



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4074

DATE FILMED 10-9-96 CAMERA NO. 2

CAMERAMAN JmH

26043744506

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

RECEIVED  
FEDERAL ELECTION

SEP 6 9 03 AM '94

To : The Federal Election Commission  
From : Richard Bottoms  
: 2645 Cold Spring Manor Drive  
: Indianapolis, Indiana 46222  
: (317) 925-1221 hm / (317) 872-0760 wk  
Date : September 1, 1994  
Subj : GOPAC, Rep. Newt Gingrich, GA., and Renewing America

1. I wish to file a complaint regarding the television program Renewing America. This program played recently on the education channel operated by Indiana University in Indianapolis, Indiana. This channel is for non-political programming. It is my contention that Renewing America, produced with funds raised by GOPAC is not labeled as being funded by a political action committee. Viewers are not informed that the so-called lessons in the programming are directly aimed at giving Republicans a political advantage in upcoming elections.

2. My request is that you direct Mr. Gingrich to halt all broadcasts of this program until the tapes are amended to show that GOPAC provided the funding. Also, that all stations who have carried the programming be provided with information for dissemination to the public that will alert them that past showings of the program were not properly labeled. GOPAC should disclose any other "educational" programming presently airing on any station in the US and have that programming evaluated for proper disclosure of their connection.

3. The fall elections are approaching and I do not think that it is fair for Republicans to have essentially free advertising for their positions of stations that are supposed to be non-political. This request should be notarized and post-marked outside of the 60-day window allowed before the fall elections. I hope you can take immediate action on this request. Thank you.

  
Richard Bottoms



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

SEPTEMBER 6, 1994

Richard Bottoms  
2645 Cold Spring Manor Drive  
Indianapolis, Indiana 46222

Dear Mr. Bottoms:

This is to acknowledge receipt on September 6, 1994, of your letter dated September 1, 1994. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter was not properly sworn to.

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

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

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

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

Sincerely,



Retha Dixon  
Docket Chief

Enclosure

cc: GOPAC Incorporated

26043744599

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

OCT 4 5 27 PM '94

MUR 4074

To : The Federal Election Commission  
From : Richard Bottoms  
: 2645 Cold Spring Manor Drive  
: Indianapolis, Indiana 46222  
: (317) 925-1221 hm / (317) 872-0760 wk  
Date : September 1, 1994  
Subj : GOPAC, Rep. Newt Gingrich, GA., and Renewing America

1. I wish to file a complaint regarding the television program Renewing America. This program played recently on the education channel operated by Indiana University in Indianapolis, Indiana. This channel is for non-political programming. It is my contention that Renewing America, produced with funds raised by GOPAC is not labeled as being funded by a political action committee. Viewers are not informed that the so-called lessons in the programming are directed aimed at giving Republicans a political advantage in upcoming elections.

2. My request is that you direct Mr. Gingrich to halt all broadcasts of this program until that tapes are amended to show that GOPAC provided the funding. Also, that all stations who have carried the programming be provided with information for dissemination to the public that will alert them that past showings of the program were not properly labeled. GOPAC should disclose any other "educational" programming presently airing on any station in the US and have that programming evaluated for proper disclosure of their connection.

3. The fall elections are approaching and I do not think that it is fair for Republicans to have essentially free advertising for their positions of stations that are supposed to be non-political. This request should be notarized and post-marked outside of the 60-day window allowed before the fall elections. I hope you can take immediate action on this request. Thank you.

  
Richard Bottoms

See - total submitted before me a notary on this  
Date 9/19/94



Not 11/24/95  
Notary County

26043744510



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 11, 1994

Richard Bottoms  
2645 Cold Spring Manor Drive  
Indianapolis, IN 46222

RE: MUR 4074

Dear Mr. Bottoms:

This letter acknowledges receipt on October 4, 1994, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

Your letter seeks injunctive relief to prevent Congressman Newt Gingrich, GOPAC Incorporated, and Renewing America from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant your request for injunctive relief at this time.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4074. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosure  
Procedures

26043744511



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 11, 1994

Executive Producer  
Renewing America  
c/o GOPAC Incorporated  
440 First Street, N.W., #400  
Washington, D.C. 20001

RE: MUR 4074

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that Renewing America and you, as Executive Producer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4074. 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 Renewing America and you, as Executive Producer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

The complainant seeks injunctive relief to prevent Renewing America and you, as Executive Producer, from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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





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

October 11, 1994

Lisa B. Nelson, Treasurer  
GOPAC Incorporated  
440 First Street, N.W. #400  
Washington, D.C. 20001

RE: MUR 4074

Dear Ms. Nelson:

The Federal Election Commission received a complaint which indicates that GOPAC Incorporated and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4074. 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 GOPAC Incorporated and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

The complainant seeks injunctive relief to prevent GOPAC Incorporated and you, as treasurer, from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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26043744515

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

October 11, 1994

The Honorable Newt Gingrich  
1085 Holcomb Bridge Road #190A  
Roswell, GA 30076

RE: MUR 4074

Dear Mr. Gingrich:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4074. Please refer to this number in all future correspondence.

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

The complainant seeks injunctive relief to prevent you from continuing to engage in the allegedly improper activity. 2 U.S.C. § 437g(a)(6) provides that the Commission may seek such relief at the end of the administrative enforcement process. Accordingly, the Commission will not grant the complainant's request for injunctive relief at this time. The Commission will proceed with the processing of the remainder of the complaint pursuant to 2 U.S.C. § 437g(a).

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26043744517

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 11, 1994

President  
Indiana University  
425 N. University Blvd.  
Indianapolis, IN 46202

RE: MUR 4074

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that Indiana University may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4047. 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 Indiana University in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

26043744518

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

**Enclosures**

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

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ROBERT ALAN DAHL, Esq. RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

1156 FIFTEENTH STREET, N.W., SUITE 550  
WASHINGTON, D.C. 20005  
TEL 202/466-8051  
FAX 202/828-5625

OCT 28 12 17 PM '94

October 24, 1994

Alva E. Smith  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RE: MUR 4074

Dear Ms. Smith:

This letter is the response of GOPAC, Inc., and Lisa B. Nelson, as treasurer, to the complaint filed by Richard Bottoms in MUR 4074. GOPAC requests the Federal Election Commission dismiss the complaint as inadequate on its face. The complaint fails to state facts that would constitute any particular violations of the Federal Election Campaign Act of 1971 ("the Act"), 2 U.S.C. § 431 *et seq.*, and does not provide any evidence or support for its general allegations. See 11 CFR § 111.4(d)(3).

Alternatively, GOPAC requests the Commission find no reason to believe GOPAC has violated the Act. The allegations of the complaint apparently refer to the "Renewing American Civilization" television program produced by the Progress and Freedom Foundation. This program is not a GOPAC project nor under GOPAC's control; GOPAC has not provided any funding or donated any goods or services in support of the program. See Affidavit of Judy Barrett, GOPAC Comptroller. To the extent GOPAC officials, supporters or former personnel, or any other persons associated with GOPAC, may at any time be involved in the television program, their participation is not under the auspices or at the direction of GOPAC.

GOPAC, Inc., does not bear any administrative, financial or legal responsibility for the television show described in this complaint and, thus, has not violated any provision of the Act regarding it. The allegations of the complaint are wholly unfounded.

Sincerely,



Robert Alan Dahl

Enclosure: Affidavit of Judy Barrett

2604744520

Affidavit of  
JUDY BARRETT


Judy Barrett, first being duly sworn, deposes and says:

1. I, Judy Barrett, am Comptroller of GOPAC, Inc., and have served in that capacity since August 1989. My responsibilities include all financial recordkeeping for GOPAC, Inc.
2. To the best of my knowledge and belief, the allegations of the Complaint before the Federal Election Commission in MUR 4074 are false.
3. Specifically, the television show "Renewing American Civilization" is not a project of GOPAC, Inc. GOPAC does not have control over or responsibility for the program. GOPAC does not provide the program any funding or other tangible support, nor donate goods or services to it. Participation in the program by any persons currently or formerly associated with GOPAC is not under the auspices or at the direction of GOPAC.
4. It is my understanding the "Renewing American Civilization" program is produced by the Progress and Freedom Foundation. The Foundation is a completely separate entity from GOPAC, Inc. GOPAC does not provide any funding to the Foundation or its programs.

The above information is true and correct to the best of my knowledge and belief.

  
Judy Barrett

Sworn and subscribed to by the said Judy Barrett this 28th day of October 1994.

  
Notary Public

My Commission expires



**STATEMENT OF DESIGNATION OF COUNSEL**

**MUR** 4074

**NAME OF COUNSEL:** Robert Dahl

**ADDRESS:** 1156 15th Street, NW

Suite 550

Washington, D.C. 20005

**TELEPHONE:** (202) 466-8051

The above-named individual is hereby designated as my  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf before  
the Commission.

10/27/94  
Date

*Lisa B. Nelson*  
Signature

**RESPONDENT'S NAME:** Lisa B. Nelson

**ADDRESS:** 440 First Street, NW

Washington, D.C. 20001

**HOME PHONE:** (703) 533-0376

**BUSINESS PHONE:** (202) 484-2282

26043744522

NOV-01-94 TUE 17:20  
SENT BY:

FRIENDS OF NEWT GINGRICH FAX NO. 4045872339  
11- 1-94 : 15:49 : NRCC POLITICS VI-

P.01/01  
404587233910 2

NEWT GINGRICH

November 1, 1994

Alva E. Smith  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20003

RE: MUR 4074

Dear Ms. Taksar:

The purpose of this letter is to request an extension of 15 days with which to file a response to the above referenced matter. This matter was filed during the closing days of the general election campaign. Given my heavy campaign and travel schedule, I been unavailable to consult with counsel. I would request a short extension until November 16 for the purpose of reviewing this matter and seeking assistance of counsel.

Your position consideration would be greatly appreciated.

Sincerely,

*Newt Gingrich*

Newt Gingrich

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

NOV 1 4 23 PM '94

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ROBERT ALAN DAHL, 

1156 FIFTEENTH STREET, N.W., SUITE 550  
WASHINGTON, D.C. 20005  
TEL 202/466-8051  
FAX 202/828-5625

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

Nov 17 8 53 AM '94

November 2, 1994

Alva E. Smith  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GEN. COUN.  
NOV 17 9 37 AM '94

RE: MUR 4074

Dear Ms. Smith:

Enclosed is a Statement of Designation of Counsel signed by Rep. Newt Gingrich regarding MUR 4074. Since the allegations in this matter appear to be directed to him in his capacity as General Chairman of GOPAC, Inc., Rep. Gingrich wishes to join in the response filed with the Federal Election Commission on October 28, 1994, by GOPAC, Inc. and Lisa B. Nelson, as treasurer, in answer to the complaint in MUR 4074. As described in that response, GOPAC does not fund the television program "Renewing American Civilization" and has no administrative, financial or legal responsibility for it.

Sincerely,



Robert Alan Dahl

Enclosure

2001 / 44524

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4074

NAME OF COUNSEL: Robert Dahl

ADDRESS: 1156 15th St. NW  
Suite 550  
Washington, DC 20005

TELEPHONE: (202) 466-8051

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
NOV 17 9 37 AM '94

The above-named individual is hereby designated as my  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf before  
the Commission.

11/4/94  
Date

Newt Gingrich  
Signature

RESPONDENT'S NAME: Rep. Newt Gingrich

ADDRESS: 440 1st St. NW  
Washington, DC 20001

HOME PHONE: \_\_\_\_\_

BUSINESS PHONE: (202) 484-2282

26043744525

OFFICE OF  
UNIVERSITY COUNSEL

November 18, 1994

CERTIFIED MAIL #P422730277

Mary L. Taksar, Esq.  
Central Enforcement Docket  
Federal Election Commission  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
Nov 21 12 22 PM '94

Re: MUR 4074

Dear Ms. Taksar:

On November 3, 1994, Indiana University received a copy of your October 11, 1994, letter concerning the complaint filed by Mr. Richard Bottoms in the above referenced matter. In his complaint, Mr. Bottoms alleges that the University aired a program entitled "Renewing America" over an educational television channel.<sup>1</sup> Complaint ¶ 1. He further contends that the program was produced with funds raised by a political action committee (GOPAC) but "is not labeled as being funded by a political action committee." *Id.* The relief he seeks is directed exclusively at Representative Newt Gingrich. He asks the Federal Election Commission to "direct Mr. Gingrich to halt all broadcasts of this program until the tapes are amended to show that GOPAC provided the funding." Complaint, ¶ 2.

Indiana University has aired a program entitled "Renewing American Civilization." The University, however, has no knowledge concerning Mr. Bottoms' allegation that this program was produced through funds provided by GOPAC. Moreover, even if that allegation were true, the University would not have violated the federal election laws merely by airing the program.

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<sup>1</sup>Actually, Mr. Bottoms alleges that the education channel is "operated" by Indiana University. That is incorrect. The Indianapolis cable systems provide an educational access channel. That channel is operated by an educational television cooperative that includes the township schools, the Indianapolis Public Schools, Butler University, the University of Indianapolis, and Indiana University among other institutions. The channel is funded by franchise fees that the City of Indianapolis collects from the cable companies and then remits, in the form of a public purpose grant, to the cooperative that operates the channel.

Mary L. Taksar  
November 18, 1994  
Page two

I have found only one section of the Act that expressly requires a "disclaimer" of the type that Mr. Bottoms urges in his complaint. Section 441d reads, in pertinent part:

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee ....

As applied to the University, this statutory provision is inapplicable for two reasons. First, Mr. Bottoms does not contend that the University made any "expenditure" for the purpose of financing a "communication" encompassed by the Act. Indeed, his complaint makes it quite clear that the only persons purportedly making such expenditures were GOPAC and, perhaps, Representative Gingrich. Second, disclosure of a communication's funding sources is required only where the communication: (1) expressly advocates the election or defeat (2) of a clearly identified candidate. Mr. Bottoms, however, does not contend that this program expressly advocated the election or defeat of any clearly identified candidate for federal office. He contends only that the program contained "lessons" that were

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Mary L. Taksar  
November 18, 1994  
Page three

advantageous to "Republicans" generally. Complaint, ¶ 1. Section 441d, however, simply does not apply to such communications.

In Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court invalidated several sections of an earlier version of the Act on First Amendment grounds. The Court distinguished between "issue discussion," which directly implicates the First Amendment, and the "candidate oriented" speech that is the focus of the Act -- speech "unambiguously related to the campaign of a particular federal candidate." See e.g., 424 U.S. at 79-80. Although the holding in Buckley did not involve Section 441d, which was enacted later, the requirement of express advocacy found in this section was a direct response to Buckley. See e.g., Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 52 n. 8 (2d Cir. 1980). See also Federal Election Commission v. Furgatch, 807 F.2d 857, 864 (9th Cir.), cert. denied, 484 U.S. 850 (1987) (to be "express advocacy" a communication must "be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate"). Mr. Bottoms' complaint alleges issue discussion -- it does not allege candidate oriented speech as that term has been defined by the federal courts.

For these reasons, Indiana University respectfully requests that no further action be taken against it in this matter. If you have any questions concerning the University's position, I would be pleased to speak with you. The University will, of course, be happy to cooperate with your office in any way that it can.

Sincerely,

  
Michael A. Klein  
Associate University Counsel

MAK/kjh  
Enclosure

0604744528

**STATEMENT OF DESIGNATION OF COUNSEL**

MUR

4074

**NAME OF COUNSEL:** Michael A. Klein

**ADDRESS:** Indiana University

Bryan Hall 211

Bloomington, IN 47405

**TELEPHONE:** (812) 855-9739

NOV 21 12 11 PM '94

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

The above-named individual is hereby designated as my  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf before  
the Commission.

11/16/94

Date

Steven A. Miller

Signature

Steven A. Miller, Treasurer

**RESPONDENT'S NAME:** The Trustees of Indiana University

**ADDRESS:** c/o Steven A. Miller, Treasurer

Bryan Hall 205C

Bloomington, IN 47405

**HOME PHONE:** \_\_\_\_\_

**BUSINESS PHONE:** (812) 855-7618

26043744529



BEFORE THE FEDERAL ELECTION COMMISSION

AUG 14 4 50 PM '96

In the Matter of

)  
)  
)  
Enforcement Priority

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

**I. INTRODUCTION**

In accordance with the objectives of the Enforcement Priority System ("EPS") adopted by the Commission in May 1993, the Office of the General Counsel has periodically recommended that the Commission not pursue cases that are stale or that, in comparison to other pending matters, do not appear to warrant the use of the Commission's limited resources. This General Counsel's Report recommends the Commission not pursue 43 cases that fall within these categories.

**II. CASES RECOMMENDED FOR CLOSING**

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

A critical component of the Priority System is identifying those pending cases that do not warrant the further expenditure of Commission resources. Each incoming matter is evaluated using Commission-approved criteria and cases that, based on their rating, do not warrant pursuit relative to other pending cases are placed in this category. By closing such cases, the Commission is able to use its limited resources to focus on more important cases.

26043744530

Having evaluated incoming matters, this Office has identified 24 cases which do not warrant further pursuit relative to other pending matters.<sup>1</sup> A short description of each case and the factors leading to assignment of a relatively low priority and consequent recommendation not to pursue each case is attached to this Report. Attachments 1-24. As the Commission has previously requested, we have also attached responses and referral materials where that information has not been circulated previously to the Commission. Attachment 25.

### B. Stale Cases

Investigations are severely impeded and require relatively greater resources when the activity, and the evidence of the activity, are old. Accordingly, the Office of the General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 19 cases that

this Office believes are now too old to warrant the use of the Commission's resources

<sup>1</sup> These matters are MUR 4227 (Wellstone for Senate) (Attachment 1); MUR 4273 (Jesse Wineberry) (Attachment 2); MUR 4290 (Lincoln Club of Riverside County) (Attachment 3); MUR 4292 (Congressman Ron Packard) (Attachment 4); MUR 4293 (Willie Colon for Congress) (Attachment 5); MUR 4294 (Alan Keyes for President '96) (Attachment 6); MUR 4299 (UAW-V-CAP) (Attachment 7); MUR 4312 (Sonoma County Republicans) (Attachment 8); MUR 4316 (Ross Perot) (Attachment 9); MUR 4318 (Patrick Combs for Congress) (Attachment 10); MUR 4324 (Buchanan for President) (Attachment 11); MUR 4325 (Dan Garstecki for Congress '96) (Attachment 12); MUR 4329 (Golden Door) (Attachment 13); MUR 4330 (Trice Harvey) (Attachment 14); MUR 4333 (WSB-TV) (Attachment 15); MUR 4334 (Cox Communications) (Attachment 16); MUR 4336 (WSB-TV) (Attachment 17); MUR 4339 (WSB-TV) (Attachment 18); MUR 4348 (Soglin for Congress) (Attachment 19); MUR 4359 (Francis Thompson for Congress) (Attachment 20); MUR 4360 (Weygand Committee) (Attachment 21); MUR 4363 (WSB-TV) (Attachment 22); MUR 4364 (Friends of Jimmy Blake) (Attachment 23) and Pre-MUR 328 (Department of the Interior) (Attachment 24)

Because our recommendation not to pursue these cases is based on their staleness, this Office has not prepared separate narratives for these cases. we have attached responses and referral materials in those instances where the information was not previously circulated. Attachments 26-45.

This Office recommends the Commission exercise its prosecutorial discretion and no longer pursue the cases listed below effective September 3, 1996. By closing the cases effective that day, CED and the Legal Review Team each will have the necessary time to prepare closing letters and case files for the public record.

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### **III. RECOMMENDATIONS**

A. Decline to open a MUR, close the file effective September 3, 1996, and approve the appropriate letters in the following matters:

- 1) Pre-MUR 293
- 2) Pre-MUR 311
- 3) Pre-MUR 328
- 4) RAD Referral 95L-03
- 5) RAD Referral 95L-11
- 6) RAD Referral 95L-16
- 7) RAD Referral 95L-22
- 8) RAD Referral 95NF-21

B. Take no action, close the file effective September 3, 1996, and approve the appropriate letters in the following matters:

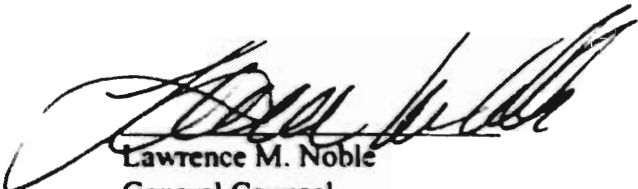
- 1) MUR 4061
- 2) MUR 4074
- 3) MUR 4101
- 4) MUR 4146
- 5) MUR 4151
- 6) MUR 4175
- 7) MUR 4180
- 8) MUR 4184
- 9) MUR 4198
- 10) MUR 4201
- 11) MUR 4227
- 12) MUR 4232
- 13) MUR 4273
- 14) MUR 4290
- 15) MUR 4292
- 16) MUR 4293
- 17) MUR 4294
- 18) MUR 4299
- 19) MUR 4312
- 20) MUR 4316
- 21) MUR 4318
- 22) MUR 4324
- 23) MUR 4325
- 24) MUR 4329
- 25) MUR 4330
- 26) MUR 4333
- 27) MUR 4334

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- 28) MUR 4336
- 29) MUR 4339
- 30) MUR 4348
- 31) MUR 4359
- 32) MUR 4360
- 33) MUR 4363
- 34) MUR 4364

C. Take no further action, close the file effective September 3, 1996, and approve the appropriate letters in MUR 3826.

8/14/96  
Date

  
Lawrence M. Noble  
General Counsel

2604374454

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Enforcement Priority. )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 21, 1996, the Commission took the following actions on the General Counsel's August 14, 1996 report on the above-captioned matter:

1. Decided by a vote of 5-0:

A. Decline to open a MUR, close the file effective September 3, 1996, and approve the appropriate letters in each of the following matters:

- 1) Pre-MUR 293
- 2) Pre-MUR 311
- 3) Pre-MUR 328
- 4) RAD Referral 95L-03
- 5) RAD Referral 95L-11
- 6) RAD Referral 95L-16
- 7) RAD Referral 95L-22
- 8) RAD Referral 95NF-21

B. Take no action, close the file effective September 3, 1996, and approve the appropriate letters in each of the following matters:

- 1) MUR 4061
- 2) MUR 4074
- 3) MUR 4101
- 4) MUR 4146
- 5) MUR 4151
- 6) MUR 4175
- 7) MUR 4180
- 8) MUR 4184
- 9) MUR 4198

(continued)

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Federal Election Commission  
Certification for Enforcement  
Priority  
August 23, 1996

Page 2

- 10) MUR 4227
- 11) MUR 4232
- 12) MUR 4273
- 13) MUR 4290
- 14) MUR 4292
- 15) MUR 4293
- 16) MUR 4294
- 17) MUR 4299
- 18) MUR 4312
- 19) MUR 4316
- 20) MUR 4318
- 21) MUR 4324
- 22) MUR 4325
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- 27) MUR 4336
- 28) MUR 4339
- 29) MUR 4348
- 30) MUR 4359
- 31) MUR 4360
- 32) MUR 4363
- 33) MUR 4364

Commissioners Aikens, Elliott, McDonald,  
McGarry, and Thomas voted affirmatively with  
respect to each of the above-noted matters.

Attest:

8-26-96  
Date

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

Received in the Secretariat: Wed., Aug. 14, 1996 4:56 p.m.  
Circulated to the Commission: Fri., Aug. 16, 1996 12:00 p.m.  
Deadline for vote: Wed., Aug. 21, 1996 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

SEP 06 1996

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

**Richard Bottoms**  
2645 Cold Spring Manor Drive  
Indianapolis, IN 46222

RE: MUR 4074

Dear Mr Bottoms

On October 4, 1994, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on September 3, 1996. This matter will become part of the public record within 30 days.

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

Sincerely,

Allen F. Finkle

Colleen T Sealander, Attorney  
Central Enforcement Docket





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

SEP 06 1996

Robert Dahl, Esq.  
1156 15th Street, N.W., Suite 550  
Washington, D.C. 20005

RE: MUR 4074  
The Honorable Newt Gingrich  
GOPAC Incorporated  
Lisa B. Nelson, Treasurer

Dear Mr. Dahl:

On October 11, 1994, the Federal Election Commission notified your clients, the Honorable Newt Gingrich, GOPAC Incorporated, and Lisa B. Nelson, as treasurer, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on September 3, 1996.

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

If you have any questions, please contact Alva E. Smith at (202) 219-3400.

Sincerely,

Colleen T. Sealander, Attorney  
Central Enforcement Docket

(Signed) 2000 Attorney's

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

SEP 06 1996

Jeffery Eisanach, President  
Progress and Freedom Foundation  
1301 K Street, Suite 650 West  
Washington, D.C. 20005

RE: MUR 4074  
Renewing America

Dear Mr. Eisanach

On October 11, 1994, the Federal Election Commission notified the Executive Producer of Renewing America in care of GOPAC Incorporated of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against Renewing America. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on September 3, 1996.

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

If you have any questions, please contact Alva E. Smith at (202) 219-3400.

Sincerely,

Colleen T. Sealander, Attorney  
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

SEP 06 1996

Michael A. Klein, Esq.  
Indiana University  
Bryan Hall 211  
Blomington, IN 47405

RE: MUR 4074  
Indiana University

Dear Mr. Klein

On October 11, 1994, the Federal Election Commission notified your client, Indiana University, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your client. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on September 3, 1996.

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

If you have any questions, please contact Alva E. Smith at (202) 219-3400.

Sincerely,

Colleen T. Sealander, Attorney  
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

THIS IS THE END OF MUR # 4074

DATE FILMED 10-9-96 CAMERA NO. 2

CAMERAMAN JMN

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