



FEDERAL ELECTION COMMISSION  
WASHINGTON D C 20463

THIS IS THE BEGINNING OF MUR # 4110

DATE FILMED 5-29-96 CAMERA NO. 4

CAMERAMAN JMN

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COMPLAINT

MAIL 4110

Pursuant to the provisions of 2 U.S.C. 437g and of 11 C.F.R. 111.4, the following complaint is hereby submitted to the General Counsel of the Federal Election Commission for violations of the Federal Election Campaign Act and regulations thereunder:

**SENSITIVE**

1. Complainant: Jeffrey B. Dorschner  
Campaign Manager  
Schroeder for Congress Committee, Inc.  
2000 Gaylord Street  
Denver, Colorado 80205.

2. Respondents: Bill Eggert  
363 Dahlia St.  
Denver, CO 80220

Bill Eggert for Congress Committee  
P. O. Box 200384  
Denver, CO 80220

Republican Party of Colorado  
1275 Tremont Place  
Denver, CO 80204

3. Date: October 25, 1994

4. Facts:

Complainant is the campaign manager of the Schroeder for Congress Committee, the principal committee supporting Patricia Schroeder, Democratic candidate for election to the U.S. House of Representatives from Colorado's First Congressional District. Respondents are Bill Eggert, Republican candidate for election to the U.S. House of Representatives from Colorado's First Congressional District, Bill Eggert for Congress Committee, Mr. Eggert's principal campaign committee, and the Colorado Republican Party.

Attached to this Complaint is an Affidavit from a registered voter in Colorado's First Congressional District. As set out in this Affidavit, the voter received a "polling" telephone call which was highly critical of Rep. Patricia Schroeder. Some of the statements made in this poll conveyed incorrect information about Rep. Schroeder and her record. It is the information and belief of the Complainant that the "poll" was a push poll conducted by the Public Information Corporation. A push poll is a stealth smear campaign tactic used to communicate unsubstantiated, untrue allegations to voters. It is the information and belief of the Complain-

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
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ant that the purpose of the "poll" was to advocate the defeat of Rep. Schroeder. It is the information and belief of the Complainant that at no time during the conduct of the "poll" was notice given as to who paid for and authorized the communication.

"Polling" of this nature is intended to influence a voter's choice between candidates. During such a "poll" a candidate's name is used repeatedly in a series of negative contexts to persuade a voter not to support the candidate and to provide questionable data for publication. Such "polls" initially appear to be conducted in a public-interest manner. They become progressively more biased as the "poll" continues. False and misleading information regarding an opponent is conveyed to the voter being polled. If "pollers" are not required to identify who paid for and who authorized the communication which is clearly advocating the defeat of a named candidate, the voter may easily be misled into believing that the "poll" has a legitimate public-interest motivation and that the statements regarding the candidate are fair and unbiased.

2 U.S.C. 441d and 11 C.F.R. 110.11 require any communication which expressly advocates the election or defeat of a clearly identified candidate to contain a disclaimer which shall be presented in a clear and conspicuous manner to give the listener adequate notice of the identity of persons who paid for and who authorized the communication. It is the opinion and belief of the Complainant that some or all of the Respondents have violated these laws by failing to provide the requisite disclaimer.

I declare under penalties of perjury that I have examined this Complaint and that, to the best of my knowledge, the information contained herein is true and correct.

Jeffrey B. Dorschner  
Jeffrey B. Dorschner  
Campaign Manager  
Schroeder for Congress Committee, Inc.

STATE OF COLORADO )  
 ) ss.  
City and County of Denver )

The foregoing Complaint was subscribed and sworn to before me this 25th day of October, 1994 by Jeffrey B. Dorschner, Campaign Manager of the Schroeder for Congress Committee, Inc.

Witness my hand and official seal.

My Commission expires: December 1, 1994.

[Seal]

Maxwell B. Breda  
Notary Public

260437333

AFFIDAVIT

STATE OF COLORADO     )  
                              )SS.  
COUNTY OF ARAPAHOE    )

I, Mrs. C. Lynette Pahs, being duly sworn upon oath, depose and state as follows:

1. My address is 2337 South Forest Drive, Denver, Colorado 80222. My telephone number is

2. At the end of August or the beginning of September of this year, I received a phone call from a group identifying themselves as a "polling firm." They asked if I would answer a couple of questions pertaining to the upcoming elections. I said I would.

3. As I received this call over a month ago, this is my best recollection of what transpired: They asked me "If the election were held today, who I would vote for, Bill Eggert or Pat Schroeder."

4. After I responded, they asked me if "I had known that Pat Schroeder had missed key votes in Congress." Again, I responded.

4. They then asked me, "If the election were held today, who would I vote for, Bill Eggert or Pat Schroeder." I responded.

5. I was then asked if "I knew Pat Schroeder took 'junkets' at taxpayer expense." I responded, and then again was asked, "If the election were held today, who would I vote for, Bill Eggert or Pat Schroeder." I responded.

6. I was then asked if "I knew that Pat Schroeder accepted 'PAC' money." I responded, and then again was asked, "If the election were held today, who would I vote for, Bill Eggert or Pat Schroeder." I again responded.

7. They also asked me questions about other candidates, including Governor Roy Romer. I do not remember the specifics of the questions about the other candidates.

8. The reason I remember the specifics of the questions about Pat Schroeder is because my daughter, Lisa De Lindsay, works on Pat Schroeder's campaign staff.

9. They thanked me for my time, and the call was terminated.

10. Because of the political nature of the call and the fact that

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it was highly critical of Pat Schroeder, I believe the actual sponsor of the polling call was the Bill Eggert for Congress Committee and or the Colorado Republican Party.

Dated this 25 day of October, 1994.

Mrs. C. Lynette Pahs  
Mrs. C. Lynette Pahs

SUBSCRIBED AND SWORN TO before me this 25th day of October, 1994 by Mrs. C. Lynette Pahs.

WITNESS my hand and official seal.

My commission expires: 2-20-96.

Kathleen S. Allen  
Notary Public 10-25-94

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

November 4, 1994

Jeffrey B. Dorschner, Campaign Manager  
Schroeder for Congress Committee, Inc.  
2000 Gaylord Street  
Denver, CO 80205

RE: MUR 4110

Dear Mr. Dorschner:

This letter acknowledges receipt on October 31, 1994, of your complaint filed on behalf of Schroeder for Congress Committee, Inc. alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4110. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar (H28)

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosure  
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 4, 1994

Bill Eggert  
363 Dahila Street  
Denver, CO 80220

RE: MUR 4110

Dear Mr. Eggert:

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 4110. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

*Mary L. Taksar (#28)*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 4, 1994

Patrick W. Achatz, Treasurer  
Bill Eggert for Congress Committee  
P.O. Box 200384  
Denver, CO 80220

RE: MUR 4110

Dear Mr. Achatz:

The Federal Election Commission received a complaint which indicates that Bill Eggert for Congress 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 4110. 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.

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

Sincerely,

Mary L. Taksar (LTS)

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 4, 1994

Douglas L. Jones, Treasurer  
Colorado Republican Federal Campaign Committee  
1275 Tremont Place  
Denver, CO 80204

RE: MUR 4110

Dear Mr. Jones:

The Federal Election Commission received a complaint which indicates that the Colorado Republican Federal Campaign 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 4110. 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.

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

Sincerely,

Mary L. Taksar (428)

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 4, 1994

Robert L. Tonsing, Jr., Registered Agent  
Public Information Corporation  
5808 South Rapp Street, #204  
Littleton, CA 80120

RE: MUR 4110

Dear Mr. Tonsing:

The Federal Election Commission received a complaint which indicates that the Public Information Corporation 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 4110. 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 Public Information Corporation 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 Alva E. Smith at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Mary L. Taksar* (JES)

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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

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WILLIAM F. EGGERT, ESQ.  
511 16th Street, Suite 600  
Denver, CO 80202

Nov 23 11 09 AM '94

November 16, 1994

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COMMISSION  
WASHINGTON, D.C.

Federal Election Commission  
Washington, D. C. 20463

Attn: Ms. Alva E. Smith

Dear Ms. Smith:

As counsel for both myself and the Bill Eggert for Congress Committee, I am herein responding to the allegations contained in the complaint which forms the basis for MVR 4110.

Enclosed with this response is a copy of an affidavit from Mr. Robert Tonsing, President of The Public Information Corporation of Denver. Mr. Tonsing is the person responsible for the drafting of the questions contained in the poll, and supervised its administration.

It is our contention that neither 11 C.F.R. 110.11 nor 2 U.S.C. 441(d) were violated by the poll. The poll did not expressly advocate the election or defeat of a particular candidate, and was not designed to change the minds of a very limited number of voters concerning their choice for Congress. Enclosed with this letter and Mr. Tonsing's affidavit is a copy of the actual questionnaire used by The Public Information Corporation.

The questions concerning Mrs. Schroeder are found on page 50 (#18 - 23) and page 51 (#17a). The questions were designed to elicit a response concerning the significance, in the mind of the voter, of a number of issues in the campaign. Some of these questions can be directly compared to questions concerning the candidacy of Bill Eggert (see page 49).

First of all, there was no questions concerning Mrs. Schroeder's allegedly taking junkets at taxpayer expense. It should be noted that the affidavit signed by Mrs. C. Lynette Pahs was sworn to at least a month after the poll was conducted. Also, there was no question concerning Mrs. Schroeder allegedly missing key votes in Congress. The only issue question asked by the polling company that Mrs. Pahs accurately recalls was that surrounding the undisputed fact that Mrs. Schroeder accepted political action committee contributions. It is entirely appropriate to obtain the opinions of voters on such an issue.

As indicated in the poll itself, the language specifically notes that "if the following statement were true," would the voter

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be much more likely, somewhat more likely, somewhat less likely, or much less likely to vote for either Mrs. Schroeder or Mr. Eggert.

The questions asked concerning Mrs. Schroeder were all based on factual information. In reviewing the entire poll, a reasonable person could not conclude that its purpose was to change the mind of a few hundred voters by advocating either the election of Mr. Eggert or the defeat of Mrs. Schroeder. The poll was in fact designed, rather, to elicit from a very limited group of voters opinions concerning issues in the campaign. A candidate is entitled to ascertain the opinions of voters in his or her district concerning issues which he or she plans to discuss during the campaign.

We stand ready to present additional information concerning questions 18 - 23 and 17(a) in the event the Office of the General Counsel deems it necessary. There is no question, however, that Mrs. Schroeder has been in Congress twenty-two (22) years, has a liberal voting record, was a member of the Armed Services Committee when Lowry Air Force Base closed down, accepts PAC contributions, usually votes with the Clinton administration, and scored 0 on a scale of 100 in the National Security Council's 1994 index of how members of Congress vote on national security issues, and has a \$4.2 million retirement fund mostly financed by taxpayers.

Our contention is that the complaint is without merit. Its basis is a month-old affidavit, signed by a Schroeder supporter, which pales in comparison with the detail supplied by Mr. Tonsing. The poll neither advocated the election of Mr. Eggert nor the defeat of Mrs. Schroeder. The questions were based upon hypothetical questions that were, in any event, supported by factual data.

Very truly yours,

  
William F. Eggert

WE/ljd  
Enclosures

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AFFIDAVIT OF ROBERT L. TONSING

Page 2

individual questionnaires. This safeguard also makes it impossible for a client to use the interviews for voter identification "get out the vote" follow-up, which we also consider to be an unethical practice on the part of legitimate attitudinal research firms.

The reason we raise this question is that the actual interviews occurred considerably later than "the end of August or the beginning of September," but what did occur during that time frame were that (1) draft questions were under discussion with the Eggert campaign manager, Ms. Denise Reeves, and (2) Ms. Reeves told me that a series of at least three nocturnal illicit entries into the campaign headquarters were occurring by person or persons unknown. She said police were consulted, but other than the facts that the computer had been tampered with and the copy machine had been used there was not enough evidence for a formal complaint at the time.

One of the questions which Mr. Dorschner's affiant claims to recall was present in a draft questionnaire which was in the possession of the Eggert campaign manager during that time frame, but was deleted. In other words, our interviewers never asked it and in fact never knew that such a question had ever been considered. The question had to do with Ms. Schroeder's "junkets at taxpayer expense." I will discuss it specifically later.

6. Following is my response to allegations made in Mr. Dorschner's complaint and Ms. C. Lynette Pahs' affidavit:

a. "Some of the statements made in this poll conveyed incorrect information about Rep. Schroeder and her record."

Response: No incorrect information was conveyed

b. "... the 'poll' was a push poll conducted by the Public Information Corporation. A push poll is a stealth smear campaign tactic used to communicate unsubstantiated, untrue allegations to voters."

Response: While it is true that our firm conducted attitudinal research for the Eggert committee, and while the survey included so-called "push" questions about both Mr. Eggert and

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AFFIDAVIT OF ROBERT L. TONSING

Page 3

Ms. Schroeder, the purpose of those questions was to test the effectiveness of factual campaign themes which might or might not have been used in debates, speeches, campaign advertising, etc. These questions are essentially market research techniques and were never used as a "campaign tactic." Since only 434 interviews were conducted, it would be ludicrous to conclude that those telephone calls were "campaigning."

However, of greater import is the fact that none of the statements were "smear tactics" nor "untrue."

- c. "... the purpose of the 'poll' was to advocate the defeat of Rep. Schroeder."

Response: Nowhere in the questionnaire (copy of which is attached) is any such statement made, nor were the closely-supervised trained interviewers allowed to stray from the questionnaire. As a matter of fact they were never informed as to the identity of the client.

- d. "... If 'pollers' (sic) are not required to identify who paid for and who authorized the communication which is clearly advocating the defeat of a named candidate, the voter may easily be misled (sic) into believing that the 'poll' has a legitimate public-interest motivation and that the statements regarding the candidate are fair and unbiased."

Response: Except where public money is involved, e.g. a local government or school board, anonymity of a survey sponsor is commonplace, not for purposes of deception but because some respondents will color their responses if they are informed. That is exactly what our interviewers are instructed to tell respondents if the sponsorship question arises.

Aside from the aforementioned public agency research very few legitimate public opinion or market research projects are "public interest," and that includes news media political polls. The research is for the sponsor's interests, whether it be to sell products or devise campaign strategies.

- d. 2 U.S.C. 44d and 11 C.F.R. 110.11 are not at issue because the communications in question did not "expressly advocate the election or defeat" of either Ms. Schroeder or Mr. Eggert.

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AFFIDAVIT OF ROBERT L. TONSING

Page 4

- e. Mr. Dorschner's affiant states that she was asked "if the election were held today, who would I vote for, Bill Eggert or Pat Schroeder."

Response: That is almost exactly how a question was posed twice in the interviews. It appeared both in the draft questionnaire and the one which actually was used (see attached questionnaire).

- f. Mr. Dorschner's affiant states that she was asked if she "had known that Pat Schroeder had missed key votes in Congress." No such question appeared either in the draft questionnaire or the one which was used. Nor would it have been used, because we are not aware that Ms. Schroeder had missed key votes.

- g. Mr. Dorschner's affiant states that she was asked if she "knew that Pat Schroeder took 'junkets' at taxpayer expense."

Response: No such question was ever posed by the interviewers.

However, the aforementioned draft questionnaire, which never was utilized, contained the following question:

"That Pat Schroeder is one of the top three members of Congress in terms of traveling around the world at taxpayers' expense during recesses." That question was struck because, although Ms. Schroeder has been reported by news media to be one of the top "junketeers" in Congress, we could not verify that she was one of the top three.

- h. Mr. Dorschner's affiant states that she was asked questions about other candidates, including Governor Roy Romer.

Response: Such questions appeared in both the draft questionnaire and the one which the interviewers administered. They were job rating questions, and they included not only Governor Romer but also U.S. Senator Hank Brown, President Bill Clinton, Ms. Schroeder and Denver Mayor Wellington Webb.

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AFFIDAVIT OF ROBERT L. TONSING

Page 5

- i. Mr. Dorschner's affiant states that she believes the "actual sponsor of the polling poll was the Bill Eggert for Congress Committee and/or the Colorado Republican Party."

Response: The sponsor was the Eggert committee and not the Colorado Republican Party.

- j. While neither the complaint nor Mr. Dorschner's affiant mentioned them, please note that the actual questionnaire, which is enclosed, also posed questions to the effect that Pat Schroeder:

Has been a Member of Congress for 22 years, that she is a liberal, that she is a member of the House Armed Services Committee but didn't do enough to try to save Lowry Air Force Base from being closed, that she usually votes with President Clinton's positions, that she scored zero on a scale of 100 in the National Security Council's 1994 index of how Members of Congress vote on vital national security issues, and that Pat Schroeder has voted over the years to give herself a retirement fund of over four million dollars, most of it to be paid out of future taxpayers' collections.

While none of those statements are at issue in the complaint, in all cases public documents or charges by Ms. Schroeder's constituents validated them.

Attachment:

- (1) Copy of the questionnaire which was administered by PIC interviewers in baseline survey for the Eggert Committee.

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AFFIDAVIT OF ROBERT L. TONSING  
Page 6

Dated this 16 day of November, 1994.

Robert L. Tonsing  
Robert L. Tonsing

SUBSCRIBED AND SWORN TO before me this 16 day of November, 1994  
by Robert L. Tonsing.

WITNESS my hand and official seal.

My commission expires: 8/12/96

[Signature]  
Notary Public  
11/16/94  
Date

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QUESTIONNAIRE

"Hello. My name is \_\_\_\_\_. I'm a public opinion interviewer with The Public Information Corporation of Denver. We're conducting a scientific opinion survey of voters in the Denver area to hear opinions about some issues. I'd like to speak to \_\_\_\_\_." (If respondent is acquired, begin interview. If not, move to next name on list).

"We'd like to talk to you about problems which need to be solved or changes which need to be made by elected officials. Some things are better done by the Federal government, and some are better done by state or local government. We'd like to ask you about the Federal government."

- 1. If you were President or a member of the U.S. Congress, what one problem would you solve or one change would you make? (Open end. Probe.)

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"In November you will have an opportunity to vote for the next Member of Congress from Colorado's First District. If the election were today, who do you think you would vote for? (Interviewer: ROTATE. Read Pat Schroeder and Bill Eggert only.)

- 2. Pat Schroeder.....1
- Bill Eggert.....2
- Other \_\_\_\_\_.....3
- Undecided.....4
- No response.....5

(Interviewer: If "other," "undecided," or "no response" SKIP to question 5.)

- 3. What one reason mostly caused you to choose \_\_\_\_\_? (Read choice from question 2.)

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- 4. What one reason mostly caused you not to choose \_\_\_\_\_? (Read name of person not chosen in question 2.)

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(Interviewer: ROTATE questions 5 through 9.)

"I will read the names of several elected public officials, and I would like you to tell me if you think they have done an excellent, good, only fair or poor job. What about . . ."

	Excel- lent	Good	Only Fair	Poor	No Response
5. Senator Hank Brown	1	2	3	4	5
6. Governor Roy Romer	1	2	3	4	5
7. President Bill Clinton	1	2	3	4	5
8. Congresswoman Pat Schroeder	1	2	3	4	5
9. Mayor Wellington Webb	1	2	3	4	5

(Interviewer: ROTATE questions 10 through 12.)

"Now, I'd like to ask how you feel about several issues which have been in the headlines lately. Please tell me if you approve strongly, approve mildly, disapprove mildly or disapprove strongly of each of them."

10. What about banning all firearms, except for national defense or law enforcement purposes? Do you:	Approve strongly.....	1
	Approve mildly.....	2
	Disapprove mildly.....	3
	Disapprove strongly.....	4
	No response.....	5
11. It has been proposed that non-violent criminals be released early from prisons rather than building more prisons. Do you:	Approve strongly.....	1
	Approve mildly.....	2
	Disapprove mildly.....	3
	Disapprove strongly.....	4
	No response.....	5
12. It has been proposed that the Federal income tax be a flat 17 percent of earnings, regardless of your annual income, with deductions only for dependents. Do you:	Approve strongly.....	1
	Approve mildly.....	2
	Disapprove mildly.....	3
	Disapprove strongly.....	4
	No response.....	5

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13. Do you believe that the Federal government should take over the nation's health care and health insurance systems, or do you believe things should be left pretty much the way they are? (Interviewer: Do not read "Other.")

Government take over..... 1  
 Leave as is..... 2  
 Other..... 3  
 No response..... 4

(Interviewer: ROTATE questions 14 through 17.)

"Next, I would like to read several statements which people have made about Bill Eggert. As I read each statement, please tell me whether -- if the statement were true -- it would make you much more likely to vote for Bill Eggert, somewhat more likely to vote for him, somewhat less likely or much less likely to vote for him.

"What about the statement."

14. That Bill Eggert formerly was an assistant district attorney, prosecuting criminal cases.	Much more likely.....	1
	Somewhat more likely.....	2
	Somewhat less likely.....	3
	Much less likely.....	4
	No response.....	5
15. That Bill Eggert has never run for public office before.	Much more likely.....	1
	Somewhat more likely.....	2
	Somewhat less likely.....	3
	Much less likely.....	4
	No response.....	5
16. That Bill Eggert is a conservative.	Much more likely.....	1
	Somewhat more likely.....	2
	Somewhat less likely.....	3
	Much less likely.....	4
	No response.....	5
17. That Bill Eggert will not accept campaign contributions from political action committees, sometimes called PACS.	Much more likely.....	1
	Somewhat more likely.....	2
	Somewhat less likely.....	3
	Much less likely.....	4
	No response.....	5

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(Interviewer: ROTATE questions 18 through 23.)

"Now, I will read some similar questions about Pat Schroeder. As I read each statement, please tell me whether – if the statement were true – it would make you much more likely to vote for Pat Schroeder, somewhat more likely to vote for her, somewhat less likely or much less likely to vote for her.

"What about the statement . . ."

18. That Pat Schroeder has been a Member of Congress for 22 years.	Much more likely..... 1 Somewhat more likely..... 2 Somewhat less likely..... 3 Much less likely..... 4 No response..... 5
19. That Pat Schroeder is a liberal.	Much more likely..... 1 Somewhat more likely..... 2 Somewhat less likely..... 3 Much less likely..... 4 No response..... 5
20. That Pat Schroeder is a member of the House Armed Services Committee but didn't do enough to try to save Lowry Air Force base from being closed.	Much more likely..... 1 Somewhat more likely..... 2 Somewhat less likely..... 3 Much less likely..... 4 No response..... 5
21. That Pat Schroeder accepts campaign contributions from political action committees, sometimes known as PACs.	Much more likely..... 1 Somewhat more likely..... 2 Somewhat less likely..... 3 Much less likely..... 4 No response..... 5
22. That Pat Schroeder usually votes in favor of legislation which is supported by President Bill Clinton.	Much more likely..... 1 Somewhat more likely..... 2 Somewhat less likely..... 3 Much less likely..... 4 No response..... 5
23. That Pat Schroeder scored zero on a scale of 100 in the National Security Council's 1994 index of how Members of Congress vote on vital national security issues.	Much more likely..... 1 Somewhat more likely..... 2 Somewhat less likely..... 3 Much less likely..... 4 No response..... 5

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"Now, I need to ask you a couple of questions which are very similar to some earlier ones. Please bear with me. They are brief."

- |  |  |
|--|--|
| 24. If the General election were today, who do you think you would vote for in the First Congressional District? (Rotate Bill Eggert and Pat Schroeder.) | Bill Eggert ..... 1<br>Pat Schroeder..... 2<br>Other ..... 3<br>No response..... 4 |
|--|--|

(Interviewer: If "other," "undecided," or "no response," SKIP to question 27.)

25. What one reason mostly caused you to choose \_\_\_\_\_? (Read choice from question 24.)
- \_\_\_\_\_
- \_\_\_\_\_

26. What one reason mostly caused you not to choose \_\_\_\_\_? (Read name of person not chosen in question 24.)
- \_\_\_\_\_
- \_\_\_\_\_

27. A lot of suggestions have been made about new uses for Lowry Air Force Base, which has been closed. Possibly it eventually will have several new uses, but I would like you to tell me what you believe would be the best new use. (Open end. Probe.)
- \_\_\_\_\_
- \_\_\_\_\_

- |  |   |
|--|---|
| 28. How old are you? (Read age groupings if there's hesitation.) | 18 to 25..... 1<br>26 to 34..... 2<br>35 to 44..... 3<br>45 to 54..... 4<br>55 to 64..... 5<br>65 or older..... 6 |
|--|---|

"I left out one of the candidate questions, so I need to ask you whether – if the following statement were true – it would make you much more likely to vote for Pat Schroeder, somewhat more likely to vote for her, somewhat less likely or much less likely to vote for her."

- |  |   |
|--|---|
| 17a. What about the statement that Pat Schroeder has voted over the years to give herself a retirement fund of over four million dollars, most of it to be paid out of future taxpayers collections? | Much more likely ..... 1<br>Somewhat more likely... 2<br>Somewhat less likely... 3<br>Much less likely..... 4<br>No response..... 5 |
|--|---|

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CONSULT CALLING SHEET

29. Political affiliation

Democrat ..... 1  
Republican ..... 2  
Unaffiliated ..... 3  
Other ..... 4

30. Gender

Male ..... 1  
Female ..... 2

31. County

Adams ..... 1  
Arapahoe ..... 2  
Denver ..... D

32. Precinct Number: \_\_\_\_\_

33. Calling sheet page number: \_\_\_\_\_

(Thank respondent.)

"I certify that the responses on this interview worksheet are complete and accurate, as presented by the respondent."

INTERVIEWER'S INITIALS \_\_\_\_\_ INTERVIEWER'S NUMBER \_\_\_\_\_

DATE \_\_\_\_\_

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 4110  
NAME OF COUNSEL: WILLIAM F. EGGERT  
ADDRESS: 511 16<sup>th</sup> St.  
DENVER, COLO  
80220  
TELEPHONE: 303-436-1788

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.

11-14-94  
Date

Patrick W. Adair  
Signature

RESPONDENT'S NAME: Bill Eggert For Congress Committee  
ADDRESS: P.O. Box 200389  
DENVER, COLO  
80220  
HOME PHONE:  
BUSINESS PHONE: N/A

96043734359

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4110

NAME OF COUNSEL: WILLIAM F. EGGERT

ADDRESS: 514 16<sup>TH</sup> ST. Suite 600  
DENVER, COLO 80220

TELEPHONE: 303-436-1788

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.

11/12/94  
Date

William F. Eggert  
Signature

RESPONDENT'S NAME: WILLIAM F. (Bill) EGGERT

ADDRESS: 363 DAHLIA ST  
DENVER COLO  
80220

HOME PHONE: \_\_\_\_\_  
BUSINESS PHONE: 303-436-1788

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 18, 1995

Patrick Achatz, Treasurer  
Bill Eggert for Congress Committee  
3081 South Gilpin Street  
Denver, CO 80210

RE: MUR 4110

Dear Mr. Achatz:

On your Amended Termination Report (10/20/94-11/28/94) dated March 7, 1995, you requested that the Federal Election Commission permit the Bill Eggert for Congress Committee ("Committee") to terminate pursuant to 2 U.S.C. § 433(d) and Section 102.3 of the Commission's Regulations. Because of the ongoing enforcement matter involving your Committee, this request has been denied. Therefore, you are reminded that the Committee must continue to file all the required reports with the Commission until such time as the enforcement matter has been closed as to the Committee.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

cc: Reports Analysis Division

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

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**COLORADO REPUBLICANS**

1275 Tremont Place, Denver, Colorado 80204 (303) 893-1776  
Don Bain  
State Chairman

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

Jun 27 6 23 PM '95

June 22, 1995

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

Re: MUR 4110

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
Jun 26 9 51 AM '95

Gentlemen:

Neither the Colorado Republican Federal Campaign Committee, nor its treasurer, Douglas L. Jones, authorized, participated in or has any knowledge or information pertaining to the alleged "polling" described in the complaint of Jeffrey B. Dorschner.

Incidentally, it would appear that the statute and regulations on which Mr. Dorschner's complaint is based are violative of the First Amendment to the United States Constitution under the Supreme Court decision in McIntyre, Executor v. Ohio Elections Commission, 63 USLW 4279 (April 19, 1995).

Very truly yours,

Joanne Lynes  
Assistant Treasurer

jl

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

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

Apr 26 11 44 AM '96

FIRST GENERAL COUNSEL'S REPORT

**SENSITIVE**

MUR 4110

DATE COMPLAINT FILED: 10/31/94

DATE OF NOTIFICATION: 11/4/94

DATE ACTIVATED: 5/12/95

STAFF MEMBER: Elizabeth Stein

COMPLAINANT: Jeffrey B. Dorschner

RESPONDENTS: Bill Eggert for Congress Committee and  
Patrick W. Achatz, as treasurer

William F. Eggert

Public Information Corporation

Colorado Republican Federal Campaign Committee and  
Douglas L. Jones, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441d(a)  
11 C.F.R. § 100.22  
11 C.F.R. § 110.11(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

**I. GENERATION OF MATTER**

A complaint was filed by Jeffrey B. Dorschner, campaign manager for the Schroeder for Congress Committee, Inc. The complaint alleged that the Bill Eggert for Congress Committee paid for a "push poll" telephone communication which advocated the defeat of Congresswoman Patricia Schroeder without providing an appropriate disclaimer indicating who authorized and paid for the

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communication.<sup>1</sup> The basis for the complaint was a signed affidavit submitted by a member of the 1st Congressional District of Colorado who received a telephone call from a polling company. The individual indicated that the caller presented her with a number of statements critical of Congresswoman Schroeder's record, and asked her if the information would make her more or less likely to vote for Congresswoman Schroeder.

## II. FACTUAL AND LEGAL ANALYSIS

### A. Law

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The Federal Election Campaign Act of 1971, as amended, (the "Act") requires that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication shall clearly state who paid for, and who authorized the communication. 2 U.S.C § 441d(a). Thus, in order for a particular communication to require a disclaimer, the communication must contain either a solicitation *or* express advocacy *and* must be communicated through a form of general public political advertising which includes broadcast, newspaper, magazine, outdoor advertising facility, poster, yard sign and direct mail. 11 C.F.R. § 100.11(a).

#### 1. Express Advocacy

"Express advocacy" was first defined by the U.S. Supreme Court as "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,'

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<sup>1</sup> Congresswoman Schroeder defeated Mr. Eggert in the 1994 general election with 60 % of the vote.

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'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" Buckley v. Valeo, 424 U.S. 1, 44, n. 52 (1976). The United States Court of Appeals for the Ninth Circuit expanded upon the Buckley decision to say that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." FEC v. Furgatch, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987). Under the Ninth Circuit's test, speech is express "if its message is unmistakable and unambiguous, suggestive of only one plausible meaning," and constitutes advocacy only if "it presents a clear plea for action," and it is clear what that action is. Id. at 864. (*But see* Faucher v. FEC, 928 F.2d 468 (1st Cir. 1991), cert denied, 502 U.S. 820 (1991); FEC v. Christian Action Network, Inc., 894 F. Supp. 946 (W.D. Va 1995), *appeal docketed*, No.95-2600 (4th Cir. August 25, 1995).<sup>2</sup>

In drafting recently enacted regulations, which were not in effect at the time this activity occurred, the Commission has codified its position that express advocacy is not limited to the "magic words" delineated in Buckley. Under the Commission's definition, express advocacy includes phrases using the magic words, as well as communications or campaign slogans which "in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates," for example "Clinton/Gore" or "Dole '96." 11 C.F.R. § 100.22(a). Additionally, the Commission will consider a communication to contain express advocacy when

<sup>2</sup> "In our view, trying to discern when issue advocacy . . . crosses the threshold and becomes express advocacy invites just the sort of constitutional questions the Court sought to avoid in adopting the bright line advocacy test in Buckley." Faucher at 472. "To expand the express advocacy standard enunciated in Buckley in this matter would be to render the standard meaningless. Such an expansion of the judicial inquiry would open the very Pandora's Box which the Supreme Court consciously sought to keep closed." Christian Action Network, Inc. at 958.

“taken as a whole and with limited reference to external events . . . [the communication] could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates because (1) the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and (2) reasonable minds could not differ as to whether it encourages actions to elect or defeat candidates or encourages some other kind of action.” 11 C.F.R. § 100.22(b), *see also* Explanation and Justification of 11 C.F.R. § 100.22, 60 Fed. Reg., 35,292 (1995).<sup>3</sup>

## 2. General Public Political Advertising

Under the Act, communications made by broadcasting station, newspaper, magazine, outdoor advertising facility or direct mail are considered general public political advertising. However, it is not always clear when communications made through other mediums qualify as general public political advertising. In 1994-1995, the Commission undertook a rulemaking to clarify the regulations governing disclaimers on communications. At that time, the Commission specifically sought comments on whether phone bank communications should be listed among the communications which constitute general public political advertising, and trigger the disclaimer requirement. While the Commission considered including phone banks in the listing of activities that constitute general public political advertising, they were unable to reach a majority decision by the required four affirmative votes. 2 U.S.C. § 437(g), *see also* Explanation and Justification of 11 C.F.R. § 100.11(a), 60 Fed Reg. 52,069, 52,070-71 (1995).

<sup>3</sup> The U.S. District Court of Maine has held that 11 C.F.R. § 100.22(b) is invalid. Maine Right to Life Committee, Inc., v. FEC, 914 F. Supp. 8 (D. Me. 1996), *rehearing denied*, 95-261-B-H, Mar. 8, 1996. The Commission has voted to appeal this decision.

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**B. Facts**

1. Complaint

In the affidavit which forms the basis of the complaint, Mrs. Lynette Pahs testified that she received a call from a group identifying themselves as a polling firm in late August or early September 1994, and that she remembered specifics of the call because her daughter works for Congresswoman Patricia Schroeder. Attachment 1. According to Mrs. Pahs' recollection, the caller first asked if she would vote for Schroeder or Eggert if the election were held that day. The caller then proceeded to present her with several "facts" critical of Congresswoman Schroeder. After each fact, the caller asked Mrs. Pahs if it would make her more likely or less likely to vote for Congresswoman Schroeder. Mrs. Pahs specifically recalled being questioned on Congresswoman Schroeder missing key votes in Congress, taking "junkets" at taxpayer expense, and accepting contributions from political action committees. Mrs. Pahs also recalled being asked about other candidates including Governor Romer but does not recall other specific questions she was asked.

2. Responses

Mr. Eggert filed a response on behalf of himself and the Bill Eggert for Congress Committee ("Committee") which acknowledged that the Committee had commissioned and paid for a poll by a group identified as Public Information Corporation ("PIC"). Attachment 2. Mr. Eggert included in his response the (unsigned) affidavit of Robert Tonsing, the head of PIC and a copy of the poll. Attachments 3 and 4. According to Mr. Tonsing, his company polled 434 registered voters in the 1st Congressional District of Colorado between September 14 and 19, 1994. He states that the poll was a baseline poll and the purpose of questions about Ms. Schroeder was "to test the effectiveness

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of factual campaign themes which might or might not have been used in debates, speeches, campaign advertising, etc."<sup>4</sup> Attachment 3 at 3.

After telephone inquiries from this office, the Colorado Republican Federal Campaign Committee ("CRFCC") submitted a response to the complaint on June 27, 1995 which denied any knowledge of, or responsibility for, the poll.

### 3. The Poll

The poll consists of six substantive sections in addition to demographic questions regarding the person contacted (hereinafter "callee") at the close of the call. Attachment 4. The first and last sections are similarly structured and consist of open ended type questions including "[i]f you were President what one problem would you solve or one change would you make?" and "I'd like you to tell me what you believe would be the best new use [for Lowry Air Force Base]?" Both sections also contain the question recalled by the Mrs. Pahs, "if the general election were held today who do you think you would vote for (rotate Pat Schroeder and Bill Eggert), followed up each time with "what one reason mostly caused you to choose (Eggert/Schroeder)?" and "what one reason mostly caused you not to choose (Eggert/Schroeder)?"

In the four middle sections, the callee is respectively asked for opinions on other prominent politicians, issues promoted by Bill Eggert, positive aspects of Eggert's record and platform, and aspects of Schroeder's record and platform presented in a negative manner.

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<sup>4</sup> Respondents question whether the poll administered by them is the same poll complained of, and point out that their poll contained no questions regarding taxpayer junkets or missed votes. The poll provided by the Respondents, however, is substantially similar in format and in timing to that complained of, and this Office will assume for purposes of this report that the poll submitted by Respondents is the poll complained of. Respondents also made vague allegations that due to the discrepancies between the complaint and the poll, complainants may have come by the poll illegally. This Office notes that either the time elapsed between the receipt of the call and the swearing of the affidavit, or slight variations in the poll's administration could account for the discrepancies.

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The callee is first asked to give an opinion ranging from excellent to poor of five politicians presented in random order (Senator Hank Brown, President Bill Clinton, Congresswoman Patricia Schroeder, Governor Roy Romer, and Denver Mayor Wellington Webb). Next, the callee is asked to give an opinion ranging from approve strongly to disapprove strongly on four "issues." The issues presented are the banning of all firearms except for national defense or law enforcement purposes; early release of non-violent felons rather than building more prisons; a flat tax of 17%; and a question as to whether the callee believes "the government should take over the nation's health care system or . . . leave things pretty much alone." While callers are instructed to rotate the first three questions, they are instructed to close the section with the health care question.

Next, the callee is asked to listen "to a series of statements other people have made about Bill Eggert and indicate -- if the statement were true" it would make them much more, somewhat more, somewhat less, or much less likely to vote for him. The statements about Bill Eggert presented are that he was formerly an assistant district attorney prosecuting criminal cases, has never run for office before, is a conservative, and will not accept campaign contributions from political action committees.

This set of four questions is immediately followed up with a series of six questions about Schroeder after which the callee is similarly supposed to indicate whether the information will make them more or less likely to vote for Schroeder. The callee is told that Pat Schroeder has been a Member of Congress for 22 years, that Pat Schroeder is a liberal, that Pat Schroeder is a member of the House Armed Serves Committee but didn't do enough to try to save Lowry Air Force base from being closed, that Pat Schroeder accepts campaign contributions from political action committees, that Pat Schroeder usually votes in favor of legislation which is supported by President Bill Clinton,

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and that Pat Schroeder scored zero on a scale of 100 in the National Security Council's 1994 index of how Members of Congress vote on vital national security issues.

Finally, after the sixth section of open-ended questions has been completed and the demographic questions have been started, according to the instructions, the caller is supposed to say:

I left out one of the candidate questions, so I need to ask you whether --if the following statement were true,--it would make you more/less likely to vote for Pat Schroeder. What about the statement that Pat Schroeder has voted over the years to give herself a retirement fund of over four million dollars, most of it to be paid out of future taxpayers collections?

After completing 3 final demographic questions, the caller is then to thank the callee and complete the call.

### C. Analysis

During the recent disclaimer rulemaking proceedings, the Commission considered whether to include "push polls," a term which has generally been used to refer to telephone communications that provide misleading information about a candidate under the guise of conducting a legitimate survey, in the list of communications requiring disclaimers. At that time, it was noted that even if push polls conducted by telephone were considered general public political advertising, the disclaimer requirement would still not apply to all push polls, as many such push polls contain neither express advocacy nor a contribution solicitation. Because the Commission found it difficult to define the practice of push polling in a way that would distinguish it from legitimate polling activity and allow clear case by case determinations, they declined to impose additional disclaimer requirements upon push polls in the absence of a solicitation or express advocacy.

The poll at issue in this matter presents the issues considered during the rulemaking. The emphasis of the communication is on voting for or against a particular candidate and callees are

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asked over and over if their vote has been altered. The poll paints a contrasting picture of candidates Eggert and Schroeder (insider vs. outsider, conservative vs. liberal, and special interest beholden PAC fund recipient vs. special interest independent non-PAC fund recipient), and deliberately seeks to leave the callee with a negative impression of Congresswoman Schroeder, making sure to include the "forgotten" information that "Pat Schroeder has voted over the years to give herself a retirement fund of over four million dollars, most of it to be paid out of future taxpayers collections."

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However, the poll contains no solicitation, and no magic words of action such as "vote for" or "support" are used. Even viewing the poll in the context of surrounding events, a general election less than two months away revolving around the issues discussed in this communication, when the poll is taken as a whole, the electoral message of the poll is neither unmistakable nor unambiguous. Because the poll is presented in a polling format and the questions are phrased in the conditional, ("if this were true would it change your vote"), reasonable differences can arise as to whether the poll encourages specific actions to elect or defeat candidates. Additionally, the poll appears to have been designed, at least in part, for public opinion survey purposes, and could have yielded useful information for development of campaign strategies. The poll could have clarified the relative weight voters would give to different issues and actions of candidates and which issues would resonate the most positively and negatively with voters. Because reasonable minds could conclude that the communication sought only to gain insights into the opinions of registered voters rather than to expressly advocate the election or defeat of either candidate, this communication does not rise to level of expressly advocating the election or defeat of a particular candidate.<sup>5</sup>

---

<sup>5</sup> While the Commission's regulations setting forth this standard for express advocacy had not been adopted at the time this poll was conducted, the express advocacy analysis would be substantially the same in the absence of the regulations.

Because the poll at issue in this matter contains no express advocacy or solicitation, no disclaimer is required. Hence, this Office recommends the Commission find no reason to believe that Bill Eggert for Congress and Patrick Achatz, as treasurer, William F. Eggert, Public Information Corporation and the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer violated 2 U.S.C. § 441d(a).

**III. RECOMMENDATIONS**

1. Find no reason to believe that Bill Eggert for Congress Committee and Patrick W. Achatz, as treasurer violated 2 U.S.C. § 441d(a).
2. Find no reason to believe William F. Eggert violated 2 U.S.C. § 441d(a).
3. Find no reason to believe the Public Information Corporation violated 2 U.S.C. § 441d(a).
4. Find no reason to believe that the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer, violated 2 U.S.C. § 441d(a).
5. Close the file.
6. Approve the appropriate letters.

4/25/96 *LP*  
~~4/26/96~~

Date

Lawrence M. Noble  
General Counsel

BY:

*Lois G. Lerner*  
Lois G. Lerner  
Associate General Counsel

**Attachments**

1. Affidavit of Lynette Pahs
2. Response of William F. Eggert
3. Affidavit of Robert Tonsing
4. PIC poll

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**MEMORANDUM**

**TO:** LAWRENCE M. NOBLE  
GENERAL COUNSEL

**FROM:** MARJORIE W. EMMONS/BONNIE J. ROSS   
COMMISSION SECRETARY

**DATE:** APRIL 30, 1996

**SUBJECT:** MUR 4110 - FIRST GENERAL COUNSEL'S REPORT  
DATED APRIL 25, 1996.

The above-captioned document was circulated to the Commission on: Monday, April 29, 1996 at 11:00

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	<u>xxx</u>
Commissioner Potter	_____
Commissioner Thomas	_____

This matter will be placed on the meeting agenda for: Tuesday, May 7, 1996.

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

95043 / 34373

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4110  
Bill Eggert for Congress Committee and )  
Patrick W. Achatz, as treasurer; )  
William F. Eggert; )  
Public Information Corporation; )  
Colorado Republican Federal Campaign )  
Committee and Douglas L. Jones, )  
as treasurer. )

CERTIFICATION

I, Mary W. Dove, recording secretary for the Federal Election Commission executive session on Tuesday, May 7, 1996, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions in MUR 4110:

1. Find no reason to believe that Bill Eggert for Congress Committee and Patrick W. Achatz, as treasurer, violated 2 U.S.C. § 441d(a).
2. Find no reason to believe William F. Eggert violated 2 U.S.C. § 441d(a).
3. Find no reason to believe the Public Information Corporation violated 2 U.S.C. § 441d(a).

(continued)

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4. Find no reason to believe that the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer, violated 2 U.S.C. § 441d(a).
5. Close the file.
6. Approve the appropriate letters.

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

Attest:

96040734375  
May 7, 1996  
Date

Mary W. Dove  
Mary W. Dove  
Administrative Assistant



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 9, 1996

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

Jeffrey B. Dorschner, Campaign Manager  
Schroeder for Congress Committee  
2000 Gaylord St.  
Denver, CO 80205

RE: MUR 4110  
Bill Eggert for Congress Committee and  
Patrick W. Achatz, as treasurer  
William F. Eggert  
Public Information Corp.  
Colorado Republican Federal Campaign  
Committee and Douglas Jones, as treasurer

Dear Mr. Dorschner:

On May 7, 1996, the Federal Election Commission reviewed the allegations of your complaint dated October 25, 1994, and found that, on the basis of the information provided in your complaint and information provided by Respondents, there is no reason to believe that Respondents violated the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the Commission closed the file in this matter.

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,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
General Counsel's Report

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 9, 1996

Douglas L. Jones, Treasurer  
Colorado Republican Federal Campaign Committee  
1275 Tremont Place  
Denver, CO 80204

RE: MUR 4110  
Colorado Republican Federal Campaign  
Committee and Douglas L. Jones, as treasurer

Dear Mr. Jones:

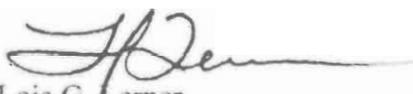
On November 4, 1994, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

On May 7, 1996, the Commission found, on the basis of the information in the complaint and information provided by you, that there is no reason to believe the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer violated 2 U.S.C. § 441d(a). 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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 9, 1996

Robert L. Tonsing, President  
Public Information Corporation  
5808 South Rapp St., #204  
Littleton, CO 80120

RE: MUR 4110  
Public Information Corporation

Dear Mr. Tonsing:

On November 4, 1994, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

On May 7, 1996, the Commission found, on the basis of the information in the complaint and information provided by you, that there is no reason to believe Public Information, Corporation violated 2 U.S.C. § 441d(a). 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

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043334378



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 9, 1996

William F. Eggert  
511 16th St., Suite 600  
Denver, CO 80220

RE: MUR 4110  
Bill Eggert for Congress Committee and  
Patrick Achatz, as treasurer  
William F. Eggert

Dear Mr. Eggert:

On November 4, 1994, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

On May 7, 1996, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe the Committee violated 2 U.S.C. § 441d(a). 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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4110

DATE FILMED 5-29-96 CAMERA NO. 4

CAMERAMAN JMN

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