Amendment (free speech) right to

spend all they wanted on behalf of a candidate if they did it completely on their own—without consulting candidate or staff.

Some individuals and groups have made such "independent expenditures," mostly for GOP presidential contenders Gerald R. Ford and Ronald Reagan.

However, Reade said the Jarvis organization was created on the theory that many people might not have the time, expertise or resources to make independent expenditures all by themselves. He felt they would be more effective pooling their funds and having professionals spend the money for them in a coordinated manner.

There was a slight catch, though, because the Supreme Court allowed limits to be set on contributions to any committee making independent expenditures. Last May 11 Congress said an individual could give only \$5,000 to each such committee and no more than \$25,000 a year to all such committees. A special interest group could give only \$5,000 to each independent committee with no overall limit.

Jarvis went a long way toward solving the limits problem for his own organization by simply setting up five committees to receive and spend funds: Friends for Hayakawa, Businessmen for Hayakawa, Students for Hayakawa, Collegians for Hayakawa and Senior Citizens for Hayakawa.

Thus, a husband and wife could give a total of \$50,000 to the five committees created by Jarvis, whereas the couple could give only

\$2,000 to Hayakawa's official campaign committee. (The limit on individual contributions to a candidate's committee is \$1,000.) Similarly, a special interest group—business, labor or ideological—now may contribute a total of \$25,000 on behalf of Hayakawa instead of only \$5,000.

Jarvis, chairman of the five committees, also is executive director of the Apartment Assn. of Los Angeles County, Inc., and was state chairman of United Organizations of Taxpayers, Inc., a group that promoted former Gov. Reagan's property-tax limitation initiative.

Pat Reilly, who has been active in conservative causes and who worked with state Sen. H. L. Richardson (R-Arcadia), Reade said, is setting up precinct networks for the Hayakawa independents.

A spokesman for the Federal Election Commission said that all individuals and groups making independent expenditures will be closely checked on their claims that they have not been in contact with candidates. If any connection is established, he said, the receipts and expenditures of so-called independents will fall under the limitations placed on a candidate's committee, and violations will be subject to civil penalties and criminal action in some cases.

Swanson said he had never heard of four of the Jarvis committees and that a fifth was called to the attention of the Hayakawa campaign by a citizen who was confused by a newspaper solicitation by Friends for Hayakawa.

Statement by Dr. S. I. Hayakawa  
July 15, 1976

I have and will continue to abide by the Supreme Court's decision regarding limitations on campaign contributions. That decision creates a number of ambiguities which need to be resolved by the FEC, but I want all contributions to my campaign to be in the spirit of the individual \$1,000 limitation.

It has come to my attention that a group called Friends For Hayakawa is soliciting funds on behalf of my senate candidacy.

While I thank them for their interest, it is my intention to run my own campaign. I do not want independent committees formed to raise funds in my name.

I would urge that the groups formed by Mr. Jarvis be disbanded and the individuals' energies and talents incorporated into the Hayakawa for U. S. Senator Committee, which is the only committee I have authorized to raise funds on behalf of my candidacy.

I disown the activities of the Friends For Hayakawa and have instructed the campaign attorney to request that they cease and desist their unauthorized activities on my behalf.

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FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK  
COPY  
JUL 16 1976

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DOBBS, DOYLE & NIELSEN

*Attorneys and Counselors at Law*

SUITE 2500, THE ALCOA BUILDING  
ONE MARITIME PLAZA  
SAN FRANCISCO, CA 94111

FEDERAL ELECTION COMMISSION  
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Federal Election Commission  
1325 K Street, N.W.  
Washington, DC 20463

76 JUL 20 A 9:18

FEDERAL ELECTION COMMISSION



FEDERAL ELECTION COMMISSION

- 1) memo to John G. Murphy from Lyn Oliphant  
2) memo to the file from David Spiegel
- 
- 

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 \_\_\_\_\_

date \_\_\_\_\_

FEC 9-21-77

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