



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

THIS IS THE BEGINNING OF MUR # 4372

DATE FILMED 3/11/83 CAMERA NO. 2

CAMERAMAN SES

98043861450

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
MAY 13 3 04 PM '96

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of:

Governor Ben Nelson )  
Nelson for Senate Committee )  
Nebraska Democratic Party )

MUR # \_\_\_\_\_

SUMMARY

This complaint is filed by and on behalf of the Nebraska Republican Party against the above named respondents alleging reason to believe said respondents are, or are about to, violate the Federal Election Campaign Act regarding certain paid general public political broadcasting which is subject to the coordinated party expenditure limits of 2 U.S.C. §441a(d).

THE LAW

Section 441a(d) of the Federal Election Campaign Act allows political party committees to make "coordinated party expenditures" on behalf of its candidates for United States Senate. Commission regulations states that these expenditures are subject to a limit, and must be properly reported under 11 C.F.R. §110.7 and on line 25 of the Detailed Summary Page (Page 2 Form 3X) using FEC Schedule F.

A "coordinated party expenditure" is defined as any communication by a political party that "both (1) depicted a clearly identified candidate and (2) conveyed an electioneering message." Advisory Opinion 1985-14 CCH paragraph 5819 at page 11,185. See Also Advisory Opinions 1984-15 CCH paragraph 5766; Advisory Opinion 1978-46 CCH paragraph 5348. The federal courts have defined an electioneering message to include statements "designed to urge the public to elect a certain candidate or party." United States v. United Auto Workers, 352 U.S. 567, 587 (1957); see Advisory Opinion 1984-62 CCH paragraph 5813.

Recently the United States Court of Appeals for the Tenth Circuit ruled in Federal Election Commission v. Colorado Republican Federal Campaign Committee, 59 F.3d 1015 (June 23, 1995) that advertisements which by any reasonable reading leave the reader or listener with the impression that the state party sought to diminish public support for an opposing candidate and garner support for the party's nominee will "unquestionably contain an electioneering message." Slip op. at 16-17.

## THE FACTS

On information and belief, on May 2, 1996, the Nebraska Democrat Party began running a series of two television advertisements (hereby attached to this complaint as Exhibits A and B) which contain electioneering messages, and therefore must be paid for with only federal funds subject to the limitations and prohibitions of the Federal Election Campaign Act, and must be reported as a coordinated party expenditure under 2 U.S.C. §441a(d) and reported on Schedule F and line 25 of the Detailed Summary Page of Form 3X of the Nebraska Democrat Party.

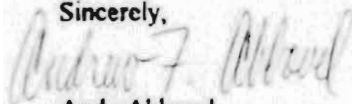
Upon examination, the Commission will note that the subject advertisements contain both a (1) clearly identified candidate(s) and (2) an electioneering message. The statement that governor Ben Nelson is "fighting for a safe Nebraska" stated in the context of a claims filed by his Republican opponent are clearly designed to "urge the public to elect a certain candidate or party." Auto Workers, Id. The second advertisement clearly identifies candidates for federal office, and its reference to "he thinks he can just walk in and run for U.S. Senator from Nebraska" is shockingly similar to the language the 10th Circuit found allocable as a coordinated party expenditure in the Colorado Republican case.

On information and belief, the Democrat Party of Nebraska has stated through its agents that it does not consider the above-mentioned advertisements to be coordinated party expenditures in full. Instead it has claimed that the advertisement mentioning Mr. Stenberg is somehow "legislative advocacy" and that the state party can pay for all of that ad with non-federal state party funds. The electioneering message in that ad makes such a claim clearly unlawful. The respondent has also claimed that the ad mentioning Mr. Hagel can be paid with 50% federal money and 50% state money since the ad comments on both the Governor's legislative record and a potential Republican opponent. The Federal Election Commission has never allowed such an federal/nonfederal allocation of advertisements, and has ruled that when an advertisement contains an electioneering message, the entire cost of the ad is subject to the coordinated party limits. Advisory Opinion 1985-14. Also, the fact that the ads are running before the primary election does not bar them from being considered coordinated party expenditures. AOs 1984-15 and 1985-15.

## REQUEST

The Nebraska Republican Party hereby requests the Federal Election Commission conduct an immediate investigation into the source of funding for these advertisements, and prevent the Nebraska Democratic Party from using any non-federal or non-allocable funds for these advertisements. Such an investigation should determine whether Governor Ben Nelson, or any of his state campaign committees, are financing any portion of these advertisements. Such nonfederal support would violate the labor union prohibition of 2 U.S.C. §441b(a) and the state candidate transfer provision of 11 CFR §§110.3(d) and 110.8(d)(2).

Sincerely,



Andy Abboud  
Executive Director  
Nebraska Republican Party

NEBRASKA DEMOCRATIC PARTY  
MAY 2, 1996  
T.V. - Ad "QUEEN"  
10 sec.

VIDEO

White type on a black screen:  
Chuck Hagel and Republican  
Party insiders are responsible  
for the negative ads against  
Ben Nelson.

Freeze frame of Hagel's ad of  
him in car. Type over still:  
Hagel has been deceiving us  
about his own record.

Map of Virginia on screen.  
Type over still: For almost  
the last twenty years, Hagel  
has lived in Virginia.  
Source: Official Virginia Records

Map stays up. Type on screen:  
Hagel even considered running  
for Governor of Virginia in  
1993.

Source: Omaha World-Herald

Type on screen: Now he thinks  
he can just walk in and run for  
U.S. Senator from Nebraska?

Type on screen: Nebraska deserves  
better.

AUDIO

ANNCR: Chuck Hagel and  
Republican Party insiders  
are responsible for the  
deceptive, negative ads  
against Ben Nelson.

But we shouldn't be  
surprised. Because Hagel  
has deceived us about his  
about his own record.

For almost all of the  
last twenty years, Hagel  
has lived in Virginia.

Hagel even considered  
running for Governor of  
Virginia in 1993.

Now he thinks he can just  
walk in and run for U.S.  
Senator from Nebraska?

That's not the way things  
work here.

Exhibit A

NEBRASKA DEMOCRATIC PARTY  
MAY 2, 1996  
T.V. AD - "BOXER"  
30 sec.

VIDEO

White type on a black screen:  
Don Stenberg is responsible  
for the negative radio ads  
against Ben Nelson.

Type on screen: One ad tries  
to criticize Ben Nelson on the  
issue of crime.

Headline: "Stenberg Says Nelson  
Crime Bill Hits The Mark"

Film footage of teenagers  
robbing convenience store

Film footage of high-tech  
fingerprint lab.

Film footage of Ben walking  
with a cop and a man in a suit  
at a prison.

SUPER logo: Governor Ben Nelson.  
He's fighting for a safer Nebraska

AUDIO

ANNCR: Don Stenberg is  
responsible for the  
negative radio ads  
against Ben Nelson.

One ad tries to criticize  
Ben Nelson on the issue  
of crime.

C'mon

Ben Nelson is tough on  
crime and Don Stenberg  
knows it!

Ben Nelson has pushed to  
build the state's first  
maximum security prison  
for juveniles.

He's given law  
enforcement the tools  
they need to fight back.

And Ben Nelson has voted  
to enforce every death  
penalty and life sentence  
he's reviewed.

Governor Ben Nelson.  
He's fighting for a safer  
Nebraska.

28043861154  
"Exhibit B"



FEDERAL ELECTION COMMISSION

Washington, DC 20463

May 15, 1996

Andy Abboud, Executive Director  
Nebraska Republican Party  
421 South 9th Street, Suite 233  
Lincoln, Nebraska 68508

Dear Mr. Abboud:

9 3 0 4 3 8 6 1 1 5 5  
This is to acknowledge receipt on May 13, 1996, of your letter. 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 did not contain a notarization on your signature and was not properly sworn to. Also, please note that your address is required to appear on your complaint.

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 him/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.

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*

Retha Dixon  
Docket Chief

Enclosure

cc: Nebraska Democratic Party  
Nebraskans for Nelson  
The Honorable E. Benjamin Nelson

28043361154

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

BEFORE THE FEDERAL ELECTION COMMISSION

MAY 28 10 25 AM '96

MAY 28 9 10 AM '96

In the matter of:

Governor Ben Nelson )  
Nelson for Senate )  
Nebraska Democratic Party )

MUR#

4372

#### SUMMARY

This complaint is filed by and on behalf of the Nebraska Republican Party against the above named respondents alleging reason to believe said respondents are, or are about to, violate the Federal Election Campaign Act regarding certain paid general public political broadcasting which is subject to the coordinated party expenditure limits of 2 U.S.C. 441a(d).

#### THE LAW

Section 441a(d) of the federal Election Campaign Act allows political party committees to make "coordinated party expenditures" on behalf of its candidates for United States Senate. Commission regulations states that these expenditure are subject to a limit, and must be properly reported under 11 C.F.R. 110.7 and on line 25 of the Detailed Summary Page (Page 2 Form 3X) using FEC Schedule F.

A "coordinated party expenditure" is defined as any communication by a political party that "both (1) depicted a clearly identified candidate and (2) conveyed an electioneering message." Advisory Opinion 1985-14. CCH paragraph 5819 at page 11,185. See Also Advisory Opinions 1984-15 CCH paragraph 5766; Advisory Opinion 1978-46 CCH paragraph 5348. The federal courts have define an electioneering message to include statements "designed to urge the public to elect a certain candidate or party." United States v. United Auto Workers, 352 U.S. 567, 587 (1957); see Advisory Opinion 1984-62 CCH paragraph 5813.

Recently the United States Court of Appeals for the Tenth Circuit ruled in Federal Election Commission v. Colorado Republican Federal Campaign Committee, 59 F.3d 1015 (June 23, 1995) that advertisements which by any reasonable reading leave the reader or listener with the impression that the state party sought to diminish public support for an opposing candidate and garner support for the party's nominee will "unquestionably contain an electioneering message." Slip op. at 16-17.

#### THE FACTS

On information and belief, on May 2, 1996, the Nebraska Democratic Party began running a series of two television advertisements (hereby attached to this complaint as Exhibits A and B) which contain electioneering messages, and therefore must be paid for with only federal funds subject to the limitations and prohibitions of the Federal Election Campaign Act, and must be reported as a coordinated party expenditure under 2 U.S.C. 441a(d) and reported on Schedule F and line 25 of the Detailed Summary Page of Form 3X of the Nebraska Democratic Party.

Upon examination, the Commission will note that the subject advertisements contain both a (1) clearly identified candidate(s) and (2) an electioneering message. The statement that governor Ben Nelson is "fighting for a safe Nebraska" stated in the context of a claim filed by his Republican opponent are clearly designed to "urge the public to elect a certain candidate or party." Auto Workers, Id. The second advertisement clearly identifies candidates for federal office, and its reference to "he thinks he can just walk in and run for U.S. Senator from Nebraska" is shockingly similar to the



language the 10th Circuit found allocable as a coordinated party expenditure in the Colorado Republican case.

On information and belief, the Democratic Party of Nebraska has stated through its agents that it does not consider the above-mentioned advertisements to be coordinated party expenditures in full. Instead it has claimed that the advertisement mentioning Mr. Stenberg is somehow "legislative advocacy" and that the state party can pay for all of that ad with non-federal state party funds. The electioneering message in that ad makes such a claim clearly unlawful. The respondent has also claimed that the ad mentioning Mr. Hagel can be paid with 50% federal money and 50% state money since the ad comments on both the Governor's legislative record and a potential Republican opponent. The Federal Election Commission has never allowed such a federal/nonfederal allocation of advertisements, and has ruled that when an advertisement contains an electioneering message, the entire cost of the ad is subject to the coordinated party limits. Advisory opinion 985-14. Also, the fact that the ads are running before the primary election does not bar them from being considered coordinated party expenditures. AOs 1984-15 and 1985-15.

**REQUEST**

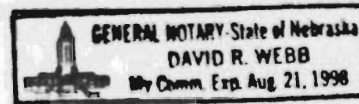
The Nebraska Republican Party hereby requests the Federal Election Commission conduct an immediate investigation into the source of funding for these advertisements, and prevent the Nebraska Democratic party from using any non-federal or non-allocable funds for these advertisements. Such an investigation should determine whether Governor Ben Nelson, or any of his state campaign committees, are financing any portion of these advertisements. Such nonfederal support would violate the labor union prohibition of 2 U.S.C. 441b(a) and the state candidate transfer provision of 11 CFR 110.3(d) and 110.8(d)(2).

Sincerely,

*Andy Abboud*  
Andy Abboud  
Executive Director  
Nebraska Republican Party  
421 S. 9th St. Suite 233  
Lincoln, NE 68502

Subscribed and sworn to before me on this twenty-fourth day of May, 1996.

*David R. Webb*



NEBRASKA DEMOCRATIC PARTY  
MAY 2, 1996  
T.V. - Ad "QUEEN"  
10 sec.

VIDEO

White type on a black screen:  
Chuck Hagel and Republican  
Party insiders are responsible  
for the negative ads against  
Ben Nelson.

Freeze frame of Hagel's ad of  
him in car. Type over still:  
Hagel has been deceiving us  
about his own record.

Map of Virginia on screen.  
Type over still: For almost  
the last twenty years, Hagel  
has lived in Virginia.  
Source: Official Virginia Records

Map stays up. Type on screen:  
Hagel even considered running  
for Governor of Virginia in  
1993.  
Source: Omaha World-Herald

Type on screen: Now he thinks  
he can just walk in and run for  
U.S. Senator from Nebraska?

Type on screen: Nebraska deserves  
better.

AUDIO

ANNCR: Chuck Hagel and  
Republican Party insiders  
are responsible for the  
deceptive, negative ads  
against Ben Nelson.

But we shouldn't be  
surprised. Because Hagel  
has deceived us about his  
about his own record.

For almost all of the  
last twenty years, Hagel  
has lived in Virginia.

Hagel even considered  
running for Governor of  
Virginia in 1993.

Now he thinks he can just  
walk in and run for U.S.  
Senator from Nebraska?

That's not the way things  
work here.

Exhibit A

NEBRASKA DEMOCRATIC PARTY  
May 2, 1996  
T.V. AD - "Boiler"  
30 sec.

VIDEO

White type on a black screen:  
Don Stenberg is responsible  
for the negative radio ads  
against Ben Nelson.

Type on screen: One ad tries  
to criticize Ben Nelson on the  
issue of crime.

Headline: "Stenberg Says Nelson  
Crime Bill Hits The Mark"

Film footage of teenagers  
robbing convenience store

Film footage of high-tech  
fingerprint lab.

Film footage of Ben walking  
with a cop and a man in a suit  
at a prison.

SUPER logo: Governor Ben Nelson.  
He's fighting for a safer Nebraska

AUDIO

ANNCR: Don Stenberg is  
responsible for the  
negative radio ads  
against Ben Nelson.

One ad tries to criticize  
Ben Nelson on the issue  
of crime.

C'mon

Ben Nelson is tough on  
crime and Don Stenberg  
knows it!

Ben Nelson has pushed to  
build the state's first  
maximum security prison  
for juveniles.

He's given law  
enforcement the tools  
they need to fight back.

And Ben Nelson has voted  
to enforce every death  
penalty and life sentence  
he's reviewed.

Governor Ben Nelson.  
He's fighting for a safer  
Nebraska.

93043861450  
"Exhibit B"



FEDERAL ELECTION COMMISSION

Washington, DC 20463

May 30, 1996

Andy Abboud, Executive Director  
Nebraska Republican Party  
421 South 9th Street, Suite 233  
Lincoln, Nebraska 68508

RE: MUR 4372

Dear Mr. Abboud:

This letter acknowledges receipt on May 28, 1996, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

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 4372. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in dark ink, appearing to read "Colleen T. Sealander", is written over a circular embossed seal.

Colleen T. Sealander, Attorney  
Central Enforcement Docket

Enclosure  
Procedures

98043361451



FEDERAL ELECTION COMMISSION

Washington, DC 20463

May 30, 1996

Michael Shrier, Treasurer  
Nebraskans for Nelson  
P.O. Box 258  
Boys Town, NE 68010

RE: MUR 4372

Dear Mr. Shrier:

The Federal Election Commission received a complaint which indicates that Nebraskans for Nelson ("Committee") 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 4372. 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 the Committee 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.

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.

93043861452



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

Sincerely,



Colleen T. Sealander, Attorney  
Central Enforcement Docket

Enclosures

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

93043361453



FEDERAL ELECTION COMMISSION

Washington, DC 20463

May 30, 1996

Michael Shrier, Treasurer  
Ben Nelson for Governor  
12357 Cuming Street  
Omaha, NE 68154

RE: MUR 4372

Dear Mr. Shrier:

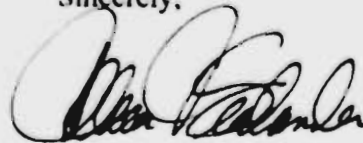
The Federal Election Commission received a complaint which indicates that Ben Nelson for Governor Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4372. 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 the Committee 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.

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

Sincerely,



Colleen T. Sealander, Attorney  
Central Enforcement Docket

Enclosures

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

98043861465



**FEDERAL ELECTION COMMISSION**

Washington, DC 20463

*May 30, 1996*

The Honorable E. Benjamin Nelson  
Governor of Nebraska  
1425 H Street  
Lincoln, NE 68508

RE: MUR 4372

Dear Governor Nelson:

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 4372. 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.

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.

93043831483

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

Sincerely,



Colleen T. Sealander, Attorney  
Central Enforcement Docket

Enclosures

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

93043861467





FEDERAL ELECTION COMMISSION  
Washington, DC 20463

May 30, 1996

Nebraska Democratic Party  
715 South 14th Street  
Lincoln, NE 68508

RE: MUR 4372

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that the Nebraska Democratic Party 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 4372. 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 the Nebraska Democratic Party 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.

98043861468

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

Sincerely,



Colleen T. Sealander, Attorney  
Central Enforcement Docket

Enclosures

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

9 3 0 4 3 8 6 1 4 5 2

R. A. SKOCHDOPOLE  
THOMAS R. BURKE  
C. E. HEANEY, JR.  
LYMAN L. LARSEN  
WILLIAM T. OAKES  
WILLIAM M. LAMSON, JR.  
JEFFREY D. TOBERER  
ROBERT J. MURRAY  
ROBERT F. CRAIG  
JON S. REID  
DANIEL P. CHESIRE  
WILLIAM R. JOHNSON  
NEIL B. DANBERG, JR.  
MICHAEL J. DUGAN  
PATRICIA A. ZIEG  
DIANE C. SONDEREGGER  
FRANK M. SCHEPERS  
STEVEN D. JOHNSON  
KAREN M. SHULER  
PATRICK G. VIBOND

**KENNEDY, HOLLAND, DELACY & SVOBODA**

ATTORNEYS AT LAW

KENNEDY HOLLAND BUILDING

10306 REGENCY PARKWAY DRIVE

OMAHA, NEBRASKA 68114-3743

FACSIMILE (402) 397-7824

(402) 397-0203

RAYMOND E. WALDEN  
MARK E. NOVOTNY  
DONALD L. ERFTMIER, JR.  
DAVID J. SCHMITT  
WILLIAM R. SETTLES  
CONAL L. HESSION  
JENNIFER W. JERRAM  
MATTHEW G. DUNNING  
JAMES W. AMBROSE II  
MICHAEL S. DEGAN  
WILLIAM J. BIANCO  
FREDERICK T. HARRIS

OF COUNSEL

FRANK J. BARRETT

\*ALSO ADMITTED IN IOWA

June 13, 1996

Ms. Colleen T. Sealander, Attorney  
Central Enforcement Docket  
Federal Election Commission  
999 E. Street, NW  
Washington, D.C. 20463

RE: MUR 4372

Dear Ms. Sealander:

I am enclosing herewith the following:

1. Statement of Designation of Counsel authorizing R.A. Skochdopole to act as counsel on behalf of Governor Ben Nelson before the Federal Election Commission in the above entitled matter;
2. Statement of Designation of Counsel authorizing R.A. Skochdopole to act as counsel on behalf of the Nebraskans for Nelson Committee and Michael Shrier as Treasurer before the Federal Election Commission in the above entitled matter;
3. Statement of Designation of Counsel authorizing R.A. Skochdopole to act as counsel for Ben Nelson for Governor Committee and Michael Shrier as Treasurer in the above entitled matter.

Governor Ben Nelson, Nebraskans for Nelson Committee and Mr. Michael Shrier as Treasurer, and the Ben Nelson for Governor Committee and Michael Shrier as Treasurer are all in receipt of a notice from you dated May 30, 1996, with a copy of the complaint enclosed, all of which was received by them respectively on June 3, 1996.

As legal counsel for Governor Ben Nelson, Nebraskans for Nelson Committee, and Michael Shrier as Treasurer, and the Ben Nelson for Governor committee and Michael Shrier as Treasurer, I respectfully request a twenty day continuance beyond the initial response date of June 18, 1996, within which to file a response in each of the above entitled complaints. This continuance is necessary in order for me to interview all of the necessary personnel involved,

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JUN 14 10 02 AM '96

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2304386147C

Federal Election Commission  
June 13, 1996  
Page 2

gather all of the necessary documents and review the relevant legal authorities, statutes, rules and regulations. Many of the necessary people are traveling, which makes scheduling difficult.

I may be reached at the following address, telephone and fax numbers:

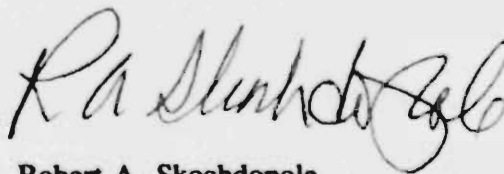
R.A. Skochdopole  
Kennedy, Holland, DeLacy & Svoboda  
10306 Regency Parkway Drive  
Omaha, NE 68114

Telephone No: (402) 397-0203  
Fax No: (402) 397-8450 or 397-7824

I would also appreciate you sending copies of any correspondence addressed to Governor Ben Nelson, to Mr. Tim Becker c/o Governors Office, 1445 "K" Street, Lincoln, NE 68509.

If you have any questions I would be pleased to oblige.

Yours very truly



Robert A. Skochdopole

RAS/jve

Enclosures

cc: Governor Ben Nelson  
Tim Becker  
Michael Shrier

93043861471

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4372

NAME OF COUNSEL: R. A. Skochdopole

FIRM: Kennedy, Holland, DeLacy & Svoboda

ADDRESS: 10306 Regency Parkway Drive

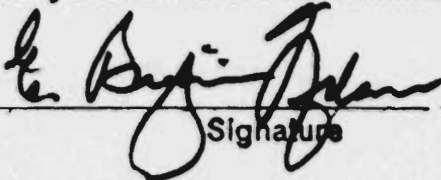
Omaha, NE 68114

TELEPHONE: (402 ) 397-0203

FAX: (402 ) 397 - 8450

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.

6-12-96  
Date

  
Signature

RESPONDENT'S NAME: Governor Ben Nelson

ADDRESS: 1425 H Street

Lincoln, NE 68508

TELEPHONE: HOME (402 ) 471-3466

BUSINESS (402 ) 471-2244

ATTACHMENT 1

JUN 14 10 16 AM '96

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

93043861472



**STATEMENT OF DESIGNATION OF COUNSEL**

MUR 4372

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

NAME OF COUNSEL: R.A. Skochdopole

Jun 14 10 02 AM '96

FIRM: Kennedy, Holland, DeLacy & Svoboda

ADDRESS: 10306 Regency Parkway Drive

Omaha, NE 68114

TELEPHONE: ( 402 ) 397-0203

FAX: ( 402 ) 397-8450

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.

6-11-96  
Date

Michael Shrier, Treasurer  
Signature

RESPONDENT'S NAME: Nebraskans for Nelson and Michael Shrier, Treasurer

ADDRESS: 10050 Regency Circle, Suite 100

Omaha, NE 68114

TELEPHONE: HOME ( 402 ) 496-0092

BUSINESS ( 402 ) 390-0250

ATTACHMENT 2

93043861473

## STATEMENT OF DESIGNATION OF COUNSEL

P.21

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSELMUR 4372NAME OF COUNSEL: R.A. Skochdopole

JUN 14 10 02 AM '96

FIRM: Kennedy, Holland, DeLacy & SvobodaADDRESS: 10306 Regency Parkway DriveOmaha, NE 68114TELEPHONE: (402 ) 397-0203FAX: (402 ) 397-8450

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.

6-11-96  
DateMichael Shrier Treasurer  
SignatureBen Nelson for Governor Committee and  
RESPONDENT'S NAME: Michael Shrier, TreasurerADDRESS: 12357 Cuming StreetOmaha, NE 68154TELEPHONE: HOME (402 ) 496-0092BUSINESS (402 ) 390-0250

ATTACHMENT 3

93043861474



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 24, 1996

R A. Skochdopole, Esq.  
KENNEDY, HOLLAND, DELACY & SVOBODA  
10306 Regency Parkway Drive  
Omaha, NE 68114

RE: MUR 4372

Dear Mr. Skochdopole:

This is in response to your letter dated June 13, 1996, requesting a 20 day extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on July 8, 1996.

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

Sincerely,

Alva E. Smith, Paralegal  
Central Enforcement Docket

93043861475



# Nebraska Democrats

715 South 14th Street ★ Lincoln, Nebraska 68508  
(402) 475-4584 ★ 800-742-0025 ★ FAX (402) 475-4639

June 11, 1996

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
JUN 17 1 07 PM '96

Ms Colleen T. Sealander, Attorney  
Central Enforcement Docket  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

RE: MUR 4372

Dear Ms. Sealander:

On June 5, 1996, the Nebraska Democratic Party received a copy of the complaint filed with the F.E.C. by Andy Abboud, Executive Director of the Nebraska Republican Party. The complaint is referenced as MUR 4372.

I am Legal Counsel for the Nebraska Democratic Party and have been designated by Deb Hardin Quirk, Chairman of the Nebraska Democratic Party, as Counsel in this matter. The F.E.C. "Statement of Designation of Counsel" signed by Ms. Quirk is attached. You may contact me at Margaret Ann Badura, 3815 Davenport Street, Omaha, NE 68131, Direct Phone 402-444-7935, FAX 402-475-4639. Please send an additional copy of all correspondence to Deb Hardin Quirk at the State Party address, which is 715 South 14th Street, Lincoln, NE 68508.

As Legal Counsel in this matter, I respectfully move for a 20 day continuance beyond the 15 day response date outlined in the "Description of Preliminary Procedures". The continuance is necessary in order to adequately research and address the legal issues, and to correctly articulate the facts. In addition, my legal practice prevents me from focusing only on this matter.

I look forward to working with you.

Sincerely,

*Margaret Ann Badura*

Margaret Ann Badura  
Legal Counsel



**STATEMENT OF DESIGNATION OF COUNSEL**

MUR 4372

NAME OF COUNSEL: Margaret Ann Badura

FIRM: \_\_\_\_\_

ADDRESS: 3815 Davenport Street

Omaha, NE 68131

TELEPHONE: ( 402 ) 444-7935

FAX: ( 402 ) 475-4639

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.

6/5/96  
Date

Deb Hardin Quirk  
Signature  
Deb Hardin Quirk, State Chair  
Nebraska Democratic Party

RESPONDENT'S NAME: Nebraska Democratic Party

ADDRESS: Nebraska Democratic Party

715 So. 14th St.

Lincoln, NE 68508

TELEPHONE: HOME ( ) \_\_\_\_\_

BUSINESS ( 402 ) 475-4584

93043861477





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 24, 1996

Margaret Ann Badura, Esq.  
3815 Davenport Street  
Omaha, NE 68131

RE: MUR 4372  
Nebraska Democratic Party

Dear Ms. Badura:

This is in response to your letter dated June 11, 1996, requesting a 20 day extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on July 10, 1996.

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

Sincerely,

A handwritten signature in black ink, which appears to read "Alva E. Smith".

Alva E. Smith, Paralegal  
Central Enforcement Docket

23043861473



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 28, 1996

Ms. Margaret Ann Badura, Esquire  
3815 Davenport Street  
Omaha, NE 68131

RE: MUR 4372

Dear Ms. Badura:

This letter is to memorialize our telephone conversation this morning regarding MUR 4372. During our discussion, I explained that according to Federal Election Commission ("Commission") policy, treasurers ordinarily are made respondents to complaints that implicate their respective federal committees. This Commission policy is in accordance with the Federal Election Campaign Act of 1971, as amended ("FECA"), as certain FECA provisions impose duties specifically on the treasurer. Accordingly, in MUR 4372, the Nebraska Democratic Party's state committee, its federal committee of record, the Nebraska Democratic State Central Committee, and the federal committee's treasurer, Gerald S. Grant, may all have liability under the FECA. I then requested, and you agreed to attempt to obtain, a designation of counsel from Mr. Grant so that it is clear in our records that you represent all three respondents.

I also noted that you may wish to indicate in the response to the complaint that it is submitted on behalf of all three respondents, if that is the case, and that, if you so choose, you may address the possible FECA liability of each respondent separately. I also mentioned that we had received your extension request and relayed that we had mailed a letter granting that request to you earlier this week. Finally, you confirmed that we should send copies of all correspondence in this matter to you and to Deb Hardin Quirk, State Chair of the Nebraska Democratic Party, at the Party's address.

I look forward to receiving your response. If you have any questions about this letter or FEC procedures, please call me at (202) 219-3690.

Sincerely,

Colleen T. Sealander, Attorney  
Central Enforcement Docket

CC: Deb Hardin Quirk

## KENNEDY, HOLLAND, DELACY &amp; SVOBODA

ATTORNEYS AT LAW

KENNEDY HOLLAND BUILDING

10306 REGENCY PARKWAY DRIVE

OMAHA, NEBRASKA 68114-3743

FACSIMILE (402) 397-7824

(402) 397-0803

July 2, 1996

R. A. SKOCHDOPOLE  
 THOMAS R. BURKE  
 C. E. HEANEY, JR.  
 LYMAN L. LARSEN  
 WILLIAM T. OAKES  
 WILLIAM M. LAMSON, JR.  
 JEFFREY D. TOBERER  
 ROBERT J. MURRAY  
 ROBERT F. CRAIG  
 JON S. REID  
 DANIEL P. CHESIRE  
 WILLIAM R. JOHNSON  
 NEIL B. DANBERG, JR.  
 MICHAEL J. DUGAN  
 PATRICIA A. ZIEG  
 DIANE C. SONDEREGGER  
 FRANK M. SCHEPERS  
 STEVEN D. JOHNSON  
 KAREN M. SHULER  
 PATRICK G. VIFOND

RAYMOND E. WALDEN  
 MARK E. NOVOTNY  
 DONALD L. ERFIMIR, JR.  
 DAVID J. SCHMITT  
 WILLIAM R. BATTLE  
 CONAL L. HESSON  
 JENNIFER W. JERRAH  
 MATTHEW G. DUNNING  
 JAMES W. AMBROSE II  
 MICHAEL S. DEGAN  
 WILLIAM J. BIANCO  
 FREDERICK T. HARRIS

OF COUNSEL

FRANK J. BARRETT

\*ALSO ADMITTED IN IOWA

VIA FACSIMILE: (202)219-3923

Ms. Alva E. Smith

Paralegal

Central Enforcement Docket

Federal Election Commission

999 E. Street, NW

Washington, D.C. 20463

RE: MUR 4372

Dear Ms. Smith:

This is in response to our telephone conference of July 2, 1996.

I am counsel for Governor Ben Nelson, Nebraskans for Nelson Committee, Ben Nelson for Governor Committee, and Michael Shrier, as Treasurer for the above three parties, all of which are titled under MUR 4372.

I asked for and received an extension of time within which to respond to the above entitled matter to the close of business on July 8, 1996.

July 8, 1996 falls on a Monday and circumstances have arisen where I will not be able to devote the attention and time to prepare a response to the above entitled complaint.

I would therefore respectfully request a further extension of time to the close of business on July 10, 1996 within which to respond.

Thank you for your consideration.

Sincerely,

R.A. Skochdopole

Counsel for Governor Ben Nelson, Nebraskans  
 for Nelson Committee, Ben Nelson for Governor  
 Committee and Michael Shrier, Treasurer

RAS/jve

JUL 2 5 21 PM '96

RECEIVED  
 FEDERAL ELECTION  
 COMMISSION  
 OFFICE OF GENERAL  
 COUNSEL

93043861430



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 3, 1996

R A Skochdopole, Esq.  
KENNEDY, HOLLAND, DELANCY & SVOBODA  
10306 Regency Parkway Drive  
Omaha, NE 68114

RE: MUR 4372

Dear Mr. Skochdopole:

This is in response to your letter dated July 2, 1996, requesting an additional extension until July 10, 1996, to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on July 10, 1996.

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

Sincerely,

Alva E. Smith, Paralegal  
Central Enforcement Docket

93043861431

R. A. SKOCHDOPOLE  
THOMAS R. BURKE  
C. E. HEANEY, JR.  
LYMAN L. LARSEN  
WILLIAM T. OAKES  
WILLIAM M. LAMSON, JR.  
JEFFREY D. TOBERER  
ROBERT J. MURRAY  
ROBERT F. CRAIG  
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DANIEL P. CHESIRE  
WILLIAM R. JOHNSON  
NEIL B. DANBERG, JR.  
MICHAEL J. DUGAN  
PATRICIA A. ZIEG  
DIANE C. SONDEREGGER  
FRANK M. SCHEPERS  
STEVEN D. JOHNSON  
KAREN M. SHULER  
PATRICK G. VIPOND

**KENNEDY, HOLLAND, DELACY & SVOBODA**

ATTORNEYS AT LAW

KENNEDY HOLLAND BUILDING

10306 REGENCY PARKWAY DRIVE

OMAHA, NEBRASKA 68114-3743

FACSIMILE (402) 397-7824

(402) 397-0203

RAYMOND E. WALDEN  
MARK E. NOVOTNY  
DONALD L. ERFTMIER, JR.  
DAVID J. SCHMITT  
WILLIAM R. SETTLES  
CONAL L. HESSIGN  
JENNIFER W. JERRAM  
MATTHEW G. GUNNING  
JAMES W. ANDROSE II  
MICHAEL S. DEGAN  
WILLIAM J. BIANCO  
FREDERICK T. HARRIS\*

OF COUNSEL

FRANK J. BARRETT

\*ALSO ADMITTED IN IOWA

July 9, 1996

VIA FED EX

Ms. Colleen T. Sealander, Attorney  
Central Enforcement Docket  
Federal Election Commission  
999 E. Street, NW  
Washington, DC 20463

RE: MUR 4372

Dear Ms. Sealander:

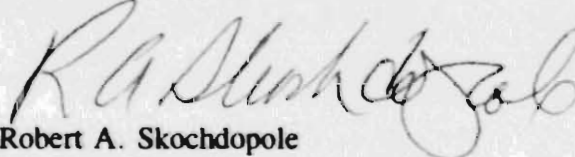
I am enclosing herewith the following:

1. Response to the FEC Complaint of the Nebraska Republican Party by Ben Nelson Governor, the Nebraskans for Nelson Committee and Michael Shrier as Treasurer;
2. Response to the FEC Complaint of the Nebraska Republican Party by the Ben Nelson for Governor Committee and Michael Shrier, Treasurer.

If you have any questions in regard to the above I would be pleased to respond.

Yours very truly,

KENNEDY, HOLLAND, DeLACY & SVOBODA

  
Robert A. Skochdopole

RAS/jve

Enclosures

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
JUL 10 10 11 AM '96

23043861432



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:

The FEC Complaint of the  
Nebraska Republican Party

)  
)  
)  
)  
)  
)  
)

MUR #4372  
RESPONSE OF BEN NELSON  
GOVERNOR, NEBRASKANS FOR  
NELSON AND MICHAEL SHRIER,  
TREASURER

NATURE OF COMPLAINT

On or about May 28, 1996, a complaint was filed with the Commission on behalf of the Nebraska Republican Party against certain respondents alleging that the respondents were or are about to violate the Federal Election Campaign Act by causing certain paid general public political broadcasting, the payment for which is subject to the coordinated party expenditure limits of 2 U.S.C. 441 a(d). The Nebraska Republican Party attached two exhibits to its complaint as Exhibits A and B which were the ads complained of. The Nebraska Republican Party alleges improper use of non-federal funds by respondents for payment of such ads. The FEC then notified Governor Nelson, Nebraskans for Nelson Committee, and Michael Shrier, Treasurer, amongst others, by letter dated May 30, 1996, that they may have violated the Federal Election Campaign Act of 1971 as amended as per the allegations of the complaint of the Nebraska Republican Party.

RESPONSE OF GOVERNOR NELSON, NEBRASKANS FOR NELSON COMMITTEE,  
AND MICHAEL SHRIER, TREASURER

Neither Governor Nelson, or the Nebraskans for Nelson Committee, the designated principal senate campaign committee of Ben Nelson, nor Michael Shrier, Treasurer, either individually or jointly, directly or indirectly, have committed or provided any funds in payment or support of the ads complained of by the Nebraska Republican Party in its complaint.

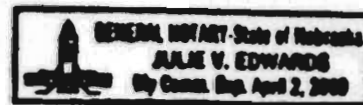
WHEREFORE, respondents Governor Nelson, Nebraskans for Nelson Committee and Michael Shrier, Treasurer, individually and jointly, request that the aforementioned complaint be dismissed against them.

Governor Nelson, Nebraskans for Nelson Committee,  
and Michael Shrier, Treasurer, Respondents

By: R.A. Skochdopole  
R.A. Skochdopole, Their Attorney  
KENNEDY, HOLLAND, DeLACY & SVOBODA  
10306 Regency Parkway Drive  
Omaha, NE 68114  
(402) 397-0203

Subscribed and sworn to before me on this ninth day of July, 1996.

Julie V. Edwards  
Notary Public



9304386118  
RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
Jul 10 10 11 AM '96



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:

The FEC Complaint of the  
Nebraska Republican Party

)  
)  
) MUR #4372  
) RESPONSE OF BEN NELSON FOR  
) GOVERNOR COMMITTEE AND  
) MICHAEL SHRIER, TREASURER  
)  
)

NATURE OF COMPLAINT

On or about May 28, 1996, a complaint was filed with the Commission on behalf of the Nebraska Republican Party against certain respondents alleging that the respondents were or are about to violate the Federal Election Campaign Act by causing certain paid general public political broadcasting, the payment for which is subject to the coordinated party expenditure limits of 2 U.S.C. 441 a(d). The Nebraska Republican Party attached two exhibits to its complaint as Exhibits A and B which were the ads complained of. The Nebraska Republican Party alleges improper use of non-federal funds for payment of such ads. The FEC then notified the Ben Nelson for Governor Committee and Michael Shrier, Treasurer, amongst others, by letter dated May 30, 1996, that they may have violated the Federal Election Campaign Act of 1971 as amended as per the allegations of the complaint of the Nebraska Republican Party.

RESPONSE OF BEN NELSON FOR GOVERNOR COMMITTEE  
AND MICHAEL SHRIER, TREASURER

Neither the Ben Nelson for Governor Committee, which is a candidate committee formed under Nebr. Statute § 49-1445, R.R.S. 1993, nor Michael Shrier, Treasurer, either individually or jointly, directly or indirectly, have committed or provided any funds to pay for all or any portion of the cost of the ads complained of in Exhibit A and Exhibit B attached to the complaint.

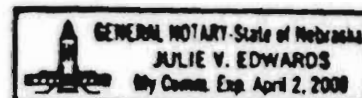
WHEREFORE, respondents Ben Nelson for Governor Committee and Michael Shrier, Treasurer, individually and jointly, request that the aforementioned complaint be dismissed against them.

Ben Nelson for Governor Committee and Michael  
Shrier, Treasurer, Respondents

By: R.A. Skochdopole  
R.A. Skochdopole, Their Attorney  
KENNEDY, HOLLAND, DeLACY & SVOBODA  
10306 Regency Parkway Drive  
Omaha, NE 68114  
(402) 397-0203

Subscribed and sworn to before me on this ninth day of July, 1996.

Julie V. Edwards  
Notary Public



93043361191

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
JUL 10 10 11 AM '96

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of: )  
The Nebraska Democratic Party ) MUR # 4372  
) RESPONSE TO FEC COMPLAINT  
) FILED BY  
) THE NEBRASKA REPUBLICAN PARTY

JUN 10 12 23 PM '96

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

NATURE OF THE MATTER

On or about May 28, 1996, the Nebraska Republican Party ("NRP") filed a complaint with the Federal Election Commission ("FEC") alleging that the Nebraska Democratic Party ("NDP") either violated, or was about to violate the Federal Election Commission Act ("FECA") regarding paid political advertisements. The NRP asserts that the NDP's ads are subject to party expenditure limits of 2 U.S.C. 441a (d). The NRP Complaint was signed by Andy Abboud, Executive Director of the NRP.

The NRP claims are without merit and should be dismissed.

FACTUAL BACKGROUND

The NDP ads in question were in direct response to a sustained negative advertising campaign by the NRP attacking the record in office of Governor Nelson. The NRP insisted that the ads were no more than an effort to educate the voters about the weakness of the Governor's record on crime and taxes. None of the Republican ads made any mention of the Governor's Senate candidacy, of the Senate election, or of any issues other than those the Governor—or any governor—would address in that capacity. It was apparent that the Republican Party intended to weaken public support for the Governor and the party of which he is the leader, but without reference to his candidacy for the Senate.<sup>1</sup>

The Nebraska Democratic Party decided that it was imperative to counter the negative NRP ads. On Thursday, May 2, 1996, the NDP started airing the two television advertisements that Mr. Abboud refers to in the NRP Complaint as Exhibit A and Exhibit B.

<sup>1</sup>In addition, it is important for the FEC to be apprised that the NRP attack ads against Ben Nelson were not the sole handiwork of the NRP. Ties to the Republican Senate Campaign Committee were clearly involved, through NRP payments to RSCC consultant Mahoney & Associates and the media firm Russo Marsh.

93043861435

Exhibit B is a copy of the NDP ad entitled "Boxer". "Boxer" addresses the NRP's negative radio ads regarding crime and Don Stenberg's responsibility with respect to those ads. Mr. Stenberg, as Nebraska's Attorney General, is a state office holder. As Attorney General, Mr. Stenberg is the state's chief prosecuting attorney. The text of the ad addresses juvenile crime, Governor Nelson's assistance with crime fighting tools for local law enforcement, and enforcement of the death penalty--all state issues. The NDP accordingly financed this ad with funds from the NDP's state [nonfederal] account.

Exhibit A is a copy of the NDP ad entitled "Queen". "Queen" addressed the NRP'S deceptive and negative ads against Ben Nelson as well as Chuck Hagel's responsibility for those ads as a leading Republican in the state, and an aspiring Senate candidate. The ad does not call for his defeat, because the NDP did not seek the election or defeat of either one of the Republican candidates, including Mr. Hagel who was then competing for the Republican nomination. The concern of the NDP ad lay with the tactics of the Republican Party, not with the fortunes of the Republican candidates for their party's nomination to the Senate. Already, by the date of this ad, the Omaha World Herald had stated that the GOP's actions in running the 'Tax Ad' attacking Ben Nelson were "libelous both expressly and by implication." Mr. Hagel is identified with Republican Party policies and positions, and is indeed accountable along with other Republican leaders for allegations in the NRP's paid advertising

#### THE LAW

The Republican advertisement attacking Governor Nelson made no mention of his federal candidacy, or the pending election to the Senate. The text of the ad concerned with the Governor's record on crime focused on issues allegedly relevant to public evaluation of his performance as Governor. Consequently, the Nebraska Democratic Party responded to the ad in the same vein--as a defense of a Nebraska Governor on Nebraska issues. In view of the focus of the Republican ad, the Party properly included within the response commentary on the record on law enforcement of the responsible Republican state official, Attorney General Stenberg.

Like the Republican Party, the NDP financed this exchange regarding a state official's performance on state issues on a 100% nonfederal basis. The 441a(d) limits are not implicated by these ads.

Nor does the advertisement citing the political history of Hagel implicate those limits. Rather, that ad was designed to undermine the credibility of the Republican attacks on Nelson's stewardship of the state. The ad avoided express advocacy of Hagel's candidacy (at the time he was in a competitive Republican primary), but sought to discredit the Republican ad campaign as a whole, to the detriment of the Republican party and all of its candidates. While Hagel is not a federal or state official, he is widely known to the public and press as a Republican, and now as candidate for the Senate. To the extent that the NRP's ads appealed to concerns by Nebraskans about Nebraska crime and

tax rates, it was appropriate in the NDP's view to point out that Mr. Hagel, as a member of the Republican ranks, was a "carpetbagger"--someone with only recent and weak ties to the state. The financing of the advertisement was allocated between the NDP's federal and nonfederal accounts, in accordance with Advisory Opinion 1995-25, in keeping with the purpose of the ad to strengthen Democratic loyalties across-the-board, and to counter the aggressive Republican attacks on Nelson.

#### CONCLUSION

Based on the facts and evidence, the Nebraska Democratic Party respectfully requests that the Commissioners of the Federal Election Commission dismiss the Nebraska Republican Party's Complaint. The Nebraska Democratic Party has acted within the parameters of the FECA and the FEC's Advisory Opinion of 1995.

Respectfully Submitted,

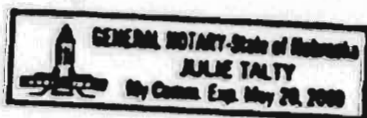
Margaret Ann Badura

Margaret Ann Badura  
Legal Counsel,  
Nebraska Democratic Party  
Nebraska Democratic State Central  
Committee  
Gerry Finnegan, Treasurer

3815 Davenport Street  
Omaha, NE 68131  
(402) 558-2931

Subscribed and sworn before me on this 9th day of July, 1996.

Julie Talty



98043861437



NEBRASKA DEMOCRATIC PARTY  
Mar 2, 1996  
T.V. Ad - "Boxer"  
30 sec.

VIDEO

White type on a black screen:  
Don Stanberg is responsible  
for the negative radio ads  
against Ben Nelson.

Type on screen: One ad tries  
to criticize Ben Nelson on the  
issue of crime.

Headline: "Stanberg Says Nelson  
Crime Bill Hits The Mark"

Film footage of teenagers  
robbing convenience store

Film footage of high-tech  
fingerprint lab.

Film footage of Ben walking  
with a cop and a man in a suit  
at a prison.

SUPER logo: Governor Ben Nelson.  
He's fighting for a safer Nebraska

AUDIO

ANNCR: Don Stanberg is  
responsible for the  
negative radio ads  
against Ben Nelson.

One ad tries to criticize  
Ben Nelson on the issue  
of crime.

C'mon

Ben Nelson is tough on  
crime and Don Stanberg  
knows it!

Ben Nelson has pushed to  
build the state's first  
maximum security prison  
for juveniles.

He's given law  
enforcement the tools  
they need to fight back.

And Ben Nelson has voted  
to enforce every death  
penalty and life sentence  
he's reviewed.

Governor Ben Nelson.  
He's fighting for a safer  
Nebraska.

98043361483  
"Exhibit B"

NEBRASKA DEMOCRATIC PARTY  
MAY 2, 1996  
T.V. - As "QUEEN"  
10 SEC.

VIDEO

White type on a black screen:  
Chuck Hagel and Republican  
Party insiders are responsible  
for the negative ads against  
Ben Nelson.

Freeze frame of Hagel's ad of  
him in car. Type over still:  
Hagel has been deceiving us  
about his own record.

Map of Virginia on screen.  
Type over still: For almost  
the last twenty years, Hagel  
has lived in Virginia.  
Source: Official Virginia Records

Map stays up. Type on screen:  
Hagel even considered running  
for Governor of Virginia in  
1993.  
Source: Omaha World-Herald

Type on screen: Now he thinks  
he can just walk in and run for  
U.S. Senator from Nebraska?

Type on screen: Nebraska deserves  
better.

Exhibit A

AUDIO

ANNCR: Chuck Hagel and  
Republican Party insiders  
are responsible for the  
deceptive, negative ads  
against Ben Nelson.

But we shouldn't be  
surprised. Because Hagel  
has deceived us about his  
about his own record.

For almost all of the  
last twenty years, Hagel  
has lived in Virginia.

Hagel even considered  
running for Governor of  
Virginia in 1993.

Now he thinks he can just  
walk in and run for U.S.  
Senator from Nebraska?

That's not the way things  
work here.



STATEMENT OF DESIGNATION OF COUNSEL

MUR 4372

NAME OF COUNSEL: Margaret Ann Badura

FIRM: \_\_\_\_\_

ADDRESS: 3815 Davenport Street

Omaha, NE 68131

TELEPHONE: (402) 444-7935

FAX: (402) 475-4639

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.

3/6/96  
Date

[Signature]  
Signature

\* Gerry Finnegan, Treasurer  
Nebraska Democratic State Central Committee  
Federal Account

RESPONDENT'S NAME: Nebraska Democratic State Central Committee

ADDRESS: 715 South 14th Street

Lincoln, NE 68508

TELEPHONE: HOME (402) 475-2146

BUSINESS (402) 477-3739

\* The Nebraska Democratic State Central Committee and The Nebraska Democratic Party are interchangeable names for the same entity.

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 4372

NAME OF COUNSEL: Margaret Ann Badura

FIRM: \_\_\_\_\_

ADDRESS: 3815 Davenport Street

Omaha, NE 68131

TELEPHONE: (402) 444-7935

FAX: (402) 475-4639

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.

7/6/96  
Date

  
Signature  
Gerry Finnegan, Treasurer

RESPONDENT'S NAME: Gerry Finnegan, Treasurer

ADDRESS: 715 South 14th Street

Lincoln, NE 68508

TELEPHONE: HOME (402) 475-2146

BUSINESS (402) 477-3739

98043861491

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)  
)  
)  
)  
)

CASE CLOSURES UNDER  
ENFORCEMENT PRIORITY

FEB 11 3 21 PM '93

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

II. CASES RECOMMENDED FOR CLOSURE.

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

EPS was created to identify pending cases which, due to the length of their pendency in inactive status or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria which results in a numerical rating of each case.

Closing cases permits the

Commission to focus its limited resources on more important cases presently

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pending before it. Based upon this review, we have identified 16 cases that do not warrant further action relative to other pending matters.<sup>1</sup> The attachment to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

### B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of this fact, EPS provides us with the means to identify those cases which remained unassigned for a significant period due to a lack of staff resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources.

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

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

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

---

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

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

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these cases as of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

### III. RECOMMENDATIONS.

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

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

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

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

2/1/98  
Date

Lawrence M. Noble  
General Counsel

9 8 0 4 3 8 6 1 4 9 5





FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO LAWRENCE M NOBLE  
GENERAL COUNSEL

FROM MARJORIE W EMMONS/LISA R DAVIS  
COMMISSION SECRETARY

DATE FEBRUARY 19, 1998

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

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

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

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

This matter will be placed on the meeting agenda for

Tuesday, February 24, 1998

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

AGENDA DOCUMENT NO. X98-13

93043861496

BEFORE THE FEDERAL ELECTION COMMISSION

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

CERTIFICATION

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

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

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

2. Decided by a vote of 5-0 to

A. Decline to open a MUR, close the file effective March 2, 1998, and approve the appropriate letters in the following matters:

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

(continued)

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

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

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

Attest:

2-25-98  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

March 2, 1998

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Andy Abboud, Executive Director  
Nebraska Republican Party  
421 South 9th Street, Suite 233  
Lincoln, NE 68508

RE: MUR 4372

Dear Mr. Abboud:

On May 28, 1996, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act")

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 2, 1998. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437(g)(4)(B).

Sincerely,

F. Andrew Turley  
Supervisory Attorney  
Central Enforcement Docket

93043861499



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

March 2, 1998

Ms. Margaret Ann Badura, Esquire  
3815 Davenport Street  
Omaha, NE 68131

RE: MUR 4372  
Nebraska Democratic Party; Nebraska Democratic State Central Committee,  
and Gerry Finnegan, as treasurer of both committees

Dear Ms. Badura:

On May 30, 1996, the Federal Election Commission notified your clients 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 the matter on March 2, 1998.

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

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 694-1650.

Sincerely,

F. Andrew Turley  
Supervisory Attorney  
Central Enforcement Docket



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 2, 1998

Mr. R. A. Skochdopole, Esquire  
KENNEDY, HOLLAND, DELACY & SVOBODA  
10306 Regency Parkway Drive  
Omaha, NE 68114

RE: MUR 4372

Ben Nelson for Governor, Nebraskans for Nelson, Michael Shrier, as treasurer, of both committees, and The Honorable Ben Nelson.

Dear Mr. Skochdopole:

On May 30, 1996, the Federal Election Commission notified your clients 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 the matter on March 2, 1998.

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

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 694-1650.

Sincerely,

F. Andrew Turley  
Supervisory Attorney  
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20463

THIS IS THE END OF MUR # 4372

DATE FILMED 3/11/98 CAMERA NO. 2

CAMERAMAN EFJ

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