FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3503

DATE FILMED 9/25/92 CAMERA NO. 3

CAMERAMAN EES

9204092340 7

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

APR 7 1 25 PM '92

Mrs. Ted Klock
800 Northwood Blvd.
Corsicana, Tex. 75110

92 APR -7 PM 3:50
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

MUR3503

ederal Election Commission
ffice of the General Counsel
99 E St. N.W.
ashington, D.C. 20463

irs:

ednesday, April 1, 1992, I consulted with one of your Information Specialists egarding what I thought to be a violation of Federal Election Law; specifically, ailure of the purchaser of a political ad to properly disclose the source of the ad.

live in a small, one newspaper community in East Texas. When I called the newsaper office to inquire who had paid for the ad, I was told that since the ad was n behalf of a person who was not an announced candidate for public office, that uch disclosure was not necessary.

our specialist informed me that such a violation was (my words) "small potatoes" elative to the many important matters that are brought to your attention. She eft me with the distinct impression that my follow-up would be an exercise in utility; that probably nothing would be done other than to perhaps send a letter to he miscreant (whom I cannot name because the newspaper staff would not give me hat information).

owever, it is very much in my nature to follow-through once I start on a project. he project started simply enough, with my calling the newspaper office to point ut to them the error of their ways. Now I find myself writing a lengthy, notarized issive to a federal office.

t is my hope that if such requirements are indeed law, that there will be some ort of rectification and proper disclosure made, either at the expense of the urchaser, or at the expense of the newspaper which accepted the ad without equiring the purchaser to abide by the law. It does seem that if the purpose of he law is to make public who pays for what in our political arena, that a person ho cloaks him or herself in anonymity should be required to make the full disclosure ecessitated by the law, or else the law itself is a meaningless exercise in erbosity and bureaucratic pomposity.

nclosed you will find copies of the Perot ad which appeared several times in he local newspaper. I did not save and retain a copy of everyone, but it did un for several days over a period of 5-7 days.

DIANE N. CUNNINGHAM
NOTARY PUBLIC
STATE OF TEXAS
Commission Expires 8-18-93

Sincerely,

Mrs. Ted Klock

Mrs. Ted Klock

Sworn to and subscribed before me at Corsicana, Texas this the 3rd day of April 1992.

Diane N. Cunningham — Notary Public, Navarro Co. Texas

Signature of Officer administering oath — Title of Office administering oath

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

APR 7 1 25 PM '92

Mrs. Ted Klock
800 Northwood Blvd.
Corsicana, Tx. 75110

92 APR -7 PM 3:50
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

MUR 3503

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

Sirs:

Wednesday, April 1, 1992, I consulted with one of your Information Specialists regarding what I thought to be a violation of Federal Election Law; specifically, failure of the purchaser of a political ad to properly disclose the source of the ad.

I live in a small, one newspaper community in East Texas. When I called the newspaper office to inquire who had paid for the ad, I was told that since the ad was in behalf of a person who was not an announced candidate for public office, that such disclosure was not necessary.

Your specialist informed me that such a violation was (my words) "small potatoes" relative to the many important matters that are brought to your attention. She left me with the distinct impression that my follow-up would be an exercise in futility; that probably nothing would be done other than to perhaps send a letter to the miscreant (whom I cannot name because the newspaper staff would not give me that information).

However, it is very much in my nature to follow-through once I start on a project. The project started simply enough, with my calling the newspaper office to point out to them the error of their ways. Now I find myself writing a lengthy, notarized missive to a federal office.

It is my hope that if such requirements are indeed law, that there will be some sort of rectification and proper disclosure made, either at the expense of the purchaser, or at the expense of the newspaper which accepted the ad without requiring the purchaser to abide by the law. It does seem that if the purpose of the law is to make public who pays for what in our political arena, that a person who cloaks him or herself in anonymity should be required to make the full disclosure necessitated by the law, or else the law itself is a meaningless exercise in verbosity and bureaucratic pomposity.

Enclosed you will find copies of the Perot ad which appeared several times in the local newspaper. I did not save and retain a copy of everyone, but it did run for several days over a period of 5-7 days.

9204092308

NOTARY PUBLIC STATE OF TEXAS
DIANE N. CUNNINGHAM
NOTARY PUBLIC
STATE OF TEXAS
Commission Expires 8-18-93

Sincerely,

Mrs. Ted Klock

Mrs. Ted Klock

Sworn to and subscribed before me at Corsicana, Texas this the 3rd day of April 1992.

Diane N. Cunningham — Notary Public, Navarro Co. Texas

Signature of Officer administering oath — Title of Office administering oath

AND ORDER OF TATER TOTS
ONLY $2.49 PLUS TAX
PICNIC

— Phil Smith's
R and H Pharmacy
— and The Gift Emporium —
223 West 6th Avenue

Help Put Ross Perot On The Texas Ballot!

If you are a registered voter and have not voted this year, you can show your support for ROSS PEROT by stopping by our headquarters located at London Square Shopping Center and signing the petition that will help put ROSS PEROT on the Texas ballot for the November Election

Monday through Saturday
(903) - 872-4944

Corner of 7th & 15th
Corsicana, Texas

Perot '92

That Want A Pool "SAVE Hundreds of Dollars"

• 5 Homes are needed in this area to demonstrate and advertise premium quality Blue Haven Pools.
Blue Haven is opening a local branch and will use these homes to advertise and show their quality work and beautiful products.

NO GIMMICKS!
For Free Site Inspection
Call Collect
(817) 540-1344

9 2 0 4 0 9 2 3 4 0 9

Out Of Town
Customers
Call Toll Free
1-800-460-7355

Help Put Ross Perot On The Texas Ballot!

If you are a registered voter and have not voted this year, you can show your support for ROSS PEROT by stopping by our headquarters located at London Square Shopping Center and signing the petition that will help put ROSS PEROT on the Texas ballot for the November Election

Monday through Saturday
(903) - 872-4944

Corner of 7th & 15th
Corsicana, Texas

Perot '92

9204092341 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 14, 1992

Mike Poss, Treasurer
Perot Petition Committee
1700 Lakeside Square
12377 Merit Drive
Dallas, Texas 75251

RE: MUR 3503

Dear Mr. Poss:

The Federal Election Commission received a complaint which alleges that the Perot Petition Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3503. Please refer to this number in all future correspondence.

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

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

92040923411

If you have any questions, please contact Craig Reffner, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

cc: Ross Perot

92040923412

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 14, 1992

Perot '92
600 West 7th
(Corner of 7th & 15th)
Corsicana, Texas 75110

RE: MUR 3503

Dear Sir or Madam:

The Federal Election Commission received a complaint which alleges that Perot '92 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 3503. 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 Perot '92 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.

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If you have any questions, please contact Craig Reffner, the attorney assigned to this matter, at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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

92040923414

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 14, 1992

Mrs. Ted Klock
800 Northwood Blvd.
Corsicana, Texas 75110

RE: MUR 3503

Dear Mrs. Klock:

This letter acknowledges receipt on April 7, 1991, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Perot '92, Ross Perot, Perot Petition Committee and Mike Poss, as treasurer, and the Corsicana Daily Sun. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3503. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lisa E. Klein
Assistant General Counsel

Enclosure
Procedures

9204092341 5

LAW OFFICE OF
RICHARD MAYBERRY & ASSOCIATES
FIFTH FLOOR
888 16TH STREET, N.W.
WASHINGTON, D.C. 20006
(202) 785-6677

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

APR 28 11 51 AM '92

April 27, 1992

92 APR 29 AM 3: 25

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

9 2 0 4 0 9 2 3 4 1 6

By FAX

Craig Reffner
Office of General Counsel
FEDERAL ELECTION COMMISSION
Sixth Floor
999 E Street, N.W.
Washington, DC 20463

Re: MUR 3503

Dear Mr. Reffner:

We and Hughes & Luce represent the Perot Petition Committee, and its treasurer, Mike Poss, in the above referenced compliance matter. Our Designation of Counsel is enclosed.

The Committee's reply to the complaint is due April 29, 1992. We hereby request a 14 day extension of time in which to file the reply. Because the Committee just filed its first report, we have concentrated our efforts in advising the treasurer on the legal requirements of recordkeeping and completion of the reports.

Thereafter, I was involved in preparing a substantial pleading in unrelated litigation, and have just returned from a business trip to Salt Lake City. The witnesses in instant matter are in Texas, and we have not had an opportunity to undertake the factual investigation.

For these reasons, it would be impossible to collect relevant factual and legal materials by the April 29, 1992 deadline. Should your office grant the extension until May 13, 1992, I am confident that no further extensions at this stage of the process would be required, and that we would file on or before this date.

Thank you in advance for your consideration of this request. Please call me with the decision on the extension as soon as possible.

Sincerely yours,

Richard Mayberry

Richard Mayberry

cc: Mike Poss
Clay Mulford, Esquire

9204092341 7

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3503

NAME OF COUNSEL:	Richard Mayberry	AND Clay Mulford
ADDRESS:	Richard Mayberry & Assoc.	Hughes & Luce
	888 16th St. NW, 5th Floor	1717 Main Street, Suite 2800
	Washington, DC 20006	Dallas, TX 75201
TELEPHONE:	(202) 785-6677	(214) 939-5500

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.

4/23/92 Mike Poss
Date Signature

RESPONDENT'S NAME: Mike Poss, Treasurer
Perot Petition Committee

ADDRESS: 1700 Lakeside Square
12377 Merit Drive
Dallas, TX 75251

HOME PHONE: --

BUSINESS PHONE: (214) 788-3000

9204092341 8

TOTAL P.08

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 28, 1992

Richard Mayberry, Esq.
Richard Mayberry & Associates
Fifth Floor
888 16th Street, N.W.
Washington, D.C. 20006

RE: MUR 3503
Perot Petition Committee
and Mike Poss, as treasurer

Dear Mr. Mayberry:

This is in response to your letter dated April 27, 1992, which we received on April 27, 1992, requesting an extension of 14 days to respond to the complaint in the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel granted the requested extension. Accordingly, your response is due by the close of business on May 13, 1992.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Craig D. Reffner
Attorney

cc: Clay Mulford, Esq.
Hughes & Luce

9204092341 9

OGC 4587

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION

In re Perot Petition Committee, and Michael Poss, Treasurer.	)	MUR No. 3503

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 MAY 13 PM 4:45

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RESPONSE TO COMPLAINT

The Perot Petition Committee and Michael Poss ("the Respondents") respond to the April 7, 1992 complaint filed by Mrs. Ted Klock as follows:

THE COMPLAINT

Mrs. Ted Klock filed a complaint with the Federal Election Commission regarding several advertisements which appeared in a newspaper in Corsicana, Texas.

The text of the advertisements is the same. The advertisements are titled "Help Put Ross Perot On The Texas Ballot!" and request registered voters to show their support for Ross Perot by signing petitions to place him on the ballot in November. "Perot '92," a telephone number and an address appear at the bottom of the advertisements. See Exhibit 1.

The sole allegation of Klock's complaint is that the advertisements did not state who paid for their placement in the newspaper.

The Perot Petition Committee and Michael Poss Had No Knowledge Of These Advertisements

The Perot Petition Committee ("the Committee") is the "principal campaign committee" designated by Ross Perot as required by FEC regulations. The Committee is located in Dallas, Texas. Mr. Poss is its treasurer or chief financial officer, and is responsible for the recordkeeping and reporting of financial activity by the Committee.

Literally tens of thousands of individuals across the United States are circulating petitions in order to achieve ballot placement for Ross Perot. From among these individuals, volunteer coordinators were selected in each state by the Committee. This process was an informal one, involving selection of individuals who appeared well organized or established. These individuals are not "volunteers" in the classic sense, in that they did not volunteer to receive direction from the Committee. Rather, they operated autonomously and independently, but made contact with the Committee evolving over time into an established relationship. It is with these coordinators that the Committee communicates in an attempt to prevent duplicative efforts (such as circulation of different petitions bearing different slates of electors), to comply with FEC and other regulations, and to curtail certain activities.

These coordinators in turn coordinate the activities of the individuals with whom they have contact to meet petition objectives. In addition to these activities, which are within the ambit of Committee activity, many other individuals or groups acting independently have undertaken actions on their own without

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the knowledge of the Committee or the coordinators, or their agents.

Until the Klock complaint was filed with the FEC, the Committee and Michael Poss did not know that the advertisements at issue had been placed, who placed them, or what legal notices they did or did not contain. Clearly, neither of the Respondents could authorize the placement of unknown advertisements. Moreover, "Perot '92" is neither a known nor recognized entity, and in any event has no relation to the Committee. See Poss Affidavit, Exhibit 2.

James Serur is the volunteer Texas state coordinator for the Committee. Until the Klock complaint was filed, James Serur did not know that the advertisements had been placed, who placed them, or what legal notices they did or did not contain. Clearly, the Committee as operated through the coordinator in Texas did not authorize the placement of the advertisements. Moreover, "Perot '92" is neither a known nor a recognized entity by the Texas state coordinator. See Serur Affidavit, Exhibit 3.

92040923422

The Committee and Michael Poss Bear No Responsibility
<u>For Any Legal Liability Arising From Them</u>

The complaint alleges the advertisements violated the Federal Election Campaign Act, as amended. Since there is no nexus between the Respondents and either the advertisements or the individual or group placing them, the Respondents do not bear responsibility for the advertisements.

More specifically, the Committee has no principal-agent relationship with the individual or group which placed the advertisements. "Agency is the fiduciary relation that results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act." Southern Pacific Transportation Co. v. Continental Shippers Association, 642 F.2d 236, 238 (8th Cir. 1981), quoting Restatement (Second) of Agency § 1 (1958). "For there to be an agency relationship, there must be some act constituting an appointment of a person as an agent; it is a consensual relationship." Carr v. Hunt, 651 S.W. 2d 875, 879 (Tex.App. 5 Dist. 1983). None of the Committee, Michael Poss or James Serur appointed or authorized, either directly or indirectly, the person or group which placed the advertisements or directly or indirectly consented to the actions. In fact, the identity of the person or group placing the advertisement was unknown to them.

Moreover, "[n]o agency relationship can exist unless the actions of the alleged agent are within the control of the principals." First National Bank of Mineola, Texas, v. Farmers & Merchants State Bank, 417 S.W. 2d 317,330 (1967). The person or group which placed the advertisements was not controlled, either directly or indirectly, by the Respondents, and the Respondents had no knowledge of the advertisements. None of the Committee, Poss or Serur knew of the advertisements, had granted authority for the placement of the advertisements, or had any control over their content or the individual or group which placed them. The

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advertisements were not made with the cooperation of, or in consultation with, or at the suggestion of, any agent of the Committee. The Respondents cannot be held legally accountable for actions by individuals who were unknown to them and whose actions were not known, controlled, or authorized by them. See generally Poss and Serur Affidavits.

Conclusion

For the above referenced reasons, the complaint should be dismissed and no further action should be taken towards the Respondents.

Respectfully submitted,

Date: 4/15/92

Richard Mayberry

Richard Mayberry
Richard Mayberry & Associates
888 16th St, NW, Fifth Floor
Washington, DC 20006
(202) 785-6677

Counsel For Respondents

92040923424

EXHIBITS

9 2 0 4 0 9 2 3 4 2 5

9 2 0 4 0 9 2 3 4 2 6

Help Put Ross Perot On The Texas Ballot!

If you are a registered voter and have not voted this year, you can show your support for ROSS PEROT by stopping by our headquarters located at London Square Shopping Center and signing the petition that will help put ROSS PEROT on the Texas ballot for the November Election

Monday through Saturday
(903) - 872-4944

Corner of 7th & 15th
Corsicana, Texas

Perot '92

EXHIBIT 1

AFFIDAVIT OF MICHAEL POSS

I hereby say and depose that:

1. I am treasurer of the Perot Petition Committee (hereinafter, "the Committee"), which is the principal campaign committee of Ross Perot.

2. In my capacity as treasurer, I am the chief financial officer of the Committee, and responsible for meeting its recordkeeping and reporting obligation under The Federal Election Campaign Act of 1971, as amended.

3. I am aware of the April 7, 1992 complaint brought by Mrs. Ted Klock against the Committee, and have reviewed the advertisements, copies of which are attached to this Response as Exhibit 1.

4. Prior to receiving the April 14, 1992 letter from the Federal Election Commission with copies of these advertisements, I did not know that the advertisements had been placed, nor what legal notices they did or did not contain. Moreover, I did not know who placed these advertisements.

5. I did not authorize or appoint any person or group to place the referenced advertisements.

EXHIBIT 2

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6. I do not know of, nor have I recognized as a part of the Committee, the entity "Perot '92". If it exists, I have no control over its actions.

I swear under penalty of perjury that the forgoing is true to the best of my knowledge, information and belief.

Michael Poss

Michael Poss

City of Dallas)
State of Texas) ss.

Subscribed and sworn to by the person proven to me to be Michael Poss on this 12 day of May, 1992.

Linda Sue Huff

Notary Public

My commission expires: 3/9/93

9204092342 8

AFFIDAVIT OF JAMES SERUR

I do hereby say and depose:

1. I am Texas State Coordinator for the Perot Petition Committee (hereinafter, "the Committee").

2. In that capacity, I coordinate volunteer efforts in Texas with the Committee.

3. I serve as an unpaid volunteer.

4. I am aware in general of the April 7, 1992 complaint brought by Mrs. Ted Klock against the Committee, but had not read the complaint nor seen the advertisements (a copy of which is attached hereto) until I began with this affidavit.

5. Prior to being informed of the Klock complaint during the first week of May, 1992, I did not know that the advertisements had been placed, nor what legal notices they did or did not contain. Moreover, I did not know who placed the advertisements.

6. I did not authorize or appoint on behalf of the Committee in Texas any person or group to place these advertisements.

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EXHIBIT 3

7. I do not know of, nor have I recognized as a part of the Committee in Texas, the entity "Perot '92". If it exists, I have no control over its actions.

I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

James Serur
James Serur

COUNTY ~~City~~ of DALLAS)
) ss.
State of TEXAS)

Subscribed and sworn to by the person proven to me to be James Serur on this 12 day of May, 1992.

ROY BERTRAM VOKEY
MY COMMISSION EXPIRES
October 30, 1995

Roy Bertram Vokey
Notary Public

My commission expires:

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Help Put Ross Perot On The Texas Ballot!

If you are a registered voter and have not voted this year, you can show your support for ROSS PEROT by stopping by our headquarters located at London Square Shopping Center and signing the petition that will help put ROSS PEROT on the Texas ballot for the November Election

Monday through Saturday
(903) - 872-4944

Corner of 7th & 15th
Corsicana, Texas

Perot '92

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

MAY 28 12 49 PM '92

CARMACK WATKINS
P. O. BOX 570
CORSICANA, TEXAS 75151
(903) 874-6587

May 19, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 MAY 28 PM 3:46

Ms. Lisa E. Klein
Assistant General Counsel
Federal Election Commission
Washington, D.C. 20463
FAX# (202) 219-3923

Re: MUR 3503

92040923432

Dear Ms. Klein:

This letter is in response to your letter to me dated April 14, 1992 regarding an alleged violation of the Federal Election Campaign Act of 1971.

I have not been involved in any political process before and the advertisements I placed in our local paper were based solely on my own action and not on behalf or knowledge of anyone else. I have never placed a political advertisement before. I was not aware of any law requiring me to place my name on the advertisement. The local newspaper did not tell me of this requirement although, now I know that it is not the newspaper's ultimate responsibility.

If I ever do decide to run another political advertisement, I will certainly not let this mistake happen again.

I sincerely hope this matter can be resolved without further problems or embarrassment. Thank you.

Sincerely,

Carmack Watkins

Carmack Watkins

CW/kf
Copy: Dick Mayberry
FAX# (202) 835-8136
David W. Wilson
409 North 14 Street
Corsicana, Texas 75110

RECEIVED
F.E.C.
SECRETARIAT
92 AUG -4 PM 3:57

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3503
DATE COMPLAINT RECEIVED
BY OGC: 4/7/92
DATE OF NOTIFICATION TO
RESPONDENTS: 4/14/92
STAFF MEMBER: Frances B. Hagan

COMPLAINANT:	Mrs. Ted Klock
RESPONDENTS:	Carmack Watkins Perot '92 Perot Petition Committee Mike Poss, Treasurer
RELEVANT STATUTES:	2 U.S.C. § 441d(a) 11 C.F.R. § 110.11(a) 2 U.S.C. § 434(c)(1) and (2) 11 C.F.R. §§ 109.1-3
INTERNAL REPORTS CHECKED:	Disclosure Indexes
FEDERAL AGENCIES CHECKED:	None

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I. GENERATION OF MATTER

This matter originated as a complaint filed by Mrs. Ted Klock, alleging that Perot '92 violated 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a). Perot '92 is not a registered entity.

II. FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441d, all expenditures for communications which expressly advocate the election or defeat of a clearly identified candidate, or expenditures to solicit any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, must contain a disclaimer. Pursuant to 2 U.S.C. § 441d(a)(1)-(3), the

disclaimer must clearly state the identity of the person or committee who paid for the communication and whether the communication was authorized by the candidate or the candidate's committee.

2 U.S.C. § 434(c)(1) requires that every person other than a committee who makes independent expenditures in excess of $250 during a calendar year shall file a statement containing the information required under Section 434(b)(3)(A) for all contributions received by such person. 11 C.F.R. § 109.1 defines an independent expenditure as an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or suggestion of, a candidate or any agent or authorized committee of such candidate.

11 C.F.R. § 109.1(b)(5) defines an agent as any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

According to the complaint, an advertisement on behalf of Ross Perot's presidential campaign appeared for five to seven days in a Corsicana, Texas, newspaper. Complainant alleged a violation of the Act based on the omission of a disclaimer statement identifying who purchased the ads.

The ad was labeled "Perot '92" and exhorted voters to "[stop]

92040923434

by our headquarters...and [sign] the petition...[to] put Ross Perot on the Texas ballot for the November Election." See Attachment A, 7. The ad contained no disclaimer.

In response to the complaint, Carmack Watkins stated that he alone placed the newspaper advertisements labeled "Perot '92" without the knowledge of anyone else. He explained that he had no previous political experience and was not aware of applicable election law requiring him to disclose who paid for the ads. In a subsequent telephone conversation, Mr. Watkins estimated that the ads in question cost about $100. He further explained that he had collected ballot petitions in a vacant office of a store he owned, and that he closed it as soon as he learned of the complaint in this matter.

As principal campaign committee for Ross Perot, the Perot Petition Committee ("the Committee" or "Respondents") and Michael Poss, as treasurer, were notified of the complaint. The Committee--including its treasurer and Texas state coordinator--disavowed having had any knowledge of the advertisements before receiving the complaint. Respondents argued that since there is no connection between the respondents and the ads or the individual or group placing them, respondents bear no responsibility for any legal liability resulting from the ads.

The advertisements expressly advocate the election of a clearly identified candidate--in this case Ross Perot--and therefore, should have contained a Section 441d disclaimer. If such communications were not made in concert with the candidate, the payments for costs incurred constitute independent

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expenditures. Based on Mr. Watkins' statement that he was a political novice acting alone in placing the ads; and in view of the Committee representatives' sworn statements that they had no knowledge of "Perot '92" or related activities such as the ad in question, it appears that the advertisements constitute independent expenditures on behalf of a federal candidate and are to be reported pursuant to Section 434(c).

The costs incurred by Mr. Watkins' use of office space in his building for a petition drive, along with the $100 for newspaper ads, may have exceeded $250, making the expenditures subject to 2 U.S.C. § 434(c)(1). In addition, because the advertisements on behalf of Mr. Perot did not include a disclaimer, it appears that Mr. Watkins violated 2 U.S.C. § 441d(a)(1). However, Mr. Watkins apparently was ignorant of the election law process; his activities seem isolated to an ad and limited use of an office; and the resulting expenditures were minimal. Further, he has pledged not to make such a mistake again should he ever decide to place another political ad. Therefore, in view of efforts to order priorities and staff resources, the Office of the General Counsel recommends that the Commission find reason to believe that Carmack Watkins violated 2 U.S.C. §§ 441d(a)(1) and 434(c)(1), but take no further action in this matter. See Heckler v. Chaney, 470 U.S. 821 (1985). Concomitantly, this Office recommends that the Commission find no reason to believe that the Perot Petition Committee and its treasurer violated 2 U.S.C. § 441d(a)(1). The letter to Mr. Watkins will include an admonishment.

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III. RECOMMENDATIONS

1. Find reason to believe that Carmack Watkins violated 2 U.S.C. § 434(c)(1) and 2 U.S.C. § 441d(a)(1), and take no further action.

2. Find no reason to believe that the Perot Petition Committee and Michael Poss, as treasurer, violated 2 U.S.C. § 441d(a)(1).

3. Close the file.

4. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

8/3/92
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
A. Committee response to complaint
B. Watkins' response to complaint

92040923437

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DONNA ROACH DR
COMMISSION SECRETARY

DATE: AUGUST 11, 1992

SUBJECT: MUR 3503 - FIRST GENERAL COUNSEL'S REPORT DATED AUGUST 3, 1992.

The above-captioned document was circulated to the Commission on WEDNESDAY, AUGUST 5, 1992 11:00 a.m.

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	XXX
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, AUGUST 25, 1992.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3503
Carmack Watkins;	)	
Perot '92;	)	
Perot Petition Committee;	)	
Mike Poss, Treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 25, 1992, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3503:

1. Find reason to believe that Carmack Watkins violated 2 U.S.C. § 434(c)(1) and 2 U.S.C. § 441d(a)(1), and take no further action.

2. Find no reason to believe that the Perot Petition Committee and Michael Poss, as treasurer, violated 2 U.S.C. § 441d(a)(1).

3. Close the file.

(continued)

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4. Approve the appropriate letters as recommended in the General Counsel's report dated August 3, 1992.

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

Attest:

8-25-92
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CLOSED

September 8, 1992

Mr. Carmack Watkins
P.O. Box 570
Corsicana, Texas 75151

RE: MUR 3503
Carmack Watkins
Perot Petition Committee

Dear Mr. Watkins:

On August 25, 1992, the Federal Election Commission found reason to believe that you violated 2 U.S.C. §§ 434(c)(1) and 441d(a)(1), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file.

The Commission reminds you that the failure to file a statement of independent expenditures made on behalf of presidential candidate Ross Perot appears to be a violation of 2 U.S.C. § 434(c)(1). In addition, the failure to include a disclaimer statement on newspaper advertisements expressly advocating the election of a clearly identified candidate appears to violate 2 U.S.C. § 441d(a)(1). You should take immediate steps to ensure that this activity does not occur in the future.

The confidentiality provisions at 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 before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 219-3400.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 9, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mrs. Ted Klock
800 Northwood Blvd.
Corsicana, Texas 75110

RE: MUR 3503

Dear Mrs. Klock:

This is in reference to the complaint you filed with the Federal Election Commission on April 7, 1992, concerning Perot '92, Ross Perot, Perot Petition Committee and Mike Poss, as treasurer.

Based on that complaint, on August 25, 1992, the Commission found that there was reason to believe Carmack Watkins violated 2 U.S.C. §§ 434(c)(1) and 441d(a)(1), provisions of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against Carmack Watkins.

At the same time, the Commission found that on the basis of the information provided in your complaint, and information provided by the respondents, there is no reason to believe the Perot Petition Committee and Mike Poss, as treasurer, violated 2 U.S.C. § 441d(a)(1).

Accordingly, on August 25, 1992, the Commission closed the file in this matter. This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Frances B. Hagan

Frances B. Hagan
Paralegal Specialist

Enclosure
General Counsel's Report
Certification of Commission action

9204092342

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CLOSED

September 9, 1992

Richard Mayberry, Esq.
Richard Mayberry & Associates
888 16th Street, N.W., 5th Floor
Washington, D.C. 20006

RE: MUR 3503
Perot Petition Committee and
Michael Poss, as treasurer

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Dear Mr. Mayberry:

On April 14, 1992, the Federal Election Commission notified your clients, the Perot Petition Committee and Michael Poss, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On August 25, 1992, the Commission found, on the basis of the information in the complaint, and information you provided, that there is no reason to believe the Perot Petition Committee and Michael Poss, as treasurer, violated 2 U.S.C. § 441d(a)(1). Accordingly, the Commission closed its file in this matter.

The confidentiality provisions at 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 before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

cc: Clay Mulford, Esq.
Hughes & Luce
1717 Main Street, Suite 2800
Dallas, Texas 75201

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3503

DATE FILMED 9/25/92 CAMERA NO. 3

CAMERAMAN EES

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