



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4727

DATE FILMED 7/7/98 CAMERA NO. 1

CAMERAMAN EES

980,43893204

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MUR 4727

To whom it may concern:

MAR 13 3 07 PM '98

This is to be considered a formal complaint against Madison Magazine, Tammy Baldwin, Rick Phelps and Joseph Wineke, of Wisconsin's Second Congressional District.

In it's current issue, Madison Magazine gives an exclusive cover shot to only three of the four candidates in the race for the Democratic nomination for the Second District. Also, no Republican candidates are featured on the cover. Finally, Madison Magazine may be advertising this issue more widely than is typical. It is my contention that this constitutes an in-kind contribution, that to date has not been reported by any of the candidates or Madison Magazine as such. I ask that you investigate three separate aspects of this act:

- 1) If there were any implicit or explicit agreements between any of the three candidates depicted and Madison Magazine regarding circulation and the promotion of this particular issue. Also, whether any of the candidates were consulted or consulted with Madison Magazine on any aspect of the cover or story presentation.
- 2) If any person or persons at Madison Magazine, or within the respective campaigns named above, deliberately sought to use the heavy promotion, and the peculiar presentation of this particular issue, as a means of promoting particular candidates at the expense of others and to thereby circumvent campaign finance laws.
- 3) Finally, I would like Madison Magazine and all three depicted candidates to report this obvious gift at full value, as an in-kind contribution. I would also ask that any promotional costs beyond what is normal be included in this valuation. In the event the contribution value exceeds campaign finance law limits, I would ask that all three candidates be required to remit the full overage post-haste, as well as any penalties as are proper depending upon the outcome of your investigation.

Patrick O'Brien
525 State Street, #2
Madison, WI 53703
(608)-257-0082
Democratic Candidate
Second Congressional District

Signature of complainant:

Patrick O'Brien

Sworn before me on this date:

4th day of March 98

Notary:

Lois L. Ingard

my commission expires 3-14-99

98043893205



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 18, 1998

Patrick O'Brien
525 State Street, #2
Madison, WI 53703

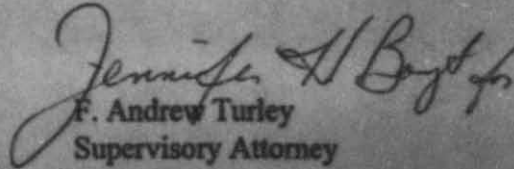
RE: MUR 4727

Dear Mr. O'Brien:

This letter acknowledges receipt on March 13, 1998, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended. The respondent(s) will be notified of this complaint within five business 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 notarized and sworn to in the same manner as the original complaint. We have numbered this matter MUR 4727. 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,


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosure
Procedures

98043893206



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 18, 1998

Elizabeth Murphy Burns, President
Madison Magazine, Inc.
625 Williamson Street
Madison, WI 53703

RE: MUR 4727

Dear Ms. Burns:

The Federal Election Commission received a complaint which indicates that Madison Magazine, Inc., 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 4727. Please refer to this number in all future correspondence.

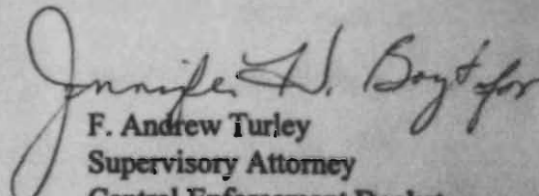
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Madison Magazine, Inc., in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should 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.

90043893207

If you have any questions, please contact Jennifer H. Boyt at (202) 694-1650. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

960436933208



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 18, 1998

Joseph S. Wineke
412 Edward Street
Verona, WI 53593

RE: MUR 4727

Dear Mr. Wineke:

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 4727. Please refer to this number in all future correspondence.

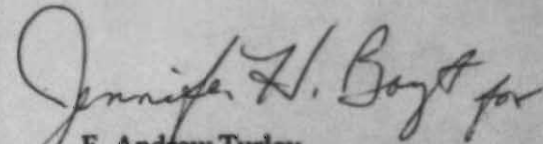
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930433209

If you have any questions, please contact Jennifer H. Boyt at (202) 694-1650. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

9804389321C



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 18, 1998

George L. Ketterer, Treasurer
Wineke for Congress
412 Edward Street
Verona, WI 53593

RE: MUR 4727

Dear Mr. Ketterer:

The Federal Election Commission received a complaint which indicates that Wineke for Congress ("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 4727. Please refer to this number in all future correspondence.

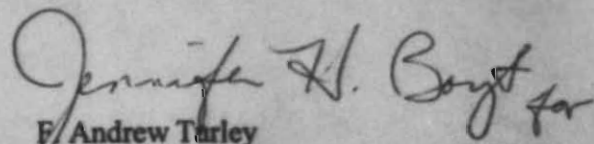
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you as, treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements 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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23043893211

If you have any questions, please contact Jennifer H. Boyt at (202) 694-1650. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,


F/ Andrew Tarley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

98043893212



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 18, 1998

Richard J. Phelps
1811 Vilas Avenue
Madison, WI 53711

RE: MUR 4727

Dear Mr. Phelps:

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 4727. 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.

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93043893213

If you have any questions, please contact Jennifer H. Boyt at (202) 694-1650. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jennifer H. Boyt for
F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

98043893214



FEDERAL ELECTION COMMISSION

Washington, DC 20463

March 18, 1998

Jeneene M. Olson, Treasurer
Phelps for Congress
1811 Vilas Avenue
Madison, WI 53711

RE: MUR 4727

Dear Ms. Olson:

The Federal Election Commission received a complaint which indicates that Phelps for Congress ("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 4727. 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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98043893215

If you have any questions, please contact Jennifer H. Boyt at (202) 694-1650. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jennifer H. Boyt for

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

980043893216



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 18, 1998

Tammy Baldwin
525 Riverside Drive
Madison, WI 53704

RE: MUR 4727

Dear Ms. Baldwin:

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 4727. Please refer to this number in all future correspondence.

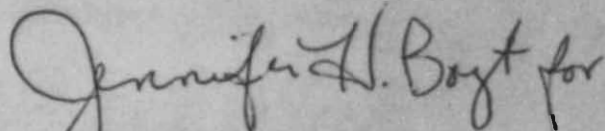
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98043893217

If you have any questions, please contact Jennifer H. Boyt at (202) 694-1650. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer H. Boyt for".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

98043893218



FEDERAL ELECTION COMMISSION

Washington, DC 20463

March 18, 1998

Kevin C. Myren, Treasurer
Tammy Baldwin for Congress
PO Box 696
Madison, WI 53701

RE: MUR 4727

Dear Mr. Myren:

The Federal Election Commission received a complaint which indicates that Tammy Baldwin for Congress ("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 4727. Please refer to this number in all future correspondence.

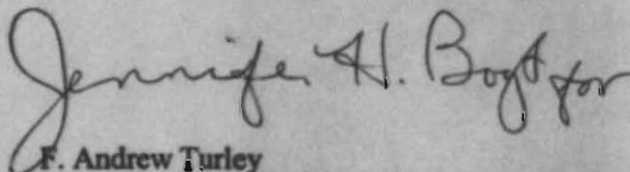
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98043893219

If you have any questions, please contact Jennifer H. Boyt at (202) 694-1650. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosures

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

9804389322C

WINEKE FOR CONGRESS 1998

412 EDWARD STREET, VERONA, WISCONSIN 53593

(608) 845-9656

March 25, 1998

Federal Election Commission
Office of General Counsel
999 E. Street, NW
Washington, DC 20463

MAR 31 3 05 PM '98

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

To whom it may concern,

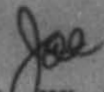
This is our campaign's official reply to the recent complaint filed by Mr. Patrick O'Brien numbered MUR 4727.

He cites our campaign, and the campaigns of two additional primary opponents, for engaging in an agreement with *Madison Magazine* to increase circulation and promotion of a particular issue. This claim can be called nothing short of "silly," and I hope this will be our last communication on this matter.

Enclosed is a copy of the article Mr. O'Brien found offensive or illegal. Since Mr. O'Brien did not see fit to provide the FEC with a copy of the relevant information, we thought you should have it.

Please call us at (608) 251-5926 with any further questions.

Sincerely,


Joe Wineke

WORKING: A PHOTO ESSAY ■ E-FILE: TAX SOFTWARE THAT WORKS

[magazine]

MARCH 1998 / \$2.95

madison

**3 Dems
on the left**

**Is one
right
for
you?**

Best of Madison ballot

Literary chic:

Remaking the Ranch



9 8 0 4 3 8 9 3 2 2 3



Seeking the Center



How three Madison liberals hope to keep their balance. By Stan Milam

Pull up a chair, this should be fun. Three popular Madison Democrats are pounding the campaign trail, each hoping to outlast the other, and eventually win back Scott Klug's 2nd District Congressional seat.

The trick, of course, for the three liberals in this unpredictable rural *cum* urban district is to find the political centerline — and stay there — for all those months between now and the September primary.

Tammy Baldwin, Rick Phelps and Joe Wineke all say they are not forsaking their traditional Democratic base, but they all beg to be viewed as "broad-based candidates" who appeal to independent voters — voters who usually make up 30 percent of the electorate in Wisconsin and typically hold the balance of power on election day in this state.

Baldwin represents an Assembly district that would put Ralph Nader in the White House, yet she boasts of co-authoring legislation with Republican Dave Zien, a permanent fixture on the far right fringe of the state Senate when he's not riding around on his Harley without a helmet.

Ex-county exec Phelps says he's everyone's candidate because he represented Dane County for nearly nine years and worked with a conservative county board. It's not surprising, then, that he is attempting the tricky maneuver of courting corporate support without alienating left-leaning Democrats.

"Don't get me wrong. I haven't abandoned anyone," he says, "but I've received support from a broad base, including business." Phelps says, for example, he already has the backing of CEOs such as Promega's Bill Linton and Jan Eddy of Wingra Technologies.

Wineke insists it's his opponents who are racing toward the middle ground — turf that he claims he already owns. His basic theory — a hope, really — is that Phelps and Baldwin will split the liberal vote in Madison, and the outcome will be decided in suburban and rural wards such as those he has represented in the Legislature.

Fortunately, the three candidates have until the Sept. 8 primary to convince a fickle Democratic electorate in Wisconsin's 2nd Congressional District of such claims.

It is the unusual line-up of well-known liberals, coupled with a diverse congressional district, that makes this Democratic primary the subject of considerable speculation and one of the more interesting races to come along in awhile.

First, the candidates: Each of the three has his or her roots in the liberal wing of the party (read: Madison Democrats). Each is bright, articulate, and personally attractive. Many observers say any of the three could serve the district well in Congress. To the voters, the issue is at once simple and complex: Which liberal do I want?

Then there is the district itself. It is an unusual chunk of political geography that encompasses the liberal strongholds of Madison and the more

centrist, even conservative, voters of rural Wisconsin. It stretches from Green and Lafayette counties on the state's southern border to Columbia and Sauk counties in central Wisconsin.

Given the unusual complexion of the district, then, each one of the candidates must figure out how to present a moderate — in today's political speak, "centrist" — image without forsaking Madison Democrats who have the power to sink liberals whom they think have strayed too far.

For certain, when a leading Republican candidate emerges from the pack, he or she will challenge any claims of moderation by the three. And their records are readily exploitable. Hundreds of partisan roll call votes may come back to haunt legislators Baldwin and Wineke; Phelps, as Dane County executive, spent nearly a decade in an office highlighted by significant increases in spending. During his tenure, county spending rose from \$105 million a year in 1988 to nearly \$239.8 million in 1996.

Phelps points out, correctly, that he held the tax rate down, but that was the result of a period of significantly inflated property values.

Three amigos, three strategies

Wineke's record may have made the biggest impression outside of Madison, for better or for worse. Over the years, this lunch-bucket Democrat's working-class legislative proposals have included a more progressive state income tax that features higher rates for the rich, and the elimination of 90 percent of property taxes for people with annual incomes less than \$25,000. Both bills were popular with Madison liberals, but neither measure went anywhere.

At the same time, Wineke has never been afraid to step toward what he calls the practical center, backing other legislation that isn't so easy to pigeonhole.

"I have supported bankruptcy reform for years," he says, repeating a popular cause among business interests. "If someone can pay their bills, but they file for bankruptcy instead, I call that theft."

Baldwin needs no introduction to the liberal left. Within the district she represents, she can support all the correct causes including long-shot crusades important to teachers and other key labor blocks.

"I am the author of legislation to end the qualified economic offer provision in the state's binding arbitration law," she says — a recent state law that limits

teacher's raises. Plus, she says, "I'm the Assembly author of the living wage bill."

"But I have worked with Republicans such as Zien on issues that are important to all citizens, not just Democrats," Baldwin explains.

One example of her bipartisan efforts includes support for a new juvenile code that provides strict penalties for violent offenders.

"The Youthful Offender Program will allow tough solutions for chronic violent teens while also steering kids away from crime through early intervention," she says.

"It still holds that Democrats must appeal to the more liberal element in a primary and then get moderate in the two months left before the general election," says Democratic Party activist Bill Dixon.

But their records have not stopped these Democrats from racing to what amounts to the Democratic political center in Dane County as if the September primary were already over. Perhaps they believe the trip from the liberal left can't be made in the two months between the September primary and November general election.

"It still holds that Democrats must appeal to the more liberal element in a primary and then get moderate in the two months left before the general election," says Democratic Party activist Bill Dixon. "What's interesting in this race is that there are three very talented and qualified candidates who truly have broader bases of support than traditional Democratic candidates in Dane County."

"Three factors are in play here," Dixon says. "Tammy Baldwin would be the first

female to represent a Wisconsin congressional district; Joe Wineke is a proven success on the campaign trail; and Rick Phelps has governed much of the district in a responsible way. At this point, this is truly a dead heat with all three candidates."

Among the three, Wineke appears to be the one shifting most obviously to the party center. Given his strategy of letting Phelps and Baldwin fight over the Madison liberals, it makes sense he's wooing business, labor and professional types.

"I'm not talking about WMC now," Wineke says, referring to the Wisconsin Manufacturers and Commerce, the state's largest business lobby. "I'm building a base among small businesses, realtors, dentists and other business professionals."

Phelps says he'll go with what he believes his strength already is — the base he says he's built up over nearly 10 years in Dane County, never mind liberal or centrist labels.

"I was elected with 92 and 74 percent of the vote in my last two campaigns," he says. "About 85 percent of the vote in the congressional primary will be in Dane County. That's obviously my strategy to make sure I prevail in Dane County."

For her part, Baldwin says she'll concentrate on getting non-traditional primary voters out to the polls.

"Voter turnout in a non-presidential year is always light, and many of those voters who vote in a presidential year but not in an off year are working mothers, the busiest people on the face of the earth."

"My campaign, in many ways, will speak directly to these working moms," Baldwin says.

Reproductive rights, the environment, a fair tax system and education are issues working moms care deeply about, Baldwin says, and are issues that she will highlight.

Will they ever learn?

While the candidates position themselves, Madison Democrats are still seething over losing the seat in the first place. Most Madison Democrats refuse to admit that television personality Scott Klug actually took the seat away in 1990, still insisting a complacent Bob Kastenmeier lost it.

Most party members believe the seat remains Democratic property regardless of who's got it now. And hard-core party zealots refuse to concede that the district

itself may have moved to the center politically. It's the kind of attitude that can lose an election, but Madison Democrats aren't noted for making concessions to practicality in order to win.

Thus, the three Democratic candidates must still appease a bunch of left-leaning party activists who will have a lot to say about who emerges from the primary.

Worse, there's little in the way of recent history for guidance on a winning political strategy in the 2nd District — for Democrats, at least. In a classic example of ideology standing in the way of victory, Madison Democrats humiliated former Assembly Rep. David Clarenbach in 1992 for having the zeal to conduct a pragmatic campaign designed to win instead of just impressing liberals.

Clarenbach's credentials and qualifications to represent 2nd District Democrats were impeccable. Yet much of the left abandoned him in the primary when he aggressively (some say over-aggressively) solicited contributions from sources not noted for progressive leanings — sources such as business political action committees.

Party members also criticized Clarenbach for cozying up to the insurance industry when a bill he authored to provide health insurance to small businesses was eventually passed, but no vote was ever taken on a more "global" insurance bill.

His critics claimed he sold out to the insurance industry by not pushing for the more comprehensive bill, which would have forced the insurance companies to expand coverage to more people at a greater cost. Some Democrats claimed that even if it would not have passed, Clarenbach should have forced a roll call on the more comprehensive bill just to tell voters who stood where on the issue.

In any case, Democrats threw Clarenbach overboard in favor of Ada Deer, someone with no chance whatsoever of defeating Klug even at a time when he was perhaps most vulnerable.

If Clarenbach's lesson teaches the current trio anything, it is that they must be wary of straying too far from the left, or risk alienating the core of the Democratic strength.

Ask Mike Blaska about Madison liberals. The former Dane County Board chairman won nearly every ward in his race against Kathleen Falk for county executive last year, but lost when Falk drew votes from Madison's Democratic strongholds.



Phelps: pressing to balance

Phelps claims he's alone in the soft moderate center, that he has built a rural-urban coalition over years of balancing the conservative and liberal forces on the county board.

He can have it both ways, he says, because rural and urban Democrats share common views.

"A lot of the work you do in public life has to do with building quality communities," Phelps said. "I have a tremendous track record of getting things done in that regard, and I think that I can bring that to Congress."

Phelps' record includes major renovation of the airport and a new Dane County Expo Center. But those accomplishments are sure to draw mixed reviews because they came at the expense of significant increases in county spending.

Furthermore, Phelps' claim that his policies of containing development through restrictive land-use policies leaves him in good standing in rural Dane County draws collective gasps from political observers on both sides of the aisle.

"There's a 'good cop-bad cop' game going on in terms of Dane County's development policies," says Rep. Mike Powers, an Albany Republican who is highly regarded for his knowledge of land use issues. "On the one hand, Dane County wants to take credit for the economic growth, but doesn't want the growth to take place in rural areas."

Powers points to recent housing developments in Green County's Town of Exeter, just across the county line near Belleville, as an example of how rural residents feel about Dane County's land-use restrictions. The developments alarmed Dane County officials, but Powers says they shouldn't have been surprised.

"The response is, 'What do they expect?'" Powers says. "You prohibit growth in Dane County, so people will move to another county close by and continue to work in Dane County."

A strong economy fuels growth, and that growth will continue to move into rural areas, Powers says.

"The American Dream is to have that new home with a big yard in a peaceful setting," he says. "The only way to grow in an urban area is up, with condos and

apartments, and that's not what people want."

Phelps insists that his restricted-growth policy is popular.

"We have a strong economy because of a beautiful environment," Phelps says. "It was scary at first, but I believe people now realize that we need to contain the growth."

"The environment is the engine that drives our economy in Dane County," he said.

Phelps also says his unique experience of administering federal programs gives him an advantage over his opponents.

"I supervised 31 departments in this county, and they all had some sort of federal relationship," he notes. "I know that you need to balance the federal budget, but if you do it the wrong way you harm our communities because you hurt people."

"I can take that experience to Washington in a way that's pretty unusual," says Phelps.



Baldwin: pressing ideas

Baldwin claims her political appeal stretches far beyond the boundaries of her near East Side Assembly district, and that being on the right side of

important issues will earn her a plurality that will transcend geographic boundaries.

Higher education, for example, is an issue that Baldwin has embraced since serving on the Dane County Board back when she was a student at UW-Madison Law School.

"I would not describe a political base as being the geographical area that a politician previously represented," she says. "A base, in my mind, relates more to people who are ideologically inclined to support someone." Baldwin's early political work with students, she says, provides an example of that ideological base.

"When I became politically active, I was a law student and represented a portion of the campus as a member of the county board."

"Since that time, in the state Legislature, I've made a significant priority of higher education," she says. Baldwin served as a member of the Assembly Colleges and Universities Committee.

Claims to a political base, therefore,

should encompass "a concept of who are likely supporters," Baldwin says. "In particular, I would look to the variety of issues I have been a champion on."

Baldwin emphasizes her work in the community in addition to her role as a legislator.

"I have always been a strong supporter of the University of Wisconsin System, for example, but I've also worked with students to help them in a non-legislative way," she says. "I have lectured in classes, I've attended student rallies and helped activists organize."

"Another example is the support I've provided in the Legislature on issues involving the elderly," she says. "That's an issue that's close to home as I now provide daily care for my grandmother who raised me."



Wineke: pressing the flesh

Wineke is building a political base the old fashioned way — handshake by handshake and door-to-door campaigning. He boasts

that he's the only candidate out on the stump attending parades, church socials and senior citizen lunches.

Phelps can claim local ties and family history in the area (he grew up in Richland Center), but Wineke wins that contest hands down — he has family spread from hell to breakfast throughout the district. He is the seventh of eight boys raised by his mother after his parents divorced when he was 9; seven of the eight sons still live in the congressional district. The eighth is within a stone's throw in Lake Mills.

"I started working at the Verona Mobil station when I was 14," Wineke said. "I worked there to put myself through college at UW-Madison until I graduated with a degree in political science in 1980."

There's little benefit in being on the right side of the issues if nobody knows who you are, Wineke said.

"I've been to so many pancake breakfasts, I've had to join a health club," Wineke says. "The point is, I've been to hundreds of these events at which I have not seen either of my opponents."

"I am convinced that the candidate who touches the most voters will win," he continues. "To that end, I'll be shaking

as many hands as I can find, and I will knock on 15,000 doors in the district before the primary."

In between pancakes and handshakes, Wineke says, he'll find time to raise enough money to win.

"My opponents always outspend me. Jonathan Barry outspent me 2-1 in 1993, and Nancy Mistele out spent me 1.7-1 in 1994," he says. "Money isn't everything in these campaigns."

Despite Wineke's considerable lead on the rubber chicken circuit, there's more to winning a congressional seat than shaking hands along the Darlington Christmas Parade route. It's also true that the political world does not necessarily revolve around issues.

As the Mercury astronauts were told, "No bucks, no Buck Rogers. Funding, that's the key."

Wineke admits as much, but says his strategy calls for both money and a stumping-the-district campaign.

"I'll still be spending money on television commercials, but if viewers have seen me in person, they're more likely to pay attention to my commercial," he says. "You need to be able to break out of that glut of ads."

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Emily's money

Phelps and Wineke have agreed to some campaign finance limitations, including an overall spending cap of \$250,000 in the primary, requiring at least 50 percent of all contributions to originate from Wisconsin residents, limiting PAC contributions to no more than 25 percent of total contributions and limiting out of state contributions to no more than 25 percent of the total.

The agreement, which Baldwin has not signed on to, is patterned loosely after the McCain-Feingold bill, a federal campaign reform measure that is languishing in Congress.

"Right now, I'm running third in a three-way race," Baldwin says. "Naturally, Rick and Joe would like to see spending capped to keep me from catching up."

Baldwin says she'll adhere to McCain-Feingold in its present form, which requires at least 50 percent of all contributions to come from state residents and limits PAC contributions to 25 percent of the total.

But Baldwin won't agree to the flat cap proposal made by her opponents. To do so would be to reject a potentially huge financial boost - support from Emily's List, a politically active national organization dedicated to electing more women to Congress.

Before the primary is a significant boost for Baldwin.

"First of all, Democrats likely to vote in this primary understand that it's quite an accomplishment to get that endorsement this early," she says. "That's given only to candidates who have an organization in place, candidates who are viable and candidates who can win."

The endorsement is also worth a lot of money.

"I would not argue with predictions that the endorsement is often worth at least \$100,000," Baldwin says. The contributions come from members of the organization, not the organization itself, so there's no way to accurately predict how much the endorsement is worth.

Baldwin says she's already receiving contributions as a result of the endorsement.

All three candidates say they raised what they needed in 1997 and are on track to raise whatever amount is needed to win the primary.

Wineke says he raised "in excess of \$200,000" in 1997. "If we can't agree on any campaign finance limits, I believe it

Also running: Pat O'Brien

The last thing Democratic candidate Patrick O'Brien has to worry about is voter perception of his political base. He's facing the nearly impossible task of being taken seriously in the 2nd Congressional District Democratic primary.

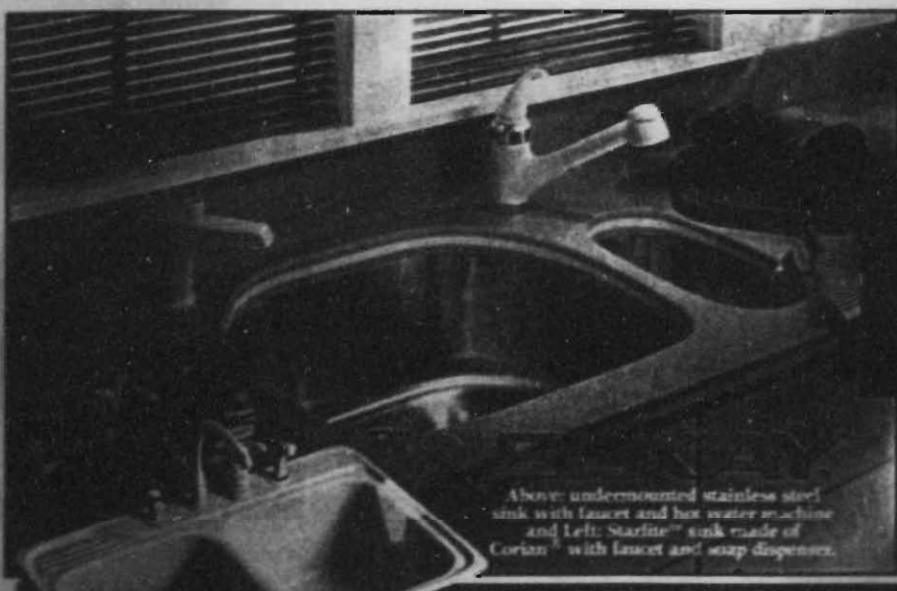
O'Brien, by his own admission, doesn't wage credible campaigns. He spent \$300 two years ago in the Democratic primary against former Madison mayor Paul Soglin.

O'Brien, a state clerical worker, told the Wisconsin State Journal last year he doesn't even think about winning.

"When you take on something like this, you can't really worry about winning or where you stand. You just do your work and hope for the best."

Baldwin says she intends to keep PAC contributions well below 25 percent, which will enable her to take the Emily's List contributions as out-of-state donations and remain within the requirement that 50 percent of all contributions come from state residents.

An Emily's List endorsement a year



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will take about \$800,000 for the primary and the general election, and I'm well on the way to raising that much if necessary."

Phelps says he would like the candidates to agree to a \$250,000 cap for the primary.

"If we could do that, I'm almost there," he says. "If we can't agree, then I'm ready to raise whatever I need."

Baldwin says she'll win by spending somewhat less than the \$1.2 million raised two years ago by Klug and somewhat more than the \$500,000 spent by his Democratic challenger, former Madison mayor Paul Soglin.

Who's on first?

Baldwin, the only openly gay member of the Legislature, might need the Emily's List funding and more. While her sexual preference is not an issue with her primary opponents, she has been told that anti-gay activists plan to campaign against her with independent money - a move she may be required to counter with additional spending.

Phelps doesn't argue with claims that he's the front runner. He points to a poll last spring conducted for Kathleen Falk to see if he would be effective in television ads for her county executive race.

"That poll showed that 66 percent of

the voters in Dane County have positive feelings about me compared to just 14 percent who voiced negative feelings," Phelps said. "Those favorable extended to Democrats throughout the county, to independents and even Republicans."

Phelps emphasizes that 70 percent of the people who live in the 2nd Congressional District live in what he considers his political base - Dane County. He extends that point to say that Wineke's Senate district represents only 18 percent of the congressional district's population, and Baldwin's Assembly district, 9 percent.

But frankly, Baldwin's 9 percent - from her own Assembly district - could hold up in a three-way primary where 25,000 votes could win. She is positioned to come on strong if, as expected, she assembles a formidable war chest.

Baldwin also will benefit from the strongest traditional base, a solid following in her Assembly district. Loyalists are expected to mount a significant get-out-the-vote campaign on primary election day.

Wineke plows on with what he believes is the tried and true formula for success - shake hands and knock on doors. Even his harshest critics give Wineke an "A" for effort. Supporters and opponents

Nobody will outwork Wineke.

Former Democratic Assembly representative and Republican candidate for governor Jonathan Barry gives the race this analysis:

"Tammy Baldwin will surprise many, many observers who think they have this race figured out. She's the best and brightest of the bunch."

"Joe Wineke will do anything and say anything to get elected. He's a very ambitious, hard-working and effective campaigner."

"Rick Phelps thinks he deserves to be in Congress."

The months remaining until the September primary can be a political eternity. Polls that have been conducted this far out offer little in the way of handicapping a horse race.

But each candidate has clearly made a strategic decision to start an early appeal to the center. The trick, of course, will be to inch toward the middle to appease the rural district, while retaining traditional support from the more liberal - and more plentiful - voters in Madison.

Stan Milam has covered Wisconsin politics for 30 years. He is now president of the Capitol News Service in Madison.

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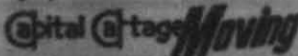
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March 28, 1998

General Counsel's Office
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

To Whom It May Concern,

This correspondence is in response to a complaint against Madison Magazine, Inc., and is numbered MUR 4727.

Patrick O'Brien, candidate for Wisconsin's Second Congressional District, filed a formal complaint against Madison Magazine and three other Second Congressional District candidates. A copy of his complaint is included here.

Madison Magazine published a cover story in our March, 1998 issue about the three major candidates for Wisconsin's Second Congressional District entitled "3 Dems on the left. Is one right for you?" That specific March issue is also included for your review.

The cover story speaks for itself. This is an informational article that tells readers about the three major candidates, includes opinions from local political pundits, and quotes the candidates discussing several issues of import to our readers.

Patrick O'Brien, who is mentioned in the article on page 25, does not have the same standing as the other three candidates in this race. The degree of coverage of Mr. O'Brien was an editorial decision.

In specific response to Mr. O'Brien's concerns:

1) There were no implicit or explicit agreements between any of the three major candidates and Madison Magazine of any kind. Persons interviewed for our articles are not privy to stories before they are published. They have no input or veto power regarding content. Madison Magazine publishes in accordance with the guidelines of accepted journalistic reporting.

Candidates were interviewed for the story, but didn't know what questions would be asked or what content focus the story would take. They accepted it as a media opportunity in a respected local magazine.

Candidates arrived for a cover photography session knowing

98043323C

only that they would pose together for a photograph.

Circulation for the March issue is increased by 600 newsstand copies each year due to the demand for the "Best of Madison" ballot which is inserted in the magazine. Readers fill in this ballot choosing their favorite Madison people and businesses for our annual readers's poll. It is not uncommon for some newsstand locations to sell out of the issue, so we order more.

I have included here the distribution reports for the January, February and March 1998 issues which show a March increase of 600 issues divided among our Madison newsstand distributors.

There were no agreements or conversations with any candidate regarding circulation. We do not publicize this newsstand increase, rather fill the requests of our distributors resulting from previous years' sell-through rates.

2) The March issue was not promoted any differently or any heavier than any other month's issue. In fact, it ended up having one less :30 television commercial than either January or February, 1998. Please check the enclosed WISC-TV3/WISC2 January, February and March television commercial schedules. (January - 15 :30 commercials; February - 15 :30 commercials; March - 14 :30 commercials.)

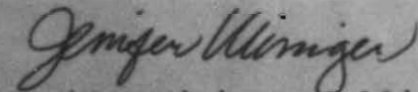
Our editor also appears regularly on WISC-TV3's Saturday morning news program and radio station WTDY-AM's Debbie Monterrey afternoon show to discuss the articles in each month's issue. He did so in March just as he does every month.

There were no deliberate attempts to use heavy promotion for the March 1998 issue whatsoever.

3) Since Madison Magazine did not provide a gift for any of the three candidates, rather covered three candidates on the campaign trail for the benefit of our readers, there is no value or in-kind contribution to report.

Please contact me with any further concerns or questions.

Sincerely,



Jenifer Winiger, Publisher
Madison Magazine

980433231

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1189	

ORDER TYPE	WISC	DATE 01/11/98
INVOICE NO. 690-116179	PAGE 1	AGENCY EST. NO.
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1-F LINE# 2	558A- 700A	10000		1	12/31	W	656A	30				JANUARY ISSUE /	10000			
1-F LINE# 3	700A- 800A	10000		1	12/30	T	759A	30				JANUARY ISSUE /	10000			
1-U LINE# 5	758A- 830A	5000		1	1/04	SU	824A	30				JANUARY ISSUE /	5000			
1-U LINE# 6	828A-1000A	12500		1	1/04	SU	901A	30				JANUARY ISSUE /	12500			
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1-F LINE# 10	1035P-1137P	20000		1	12/29	M	1134P	30				JANUARY ISSUE /	20000			
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WISC	DATE 12/28/97
ORDER TYPE	AGENCY EST. NO.
INVOICE NO. 690-118991	PAGE 1
SCHEDULE DATES 12/20/97-01/04/98	BROADCAST MONTH DECEMBER, 1997
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SU LINE# 6	828A-1000A		12500	1	12/28	SU	916A	30					JANUARY ISSUE /	12500			
M-F LINE# 7	1200N-1230P		10000	1	12/24	W	1205P	30					JANUARY ISSUE /	10000			
T-F LINE# 9	600P- 630P		45000	1	12/26	F	618P	30					JANUARY ISSUE /	45000			
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SCHEDULE				ACTUAL BROADCAST										RECONCILIATION		
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LINE# 1				4	2/04	W	622A	30				FEBUARY ISSUE	10000			
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LINE# 4				1												
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WISC	DATE 02/22/98
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INVOICE NO. 690-001076	PAGE 1
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SCHEDULE				ACTUAL BROADCAST										RECONCILIATION				
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					2/15	SU	220P 30					FEBRUARY ISSUE	3000					
LINE# 4				3	2/15	SU	310P 30					FEBRUARY ISSUE	3000					
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WISC	DATE 03/06/98
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INVOICE NO. 690-117388	PAGE 1
SCHEDULE DATES 02/22/98-03/06/98	BROADCAST MONTH MARCH, 1998
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1 LINES	2 TIME	3 RATE DETAL	4 RATE	5 TH	6 DATES	7 DAY	8 TIME	9 TYPE	10 CLASS	11 P/B	12 H/S	13 FOR PRODUCT/FILM NO.	14 RATE	15 REMARKS	16 DR	17 CR		
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					3/02	M	624A	30				MARCH ISSUE	10000					
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SU	828A-1000A		12500		3/01	SU	925A	30				MARCH ISSUE	12500					
LINE# 3				1														
M-F	600P- 630P		40000		2/24	T	612P	30				MARCH ISSUE	40000					
					3/03	T	619P	30				MARCH ISSUE	40000					
LINE# 4				2														
M	1035P-1137P		25000		2/23	M	1136P	30				MARCH ISSUE	25000					
					3/05	TH	1100P	30				MARCH ISSUE	25000					
LINE# 5				2														
MONTHLY COST PER ORDER CONFIRMATION				188500	ACTUAL GROSS BILLING										188500	SUB-TOTALS		
WE WARRANT THAT THE ACTUAL BROADCAST INFORMATION SHOWN ON THIS INVOICE WAS TAKEN FROM THE OFFICIAL PROGRAM LOG.				AGENCY COMMISSION										TOTAL RECONCILING ITEMS				
				NET DUE										188500	557			

TERMS NET: BALANCE DUE UPON RECEIPT OF INVOICE 6

557
COLUMBINE JDS: KIAN

114



Television Wisconsin, Inc.
P.O. Box 44985,
Madison, WI 53744-4985
Ph. 608-271-4821, Bus. FAX 271-1709

AGENCY/CLIENT

AGENCY MADISON MAGAZINE
BILLING P.O. BOX 1604
ADDRESS MADISON, WI 53071

MAKE WISC-TV3
PAYMENT P.O. BOX 44985
TO MADISON, WI 53744-4985

REPRESENTATIVE	SALESMAN
	PATTI MARTINO
ADVERTISER	PRODUCT
MADISON MAGAZINE	MARCH ISSUE
1189	

WISC	DATE 02/22/98
ORDER TYPE	AGENCY EST. NO.
INVOICE NO. PAGE	BROADCAST MONTH
69C-117171 1	FEBRUARY, 1998
SCHEDULE DATES	CONTRACT YEAR
02/22/98-03/06/98	
BILLING INSTRUCTIONS	

SCHEDULE					ACTUAL BROADCAST								RECONCILIATION			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
LINE#	TIME	RATE	THRU	TO	DATES	DAY	TIME	TYPE	CLASS	P/B	N/S FOR	PRODUCT/FILM NO.	RATE	REMARKS	DR	CR
SU LINE# 3	828A-1000A	12500		1	2/22	SU	902A	30				MARCH ISSUE	12500			
MONTHLY COST PER ORDER CONFIRMATION					ACTUAL GROSS BILLING								SUB-TOTALS			
12500					AGENCY COMMISSION								TOTAL RECONCILING ITEMS			
					NET DUE								557			
					12500								651			

WE WARRANT THAT THE ACTUAL BROADCAST INFORMATION SHOWN ON THIS INVOICE WAS TAKEN FROM THE OFFICIAL PROGRAM LOG.

TERMS NET: BALANCE DUE UPON RECEIPT OF INVOICE

TRADE INVOICE

COLUMBINE JDS: RIAH

MADISON MAGAZINE MONTHLY DISTRIBUTION REPORT

JANUARY 1998

60 PAGES

30.83% ADVERTISING

DATE: 12/10/97

PAGE 1 OF 2

QTY	RECIPIENT	ADDRESS	SHIP BY	PHONE	DELIV TIME
225	Levy Badger News	2420 W. Fourth St.	Appleton, WI 54914	GROUND	(414)731-9521
450	Southern WI News	RT 3 4848 John Paul Rd.	Milton, WI 53563	TRUCK	(608)756-2376 7am-3pm
100	Norton News Co.	801 Cedar Cross Rd.	Dubuque, IA 52003	GROUND	(319)556-8300
125	Eastern News Dist.	2020 Superior St.	Sandusky, OH 44870	GROUND	(704)348-8041
450	ARA Services	16150 W. Lincoln	New Berlin, WI 53151	COURIER	(414)786-5650
1100	Interstate Periodicals	201 E. Badger Rd.	Madison, WI 53707	TRUCK	(608)271-3600 7am-3:30pm
75	Borders Bookstore	3416 University Ave.	Madison, WI 53705	GROUND	(608)232-2600
500	The Concourse	1 W. Dayton St.	Madison, WI 53703	GROUND	
300	The Edgewater	666 Wisconsin Ave.	Madison, WI 53703	GROUND	
60	Howard Johnson	525 W. Johnson St.	Madison, WI 53703	GROUND	
50	Mansion Hill	424 N. Pinckney St.	Madison, WI 53703	GROUND	
25	Ivy Inn Attn: Sara Barnes	2355 University Ave.	Madison, WI 53705	GROUND	
100	Firststar	1 S. Pickney St.	Madison, WI 53703	GROUND	
12	Norwest Bank Attn: Dennis Johnson	5622 University Ave.	Middleton, WI 53562	GROUND	
50	Chamber of Commerce	615 E. Washington Ave.	Madison, WI 53703	GROUND	
25	Convention/Visitor Bur	615 E. Washington Ave.	Madison, WI 53703	GROUND	
25	Middleton Chamber of Commerce	7507 Hubbard Ave.	Middleton, WI 53562	GROUND	
25	Milwaukee Magazine	312 E. Buffalo St.	Milwaukee, WI 53202	GROUND	
50	Restaino Bunbury Attn: Nadia Valeria	7701 Mineral Point Rd.	Madison, WI 53717	GROUND	
75	First Weber Attn: Julie Ferderer	429 Gammon Place	Madison, WI 53719	GROUND	
25	Simon-Voss Realtors Nancy Benzschwei	1818 Parmenter St.	Middleton, WI 53562	GROUND	
25	Stark Realtors Attn: Joni Jaeger	717 John Nolen Dr.	Madison, WI 53713	GROUND	
25	Coldwell Banker SVEM Attn: Patty Libke	625 W. Main St.	Stoughton, WI 53589	GROUND	
20	Century 21 Affiliated Attn: Jim Dougherty	2800 Royal Ave.	Madison, WI 53719	GROUND	
25	Remax Preferred Attn: Darren Kittleson	6442 Normandy Lane	Madison, WI 53719	GROUND	
704	MADISON MAGAZINE	625 Williamson St.	Madison, WI 53703	TRUCK	(608)255-9982 8:30am-5pm
14104	POST OFFICE	3902 Milwaukee St.	Madison, WI 53714	TRUCK	
18750	TOTAL 1/98 ISSUES				

PLACE KOHL CENTER INSERT (FORMS D) BETWEEN PAGES 22 & 39

USE BLOW-IN BL97WI WHERE APPROPRIATE

MADISON MAGAZINE MONTHLY DISTRIBUTION REPORT

FEBRUARY 1998

PAGES

29.58% ADVERTISING

DATE: 1/12/98

PAGE 1 OF 2

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225	Levy Badger News	2420 W. Fourth St.	Appleton, WI 54914	GROUND	(414)731-9521
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100	Norton News Co.	801 Cedar Cross Rd.	Dubuque, IA 52003	GROUND	(319)556-8300
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450	Levy Badger-Milwaukee	16150 W. Lincoln	New Berlin, WI 53151	COURIER	(414)786-5650
1100	Interstate Periodicals	201 E. Badger Rd.	Madison, WI 53707	TRUCK	(608)271-3600 7am-3:30pm
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25	Coldwell Banker SVEM Attn: Patty Libke	625 W. Main St.	Stoughton, WI 53589	GROUND	
20	Century 21 Affiliated Attn: Jim Dougherty	2800 Royal Ave.	Madison, WI 53719	GROUND	
25	Remax Preferred Attn: Darren Kittleson	6442 Normandy Lane	Madison, WI 53719	GROUND	
100	Hallmark Bldg. Supplies ATTN: Debra Prickett	6050 N. 77th St.	Milwaukee, WI 53218	GROUND	
542	MADISON MAGAZINE	625 Williamson St.	Madison, WI 53703	TRUCK	(608)255-8982 8:30am-5pm
14116	POST OFFICE	3902 Milwaukee St.	Madison, WI 53714	TRUCK	
18700	TOTAL 2400 ISSUES				

CONTINUED ON NEXT PAGE

Rick Phelps for Congress

APR 13 3 20 PM '98

April 6, 1998

F. Andrew Turley, Supervisory Attorney
General Counsel's Office
Federal Election Commission
Washington, D.C. 20643

Re: MUR 4727

Dear Mr. Turley:

We are in receipt of the complaint of Mr. Patrick O'Brien in this matter related to an article in the local *Madison Magazine* titled, on the cover, "3 Dems on the Left. Is one right for you?" and at the start of the article, "Seeking the Center -- How three Madison liberals hope to keep their balance."

It is our position that no action should be taken against Phelps for Congress or our former Treasurer Jeneene Olson in this matter in that no basis for any complaint exists. Briefly, Mr. Phelps was contacted by the writer of the article with some questions about his campaign. Neither Mr. Phelps nor Phelps for Congress nor the Treasurer had any participation in either the nature of the article as written, its presentation or its circulation.

Mr. O'Brien complains first that the magazine "gives an exclusive cover shot to only three of the four candidates in the race." Phelps for Congress has no knowledge of the motivations of the magazine in its editorial process or its inclusion of Mr. Phelps as a "Dem on the left." As to Mr. O'Brien's mention that no Republican candidates are featured on the cover, we can only presume that this is based on the article being about "Dems on the left," not Republicans, but again we cannot answer for the magazine's motivations. Thirdly, no member of the Phelps for Congress staff or "committee" has any knowledge as to whether the magazine issue in question was or has been advertised more widely than typical. It is our observation as individuals that this issue has not been advertised at all, much less advertised more widely than usual.

As to Mr. O'Brien's numbered complaints:

1) No implicit or explicit agreements existed between Mr. Phelps and the magazine regarding circulation and promotion of any issue of the magazine, including the issue in question. Phelps for Congress and its staff and "committee" have no knowledge of the circulation or promotional aspects of the magazine.

Mr. Phelps has never been consulted by nor has he consulted with anyone at the magazine on any aspect of the cover or of the story presentation. He was asked to appear at a certain time for a photograph session, which he did; beyond that he had no knowledge of how or when or where the story would appear, be laid out or be written.

2) Mr. Phelps and Phelps for Congress had no involvement in the promotion of the magazine or the issue in question. To our knowledge, there was no "heavy promotion" of the magazine nor was there a "peculiar presentation" of this issue. If there was, Mr. Phelps and the "committee" have no knowledge of it. Neither Mr. Phelps nor Phelps for Congress had any knowledge of the content and format of the article until it was printed and published and thereby had no ability to use it to promote "particular candidates at the expense of others." Neither Mr. Phelps nor Phelps for Congress attempted to engage in any conduct to "circumvent campaign finance laws" by answering questions posed by this local publication. And neither Mr. Phelps nor Phelps for Congress had any knowledge as to which other candidate(s) were being interviewed or being considered as subject(s) for the article until it was published.

3) Local reporting of this campaign by the monthly *Madison Magazine* at its discretion and from its own subjective perspective does not qualify as a gift nor an in-kind contribution under FEC regulations.

We are enclosing a copy of the magazine for your information. Should you have further questions about this matter, please feel free to contact us at any time at (608) 286-9800.

Sincerely,



A.J. Goodman
Phelps for Congress
encl.

TAMMY BALDWIN FOR CONGRESS

P.O. Box 696 • Madison, WI 53701 • 608/258-9800 • 258-9808 fax

RECEIVED
FEDERAL ELECTION
COMMISSION
RECEIVED
FEDERAL ELECTION
COMMISSION
MADISON MAIL ROOM

April 1, 1998

General Counsel's Office
Federal Election Commission
Washington, DC 20463

RE: MUR 4727

Dear General Counsel:

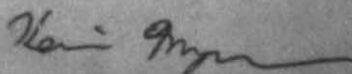
This is to request that no action be taken against Tammy Baldwin for Congress (the "committee") nor myself, Kevin Myren, as treasurer of the committee in reference to a complaint filed by Patrick O'Brien.

First, the complained-of activity falls squarely within the ambit of First Amendment protection, which the Supreme Court, Congress and the FEC have been careful to protect in drafting and applying campaign finance regulations. These are editorial decisions by the press about which campaigns and candidates to cover, how to cover them, and what to write about them. Such decisions are sacrosanct under First Amendment Law. They are exempted from coverage of the campaign finance laws.

Second, decisions of Madison Magazine, and indeed, all news media, are made independently of this committee.

Please do not hesitate to contact our committee for any further information in regards to this matter. We look forward to hearing from you with your decision.

Sincerely,



Kevin Myren
Treasurer

93043893242

BEFORE THE FEDERAL ELECTION COMMISSION

MAY 22 3 34 PM '98

In the Matter of _____

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CASE CLOSURES UNDER
ENFORCEMENT PRIORITY

GENERAL COUNSEL'S REPORT

SENSITIVE

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 14 cases that do not warrant further action relative to other pending matters.¹ The attachment to this report contains a factual summary 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.

¹ These cases are: Pre-MUR 360 (*First National Bank of Wheaton, IL*); Pre-MUR 361 (*Teresa Isaac for Congress*); MUR 4663 (*Rodriguez for Congress*); MUR 4698 (*Mayor Louis Bencardino*); MUR 4699 (*Warren County Democratic Committee*); MUR 4705 (*Fox for Congress*); MUR 4706 (*Carl Lindner*); MUR 4712 (*Fox for Congress*); MUR 4714 (*Mary Jane Garcia for Congress*); MUR 4717 (*Hostettler for Congress*); MUR 4718 (*Oxley for Congress*); MUR 4723 (*Oscar H. Flores*); MUR 4724 (*Feinberg for Congress*); and MUR 4727 (*Madison Magazine*).

We have identified cases that have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We recommend that these cases be closed.³

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective June 3, 1998. Closing 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.

³ These cases are: MUR 4539 (*Salie Mae Student Loan*); MUR 4543 (*Besicorp*); MUR 4625 (*Hinojosa for Congress*); MUR 4640 (*New Mexicans Accion del Pueblo Citizen Action*); RAD 97L-02 (*Cooksey for Congress*); RAD 97L-03 (*Maxfield for Congress*); RAD 97NF-03 (*Dan Hansen for Congress*); RAD 97NF-06 (*Congressional Accountability PAC*); RAD 97NF-16 (*America's Fund*); 97NF-18 (*Faith, Family & Freedom PAC*); and 97NF-19 (*Pro-Hispanic PAC*).

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective June 3, 1998, and approve the appropriate letters in the following matters

RAD 97L-02
RAD 97L-03
RAD 97NF-03

RAD 97NF-08
RAD 97NF-16
RAD 97NF-18

RAD 97NF-19
Pre-MUR 360
Pre-MUR 361

B. Take no action, close the file effective June 3, 1998, and approve the appropriate letters in the following matters:

MUR 4539
MUR 4543
MUR 4625
MUR 4640
MUR 4663

MUR 4698
MUR 4699
MUR 4705
MUR 4706
MUR 4712
MUR 4714
MUR 4717

MUR 4718
MUR 4723
MUR 4724
MUR 4727

5/22/98
Date

LM Noble (LNL)
Lawrence M. Noble
General Counsel

98043893246

98043893247

In the Matter of)
)
Case Closures Under) Agenda Document No. X98-31
Enforcement Priority)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 9, 1998, do hereby certify that the Commission took the following actions with respect to Agenda Document No. X98-31:

1. Decided by a vote of 5-0 to
- A. Decline to open a MUR, close the file effective June 15, 1998, and approve the appropriate letters in the following matters:
- | | |
|----------------|----------------|
| 1. RAD 97L-02 | 6. RAD 97NF-18 |
| 2. RAD 97L-03 | 7. RAD 97NF-19 |
| 3. RAD 97NF-03 | 8. Pre-MUR 360 |
| 4. RAD 97NF-08 | 9. Pre-MUR 361 |
| 5. RAD 97NF-16 | |

(continued)

B. Take no action, close the file effective June 15, 1998 and approve the appropriate letters in the following matters:

1. MUR 4539	9. MUR 4706
2. MUR 4543	10. MUR 4712
3. MUR 4625	11. MUR 4714
4. MUR 4640	12. MUR 4717
5. MUR 4663	13. MUR 4718
6. MUR 4698	14. MUR 4723
7. MUR 4699	15. MUR 4724
8. MUR 4705	16. MUR 4727

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

Attest:

6-10-98
Date

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

98043893248



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Patrick O'Brien
525 State Street, #2
Madison, WI 53703

RE: MUR 4727

Dear Mr. O'Brien:

On March 13, 1998, 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 has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on June 15, 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. § 437g(a)(8).

Sincerely,

A handwritten signature in dark ink, appearing to read "F. Andrew Turley", written over a horizontal line.

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

98043893249

MUR 4727
MADISON MAGAZINE

Mr. Patrick O'Brien, a Democratic candidate in Wisconsin's Second Congressional District, alleges that *Madison Magazine* made an in-kind contribution to the campaigns of three of his primary rivals (Tammy Baldwin, Rick Phelps and Joseph Wineke) by featuring their pictures on its cover, consulting them on the story, and promoting this particular issue of the magazine more extensively than other issues. The complainant further alleges that *Madison Magazine* and the three candidates should report the value of this coverage as an in-kind contribution.

Respondents *Madison Magazine* ("Madison"), Rick Phelps for Congress ("Phelps"), Wineke for Congress 1998 ("Wineke"), and Tammy Baldwin for Congress ("Baldwin") all deny that any coordination, in-kind contribution, or promotion of the candidates by the magazine occurred. The respondents further maintain that the extent of interchange between the magazine and candidates consisted of interviews for the article in question. They also maintain that the candidates had no editorial control over the final product.

Madison further points out in its response that the article also mentioned the complainant, noting that he "...does not have the same standing as the other three candidates in this race. The degree of coverage of Mr. O'Brien was an editorial decision." Madison provided documentation that circulation for the March issue is increased by 600 newsstand copies every year because it contains the "Best of Madison" ballot. Madison further stated that this issue was in fact promoted less than normal, as it had one less television commercial for it than the January 1998 and February 1998 issues.

This matter is less significant relative to other matters pending before the Commission.

980438933250



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 16, 1998

Elizabeth Murphy Burns, President
Madison Magazine, Inc.
625 Williamson Street
Madison, WI 53703

RE: MUR 4727

Dear Ms. Burns:

On March 18, 1998, the Federal Election Commission notified you 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 has determined to exercise its prosecutorial discretion and to take no action against Madison Magazine, Inc. See attached narrative. Accordingly, the Commission closed its file in this matter on June 15, 1998.

The confidentiality provisions of 2 U.S.C. § 437g(a)(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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 614-1650.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

MUR 4727

MADISON MAGAZINE

Mr. Patrick O'Brien, a Democratic candidate in Wisconsin's Second Congressional District, alleges that *Madison Magazine* made an in-kind contribution to the campaigns of three of his primary rivals (Tammy Baldwin, Rick Phelps and Joseph Wineke) by featuring their pictures on its cover, consulting them on the story, and promoting this particular issue of the magazine more extensively than other issues. The complainant further alleges that *Madison Magazine* and the three candidates should report the value of this coverage as an in-kind contribution.

Respondents *Madison Magazine* ("Madison"), Rick Phelps for Congress ("Phelps"), Wineke for Congress 1998 ("Wineke"), and Tammy Baldwin for Congress ("Baldwin") all deny that any coordination, in-kind contribution, or promotion of the candidates by the magazine occurred. The respondents further maintain that the extent of interchange between the magazine and candidates consisted of interviews for the article in question. They also maintain that the candidates had no editorial control over the final product.

Madison further points out in its response that the article also mentioned the complainant, noting that he "...does not have the same standing as the other three candidates in this race. The degree of coverage of Mr. O'Brien was an editorial decision." Madison provided documentation that circulation for the March issue is increased by 600 newsstand copies every year because it contains the "Best of Madison" ballot. Madison further stated that this issue was in fact promoted less than normal, as it had one less television commercial for it than the January 1998 and February 1998 issues.

This matter is less significant relative to other matters pending before the Commission.

98043893252



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 16, 1998

Joseph S. Wineke
412 Edward Street
Verona, WI 53593

RE: MUR 4727

Dear Mr. Wineke:

On March 18, 1998, the Federal Election Commission notified you 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 has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on June 15, 1998.

The confidentiality provisions of 2 U.S.C. § 437g(a)(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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 614-1650.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

98043893253

MUR 4727

MADISON MAGAZINE

Mr. Patrick O'Brien, a Democratic candidate in Wisconsin's Second Congressional District, alleges that *Madison Magazine* made an in-kind contribution to the campaigns of three of his primary rivals (Tammy Baldwin, Rick Phelps and Joseph Wineke) by featuring their pictures on its cover, consulting them on the story, and promoting this particular issue of the magazine more extensively than other issues. The complainant further alleges that *Madison Magazine* and the three candidates should report the value of this coverage as an in-kind contribution.

Respondents *Madison Magazine* ("Madison"), Rick Phelps for Congress ("Phelps"), Wineke for Congress 1998 ("Wineke"), and Tammy Baldwin for Congress ("Baldwin") all deny that any coordination, in-kind contribution, or promotion of the candidates by the magazine occurred. The respondents further maintain that the extent of interchange between the magazine and candidates consisted of interviews for the article in question. They also maintain that the candidates had no editorial control over the final product.

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This matter is less significant relative to other matters pending before the Commission.

98043893254



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 1998

George L. Ketterer, Treasurer
Wineke for Congress
412 Edward Street
Verona, WI 53593

RE: MUR 4727

Dear Mr. Ketterer:

On March 18, 1998, the Federal Election Commission notified you 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 has determined to exercise its prosecutorial discretion and to take no action against Wineke for Congress and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on June 15, 1998.

The confidentiality provisions of 2 U.S.C. § 437g(a)(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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 614-1650.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

93043893255

MUR 4727
MADISON MAGAZINE

Mr. Patrick O'Brien, a Democratic candidate in Wisconsin's Second Congressional District, alleges that *Madison Magazine* made an in-kind contribution to the campaigns of three of his primary rivals (Tammy Baldwin, Rick Phelps and Joseph Wineke) by featuring their pictures on its cover, consulting them on the story, and promoting this particular issue of the magazine more extensively than other issues. The complainant further alleges that *Madison Magazine* and the three candidates should report the value of this coverage as an in-kind contribution.

Respondents *Madison Magazine* ("Madison"), Rick Phelps for Congress ("Phelps"), Wineke for Congress 1998 ("Wineke"), and Tammy Baldwin for Congress ("Baldwin") all deny that any coordination, in-kind contribution, or promotion of the candidates by the magazine occurred. The respondents further maintain that the extent of interchange between the magazine and candidates consisted of interviews for the article in question. They also maintain that the candidates had no editorial control over the final product.

Madison further points out in its response that the article also mentioned the complainant, noting that he "...does not have the same standing as the other three candidates in this race. The degree of coverage of Mr. O'Brien was an editorial decision." Madison provided documentation that circulation for the March issue is increased by 600 newsstand copies every year because it contains the "Best of Madison" ballot. Madison further stated that this issue was in fact promoted less than normal, as it had one less television commercial for it than the January 1998 and February 1998 issues.

This matter is less significant relative to other matters pending before the Commission.

93043893256



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 1998

Richard J. Phelps
1811 Vilas Avenue
Madison, WI 53711

RE: MUR 4727

Dear Mr. Phelps:

On March 18, 1998, the Federal Election Commission notified you 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 has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on June 15, 1998.

The confidentiality provisions of 2 U.S.C. § 437g(a)(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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 614-1650.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

98043893257

MUR 4727

MADISON MAGAZINE

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This matter is less significant relative to other matters pending before the Commission.

98043893250



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 1998

Jeneene M. Olson, Treasurer
Phelps for Congress
P.O. Box 1651
Madison, WI 53701

RE: MUR 4727

Dear Ms. Olson:

On March 18, 1998, the Federal Election Commission notified you 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 has determined to exercise its prosecutorial discretion and to take no action against Phelps for Congress and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on June 15, 1998.

The confidentiality provisions of 2 U.S.C. § 437g(a)(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.

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Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

93043893259

MUR 4727

MADISON MAGAZINE

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This matter is less significant relative to other matters pending before the Commission.

98043093260



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 1998

Tammy Baldwin
525 Riverside Drive
Madison, WI 53704

RE: MUR 4727

Dear Ms. Baldwin:

On March 18, 1998, the Federal Election Commission notified you 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 has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on June 15, 1998.

The confidentiality provisions of 2 U.S.C. § 437g(a)(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 Jennifer H. Boyd on our toll-free number, (800)-424-9530. Our local number is (202) 614-1650.

Sincerely,

F. Andrew Tarley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

MUR 4727

MADISON MAGAZINE

Mr. Patrick O'Brien, a Democratic candidate in Wisconsin's Second Congressional District, alleges that *Madison Magazine* made an in-kind contribution to the campaigns of three of his primary rivals (Tammy Baldwin, Rick Phelps and Joseph Wineke) by featuring their pictures on its cover, consulting them on the story, and promoting this particular issue of the magazine more extensively than other issues. The complainant further alleges that *Madison Magazine* and the three candidates should report the value of this coverage as an in-kind contribution.

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93043893262



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 1998

Kevin C. Myren, Treasurer
Tammy Baldwin for Congress
P.O. Box 696
Madison, WI 53701

RE: MUR 4727

Dear Mr. Myren:

On March 18, 1998, the Federal Election Commission notified you 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 has determined to exercise its prosecutorial discretion and to take no action against Tammy Baldwin for Congress and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on June 15, 1998.

The confidentiality provisions of 2 U.S.C. § 437g(a)(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 Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 614-1650.

Sincerely,

F. Andrew Tyrley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

98043893263

MUR 4727

MADISON MAGAZINE

Mr. Patrick O'Brien, a Democratic candidate in Wisconsin's Second Congressional District, alleges that *Madison Magazine* made an in-kind contribution to the campaigns of three of his primary rivals (Tammy Baldwin, Rick Phelps and Joseph Wineke) by featuring their pictures on its cover, consulting them on the story, and promoting this particular issue of the magazine more extensively than other issues. The complainant further alleges that *Madison Magazine* and the three candidates should report the value of this coverage as an in-kind contribution.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4721

DATE FILMED 7/7/98 CAMERA NO. 1

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