

**REMBOLT LUTKE & BERGER**

**ATTORNEYS AT LAW**

1201 LINCOLN MALL, SUITE 102  
LINCOLN, NEBRASKA 68508  
TELEPHONE (402) 475-5100  
FAX (402) 475-5087

JAMES E. REMBOLT  
DAVID A. LUTKE  
PENNY J. BERGER  
ALAN D. SLATTERY  
ROBERT L. NEFSKY  
PETER C. WEGMAN  
DONALD L. DUNN  
KEVIN C. SIEBERT  
RICK D. LANGE  
DANIEL E. KLAUS  
CARL J. SJULIN  
TIMOTHY F. CLARE  
TIMOTHY L. MOLL  
JANE F. LANGAN  
MARK A. FAHLESON  
MICHELLE S. KUGLER

—SEWARD OFFICE—  
125 SOUTH 6TH STREET  
SEWARD, NE 68434  
(402) 643-4770  
FAX (402) 643-3969

JOHN S. PIERCE  
(1946-1995)

OF COUNSEL  
JOHN H. BINNING

November 8, 1998

**VIA CERTIFIED MAIL**

F. Andrew Turley  
Supervisory Attorney  
General Counsel's Office  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

**RE: MUR 4836--Complaint of Nebraska Democratic Party Chair  
Concerning Contributions from 1995**

Dear Mr. Turley:

I represent the Don Stenberg for U.S. Senate Committee ("Stenberg Committee") in the above-referenced matter. This position statement is in response to your October 30, 1998, letter outlining a complaint ("Complaint") filed by Anne Boyle, Chairman of the Nebraska Democratic Party. Also enclosed are the requisite Statements of Designation of Counsel. Please address all future inquiries and correspondence in this matter to the undersigned counsel of record.

The Nebraska Democratic Party Complaint questions certain contributions made to, and properly reported by, the Stenberg Committee in June 1995, more than 3 years ago. The Complaint was filed and made public by the Nebraska Democratic Party shortly before the November 1998 election in which Mr. Stenberg was a candidate for re-election as Attorney General of the State of Nebraska.

As the attached exhibits make clear, neither Mr. Stenberg nor the Committee treasurer had any reason to believe, nor did they believe, nor do they now have any reason to believe that any of the contributions in question were in violation of federal law. (See Exhibit 1, Mr. Stenberg's affidavit.) The FEC has provided us with an October 20, 1998, letter from Barbara L. Vopnford which confirms that the contributions in question came from the personal funds of those making the contributions. (Copy attached as Exhibit 2.) The


Complaint contains no allegations of fact to the contrary. The Complaint merely speculates that *possibly* these contributions *might* have been made in the name of another. Accordingly, the Complaint should be dismissed as unfounded.

The Complaint also speculates about whether Mr. Stenberg's action as Attorney General were improperly influenced by the campaign contributions at issue. Clearly they were not. In addition to Mr. Stenberg's affidavit (Exhibit 1), the enclosed affidavit of Assistant Attorney General Paul Potadle (Exhibit 3) makes clear the reason no legal action was filed against Thousand Adventures was that there was not sufficient evidence of any violations of Nebraska law occurring within the State of Nebraska to justify the filing of a legal action. Nevertheless, the Nebraska Attorney General's Office did mediate disputes between consumers and Thousand Adventures which resulted in refunds and debt cancellations in favor of consumers in an amount in excess of \$73,000. A careful reading of the news articles submitted with the Complaint demonstrates that while Thousand Adventures did business in 21 states, lawsuits were filed by attorneys general in only 5 states--Iowa, Ohio, New York, North Carolina, and Kansas. In other words, Nebraska was simply one of 16 states that did not find a sufficient factual basis for the filing of a lawsuit. Because the Complaint of improper influence is entirely without merit and does not fall within the jurisdiction of the FEC, the Nebraska Democratic Party's Complaint should be dismissed in its entirety.

Finally, we respectfully note that the political tactic of unsupported and untrue allegations of candidates being improperly influenced by campaign contributors was very widespread in Nebraska this year. For example, the October 21, 1998 Lincoln Journal-Star reported three separate allegations of such influence on that day alone (See Exhibit 4). According to the Journal-Star, the President of the State Board of Education was accused of doing a TV ad in support of state tax limits because of \$3800 in campaign contributions. The Republican candidate for Governor was accused of being soft on the same issue because of almost \$300,000 in campaign contributions. And the Democratic candidate for Governor was accused of opposing federal "fast track" authority because of enormous amounts of union campaign contributions. Indeed, every candidate could easily be accused of receiving contributions and then voting the contributor's way on issues. Without more, these unsupported political accusations of improper influence are not within the FEC's jurisdiction and should not result in FEC investigation unless the FEC is prepared to investigate literally thousands of contributors and contributions in each and every federal race in the nation every two years.

As the discussion herein and the attached exhibits demonstrate, the Nebraska Democratic Party's allegations are baseless, unsubstantiated, fall outside of the jurisdiction of the FEC and represent nothing more than political mudslinging in the final weeks of a campaign. Consequently, the Stenberg Committee respectfully requests that the Complaint be dismissed in its entirety.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Mark Farieson".

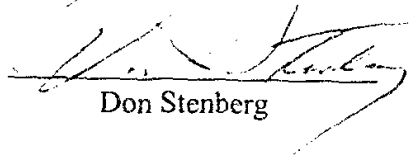
Mark Farieson

C: The Honorable Don Stenberg  
Charles V. Sederstrom, Jr.

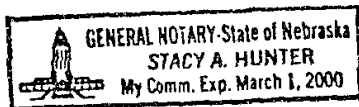
Affidavit of Don Stenberg

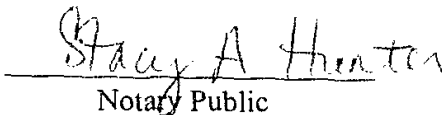
State of Nebraska     )  
                                  ) ss.  
County of Lancaster    )

At no time did I have reason to believe, nor do I now have any reason to believe, that the campaign contributions at issue in complaint MUR 4836 were not from the personal funds of those persons who were reported to be the contributors. Nor were my official acts as Attorney General improperly influenced by the campaign contributors in question.

  
Don Stenberg

Subscribed and sworn to serve this 4<sup>th</sup> day of November, 1998.



  
Notary Public

October 20, 1998

Ms. Retha Dixon  
Docket Manager  
Federal Election Commission  
999 E Street, N. W.  
Washington, D. C. 20463

Dear Ms. Dixon:

RE: Complaint from Nebraska Democratic Party State Chair, Ann Boyle

My name is Barbara Vopnford. I received a copy of a letter and a complaint sent to you from the above-named party, in regard to the Senate campaign waged by Attorney General Don Stenberg.

Mr. Stenberg is running for re-election for Attorney General for the State of Nebraska. His Democratic opponent has been attempting to make donations to his Senate campaign an issue. I would like to take this opportunity to clarify a few misconceptions.


Ms. Boyle refers to my ex-husband's company, Thousand Adventures, Inc., which has been forced into bankruptcy. Mr. Stenberg's opponent has been, in my opinion, slandering him, when she states that he failed to follow-up consumer complaints in regard to the now-bankrupt company. She also infers that he failed to do his job because of campaign contributions to his Senate race. Nothing could be further from the truth.

First of all, Mr. Stenberg never solicited campaign contributions from us. My ex-husband and myself and our family have supported conservatives running for office for many years. Dave's older children, who worked for his company, also made campaign contributions. His older children earned in excess of per year, and were perfectly capable of affording their own maximum contribution. Additionally, our youngest son, Leif, made his contribution from his own bank account. We were told several years prior to this election that underage children are permitted to make campaign contributions as long as they have their own separate bank account and that the contribution comes from their own money in their own account. That is exactly what happened. I am sorry if his opponent believes that a twelve-year old cannot make that decision himself, however, he did, and when it was handled within the legal parameters, there should be no issue.

Finally, Mr. Stenberg's office did, in fact, send consumer complaints on to our company. When I was handling this correspondence myself, I know that the answers were sent in a timely fashion. I would assume that once the legal department was handling that type of correspondence, that the mail-flow continued to be handled in a timely fashion. The problems that the company faced which ultimately resulted in bankruptcy can in no way be attributed to any action, or for that matter, non-action, by the office of Mr. Stenberg.

Thank you for allowing me to clear up this gross misconception

Sincerely,

  
Barbara L. Vopnford  
Box 471  
Blair, Nebraska 68008

County of Lancaster     )  
                                      ) ss  
State of Nebraska        )

AFFIDAVIT OF  
PAUL N. POTADLE

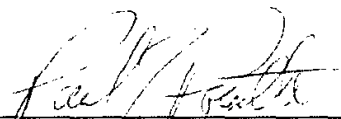
1. Since January, 1991, I have been the Assistant Attorney General in charge of the Consumer Protection Division of the Nebraska Attorney General's Office.

2. One of my duties was and is to examine consumer complaints to determine whether this Office should take legal action against a particular business.

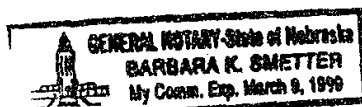
3. On several occasions I reviewed consumer complaints regarding Thousand Adventures. I never filed a lawsuit or recommended that lawsuit be filed against Thousand Adventures because there was never proof that the company was violating the laws of the State of Nebraska. We have no authority to file suit based on the laws of other states for actions of a business which occur in another state.

4. One of the policies of our Consumer Division is to attempt to mediate disputes between consumers and businesses where legal action by our office is not appropriate. Our records show that we did mediate on behalf of consumer with Thousand Adventures and did recover refunds or debt cancellations totaling over \$73,000 for 33 consumers.

5. Attorney General Stenberg never asked me to give any favorable treatment to Thousand Adventures.

  
\_\_\_\_\_  
Paul N. Potadle  
Assistant Attorney General

Subscribed and sworn to before me this 3<sup>rd</sup> day of November, 1998.



  
\_\_\_\_\_  
Notary Public

OF LINCOLN

# Journal Star

LINCOLN, NEB.

WEDNESDAY

OCTOBER 21, 1998

## Board president's lid endorsement draws colleagues

BY J. CHRISTOPHER HAIN  
Lincoln Journal Star

"Deception," "confusing" and "abuse of power" were words used Tuesday by leaders of three statewide education associations in calling for State Board of Education President Kathleen McCallister to resign after she appeared in a TV ad supporting Initiative 413.

McCallister, who is running for the Douglas County Board, introduces herself in the ad as president of the state board and says 413 will not hurt education. However, the State Board of Education voted earlier this month to oppose 413, a proposed constitutional amendment to limit state taxes.

"We see this as seriously inappropriate," said Duane Obermier, Nebraska State Education Association president.

McCallister said the call for resignation was laughable.

"If you left it up to the 413 opponents, they would take away my right to free speech," she said.

Obermier, Jerry Sellentin of the Nebraska Council of School Administrators and John Bonaiuto of the Nebraska Association of School Boards also handed out campaign finance statements from McCallister's Douglas County Board race at a Tuesday morning press conference.

Obermier pointed out McCallister's most recent statement included \$3,800 in contributions from Initiative 413 backers.



McCALLISTER

McCallister said Initiative supporters who contributed to her most recent campaign had given to her previous campaigns.

"We happen to be like-minded," she said. "I clearly am who I am,

and I gave my opinion."

### Lid battle

Initiative 413 pits corporations against agriculture and education interests.

Story, Page 1B

Katherine Endacott, State Board of Education vice president, said McCallister's ad was a violation of the trust of fellow board members. The board voted 5-3 on October 1 to oppose 413.

"We don't want education to become political," Endacott said.

Sellentin said the State Board of Education should at least call for McCallister's censure. The next meeting of the board is after the Nov. 3 election. McCallister is not running for re-election to the state board and her term will expire in January.

McCallister, a Republican, is opposed in her race for Douglas County Board by Democrat Bob Eccles. He called McCallister's commercial "grandstanding."

"There has always been a concern about her and her advertisements," Eccles said. "This is going completely against the wishes of the board, but she's done that before."

Eccles, who served as Ralston

mayor

"If she thinks that's fine, I think so."

Accor-

lines, it

While

used to

question

stricted

such ma-

"The

cial wh-

person-

said Fr-

for the

## Last debate focuses on obligations

### Johanns, Hoppner trade jabs

BY DON WALTON  
Lincoln Journal Star

Bill Hoppner questioned Mike Johanns' ties to corporate supporters of the proposed revenue lid Tuesday night during their final gubernatorial debate.

Johanns, in turn, suggested that Hoppner is obligated to labor unions and heavily dependent on campaign contributions from organized labor.

Their exchange occurred midway through a debate at the University of Nebraska at Kearney campus that was televised statewide over the Nebraska Educational Television Network. It was their fifth debate.

Although Republican Johanns



JOHANNS



HOPPNER

has announced that he will vote against the constitutional lid on state and local tax revenue. Hoppner said he has "always wondered why (Johanns) hasn't asked one Nebraskaan to vote against the proposal."

Hoppner, the Democratic nominee, suggested that the answer may be apparent in almost \$300,000 in campaign contributions to Johanns from the same people who are supporting the lid. Hoppner also pointed to remarks made by University of Nebraska Regent Drew Miller during an Omaha radio talk show earlier in the day.

Miller suggested that Johanns has said in private meetings that he really is in favor of this amendment," Hoppner said.

Miller's comments on KFAB in-



THE ASSOCIATED PRESS

Personal touch: W.F. "Bill" Gettmann of Hastings took his support for Mike Johanns to Kearney Tuesday and attended the gubernatorial debate.

cluded a remark that Johanns is "not against" the amendment, designated as Measure 413.

"He had to switch on that and back away from public support of it because, as he explained, he did not want his campaign to degenerate into Omaha bashing and the kind of things Hoppner would do if he continued to publicly support 413," Miller said of Johanns.

Johanns said Miller "doesn't speak for the Johanns campaign" and suggested that his comments were "very, very irrelevant."

Following the debate, Johanns said Hoppner has received "an enormous amount of money (from labor unions) who are jerking his chain. That's why he backed down on fast-track authority."

Hoppner opposes the proposal to give fast-track trade negotiation authority to the president, a position that mirrors that of organized labor. Johanns supports giving the president authority to negotiate trade agreements that could not be amended by Congress. Under fast-track authority, Congress would have the option of only accepting or

More on DEBATE, Page 5A

# STATEMENT OF DESIGNATION OF COUNSEL

MUR 4836

NAME OF COUNSEL: Mark Fahleson

FIRM: Remboldt, Ludtke, and Berger

ADDRESS: 1201 Lincoln Mall, Suite 102  
Lincoln, NE 68508

TELEPHONE: ( 402 ) 475-5100

FAX: ( 402 ) 475-5087

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

11/5/98  
Date

  
Signature

RESPONDENT'S NAME: Don Stenberg

ADDRESS: 6107 South 25th Street  
Lincoln, NE 68512

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

BUSINESS ( 402 ) 471-2682



## STATEMENT OF DESIGNATION OF COUNSEL

MUR 4836

NAME OF COUNSEL: Mark Fahleson

FIRM: Rembolt, Ludtke, and Berger

ADDRESS: 1201 Lincoln Mall, Suite 102

Lincoln, NE 68508

TELEPHONE: ( 402 ) 475-5100

FAX: ( 402 ) 475-5087

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

11/5/98  
Date

Charles V. Sederstrom  
Signature

RESPONDENT'S NAME: Charles V. Sederstrom, Jr.

ADDRESS: 6107 South 25th Street

Lincoln, NE 68512

TELEPHONE: HOME (            )

BUSINESS ( 402 ) 397-2200