



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4212

DATE FILMED 3/26/96 CAMERA NO. 3

CAMERAMAN E.S.

96043730730

IREM

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

(214) 404-1556

March 16, 1993

May 24 4 48 PM '95

SENSITIVE

Federal Election Commission
Lawrence Noble, General Counsel
999 East N.W. Street
Washington DC 20463

MUR 4212

MAY 22 11 22 AM '95

FEDERAL ELECTION
COMMISSION
SECRETARIAT

Dear Mr. Noble:

Please review, and then process the enclosed complaint as soon as possible.

Thank you,



Robert E. McCord
7812 El Pensador
Dallas, Texas 75248
(214) 404-1556
Fax: (214) 788-0677

cc: FCC - Radio Station Compliance Group
IRS

96043730731

FEC Complaint

Subject: Complaint and notification of possible ongoing violations of Title 11, Federal Election Law and other Federal Election Statutes including Title 2, 26, 15 USC 791 (h) among others.

Discussion: Federal statutes define a political committee as any organization, whether incorporated or not, which makes expenditures for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any Federal, State, or local elective public office.

Using WBAP in Arlington Texas as an example - For eight hours a day, five days a week, WBAP is openly republican talk-radio. (Mark Davis & Rush Limbaugh) Tyler Cox, Program Director for WBAP, and I have been involved in several discussions concerning an opposition viewpoint program. On April 4, 1995, Mr. Cox stated that WBAP has no desire to air any program which seeks to undo what WBAP is trying to do with the republican Mark Davis and Rush Limbaugh shows. This statement provides a clear example of open obstruction to political opposition viewpoint programming.

A careful review of pre April 19, 1995 transcripts from the Mark Davis & Rush Limbaugh Shows on WBAP, in Dallas Texas, will clearly show that without a doubt, these shows are unregistered, and unauthorized political committees as defined by federal law.

Corporations are prohibited from sponsoring political committees based on 15 U.S.C. 791 (h): "it shall be unlawful for any registered holding company, or any subsidiary company thereof, by the use of the mails, or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, make any contribution whatsoever in connection with the candidacy, nomination, election, or appointment for or to any office of the Government of the United States, a State, or any political subdivision of a State..." 2 U.S.C. 441b: "the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value... to any candidate, campaign committee, or political party or organization, in connection with the election to any offices referred to in this section..." It would seem that corporations sponsor the republican Mark Davis & Rush Limbaugh unregistered, and unauthorized

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political committees through unreported campaign contributions incorrectly labeled and filed as tax exempt corporate advertising expenses.

Recommendation: The FEC needs to provide a clear answer to the following questions: Does a corporate ad become a campaign contribution at the moment a talk show becomes a political committee as defined by federal law? At what point does corporate advertising leave the category of a legitimate business expense and then become a concealed campaign contribution? Are tax exempt corporate advertising revenues being diverted to what appear to be illegal campaign contributions? Based on the factors discussed in this complaint, will corporate advertising used to finance one-sided political party talk radio, promote political party candidates in local, state, and national selections, nominations, and elections be allowed to continue?

Any investigation of this matter should include a public hearing before the Federal Election Commission. The focus of the discussion should be on the characteristics of political talk radio. The commission should issue a ruling which publicly confirms or exempts the Mark Davis & Rush Limbaugh political talk radio programs as political committees. If the commission confirms the PAC status, the commission should order the immediate registration as a PAC, and order the PAC to comply with federal election law. A public notice should be issued advising corporations of their responsibilities in this matter as defined by the law.

96043730733

Robert E. McCord
P.O. Box 612722
Dallas, Texas 75261-2722
(214) 404-1556

5-19-95
Date

SUBSCRIBED AND SWORN TO BEFORE ME THIS

19th DAY OF May, 1995

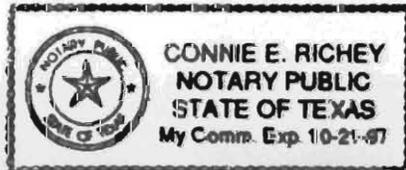
Signature of Affiant

Notary Public in and for Dallas County, Texas

My Commission Expires:

Connie E. Richey

10-21-97



**Partial list of Major Corporations Contributing to the WBAP unregistered Mark
Davis and Rush Limbaugh, unauthorized political committees**

CompuUSA
Jim Halpin, President
14951 N. Dallas Parkway
Dallas, Texas 75240
(214) 383-4000 Fax: (214) 383-4276

McDonald's
Ed Rensi, President
1 McDonald's Plaza
Oakbrook, Il. 60521
Fax: (708) 575-3092

Luby's Cafeterias, Inc.
Joyce Rothenberg, VP Marketing
2211 Northeast Loop 410
San Antonio, Texas 78217-3069
(210) 654-9000 Fax: (210) 599-8407

General Motors
Diannah Locklear, Consumer Rel. Mgr.
Fax: 810-456-2772

Mrs. Baird's Bakeries, Inc.
Janet Quisenberry
P.O. Box 417
Dallas, Texas 75221
(214) 526-7201 Fax: (214) 521-3545

Southwestern Bell Telephone, Yellow
Pages, & Mobile Systems
Patsy Eldredge, Consumer Relations
P.O. Box 655521
Dallas, Texas 75265-5521
(800) 422-0499 Fax: (214) 741-0198

American Express
Nancy Smith
World Financial Ctr. 37th Floor
200 Vesey St.
New York, N.Y. 10285
(212) 640-7396 Fax: (212) 619-9294

Kelley Moore Paint Company
Tim O'Riley
987 Commercial St.
San Carlos, Ca. 94070
Fax: (415) 592-7012

Sears
Greyhound
Goodyear
GTE

9 6 0 4 3 7 3 0 7 7 4



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 25, 1995

Robert E. McCord
P.O. Box 612722
Dallas, TX 75261-2722

RE: MUR 4212

Dear Mr. McCord:

This letter acknowledges receipt on May 22, 1995, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4212. 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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

96043730735



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Rush Limbaugh
WBAP-RSCS Radio, Incorporated
1 Broadcast Hill Street
Fort Worth, TX 76103

RE: MUR 4212

Dear Mr. Limbaugh:

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 4212. 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.

96043730736

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730737



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Mark Davis
WBAP-KSCS Radio, Incorporated
1 Broadcast Hill Street
Fort Worth, TX 76103

RE: MUR 4212

Dear Mr. Davis:

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 4212. Please refer to this number in all future correspondence.

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

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96043730738

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730739



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Registered Agent
C.T. Corporation Systems
350 North Saint Paul Street
Suite 3900
Dallas, TX 75201

RE: MUR 4212

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that WBAP-KSCS Radio, Incorporated; Greyhound Lines, Incorporated; and GTE 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 4212. 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 WBAP-KSCS Radio, Incorporated; Greyhound Lines, Incorporated; and GTE 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.

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96043730740

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

95043730741



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Tyler Cox, Program Director
WBAP-KSCS Radio, Incorporated
1 Broadcast Hill Street
Fort Worth, TX 76103

RE: MUR 4212

Dear Mr. Cox:

The Federal Election Commission received a complaint which indicates that you and the Mark Davis and Rush Limbaugh Show(s) 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 4212. 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 and the Mark Davis and Rush Limbaugh Show(s) in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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96043730712

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730743



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Registered Agent
Corporation Services Company
100 Congress Ave., Suite 1100
Austin, TX 78701

RE: MUR 4212

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that CompUSA, Incorporated, 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 4212. 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 CompUSA, Incorporated, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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96043730744

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730745



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Ronald E. Riemenschneider, Registered Agent
2211 Northeast Loop 410
San Antonio, TX 78217-3069

RE: MUR 4212

Dear Mr. Riemenschneider:

The Federal Election Commission received a complaint which indicates that Luby's Cafeterias, Incorporated, 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 4212. 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 Luby's Cafeterias, Incorporated, 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.

96043730746

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730747



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Margie N. Park, Registered Agent
7301 South Freeway
Ft. Worth, TX 76134

RE: MUR 4212

Dear Ms. Park:

The Federal Election Commission received a complaint which indicates that Mrs. Baird's Bakeries, Incorporated, 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 4212. 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 Mrs. Baird's Bakeries, Incorporated, 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.

96043730748

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730749



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 25, 1995

Donna L. Snyder, Registered Agent
One Bell Plaza, Room 2900
Dallas, TX 75202

RE: MUR 4212

Dear Ms. Snyder:

The Federal Election Commission received a complaint which indicates that Southwestern Bell Telephone, Incorporated, 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 4212. 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 Southwestern Bell Telephone, Incorporated, 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.

96043730750

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730751



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 25, 1995

Registered Agent
C.T. Corporation Systems
1633 Broadway
New York, NY 10019

RE: MUR 4212

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that American Express, Incorporated, 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 4212. 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 American Express, Incorporated, 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.

96043730752

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

1. Complaint
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3. Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Joseph P. Cristiano, President
Kelley Moore Paint Company
987 Commercial Street
San Carlos, CA 94070

RE: MUR 4212

Dear Mr. Cristiano:

The Federal Election Commission received a complaint which indicates that the Kelley Moore Paint Company 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 4212. 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 Kelley Moore Paint Company in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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96043730754

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730755



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

May 25, 1995

David W. Raymond, Registered Agent
3333 Beverly Road
#766-B6234
Hoffman Estates, IL 60179

RE: MUR 4212

Dear Mr. Raymond:

The Federal Election Commission received a complaint which indicates that the Sears, Roebuck and Company 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 4212. 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 Sears, Roebuck and Company 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.

96043730756

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730757



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 25, 1995

James Boyazis, Registered Agent
1144 E. Market Street
Akron, OH 44316

RE: MUR 4212

Dear Mr. Boyazis:

The Federal Election Commission received a complaint which indicates that Goodyear Tire & Rubber Company 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 4212. 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 Goodyear Tire & Rubber Company in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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96043730758

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730759



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

May 25, 1995

Registered Agent
Prentice Hall Corporation
33 North LaSalle Street
Chicago, IL 60602

RE: MUR 4212

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that McDonald's, Incorporated, 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 4212. 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 McDonald's, Incorporated, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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96043730760

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

- 1. Complaint
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96043730761



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 25, 1995

Registered Agent
C.T. Corporation System
208 South LaSalle Street
Chicago, IL 60604

RE: MUR 4212

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that General Motors 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 4212. 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 General Motors 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.

95043730762

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

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

96043730763



RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
Jun 12 10 06 AM '95

June 8, 1995

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

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Jun 12 9 41 AM '95

Re: MUR 4212

Dear Ms. Smith:

We are respondents in the above-captioned matter, and respectfully request a 15-day extension to June 28, 1995 of the deadline for our response to the Federal Election Commission ("Commission"). Because we received the Commission's May 25 letter on May 29, the current deadline for our submission is June 13.

We request this extension for several reasons. First, we are in the process of retaining counsel to represent us in this matter. Second, we are contemplating a joint-defense agreement. And third, counsel will need to study the factual and legal issues surrounding the complaint.

Thank you in advance for your anticipated cooperation.

Sincerely,

Tyler Cox, WBAP Operations Manager
WBAP-KSCS Radio Inc.

Mark Davis
WBAP-KSCS Radio, Inc.

9 6 0 4 3 3 5 7 4



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

June 14, 1995

Tyler Cox, WBAP Operations Manager
Mark Davis
WBAP-KSCS Radio, Inc.
2221 East Lamar Blvd, Suite 400
Arlington, TX 76006

RE: MUR 4212
Tyler Cox
Mark Davis

Dear Messrs. Cox and Davis:

This is in response to your letter dated June 8, 1995, requesting an extension until June 28, 1995 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on June 28, 1995.

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

Sincerely,

Alva E. Smith, Paralegal
Central Enforcement Docket

96043730765



KELLY-MOORE PAINT COMPANY, INC.

Quality is Economy

987 Commercial Street • P.O. Box 3016 • San Carlos, California 94070 • (415) 592-8337

JUN 12 11 20 AM '95
RECEIVED
FEDERAL ELECTION
COMMISSION
WASHINGTON, D.C.

June 8, 1995

Mary L. Taksar, Attorney
Central Enforcement Docket
Federal Election Commission
Washington, D.C. 20463

Re: Complaint #MUR 4212

Dear Ms. Taksar,

We have received notification of complaint number MUR 4212 filed with your Commission by Robert E. McCord of Dallas, TX on March 16, 1995. Our position on this matter is as follows:

Kelly-Moore operates a small internal Advertising Department to direct the creative development, execution and placement of company advertising efforts. Our sole objective is to increase sales through public awareness of the company and our commitment to quality. We do not work with a political agenda in mind.

To secure the most efficient placement of our radio ads, we utilize an outside media buying service. The placement criteria we have conveyed to our buying service is:

- Negotiate the best possible cost per ratings point
- Reach the largest possible audience (within budget)
- Target homeowners 25-54 with avg. household income >\$35k

When buying radio according to rating points, programming is determined by the audience. Popular programs appeal to large audiences and generate high rating points leading to their selection for our 'buy'.

It is our responsibility to reach the largest audience for our advertising dollar. Our methods are completely 'above board' and we cannot rightfully be accused of making a campaign contribution to a Political Action Committee (PAC), especially when neither Mr. Limbaugh or Mr. Davis are formally considered to be a PAC.

Respectfully,

Timothy S. O'Reilly
Manager Sales Promotion & Product Marketing

26043730756

Luby's Cafeterias, Inc.
2211 Northeast Loop 410
San Antonio, Texas 78217-4673
210/654-9000

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

JUN 12 10 04 AM '95

Luby's®

Mailing Address:
P.O. Box 33069
San Antonio, Texas 78265-3069

June 9, 1995

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

Re: MUR 4212

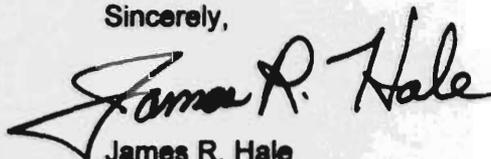
Dear Ms. Smith:

We are respondents in the above-captioned matter and respectfully request a 15-day extension to June 28, 1995 of the deadline for our response to the Federal Election Commission ("Commission"). Because we received the Commission's May 25 letter on May 29, the current deadline for our submission is June 13.

We request this extension for several reasons. First, we are in the process of retaining counsel to represent us in this matter. Second, we are contemplating a joint-defense agreement. And third, counsel will need to study the factual and legal issues surrounding the complaint.

Thank you in advance for your anticipated cooperation.

Sincerely,



James R. Hale
Secretary

JRH:ld
L24ttseasmithr

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 12 9 41 AM '95

96043736767



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 14, 1995

James R. Hale, Secretary
Luby's Cafeterias, Inc.
2211 Northeast Loop 410
San Antonio, TX 78217-4673

RE: MUR 4212
Luby's Cafeterias, Inc.

Dear Mr. Hale:

This is in response to your letter dated June 9, 1995, requesting an extension until June 28, 1995 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on June 28, 1995.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Alva E. Smith".

Alva E. Smith, Paralegal
Central Enforcement Docket

96043730768

The Goodyear Tire & Rubber Company

Akron, Ohio 44316 - 0001

LAW DEPARTMENT

June 12, 1995

VIA COURIER

Office of The General Counsel
Federal Election Commission
Washington, D.C. 20463

Attention: Mary L. Taksar, Attorney
Central Enforcement Docket

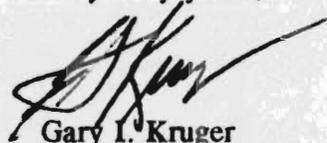
Re: Demonstration That No Action Should Be Taken Against
The Goodyear Tire & Rubber Company in Connection With MUR 4212

Dear Sir or Madam:

This is in response to your letter of May 25, 1995, which was received on May 30, 1995. The Goodyear Tire & Rubber Company ("Goodyear") respectfully submits that no action should be taken against it in connection with the Complaint which has been numbered MUR 4212.

The Complaint has no merit legally or factually. The attached affidavits of Steven T. Hale, Manager of Retail Advertising and Sales Promotion for Goodyear and Davis M. Jones, Advertising Manager, Retail Systems, for Goodyear, indicate that Goodyear used its funds to sell its products and did not use its funds to make a contribution or influence a federal election in connection with any Goodyear radio advertising that appeared on radio station WBAP in Dallas-Ft. Worth, Texas from January 1, 1995 to April 19, 1995. Goodyear has therefore not violated the Federal Election Campaign Act of 1971, as amended, and the file in this matter should be closed.

Very truly yours,



Gary I. Kruger
Attorney

GIK/plt

Attachment

JUN 13 9 30 AM '95

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

93043130759

**AFIDAVIT OF STEVEN T. HALE OF
THE GOODYEAR TIRE & RUBBER COMPANY**

State of Ohio)
)ss
County of Summit)

STEVEN T. HALE, being duly sworn, deposes and says:

1. I am and have been since January 4, 1994 the Manager of Retail Advertising and Sales Promotion for The Goodyear Tire & Rubber Company ("Goodyear").
2. During the period from January 1, 1995 to April 19, 1995, Goodyear purchased network advertising time from ABC-Prime, ABC-Platinum, and ABC-ESPN Radio which, based on information and belief, was aired at various times via satellite feed on their affiliate, radio station WBAP in Dallas-Ft. Worth, Texas during said time period.
3. Based on information and belief, radio station WBAP determined the local programming that was run adjacent to any network programming which carried Goodyear's advertising during said period. Goodyear never sponsored the Mark Davis Show or the Rush Limbaugh Show on radio station WBAP in Dallas-Ft. Worth, Texas during said period.

Dated this 12th day of June, 1995.

Steven T. Hale
STEVEN T. HALE

Subscribed and sworn to before me this 12th day of June, 1995.

Melanie A. Hayden
Notary Public

MELANIE A. HAYDEN, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Sept. 28, 1997

96043730770

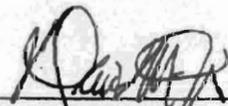
AFFIDAVIT OF DAVIS M. JONES OF
THE GOODYEAR TIRE & RUBBER COMPANY

State of Ohio)
)ss
County of Summit)

DAVIS M. JONES, being duly sworn, deposes and says:

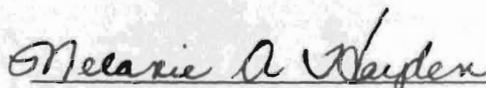
1. I am and have been since October 15, 1993 Advertising Manager, Retail Systems, for The Goodyear Tire & Rubber Company ("Goodyear").
2. During the period from January 1, 1995 to April 19, 1995, Goodyear purchased network radio advertising time from ABC-Prime, ABC-Platinum, and ABC-ESPN Radio which, based on information and belief, was aired at various times via satellite feed on their affiliate, radio station WBAP in Dallas-Ft. Worth, Texas, during said time period.
3. Based on information and belief, radio station WBAP determined the local programming that was run adjacent to any network programming which carried Goodyear's advertising during said period. Goodyear never sponsored the Mark Davis Show or the Rush Limbaugh Show on radio station WBAP in Dallas-Ft. Worth, Texas during said period.

Dated this 12th day of June, 1995.



DAVIS M. JONES

Subscribed and sworn to before me this 12th day of June, 1995.



Notary Public

MELANIE A. HAYDEN, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Sept. 28, 1997

96043730771



June 9, 1995

Jun 14 11 30 AM '95
FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

Marlin L. Gilbert
Attorney

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

Re: MUR 4212

Dear Ms. Smith:

I represent respondent, Southwestern Bell Telephone Company in the above-captioned matter, and respectfully request an extension to June 28, 1995 of the deadline for a response to the Federal Election Commission ("Commission"). The Commission's May 25 letter was received on May 30 making the current deadline for Southwestern Bell's response on June 14.

This extension is requested for several reasons. Southwestern Bell is contemplating a joint-defense agreement with other respondents. Additional time is also needed to study the factual and legal issues surrounding the complaint.

Thank you in advance for your anticipated cooperation.

Very Truly Yours,

Marlin Gilbert

9604373072

One Bell Plaza
Room 2900
P.O. Box 655521
Dallas, Texas 75265-5521

Phone (214) 464-8583
Fax (214) 464-2250



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 19, 1995

Marlin L. Gilbert, Esq.
Southwestern Bell Telephone
One Bell Plaza, Room 2900
P.O. Box 655521
Dallas, Texas 75265-5521

RE: MUR 4212
Southwestern Bell Telephone

Dear Mr. Gilbert:

This is in response to your letter dated June 9, 1995, requesting an extension until June 28, 1995 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on June 28, 1995.

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

Sincerely,

A handwritten signature in cursive script that reads "Alva E. Smith".

Alva E. Smith, Paralegal
Central Enforcement Docket

96043730773

June 13, 1995

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 19 10 20 AM '95

VIA FACSIMILE AND U.S. MAIL

Charles W. Ahner, Jr.
Attorney

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

RE: MUR 4212

Dear Ms. Smith:

I represent Southwestern Bell Yellow Pages, Inc. concerning the above-captioned matter. Although we have not been served, we are aware of the complaint and wish to respond to it. We understand that you have granted our affiliate Southwestern Bell Telephone Company an extension to June 28, 1995 for a response. Please make our response date the same.

Southwestern Bell Yellow Pages, Inc. is considering a joint defense with other respondents. Time is also needed to study the factual and legal issues surrounding the complaint. Please contact me at your earliest convenience and let me know if a response date of June 28 is acceptable.

Thank you.

Very truly yours,



Charles W. Ahner, Jr.

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Kathryn K. Misna
Senior Corporate Attorney

JUN 11 11 20 AM '95

Direct Dial Number
708/575-3332
Facsimile
708/575-5865

June 9, 1995

VIA FAX (202) 219-3923

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

Re: MUR 4212

Dear Ms. Smith:

We are respondents in the above-captioned matter, and respectfully request a 15-day extension to June 28, 1995 of the deadline for our response to the Federal Election Commission ("Commission"). Because we received the Commission's May 25 letter on May 31, the current deadline for our submission is June 15.

We request this extension for several reasons. First, we are in the process of retaining counsel to represent us in this matter. Second, we are contemplating a joint-response agreement. And third, counsel will need to study the factual and legal issues surrounding the complaint.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn K. Misna

KKM:peg
kkmletters/alva

96043730775



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 14, 1995

Kathryn K. Mlsna
Senior Corporate Attorney
McDonald's Corporation
McDonald's Plaza
Oak Brook, IL 60521

RE: MUR 4212

Dear Ms. Mlsna:

This is in response to your letter dated June 9, 1995, requesting an extension until June 28, 1995 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on June 28, 1995.

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

Sincerely,

A handwritten signature in cursive script that reads "Alva E. Smith".

Alva E. Smith, Paralegal
Central Enforcement Docket

96043730776

WINSTON & STRAWN

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703
(312) 558-5600
FACSIMILE (312) 558-5700

175 WATER STREET
NEW YORK, NY 10038-4981
(212) 269-2500
FACSIMILE (212) 858-4700

1400 L STREET, N.W.
WASHINGTON, D.C. 20005-3502

(202) 371-5700

FACSIMILE (202) 371-5950

43, RUE DU RHONE
1204 GENEVA, SWITZERLAND
(4122) 7810506
FACSIMILE (4122) 7810381

SULAYMANIYAH CENTER
P.O. BOX 22186
RIYADH 11495, SAUDI ARABIA
(9661) 4828866
FACSIMILE (9661) 4629001

WRITER'S DIRECT DIAL NUMBER

(202) 371-5799

June 14, 1995

By Messenger

Mary L. Taksar, Attorney
Central Enforcement Docket
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 4212

Dear Ms. Taksar:

On behalf of Sears, Roebuck and Company ("Sears"), I take this opportunity to respond to your May 25, 1995 letter (received on May 30, 1995) to David W. Raymond, Registered Agent of Sears, and request that the General Counsel recommend that the Commission take no action on the basis of the complaint submitted by Mr. Robert E. McCord. This complaint does not present any possible violations of the Federal Election Campaign Act ("FECA") and, specifically, no violations by Sears.

Sears takes very seriously any allegation of potential violations of any law. After reviewing the facts and law surrounding this complaint, however, we are entirely confident that Sears radio advertisements do not, in any way, violate the FECA, as alleged by Mr. McCord.

Sears does not purchase any advertising air time directly from the Rush Limbaugh program or any of its marketing agents. Because of the way network radio advertising is purchased, however, Sears cannot state definitively that its advertisements have never been placed on the Rush Limbaugh radio program. Sears purchases air time for advertising from the ABC Radio Network. WBAP in Arlington, Texas is one of the stations in this network. Sears selects general time slots and the number of times it wants its advertisements broadcast, but it does not have control over the actual broadcast times or radio programs. It is, therefore, possible that WBAP has run some of Sears advertising at the time the Rush Limbaugh program is on the air. Sears, however, does not have any actual knowledge to that effect.

JUN 14 11 23 AM '95
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL COUNSEL

1504307307

Ms. Mary Taksar
Office of the General Counsel
MUR 4212
June 14, 1995
Page 2

Regardless of whether Sears knowingly advertises on the Rush Limbaugh program, Mr. McCord's complaint does not allege any actual violations of the FECA. While it is difficult to determine the precise nature of Mr. McCord's claim, there are no grounds for a finding that Sears is making a prohibited corporate campaign contribution. The FECA prohibits all corporations from making any contributions or expenditures "in connection with any election at which presidential or vice-presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus to select candidates for any of the foregoing offices." 2 U.S.C.A. § 441b. The Rush Limbaugh program is a news commentary talk show not affiliated with any candidate or campaign. This radio program falls squarely within the statutory exemption in the definition of "expenditure" for a "news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication." 2 U.S.C.A. § 431(9)(B)(i). The Commission has already determined in Advisory Opinion 87-9 that advertising on a program falling under this exemption does not constitute a contribution or expenditure in connection with a federal election. Furthermore, Sears advertising expense also falls outside the FECA's definition of an expenditure, because it is not "made for the purpose of influencing any election for Federal office." 2 U.S.C.A. § 431(9)(A)(i).

Even if the Commission was to conclude that the Rush Limbaugh show constituted a "political committee" as alleged by Mr. McCord, the facts surrounding Sears advertising with ABC media demonstrate that Sears does not exercise any control over the exact time when its advertisements are on the air, let alone over the contents of radio programs on the air at such times.

For these reasons, we urge the General Counsel recommend that the Commission take no action, particularly as it pertains to advertisers like Sears. If you have any questions, please feel free to call me.

Sincerely,


Francisco J. Pavia

Enclosure:
Statement of Designation of Counsel

930437507

STATEMENT OF DESIGNATION OF COUNSEL

NUR 4212

NAME OF COUNSEL: Francisco Pavia

ADDRESS: Winston & Strawn

1400 L Street, N.W.

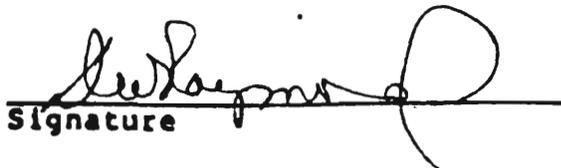
Washington, DC 20005

TELEPHONE: (202) 371-5799

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
OFFICE OF THE ATTORNEY GENERAL
JUN 14 11 24 AM '95

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.

June 9, 1995
Date


Signature

RESPONDENT'S NAME: David Raymond

ADDRESS: D/766, B6-234B

3333 Beverly Road

Hoffman Estates, IL 60179

HOME PHONE: _____

BUSINESS PHONE: (708) 286-5766

9604373079

Writer's Direct Dial Number

Tel: 202/857-6345
202/857-6466
Fax: 202/857-6395

June 15, 1995

JUN 15 3 53 PM '95

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
GENERAL COUNSEL

VIA MESSENGER

Enforcement Division
Office of the General Counsel
Federal Election Commission
Room 657
999 E Street, N.W.
Washington, D.C. 20463

Attn: Mary L. Taksar, Esq.

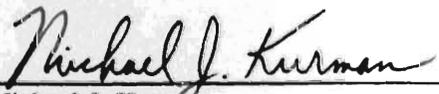
Re: MUR 4212 -- CompUSA Inc.
Designation of Counsel

Dear Ms. Taksar:

I attach the "Statement of Designation of Counsel" for CompUSA Inc. with regard to MUR 4212. CompUSA will file a response to the complaint within the deadline specified in the Commission's letter.

If you have questions, please feel free to contact the undersigned.

Respectfully submitted,



Michael J. Kurman
Mitchell Lazarus

ARENTE FOX KINTNER PLOTKIN & KAHN
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339
Telephone: 202/857-6345
202/857-6466

Counsel for Respondent CompUSA

Attachment

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4212

NAME OF COUNSEL: MICHAEL J. KURMAN, MITCHELL B. LAZARUS

ADDRESS: ARENT FOX KINTNER PLOTKIN & KAHN

1050 CONNECTICUT AVENUE NW

WASHINGTON DC 20036-5339

TELEPHONE: 202-857-6000, 202-857-6345

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

6-14-95
Date

Mark R. Walker
Signature *V.P., General Counsel
CompUSA Inc.*

RESPONDENT'S NAME: MARK R. WALKER ESQ.

ADDRESS: COMPUSA INC.
14951 NORTH DALLAS PARKWAY

DALLAS TX 75240

HOMR PHONE: _____

BUSINESS PHONE: 214-383-4217

9604373J781



Greyhound Lines, Inc.

P.O. Box 660362
Dallas, Texas 75266-0362

DIRECT DIAL (214) 789-7401

FACSIMILE: (214) 789-7403

June 13, 1995

Enforcement Division
Office of the General Counsel
Federal Election Commission
999 East N.W. Street
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 19 10 17 AM '95

Re: MUR 4212

Dear Sir or Madam:

This is in response to your letter dated May 25, 1995, enclosing a copy of a complaint against Greyhound and certain other companies filed with the FEC.

Greyhound has advertised its services on the radio station WBAP-KSCS, and other radio stations, from time to time. Greyhound's payments to WBAP-KSCS were in return for value received - airtime devoted to the advertising of Greyhound's services to the marketplace. In no way could such payments be considered a "contribution or expenditure" to a "candidate, campaign committee, or political party or organization, in connection with the election to any offices referred to in this section. . ." as defined in the Federal Election Campaign Act of 1971, as amended. Greyhound was not sponsoring Mark Davis and Rush Limbaugh as a political action committee (PAC) or otherwise. In fact, according to the Network Coordinator used by Greyhound, the only show with a Greyhound advertisement that airs on WBAP in the Dallas/Fort Worth area is Jim Hightower on ABC Radio Networks.

Greyhound can only consider this complaint spurious since there is no basis for its allegations. Consequently, no further action should be taken against Greyhound in this matter.

Sincerely,

Tennessee Nielsen
Corporate Counsel

96043130734

JUN 19 2 33 PM '95

Writer's Direct Dial Number

Tel: 202/857-6345
202/857-6466
Fax: 202/857-6395

June 19, 1995

VIA MESSENGER

Enforcement Division
Office of the General Counsel
Federal Election Commission
999 E Street, NW, Room 657
Washington, DC 20463

Attention: Mary L. Taksar, Esq.

Re: MUR 4212 -- CompUSA Inc.
Response to Complaint

Dear Ms. Taksar:

On behalf of CompUSA Inc. ("CompUSA"), we hereby respond to the complaint filed with the Federal Election Commission ("Commission") by Robert E. McCord. This response is submitted pursuant to 11 C.F.R. § 111.6, and in accordance with the Commission's letter (dated May 25, 1995) to CompUSA.^{1/} As demonstrated herein, "no action should be taken on the basis of [the] complaint" (11 C.F.R. § 111.6) against CompUSA.

CompUSA is a major national retailer of computers and computer accessories, with over 80 stores nationwide. Like millions of other businesses, CompUSA advertises its products to the public. Its advertising decisions are driven by genuinely commercial concerns -- demographics, reach, cost, timing (e.g., drive time? weekday vs. weekend?) -- for purposes of maximizing the exposure of its products to the markets served by its various retail locations. CompUSA (like millions of other businesses) generally employs experienced advertising agencies to purchase advertising time and/or space, and to do so in a manner that will help CompUSA achieve its commercial advertising objectives.

CompUSA advertises in Dallas on, among other media outlets, WBAP-AM, which has a news/talk/sports format. CompUSA advertising time on WBAP-AM is purchased by an advertising agency in accordance with the types of standard commercial concerns mentioned above and, with one exception, without regard to program content. In fact, CompUSA has

^{1/} The Commission's letter was received by CompUSA's registered agent (i.e., the addressee) on June 2, 1995. Since the 15-day filing limit fell on Saturday, June 17, this response by respondent CompUSA is filed today in accordance with 11 C.F.R. § 111.2(a).

Arent Fox

Mary L. Taksar, Esq.
June 19, 1995
Page 2

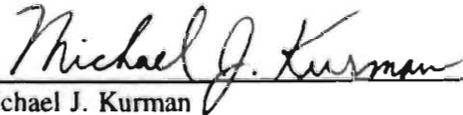
instructed its advertising agencies that radio time should not be purchased on "sexually oriented programming" (i.e., so-called "blue radio").

Mr. McCord's filing (under cover letter dated March 16, 1993 (*sic*), and with a Commission date stamp showing receipt on May 22, 1995) is a vexatious complaint containing vague, unsubstantiated^{2/} and, frankly, ridiculous allegations that corporate advertising by CompUSA, American Express, General Motors and McDonald's, among others, constitutes illegal campaign contributions.

CompUSA advertising on WBAP-AM (not to mention numerous other media outlets across the country) is strictly market-oriented; it has no political or election-influencing purpose, does not expressly advocate the election or defeat of a candidate, is not campaign-related, does not support a political committee, does not entail arrangements with campaigns, etc. It is commercial advertising on the broadcast media, pure and simple.

The complaint is entirely without merit as to CompUSA.^{3/} Accordingly, CompUSA requests that the Commission find that there is no reason to believe that CompUSA has committed a violation, and close the file in this matter.

Respectfully submitted,



Michael J. Kurman
Mitchell Lazarus

ARENT FOX KINTNER PLOTKIN & KAHN
1050 Connecticut Avenue, NW
Washington, DC 20036-5339
Telephone: (202) 857-6345
(202) 857-6466

Counsel for Respondent CompUSA

^{2/} Mr. McCord does cite to a provision (15 U.S.C. § 791(h)) from the Public Utility Holding Company Act of 1935, which obviously has no relevance to CompUSA.

^{3/} CompUSA also understands that the unsupported allegations that certain talk shows on WBAP-AM somehow constitute unregistered political committees are specious, and that the so-called "media exemption" to the definitions of "contribution" and "expenditure" (see 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2)) applies.

9 6 0 4 3 0 7 4



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 20, 1995

Edward C. Schmults, Senior Vice President
GTE Corporation
One Stamford Forum
Stamford, CT 06904

RE: MUR 4212
GTE Corporation

Dear Mr. Schmults:

On May 25, 1995, we sent C.T. Corporation ("C.T."), registered agent, the enclosed letter and complaint. On May 30, 1995, pursuant to C.T.'s request, we sent C.T. two copies of the May 25, 1995 letter and complaint, one for GTE and one for the other respondent. The third respondent received the original. We were recently informed by C.T. that they are not the registered agent for GTE Corporation. Accordingly, the May 25, 1995 letter and complaint is being forwarded to you. Thus, you still have 15 days from receipt of the May 25, 1995, letter to respond to the complaint.

We apologized for the administrative oversight. Should you have any questions please contact Alva E. Smith at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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WILMER, CUTLER & PICKERING

2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

ALEX E ROGERS*
DIRECT LINE (202)
663-6256
*NOT ADMITTED IN D.C.

RECEIVED
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OFFICE OF GENERAL
COUNSEL

Jun 26 10 00 AM '95

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 01 44711 339-4466
FACSIMILE 01 44711 339-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 01 3221 231-0903
FACSIMILE 01 3221 230-4322

FRIEDRICHSTRASSE 95
BRIEFKASTEN 29
D-10117 BERLIN
TELEPHONE 01 49301 2643-3601
FACSIMILE 01 49301 2643-3630

June 22, 1995

Mary L. Taksar, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 4212

Dear Ms. Taksar:

Please find enclosed a Statement of Designation of
Counsel form in the above-captioned matter, executed by Tyler Cox
and Mark Davis.

Thank you for your assistance.

Sincerely,

Alex E. Rogers

Enclosures

cc: Jonathan Barzilay

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STATEMENT OF DESIGNATION OF COUNSEL

FOR 4212

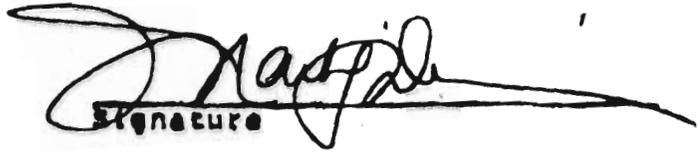
NAME OF COUNSEL: Roger M. Witten & Alex E. Rogers

ADDRESS: Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

TELEPHONE: 202/663-6000

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

6/20/95
Date


Signature

RESPONDENT'S NAME: Mark Davis

ADDRESS: WBAP-KSCS Radio, Inc.
2221 East Lamar Blvd., Suite 400
Arlington, TX 76006

HOME PHONE: 817-267-4101

BUSINESS PHONE: 817/695-1820

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STATEMENT OF DESIGNATION OF COUNSEL

NOR 4212

NAME OF COUNSEL: Roger M. Witten & Alex E. Rogers

ADDRESS: Wilmer, Cutler & Pickering

2445 M Street, N.W.

Washington, D.C. 20037

TELEPHONE: 202/663-6000

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

6/20/95
Date

Tyler Cox
Signature

RESPONDENT'S NAME: Tyler Cox, Operations Manager

ADDRESS: WBAP-KSCS Radio, Inc.

2221 East Lamar Blvd., Suite 400

Arlington, TX 76006

HOME PHONE: 817/581-0959

BUSINESS PHONE: 817/695-1820

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COUNSEL

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McDonald's Corporation
McDonald's Plaza
Oak Brook, Illinois 60521
Direct Dial Number
(708) 575-3332

VIA AIR BORNE

June 22, 1995

Lawrence M. Noble, Esq.
Office of General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Attention: Mary L. Taksar, Esq.

Re: MUR 4212

Dear Mr. Noble:

I am writing in response to Ms. Taksar's letter to McDonald's Corporation dated May 25, 1995 in which comments were requested with respect to the issue of whether purchases of advertising time on WBAP violate the Federal Election and Campaign Act of 1971. By letter from Alva Smith to me dated June 14, 1995; McDonald's was granted an extension of time to June 28, 1995 to respond to the above-referenced inquiry.

Although McDonald's Corporation did not purchase advertising time on that station, McDonald's restaurants both corporate-owned and franchised (collectively known as the Dallas-Ft. Worth Advertising Association) do purchase media on WBAP and other radio stations in connection with the advertising of McDonald's products and services. The stations are selected because of their ability to reach McDonald's customers.

In addition, we adopt the views articulated in the MUR 4212 Response filed on behalf of WBAP-KSCS Radio, Inc., Tyler Cox, and Mark Davis; which clearly support the position that the McCord complaint should be dismissed.

96043730739

Letter dated June 22, 1995
Noble/Taksar

If you have any questions about the foregoing or wish to discuss further, please do not hesitate to contact me. Please direct any further communications to my attention at the above address.

Sincerely,



Kathryn K. Mlsna

96043730790

WILMER, CUTLER & PICKERING

2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

WASHINGTON
LONDON
BRUSSELS
BERLIN

June 26, 1995

BY MESSENGER

Lawrence M. Noble, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Mary L. Taksar, Esq.

Re: MUR 4212

Dear Mr. Noble:

On behalf of respondents WBAP-KSCS Radio, Inc., Tyler Cox, and Mark Davis (collectively "WBAP"), we submit this response to the frivolous complaint Robert E. McCord ("McCord") filed, alleging that WBAP's broadcast of the Mark Davis and Rush Limbaugh Shows constitutes an unlawful expenditure under the Federal Election Campaign Act ("FECA") because, it is alleged, these programs are "unregistered and unauthorized political committees" as defined by FECA. See Complaint of Robert E. McCord, May 19, 1995 ("Complaint"). For the reasons set forth below, the Federal Election Commission ("FEC") should find no "reason to believe" and should summarily dismiss the complaint.

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Lawrence M. Noble, Esq.
June 26, 1995
Page 2

SUMMARY

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WBAP broadcasts the Mark Davis and Rush Limbaugh talk-radio programs to engage, inform, and entertain its listeners through political commentary and discussions of a broad range of issues.^{1/} WBAP neither hired nor employs, nor compensates, Mark Davis ("Davis") for the purpose of espousing any particular views. Moreover, as with all WBAP talk-radio commentators, Davis's terms and conditions of employment with WBAP are in no way affected by the particular views he expresses or editorial positions he takes. Id. WBAP preserves the same editorial independence with respect to the Rush Limbaugh Show, for which it pays a syndication fee for the right to broadcast this national program within WBAP's community of license set by the Federal Communications Commission.

WBAP's Mark Davis and Rush Limbaugh talk-radio programs do not constitute political committees under the terms of the FECA and the regulations promulgated thereunder. 2 U.S.C. § 431; 11 C.F.R. §§ 100.7 and 100.8. The "media exemption" in the FECA clothes each program with immunity as a "news story, commentary, or editorial distributed through the facilities of any broadcasting station" 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2). Contrary to the unsupported

^{1/} WBAP-KCSC Operating, Ltd., the licensee of WBAP, is a wholly-owned subsidiary of ABC Holding Company, Inc., which is wholly-owned by Capital Cities/ABC, Inc.

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Page 3

implication in the Complaint, the media exemption bestows on media entities such as WBAP the unfettered right to cover and comment on political campaigns and issues. As numerous FEC Advisory Opinions and federal court decisions instruct, nothing in the FECA and companion regulations restricts the content of the commentary insulated by the media exemption, the range of permissible topics, the format of discussion, or the length of time devoted to such commentary. Thus, WBAP's Mark Davis and Rush Limbaugh broadcasts fit squarely within the media exemption, and the complaint is without merit.

DISCUSSION

By its express terms, the FECA excludes from the definition of "expenditure" all costs incurred in covering or carrying "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate[.]" 2 U.S.C. § 431(9)(B)(i) (emphasis added); see also 11 C.F.R. § 100.8(b)(2).^{2/} Ignoring the plain language of this provision, McCord incredibly asserts that the

^{2/} A parallel provision in 11 C.F.R. § 100.7(b)(2) provides an identical exemption from the definition of "contribution": "Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not a contribution" (emphasis added).

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Mark Davis and Rush Limbaugh programs are political committees because they "make[] expenditures for the purpose of influencing or attempting to influence the selection, nomination, or election" of political candidates. Complaint at 1. However, because the media exemption of Section 431(9)(B)(i) carves out an explicit category from the definition of "expenditures," McCord's complaint is baseless.

The legislative history of the media exemption reflects Congress' desire to afford broad protection to the very activity at issue in the instant complaint. "[I]t is not the intent of Congress . . . to limit or burden in any way the first amendment freedoms of the press and of association. [The media exemption] assures the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns." H.R. Rep. No. 93-1239, 93d Cong., 2d Sess. 4 (1974) (emphasis added).

Guided by the statute, regulations, and legislative history, FEC Advisory Opinions and jurisprudence uniformly underscore the expansive protection that the media exemption affords news stories, political commentary, and editorials distributed through the facilities of a media entity. This authority teaches that the media exemption turns on only two criteria: (1) the medium -- i.e., whether the communication emanates from a broadcast station, newspaper, magazine, or periodical publication in the ordinary course of its business;

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and (2) the nature of the communication -- i.e., whether it is a news story, commentary, or editorial.^{2'}

Both criteria are indisputably met here. Indeed, McCord's complaint does not dispute that WBAP's broadcasts satisfy both criteria.

McCord rests his complaint instead on the nonsensical assertion that WBAP's broadcasts constitute "expenditures" in violation of the FECA because "[f]or eight hours a day, five days a week, WBAP is openly republican talk-radio." Complaint at 1. He seeks to engraft novel limitations of dubious constitutionality on the media exemption -- namely, the duration of the broadcast and its content -- that clash with the unequivocal language of the FECA, the regulations, and existing authority. McCord's complaint ignores that the statutory and regulatory language not only does not qualify the term "editorial" as used in the media exemption, but also expressly includes (and does not qualify) the terms news story and commentary. 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2).

^{2'} Of course, the FECA and regulations impose a threshold bar against media entities "owned or controlled by any political party, political committee, or candidate[.]" 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. § 100.7(b)(2) and 100.8(b)(2). However, the attached affidavit affirms -- and McCord does not dispute -- that WBAP is not owned by any political party, political committee, or candidate. See Attachment A.

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June 26, 1995
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Not surprisingly, McCord's complaint cites no FEC authority or case law, and we have found none, that supports his argument. That is because courts and the Commission scrutinize the nature of the communication solely to discern whether the press entity was conducting a legitimate press function in the ordinary course of business when it disseminated the challenged news story, commentary, or editorial. See, e.g., Federal Election Comm'n v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 250-51 (1986) ("MCFL"); Reader's Digest Ass'n, Inc. v. Federal Election Comm'n, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981); AO 1982-44; AO 1980-109.

This Commission's decisions require dismissal of McCord's complaint. In AO 1982-44, the Commission held that the media exemption extends to a television station's donation of two hours of free air time to the Democratic and Republican National Committees to discuss public policy issues, encourage viewer support, and solicit contributions. The Commission anchored its conclusion on the absence of any content-based or temporal restrictions to the media exemption. "The statute and regulations do not define the issues permitted to be discussed or the format in which they are to be presented under the 'commentary' exemption nor do they set a time limit as to the length of the commentary." AO 1982-44. The FEC in AO 1982-44 further explained that the media exemption insulates not just broadcasters themselves, but also "third persons" who offer their

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political commentary through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication.

Id. Citing with approval H.R. Rep. 93-1239, the FEC underscored the consistency between the absence of such limitations on the media exemption and Congress' intent to protect the "unfettered right" of the media to critique political candidates and party platforms. Id.; see also AO 1980-109 (concluding that the media exemption permits a financial newspaper to endorse, and urge readers to contribute to, a candidate for the U.S. House of Representatives because the media exemption "insure[s] the right of the media to cover and comment on election campaigns"); MUR 3366 (finding "no reason to believe" that KABC-TV, KABC Radio, and Capital Cities/ABC, Inc. violated the FECA by employing a candidate for federal office as a political commentator because, inter alia, the news exemption insulated the daily broadcasts);⁴ AO 1987-8 (opining that the media exemption extends to corporate sponsorship of candidate interviews published in a national magazine and aired on television).

Nor does the case law support McCord's position. In MCFL, the Supreme Court held that a special edition newsletter published by Massachusetts Citizens for Life, Inc. ["MCFL"] did

⁴ Although two "Statements of Reasons" were issued in MUR 3366, both concluded that the news exemption applied to the challenged conduct. See MUR 3366 (Statement of Reasons, Chairman Joan D. Aikens and Commissioner Lee Ann Elliot) (Statement of Reasons, Vice Chairman Scott E. Thomas and Commissioner John Warren McGarry).

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Page 8

not fit within the media exemption of 2 U.S.C. § 431(9)(B)(i) due to the marked production differences between the special edition and MCFL's regular newsletter. MCFL, 479 U.S. at 250-51.^y The MCFL Court's media exemption analysis focused, not on the length or content of the publication, but rather on whether it was produced by a media entity in the normal course of its business.

The analysis MCFL employed was presaged by Reader's Digest, 509 F. Supp. at 1214-15, and Federal Election Comm'n v. Phillips Publishing, Inc., 517 F. Supp. 1308, 1312-13 (D.D.C. 1981) -- and has been consistently embraced by the Commission in its Advisory Opinions. In Reader's Digest, the court stated that the media exemption turns on "whether the press entity was acting as a press entity in making the distribution complained of." Reader's Digest, 509 F. Supp. at 1215. There, a magazine publisher sought to enjoin the Commission from investigating whether the publisher's dissemination of a video tape to other media outlets violated the FECA ban on corporate expenditures. The court concluded that the media exemption would apply if the magazine publisher had acted "in its magazine publisher capacity" by distributing a news story through its facilities, but not if the publisher "was acting in a manner unrelated to its publishing function." Id.

^y The Court did not decide whether the media exemption applies to MCFL's regular newsletter. MCFL, 479 U.S. at 250.

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The court in Phillips Publishing relied on Reader's Digest and likewise held that the media exemption applied to a newsletter publisher's solicitation letter to existing and potential subscribers that strongly emphasized the newsletter's opposition to United States Senator Edward M. Kennedy. Phillips Publishing, 517 F. Supp. at 1312-13. In seeking to enforce two Commission orders requiring the publisher to answer written interrogatories, the Commission maintained that the challenged mailing stood apart from the publisher's typical publications and thus fell outside the media exemption. However, the Phillips Publishing Court concluded that the media exemption insulated the promotional mailing, "[b]ecause the purpose of the solicitation letter was to publicize [the newsletter] and obtain new subscribers, both of which are normal, legitimate press functions[.]" Id. at 1313.^{4/}

Similarly, the Commission has opined that the media exemption applies to a media entity "engaged in the normal press-business of covering and commenting on political campaigns," AO 1989-28, but not to non-media corporate entities. For instance, whereas AO 1982-44 and AO 1980-109 held that the media exemption

^{4/} In dicta, the court suggested that "[c]learly further investigation would be warranted if [the newsletter] had not been in existence for over 10 years but rather had been established for the sole purpose of supporting or opposing a candidate, or if the FEC had some evidence linking [the newsletter] with a political organization or candidate." Phillips Publishing, 517 F. Supp. at 1314. To be sure, no such evidence exists with respect to the WBAP.

Lawrence M. Noble, Esq.
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applied to the typical activities of a television station and financial newspaper, AO 1989-28 denied the media exemption to the Maine Right to Life Committee's ("MRLC") financing of a newsletter because MRLC is "not the type of entity contemplated by Congress when it adopted the . . . press exemption." Id. See also AO 1980-90 (media exemption does not extend to the Atlantic Richfield Company's independent distribution of taped interviews of U.S. Presidential candidates because the exemption "was intended to apply to election related communications by a broadcaster, newspaper or other form of recognized public media"). In each instance, the Commission did not base its decision on the content of the commentary or the length of air time devoted thereto. Nor could we find any instance in which the Commission denied the media exemption to any news story, commentary, or editorial, produced by a media entity, that reflected the subjective views of the broadcaster, publisher, or commentator.

What this authority teaches is that the media exemption applies to "any" news story, commentary, or editorial that a media entity produces in its ordinary course of business. 2 U.S.C. § 431(9)(B)(i) (emphasis added); 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2). WBAP's programs clearly satisfy this standard. Unlike the MRLC in AO 1989-28, and Atlantic Richfield in AO 1980-90, WBAP is a media corporation and airs the Mark Davis and Rush Limbaugh programs as an integral component of its business

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objective to inform, engage, and entertain listeners. See Attachment A. In short, WBAP's broadcasts constitute "legitimate press functions." Phillips Publishing, 517 F. Supp. at 1313; AO 1980-109. Moreover, whereas the unusual production form and distribution of the "special edition" in MCFL glaringly stood apart from MCFL's typical newsletter, the production characteristics of the Mark Davis and Rush Limbaugh programs unmistakably "associated [them] . . . with the normal [WBAP production]." MCFL, 479 U.S. at 250.

In sum, the media exemption protects the "unique role that the press plays in 'informing and educating the public, offering criticism, and providing a forum for discussion and debate.'" Austin v. Michigan Chamber of Commerce, 494 U.S. 652, 667-68 (1990) (upholding the constitutionality of an identical media exception in § 51 of the Michigan Campaign Finance Act) (quoting First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765, 781 (1978)).^{2/} WBAP's political commentary advances these objectives and fits squarely within the media exemption. To hold otherwise, and to accept McCord's gloss on the definition of expenditures, would ignore the unequivocal language of, and

^{2/} Cf. Columbia Broadcasting Sys., Inc. v. Democratic Nat'l Comm., 412 U.S. 94, 117 (1973) (plurality) ("The power of a privately owned newspaper to advance its own political, social, and economic views is bounded by only two factors: first, the acceptance of a sufficient number of readers -- and hence advertisers -- to assure financial success; and second, the journalistic integrity of its editors and publishers).

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June 26, 1995
Page 12

Congressional intent underlying, the media exemption and would raise grave First Amendment issues.

Equally preposterous is McCord's characterization of the independent corporate advertising on WBAP's programs as "contributions" under the terms of the FECA. Advertisers purchase air time on WBAP's programs to promote their products and services, not to influence federal elections generally or expressly advocate the election or defeat of any specific candidate.

Directly on point is the Commission's opinion in AO 1987-8, which held that American International Group, Inc.'s ("AIG") sponsorship of a series of candidate interviews that appeared in a magazine and on television "would not result in a contribution or expenditure in connection with a Federal election." AO 1987-8. As a threshold matter, the Commission noted that AIG is a holding company which, through its subsidiaries, is engaged in insurance and insurance-related activities in the United States and abroad. Id. The Commission further stated that AIG "advertises in a wide variety of media to enhance its image and promote its products and services." Id.

There, as here, the corporate advertisers do not exercise any control or influence over the content, duration, timing, or nature of the broadcasts. There, as here, the advertisers have no responsibility for the production costs of the broadcasts. There, as here, the editorial independence of

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Lawrence M. Noble, Esq.
June 26, 1995
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the news and commentary is absolute. There, as here, the corporations' sole involvement in the broadcasts is as a "commercial advertiser." And there, as here, the press entity -- in the ordinary course of covering and commenting on political affairs -- derives revenues from the sale of such advertising. For these reasons, the Commission in AO-1987-8 held that AIG's sponsorship of the broadcasts constituted a "permissible activity under the Act and Commission regulations." Id. The same holds true for WBAP's commercial advertisers and McCord's protestations to the contrary are without merit. See also AO 1994-30 ("There is nothing in the [FECA] requiring a business entity to target its business toward clients or individuals that represent all parties or ideologies."); AO 1989-28 ("[The media exemption] applies to a press entity engaged in the normal press-business of covering and commenting on political campaigns and requires that the press entity derive revenues from the sale of subscriptions . . . and advertising.").

Lawrence M. Noble, Esq.
June 26, 1995
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CONCLUSION

For the foregoing reasons, McCord's complaint against
WBAP's programs should be dismissed.

Respectfully submitted,

Roger M. Witten

Roger M. Witten
Roger M. Witten
Alex E. Rogers

Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037
Tel: (202) 663-6000

Counsel for WBAP-KSCS; Tyler
Cox; and Mark Davis

June 26, 1995

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ATTACHMENT A

WBAP broadcasts the Mark Davis Show and, by means of a syndication-fee agreement, the Rush Limbaugh Show.

4. WBAP employs Mark Davis as the host of a radio call-in program on weekday mornings between the hours of 9:00 a.m. and 12:00 p.m., and on Saturday evenings between the hours of 9:00 p.m. and 12:00 a.m. Mr. Davis has hosted this radio program since March 1994. During his career as a radio host, Mr. Davis has consistently engaged in provocative discussions with his listeners on a wide range of topics, with an emphasis on politics and current events.

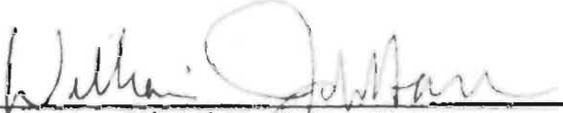
5. As part of his programs, Mr. Davis regularly expresses his views on local and national elections, and discusses those views with callers and studio guests who both agree and disagree with his comments. Mr. Davis's commentary often provokes a spirited exchange of views. WBAP seeks to attract listeners who are interested in politics and current events, and who are engaged by the opinions expressed on WBAP.

6. As a broadcast licensee, WBAP is obligated, pursuant to Federal Communications Commission ("FCC") rules and policies, to meet the needs and interests of the listeners in its Fort Worth area community of license through its programming. The management of WBAP has determined that the Mark Davis Show, the Rush Limbaugh Show, and other similar programs, in which the host is given wide-ranging discretion to express his personal views in order to foster debate on public issues, including

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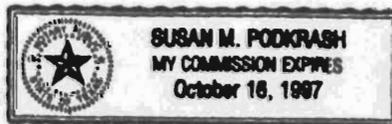
political campaigns, constitute one appropriate means to meet its public interest obligations. WBAP permits Mark Davis and other talk-show hosts to present their own opinions on behalf of candidates on their programs. WBAP does not require that Mr. Davis (or any other host) obtain management approval for the political views he expresses, nor do those views necessarily represent those of WBAP or its corporate parents.

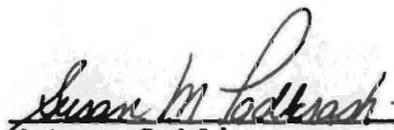
7. WBAP's talk-radio hosts do not solicit funds for any candidate while on the air at WBAP.



William John Hare

Sworn and subscribed to before me
this 23 day of June, 1995.





Notary Public

My Commission expires: 10/16/97

96043730808



American Express
Travel Related Services Company, Inc.
General Counsel's Office
American Express Tower
World Financial Center
New York, NY 10285-4900

June 26, 1995

Via Facsimile and Federal Express

Lawrence M. Noble, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463
Attention: Mary L. Taksar, Esq.

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COMMISSION
OFFICE OF GENERAL
COUNSEL

Re: MUR 4212 - American Express

Dear Mr. Noble,

This letter is submitted on behalf of American Express Travel Related Services Company, Inc. ("American Express"), in response to the above captioned matter.

The complaint filed by Robert E. McCord alleges that the Rush Limbaugh and Mark Davis radio talk shows are "unregistered and unauthorized political committees", and that advertisers who purchase time during these shows are "sponsoring political committees."

American Express purchases advertising time and space in broadcast and print media purely to promote its products and services, and not as a means of espousing a particular political candidate, party, or viewpoint. It does not exert any editorial influence over the content of the programs it sponsors. Its media purchasing decisions are driven by business, not political, considerations. It is baseless - indeed incredible - to assert, as does Mr. McCord, that advertisers such as American Express sponsor radio talk shows as a means of diverting "illegal campaign contributions."

The Federal Election Commission opined, in AO 1987-8, that a corporate advertiser's sponsorship of candidate interviews which appeared in print and broadcast media "would not result in a contribution or expenditure in connection with a Federal election." With this clear authority - and in view of the fact that the talk shows at issue cannot be considered as political committees under the Federal Election Campaign Act (which states

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Lawrence M. Noble, Esq.
June 26, 1995
Page 2

that "expenditure" does not include "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. §431(9)(B)(i); 11 C.F.R §100.8(b)(2)) - Mr. McCord's complaint cannot be construed as other than frivolous and without merit.

Accordingly, we urge that the Commission dismiss this complaint.

Very truly yours,


Sally Cowan
Group Counsel

96043730810

**General Motors Corporation
Legal Staff**

Facsimile
(313) 974-0115

Telephone
(313) 974-1461

June 23, 1995

Mary L. Takser, Attorney
Federal Election Commission
Central Enforcement Docket
Washington, D.C. 20463

JUN 27 9 39 AM '95

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Dear Ms. Takser:

Re: **MUR 4212**

Your letter advice to General Motors Corporation on this matter dated May 25, 1995, was apparently received by CT Corporation on May 31, but not received by the GM Legal Staff until June 21, 1995. On behalf of General Motors, as its authorized counsel for this matter, I request a brief extension of time to June 30, 1995, to answer the complaint filed in this matter. The designation of counsel form provided by the Commission is enclosed.

The extension will not prejudice the FEC investigation or the interest of justice. It is my understanding an extension of time to answer has already been requested by at least one other respondent and granted by the Commission. Consequently, there would be no delay to the FEC review process by granting this short extension. In addition, given the outrageous nature of the allegation, and the existence of ample applicable legal authority on the theory presented in the Complaint, it would be in the best interests of the FEC to have interested parties present the Commission with factual and legal analysis to assist its initial review process. The extension requested will give us that opportunity to provide the Commission with additional meaningful input on this matter.

Please advise this office directly of your decision concerning this request. Your prompt attention is appreciated.

Very truly yours,



Michael J. Robinson
Attorney

MJR:dmb

Enclosure

c: Margot C. Parker

96043730811

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4212

NAME OF COUNSEL: MICHAEL J. ROBINSON

ADDRESS: GENERAL MOTORS CORPORATION
OFFICE OF THE GENERAL COUNSEL
NCO BUILDING / 3031 W. GRAND BLVD

TELEPHONE: 313-974-1461

JUN 27 9 39 AM '95
RECEIVED
FEDERAL BUREAU OF INVESTIGATION
OFFICE OF GENERAL COUNSEL
DETROIT, MI
48237

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

6/23/95
Date

Margot C Parker
Signature

RESPONDENT'S NAME: GENERAL MOTORS CORPORATION

ADDRESS: 3034 WEST GRAND BOULEVARD
DETROIT, MI

HOME PHONE: _____

BUSINESS PHONE: _____

96043730812



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 26, 1995

Michael J. Robinson, Esq.
General Motors Corporation
Office of the General Counsel
3031 West Grand Blvd.
Detroit, MI 48232

RE: MUR 4212

Dear Mr. Robinson:

This is in response to your letter dated June 23, 1995, requesting an extension until June 30, 1995 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on June 30, 1995.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Alva E. Smith".

Alva E. Smith, Paralegal
Central Enforcement Docket

96043730813

Jun 9 9 47 AM '95

March 16, 1993

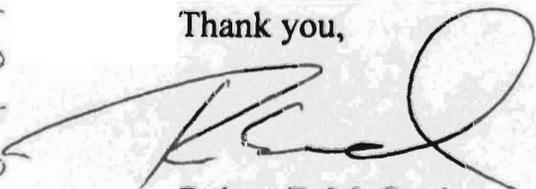
Mary L. Taksar, Attorney
Federal Election Commission
999 East N.W. Street
Washington DC 20463

Re: MUR 4212

Dear Ms. Taksar:

Please review, and then process the enclosed addendum to MUR - 4212 as soon as possible.

Thank you,



Robert E. McCord
7812 El Pensador
Dallas, Texas 75248
(214) 404-1556
Fax: (214) 788-0677

96043730814

Addendum - MUR 4212

I have been advised the commission will hear from the Cap Cities/ABC legal staff. I anticipate their argument will focus on the issue of whether "Broadcasters and Publications" are exempt from Titles 2, 11, & 26 endorsement issues.

- I believe the commission will find the Rush Limbaugh and Mark Davis Shows are unregistered, unauthorized political committees which are not exempt from Federal Election Campaign Law because they do not directly represent the editorial opinion or the political endorsement preferences of the broadcaster. Both committees are independent organizations. In the case of the Rush Limbaugh Show, it is syndicated to 660+ stations of which many are not under the direct control of Cap Cities/ABC. In both cases, these unregistered, unauthorized political committees are openly making expenditures for the purposes of influencing or attempting to influence the selection, nomination, or election of individuals to Federal, State, and local elective public offices.
- I believe the commission will find both committees represent a significant campaign effort worth billions of dollars in unreported campaign expenditures for Republican Party candidates. Factors which clearly signal both programs are independent, unregistered, and unauthorized political committees not protected by the broadcaster and publication exemption and therefore must comply with campaign committee registration, funding, and reporting requirements.

June 4, 1995 - CBS - 60 Minutes - Newt Gingrich publicly stated that Republicans have Rush Limbaugh to carry out their campaign effort and it is being paid for by corporate advertising sales.

96043730815

Newt Gingrich's public statement on 60 Minutes clearly indicates Republicans are using these unregistered committees as loopholes to circumvent federal campaign finance law which prohibits corporations from directly or indirectly making contributions or expenditures whatsoever in connection with the selection, nomination, or election of individuals to public office. Tax exempt corporate advertising fits the category of expenditure when used to finance the partisan campaign activities of the Rush Limbaugh and Mark Davis political committees.

There is another issue I expect to surface from the Cap Cities/ABC legal staff. I'm certain an effort will emerge which seeks to take the focus away from the campaign finance issues and place the focus on limited discussions between WBAP and myself concerning an opportunity to host an opposition program. I acknowledge these host discussions did take place. However, these discussions should have no bearing in this matter. The issues placed before the commission are (a) the unauthorized political committee qualifications of the Rush Limbaugh and Mark Davis Shows, (b) the unreported campaign use of corporate contributions disguised as tax exempt advertising by the unregistered and unauthorized political committees.

96043730816

[Handwritten Signature]

Robert E. McCord
P.O. Box 612722
Dallas, Texas 75261-2722
(214) 404-1556

6-6-95
Date

SUBSCRIBED AND SWORN TO BEFORE ME THIS

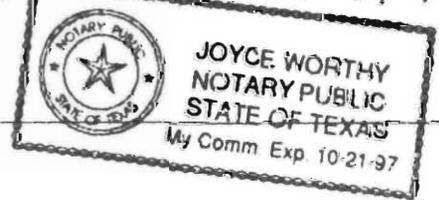
6th DAY OF June, 1995

[Handwritten Signature]
Signature of Affiant

Notary Public in and for Tarrant County, Tex

My Commission Expires: 10-21-97

[Handwritten Signature]





FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

June 27, 1995

Robert E. McCord
7812 El Pensador
Dallas, TX 75248

RE: MUR 4212

Dear Mr. McCord:

This letter acknowledges receipt on June 9, 1995, of the supplement to the complaint you filed on May 22, 1995. The supplement was dated March 16, 1993. The respondent(s) will be sent copies of the supplement. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

9604373037



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 27, 1995

Roger M. Witten, Esq.
Alex E. Rogers, Esq.
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

RE: MUR 4212
Mark Davis, Tyler Cox, and WBAP-KSCS Radio, Inc.

Dear Messrs. Witten and Rogers:

On May 25, 1995, your clients were notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time your clients were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730618



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Rush Limbaugh
c/o WBAP-KSCS Radio, Inc.
1 Broadcast Hill Street
Fort Worth, TX 76103

RE: MUR 4212

Dear Mr. Limbaugh:

On May 25, 1995, you were notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043730819



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Tennessee Nielsen
Corporate Counsel
15110 North Dallas Parkway
Dallas, TX 75248

RE: MUR 4212
Greyhound Lines, Inc.

Dear Mr. Nielsen:

On May 25, 1995, Greyhound Lines, Inc. was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time Greyhound Lines, Inc. was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730820



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

June 27, 1995

Edward C. Schmults, Senior Vice President
GTE Corporation
One Stamford Forum
Stamford, CT 06904

RE: MUR 4212
GTE Corporation

Dear Mr. Schmults:

On May 25, 1995, GTE Corporation was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time GTE Corporation was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730821



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Michael J. Kurman, Esq.
Mitchell Lazarus, Esq.
Arent Fox Kintner Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

RE: MUR 4212
CompUSA

Dear Messrs. Kurman and Lazarus:

On May 25, 1995, your client, CompUSA, was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time your client was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
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96043730822



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

James R. Hale, Secretary
Luby's Cafeterias, Inc.
2211 Northeast Loop 410
San Antonio, TX 78217-4673

RE: MUR 4212
Luby's Cafeterias, Inc.

Dear Mr. Hale:

On May 25, 1995, Luby's Cafeterias, Inc. was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time Luby's Cafeterias, Inc. was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730893



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Janet Quisenberry
Mrs. Baird's Bakeries, Inc.
P.O. Box 417
Dallas, TX 75221

RE: MUR 4212
Mrs. Baird's Bakeries

Dear Ms. Quisenberry:

On May 25, 1995, Mrs. Baird's Bakeries was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time Mrs. Baird's Bakeries was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730804



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Marlin L. Gilbert, Esq.
Southwestern Bell Telephone
One Bell Plaza, Room 2900
P.O. Box 655521
Dallas, TX 75265-5521

RE: MUR 4212
Southwestern Bell Telephone

Dear Mr. Gilbert:

On May 25, 1995, Southwestern Bell Telephone was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time Southwestern Bell Telephone was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730805



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 27, 1995

Sally Cowan, Group Counsel
General Counsel's Office
American Express Tower
World Financial Center
New York, NY 10285-4900

RE: MUR 4212
American Express, Inc.

Dear Ms. Cowan:

On May 25, 1995, American Express was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time American Express was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
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96043730896



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Timothy S. O'Reilly, Manager
Sales Promotion & Product Marketing
Kelly-Moore Paint Company, Inc.
987 Commercial Street
San Carlos, CA 94070

RE: MUR 4212
Kelly-Moore Paint Company

Dear Mr. O'Reilly:

On May 25, 1995, Kelly-Moore Paint Company was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time Kelly-Moore Paint Company was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043730827



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Francisco Pavia, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, D.C. 20005

RE: MUR 4212
Sears, Roebuck and Company

Dear Mr. Pavia:

On May 25, 1995, your client, Sear, Roebuck and Company, was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time your client was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730828



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Gary I. Kruger, Esq.
The Goodyear Tire & Rubber Company
Akron, OH 44316-0001

RE: MUR 4212
Goodyear Tire and Rubber Company

Dear Mr. Kruger:

On May 25, 1995, Goodyear Tire and Rubber Company was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time Goodyear Tire and Rubber Company was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043730829



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Kathryn K. Mlsna
Senior Corporate Attorney
McDonald's Corporation
McDonald's Plaza
Oak Brook, IL 60521

RE: MUR 4212
McDonalds Corporation

Dear Ms. Mlsna:

On May 25, 1995, McDonalds Corporation was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time McDonalds Corporation was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730830



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Michael J. Robinson, Esq.
General Motors Corporation
Office of the General Counsel
3031 West Grand Blvd.
Detroit, MI 48232

RE: MUR 4212
General Motors Corporation

Dear Mr. Robinson:

On May 25, 1995, your client, General Motors Corporation, was notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time your client was given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

96043730831



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 27, 1995

Tyler Cox, Program Director
WBAP-KSCS Radio, Inc.
1 Broadcast Hill Street
Forth Worth, TX 76103

RE: MUR 4212
Mark Davis and Rush Limbaugh Show

Dear Mr. Cox:

On May 25, 1995, you were notified that the Federal Election Commission received a complaint from Robert E. McCord alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On June 9, 1995, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Enclosure

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043730832

 **Southwestern Bell Telephone**

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

JUL 3 8 47 AM '95

June 27, 1995

Marlin L. Gilbert
Attorney

Lawrence M. Noble, Esq.
Office of the General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

Attention: Mary L. Taksar, Esq.

RE: MUR 4212

Dear Mr. Noble:

This will constitute respondent Southwestern Bell Telephone Company's (Southwestern Bell Telephone) response to the Complaint filed by Robert E. McCord, dated May 19, 1995 ("Complaint") which has been assigned MUR 4212. This response is separate and in addition to the response filed on behalf of station WBAP and the other respondents. Attached to this Response and made a part hereof is the Affidavit of Brenda K. Malone, Director-Marketing Communications for Southwestern Bell Telephone.

The Complaint alleges that Southwestern Bell Telephone may be violating the Federal Election Campaign Act of 1971, as amended, ("the Act"). The Complaint alleges that the Mark Davis and Rush Limbaugh Shows aired by radio station WBAP in Arlington, Texas are "unregistered and unauthorized political committees" as defined by the Act and questions whether a corporation's purchase of advertising time from WBAP for its non-political commercial advertising constitutes an unlawful contribution or expenditure under the Act.

Upon due consideration of the Complaint, this Response and the accompanying Affidavit, the Federal Election Commission ("Commission") is urged to find no "reason to believe" that Southwestern Bell Telephone has violated the Act and to summarily dismiss the Complaint as it applies to Southwestern Bell Telephone as groundless.

One Bell Plaza
Room 2900
P.O. Box 655521
Dallas, Texas 75265-5521

This response is not submitted on behalf of Southwestern Bell Telephone's affiliates, Southwestern Bell Yellow Pages, Inc. or Southwestern Bell Mobile Systems, Inc. neither of which were served with the Complaint.

Phone (214) 464-8583
Fax (214) 464-2250

JUL 10 10 03 AM '95

JUL 31 9 43 AM '95
FEDERAL ELECTION
COMMISSION
OFFICE OF THE GENERAL COUNSEL

SUMMARY OF THE FACTS

As detailed in the attached affidavit, Southwestern Bell Telephone purchases radio advertising time in the Dallas/Fort Worth Texas market through an advertising agency and its radio advertisements have been aired on station WBAP from time to time. Southwestern Bell Telephone's radio advertising in the above market is purchased in connection with advertising campaigns which are designed to promote certain specific products or services offered by Southwestern Bell Telephone. Southwestern Bell Telephone's advertising is purchased to coincide with the availability of new products or services or the perceived business need to stimulate the use and sale of products or services already being offered for sale.

Before a radio advertising campaign is begun the advertising agency is contacted and given information concerning the demographics of the audience Southwestern Bell Telephone wants to reach with its advertising, the number of advertising spots to be run, the calendar length of the advertising campaign and the budgeted amount to be spent on the campaign. The agency through its buyers contracts with radio stations in the Dallas/Fort Worth market to purchase advertising that will meet Southwestern Bell Telephone's advertising specifications. Southwestern Bell Telephone pays the advertising agency for the cost of the advertising purchased by the agency on its behalf.

The text of the radio advertising which has been aired on radio station WBAP consists of purely commercial information concerning Southwestern Bell Telephone's products and services. The purpose of the radio advertising is to stimulate the use and sale of Southwestern Bell Telephone's products and services to the public in the Dallas/Fort Worth market.

The decision to advertise is not related in any way to the elections of candidates to Federal office. Southwestern Bell Telephone's radio advertising does not contain the names of candidates for Federal office nor does the advertising urge the public to vote for or against any candidate. Finally, Southwestern Bell has never sponsored either the Mark Davis Show or the Rush Limbaugh Show. It is more costly to sponsor a radio show or to specify that advertising is to be aired in connection with a specific program. Because of this Southwestern Bell Telephone specifies only that its advertising be aired some time during certain dayparts as detailed in the attached affidavit.

ARGUMENT AND AUTHORITIES

The complainant apparently is alleging that Southwestern Bell Telephone may be violating the provision of the Act embodied in 2 U.S.C. § 441b(a) making it unlawful for any corporation whatever to make a contribution or expenditure in connection with any election at which candidates for Federal office are to be voted upon or in connection with any primary election, political convention or caucus held to select candidates for Federal office. Contributions and expenditures under the Act are broadly defined in 2 U.S.C. § 431(8)(A)(I) and 2 U.S.C. § (9)(A)(I) to include a purchase, payment or anything of value,

etc., made for the purpose of influencing any election for Federal office. In addition, 2 U.S.C. § 441b(b)(2) provides that for the purpose of Section 431b, the term "contribution or expenditure" shall include any direct or indirect payment to any candidate, campaign committee, or political party or organization, in connection with an election to Federal office. Certain exceptions are not applicable here. The plain meaning of these statutory provisions is that to have a contribution or expenditure within the meaning of the Act the contribution or expenditure must be made in connection with an election for the specific purpose of influencing the election of a candidate to Federal office. See Richard A. Ash V. Stewart S. Cort, 350 F. Supp. 227, 230-231 (E. D. Penn. 1972).

The text of the advertisements themselves evidence the purely commercial objective of Southwestern Bell Telephone which is to promote its products and services. See Attachments 1 - 3 to the Affidavit of Brenda K. Malone. The Commission's own decisions would require dismissal of the Complaint where, as here, the transaction between Southwestern Bell Telephone and WBAP, effected by Southwestern Bell Telephone's advertising agency's purchase of advertising time, was the purchase of advertising time for the strictly legitimate commercial purposes of promoting and selling Southwestern Bell Telephone's products and services. See AO 1994 - 30.

Also, in AO 1987 - 8 the Commission found that even A. I. G.'s sponsorship of a program profiling certain candidates for President in the 1988 election did not result in a contribution or expenditure in connection with a Federal election. The basis for the Commission's decision was the fact that A. I. G. had no right and did not exercise any control or influence over the content, duration, timing, or nature of the broadcasts it sponsored. Here Southwestern Bell likewise had no right and did not exercise any control or influence over either the Mark Davis or Rush Limbaugh Shows. Whereas in A. I. G.'s case it sponsored the broadcasts related to the presidential campaign; here Southwestern Bell Telephone, unlike A. I. G., has never sponsored the Mark Davis or Rush Limbaugh Shows as alleged in the Complaint. Nor does Southwestern Bell Telephone specify to station WBAP that its advertising be aired during either of those shows. In A. I. G., as here, the only involvement of A. I. G. or Southwestern Bell Telephone was that of a "commercial advertiser" and consequently the purchase of advertising by Southwestern Bell Telephone here does not constitute a "direct or indirect" payment, etc. under 2 U.S.C. § 431b(b)(2).

Case law also supports Southwestern Bell Telephone's position that the Complaint should be dismissed. In Jon Epstein v. Federal Election Commission, Fed. Election Camp. Fin. Guide (CCH) ¶ 9161 (D.D.C. 1981) at 51, 243-44 the District Court held that the Commission was within its authority in deciding that the purpose of an advertisement determines whether or not it constitutes an illegal contribution or expenditure. The advertisement in question excerpted two articles published in an prior edition of *Reader's Digest*. The excerpts had been written by members of Congress, one a Republican and the other a Democrat. The only names of candidates for Congress mentioned in the advertisement were the authors of the articles.

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In *Epstein* the Commission accepted the advice of the General Counsel which focused on the primary purpose of the advertisement which was deemed to be the promotion and sale of *Reader's Digest* magazine. The Court held that the General Counsel's assessment of the advertisement was reasonable and that his application of the "purpose test" was not arbitrary. The Court noted that the General Counsel's report, in focusing upon the primary purpose of the advertisement, relied upon a growing body of Commission decisions. Those decisions have increasingly removed advertisements from the Acts' prohibition if they have a purpose distinct from the political assistance of candidates for Federal office. In its opinion the Court stated; "An advertisement intended to sell magazines will not ordinarily be denounced under 2 U.S.C. § 441b even though it may also have political aspects."

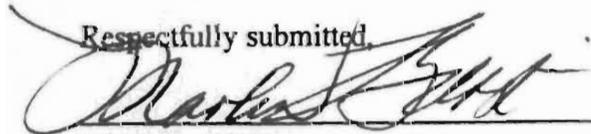
Here the facts make it even more compelling that this Complaint be dismissed. The text of the radio advertising is purely commercial information concerning Southwestern Bell Telephone's products and services. The advertisements do not even mention the name of a candidate for Federal office. The text of the advertisements would not, even by any stretch of the imagination, be calculated to influence the election of a candidate to Federal office. Furthermore, the timing of the advertisements does not purposefully coincide with Federal elections.

Finally, the advertisements here, as in *Epstein*, not only have no partisan purpose, but here the advertisements are completely apolitical in nature.

CONCLUSION

Based upon the facts set out in the attached Affidavit and the authorities cited herein, the Complaint against Southwestern Bell Telephone should be summarily dismissed.

Respectfully submitted,



Marlin L. Gilbert

One Bell Plaza, Room 2900
P. O. Box 655521
Dallas, Texas 75265-5521
(214) 464-8583
Counsel for Southwestern Bell
Telephone Company

96043730876

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ELECTION COMMISSION

RE: MUR 4212

§
§
§
§
§

AFFIDAVIT OF
BRENDA K. MALONE

BRENDA K. MALONE, being duly sworn, deposes and says:

- 9 6 0 4 3 7 3 0 8 3 7
1. I am Director-Marketing Communications for Southwestern Bell Telephone Company, a Missouri Corporation, (hereafter Southwestern Bell Telephone) whose corporate offices are located in St. Louis, Missouri. Affiant's business address is One Bell Center, Room 11-C-02, St. Louis, Missouri 63101.
 2. I am currently responsible overall for advertising by Southwestern Bell Telephone, which includes the purchase of radio advertising for Southwestern Bell Telephone in the Dallas/Fort Worth Texas market and have had that responsibly since 1992.
 3. Southwestern Bell Telephone purchases its radio advertising in the above market through an advertising agency. The advertising agency, on behalf of Southwestern Bell Telephone, has purchased blocks of advertising time from radio station WBAP in Arlington, Texas from time to time.
 4. Southwestern Bell Telephone's radio advertising in the above market is purchased in connection with advertising campaigns designed to promote the use and sale of

certain specific products or services. Advertising is purchased to coincide with the availability of the new products or services or the perceived business need to stimulate the sale of products or services which have already been introduced. The decision to begin an advertising campaign is not timed to coincide with the elections of candidates to Federal office.

5. Before a radio advertising campaign is begun the advertising agency is contacted and given information concerning the demographics of the audience Southwestern Bell Telephone wants to reach with its advertising, the number of advertising spots to be run, the calendar length of the advertising campaign and the budgeted amount to be spent on the campaign. The agency through its buyers contracts with radio stations in the Dallas/Fort Worth market to purchase advertising that will meet Southwestern Bell Telephone's advertising specifications. Southwestern Bell Telephone pays the advertising agency for the cost of the advertising purchased by the agency on its behalf.

6. Of Southwestern Bell Telephone's budget for advertising in all media about 15 to 18% is typically spent for radio advertising. On average, during an advertising campaign the advertising agency will contract for blocks of time with anywhere from 5 to 7 radio stations in the Dallas/Fort Worth markets at any given time.

7. It is more costly to sponsor a radio show or to specify that advertising is to be aired in connection with a specific program. Because of this Southwestern Bell Telephone specifies only that its advertising be aired some time during certain dayparts which are defined below.

96043730838

Dayparts

Days

Times

MD - Morning Drive

M-F

5-10 AM

HW - Daytime

M-F

10 A-3 PM

AD - Afternoon Drive

M-F

3-7 PM

EVE - Evening

M-F

7 PM - Midnight

WK - Weekend

Sat/Sun

6 AM - 7 PM

Partly because of the cost involved Southwestern Bell Telephone is not now nor has it ever sponsored either the Mark Davis or Rush Limbaugh talk shows.

8. The text of the WBAP radio advertising is purely commercial information concerning Southwestern Bell Telephone's products and services. Attached to this affidavit as examples of the type of radio advertising by Southwestern Bell Telephone, is the text of three ads which have been aired since January 1, 1995. The purpose of the ads is to stimulate the use and sale of Southwestern Bell Telephone's products and services in the Dallas/Fort Worth market.

9. Southwestern Bell Telephone's radio advertising does not contain the names of candidates for Federal office nor do the ads urge the public to vote for or against any candidate.

10. Southwestern Bell Telephone has no control over nor any participation in the production of either the Mark Davis or Rush Limbaugh Shows. Southwestern Bell Telephone has no right to participate and does not participate in decisions related to the selection of topics or issues to be discussed on either the Mark Davis or Rush Limbaugh talk shows.

Brenda K Malone

Affiant, Brenda K. Malone

Subscribed and sworn to before me this 26 day of June, 1995.

Christine D. Edwards Notary Public in and for Dallas County,

TEXAS
My Commission expires 2-14-99

96043730840

Seal



D'Arcy Masius Benton & Bowles

RADIO COPY

SOUTHWESTERN BELL TELEPHONE

LOADS

CLIENT

DIVISION/PRODUCT

TEXAS WORKS PROMOTION

P895-7

JOB NO.

COML NO

SCRIPT NO.

STATION

"AUCTION/18.95" REVISED

AS RECORDED

:50

TITLE

LENGTH

DATE	RECORDED <input type="checkbox"/>
APPROVED COPY	
DATE	

AUCTIONEER: Alright, \$18.95, I got \$18.95, \$18.95, \$18.95 ...

ANNCR: If you've been waiting for the best deal ever on twelve popular Southwestern Bell phone services for home or business, stay tuned.

AUCTIONEER: Who'll give me 17.95, 17, 17, 17! Now 16 ...

ANNCR: The Works gives you twelve useful conveniences like Call Waiting. Call Return. Even Caller ID.

AUCTIONEER: Fourteen in the back, thirteen now ...

ANNCR: At the regular price of \$18.95 a month, this is already a discount package.

AUCTIONEER: Ten dollar, ten! Over here? Now, 9.

ANNCR: But through August first, you can enjoy The Works at a price that's nothing short of unbelievable.

AUCTIONEER: Nine! We're down to nine dollars, nine, nine, nine, going once, going twice ...

ANNCR: Just nine dollars a month for twelve phone services.

AUCTIONEER: Sold! \$9.

ANNCR: Remember, if you want value you can count on, there's always Southwestern Bell. Just call 1-800-234-BELL. 1-800-234-BELL. Yes, it's that simple.

This offer applies to new Texas subscribers where available. The normal \$18.95 rate resumes in August. Call 1-800-234-BELL.

12/12/94

DATE

LIVE RECORDED

APPROVED COPY

DATE

Arcy Masius Benton & Bowles

RADIO COPY

DUKES

SOUTHWESTERN BELL TELEPHONE

WORKSAV10

CLIENT

DIVISION/PRODUCT

JOB NO.

COMPL. NO

SCRIPT NO.

STATION

"THE WORKS/TEXAS"

:60

TITLE EASYOPTIONS VALUE PACKAGE AS PRODUCED

LENGTH

ANNCR: Here now, the sound of 12 penguins playing the kazoo. Actually, 12 kazoos.

SEX: PENGUINS PLAYING KAZOO

ANNCR: Okay, now the sound of 12 high-school principals doing 12 triple-somersault belly flops.

SEX: SPLASHES

ANNCR: What's the point? Simply to dramatize Southwestern Bell Telephone's biggest money-saving offer ever. Our 12 most popular phone services, now yours for just 18.95 a month. Twelve solutions for time savings, peace of mind and streamlining your life. Conveniences like Call Waiting, Call Return, even Caller ID, all for just 18.95. That's a full 19% savings. We call this package The Works.

MUSIC: BALLET PLAYED ON TUBAS

ANNCR: Whoops, here come the 12 tuba players dressed as ballerinas. Anyway, to order 12 great services for just 18.95, call 1-800-234-BELL. 1-800-234-BELL. If you want, you could even ask for operator 12. I don't even know if there is an operator 12. But call now for The Works. Only from Southwestern Bell Telephone.

Offer applies to Texas residence customers where services are available. Restrictions may apply.

4: 10/25; 10/27; 10/28; 11/1/04

Arcy Maslus Benton & Bowles RADIO COPY

REMER

DATE _____

LIVE RECORDED

APPROVED COPY

DATE _____

SOUTHWESTERN BELL TELEPHONE		CALLER ID	NAGASHE! 7
CLIENT	DIVISION/PRODUCT		
JOB NO.	COMPL. NO	SCRIPT NO.	STATION
"THE NAME GAME" - 4 STATES VERSION			:60
TITLE	AS PRODUCED	LENGTH	

MUSIC: THE NAME GAME - SHIRLEY ELLIS

ANNCB: Just a reminder that Southwestern Bell's Caller ID now has name display. Now, more than ever, you really can see who's on the phone.

With Caller ID, you can see who's calling before you answer, in case you don't want to. And Caller ID even captures the names of people who hang up on your answering machine or voice mail. To order, call 1-800-234-BELL. Caller ID with name display ... from Southwestern Bell Telephone. Call 1-800-234-BELL today. Available in selected areas. Required display unit need not be purchased from Southwestern Bell. Restrictions apply, call for details.

96043730043

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM



JUL 3 10 15 AM '95

GTE Service Corporation

1850 M Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 463-5214

Gail L. Polivy
Senior Attorney

June 30, 1995

Mary L. Taksar, Esq.
Central Enforcement Docket
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 4212

Dear Ms. Taksar:

Enclosed is a Statement of Designation of Counsel for GTE Corporation for the above-referenced matter. Any correspondence to GTE with regard to this Complaint should be directed to me.

Sincerely,

Gail L. Polivy

Enclosure

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 30 9 47 AM '95

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 3 10 07 AM '95

9 5 0 4 3 7 3 0 5 4 4

STATEMENT OF DESIGNATION OF COUNSEL

NUM: 4212
NAME OF COUNSEL: Gail L. Polivy
ADDRESS: GTE Service Corporation
1850 M Street, NW, #1200
Washington, DC 20036
TELEPHONE: (202) 463-5214
(202) 463-5281 (Fax)

RECEIVED
FEDERAL REGULATION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 30 9 47 AM '95

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

6/30/95
Date

Signature
Geoffrey Gould
Vice President-Government & Federal
Regulatory Affairs

RESPONDENT'S NAME: GTE Service Corporation
ADDRESS: One Stamford Forum
Stamford, CT 06904
HOME PHONE: (203) 965-2000
BUSINESS PHONE: _____

RECEIVED
FEDERAL REGULATION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 3 10 07 AM '95

96043730845



**General Motors Corporation
Legal Staff**

Facsimile
(313) 974-0115

Telephone
(313) 974-1461

June 30, 1995

VIA FACSIMILE AND COURIER

Mary L. Takser, Attorney
Federal Election Commission
Central Enforcement Docket
Washington, D.C. 20463

Dear Ms. Takser:

Re: **MUR 4212**

General Motors files this response to the complaint filed by Robert E. McCord ("McCord") in this matter. The response will be unusually brief because : 1) the issues are being thoroughly briefed by counsel for ABC and its affiliate, station WPAB; and 2) the complaint is on its face devoid of any merit.

General Motors adopts as if set forth completely herein the position of ABC and its affiliate, WPAB, in response to the baseless arguments of Mr. McCord. As a commercial advertiser using numerous national media companies, and their affiliates, General Motors has no control--and seeks none--over the substantive content of the programming aired. Use of those media serves one purpose for this company and our shareholders: to sell our goods and services to the public as cost effectively as possible.

It is well settled that a commercial advertiser such as GM does not violate any applicable law relating to federal elections based on the content of shows aired by the media through which we may choose to advertise our products and services. The analysis need go no further than **AO 1987-8** on this point. In that case, the FEC considered the sponsorship of a series of candidate interviews by American International Group, Inc. ("AIG") in a magazine and on television. The subject matter of the material broadcast was pointedly political in content. However, the FEC concluded that the sponsorship of these interviews would not result in a contribution or expenditure in connection with a federal election. There, as in this case, the advertiser was engaged in a wide variety of media to "enhance its image and promote its products and services."

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 5 9 44 AM '95

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Mary L. Takser, Attorney

June 30, 1995

Page 2

The FEC has expressly recognized that commercial advertising on broadcast media does not fall within the rubric of FEC regulation. Such an interpretation is not only compelled by the plain meaning of the law, but required by common sense. To conclude otherwise would be to relegate the FEC to the role of permanent censor and content policeman over every published communication. Each show, broadcast, editorial or graphic depiction by any medium would necessitate scrutiny for political content, direct or subtle, if the unfounded legal theory in Mr. McCord's complaint is accepted. Such a proposition is absurd even before consideration of the profound constitutional issues that would raise.

This complaint should be dismissed immediately by the FEC without wasting an additional minute of time or other resources.

Respectfully submitted,



Michael J. Robinson

Attorney

MJR:dmb

96043730647

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL



JUL 7 12 31 PM '95

GTE Service Corporation

1850 M Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 463-5214

Gail L. Polivy
Senior Attorney

BY HAND DELIVERY

July 7, 1995

Lawrence Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, DC 20463

Attention: Mary L. Taksar, Esq.

Re: MUR 4212

Dear Mr. Noble:

The following is submitted on behalf of Respondent, GTE Corporation ("GTE"), in response to the Complaint filed by Robert E. McCord ("Complainant" or "McCord") on May 19, 1995. GTE received a copy of the Complaint from the Federal Election Commission ("Commission") on June 22, 1995 and was given 15 days from the date of receipt to submit a response. For the reasons set forth below, and by Respondent WBAP Radio on June 24, 1995, the Commission should find that McCord's allegations are meritless and that there is "no reason to believe" there has been any violation of the Federal Election Campaign Act ("FECA" or "the Act").

The Complaint

The Complainant alleges that radio station WBAP in Arlington Texas, which airs the Mark Davis and Rush Limbaugh radio programs, is an unregistered political committee. McCord alleges further that by advertising on WBAP, corporations, including GTE, contributed to a political committee, thus violating the FECA.

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The Facts

GTE advertises to promote its products and services using various communications media, such as newspapers, radio and television, as part of an overall advertising strategy. GTE generally uses advertising agencies to place its advertisements with the communications media. GTE expects the agencies to use certain criteria, such as demographics, coverage and ratings, to make the most effective advertising choices. GTE exercises no control over the content, nature or direction of the programs it advertises on.

WBAP Radio is a commercial broadcast station in Arlington, Texas. GTE, through its advertising agency, has, from time to time, advertised on WBAP Radio.¹ Any advertising on WBAP Radio was placed to promote GTE's products and services as a commercial advertiser in the ordinary course of business. See Affidavit of Edward C. MacEwen included with this response.

Response

The substance of the Complaint, that by advertising on WBAP, GTE has somehow made a political contribution and violated the Act is absolutely groundless. GTE's dealings with WBAP Radio have been strictly as a commercial sponsor in the ordinary course of business and have involved no political contributions or attempt to influence a Federal election.

Under the FECA, corporations are prohibited from contributing directly or indirectly to a political candidate or political committee. 2 U.S.C. §441b. Nothing in the Act, however, prohibits corporations from legitimate advertising in the ordinary course of business, even on programs that discuss political issues. To support an allegation of illegal corporate activity, Complainant must show that GTE made a contribution to influence a Federal election to a candidate or political committee. The Complaint fails to establish either necessary factor.

First, WBAP or the other Respondents are not political committees under terms of the Act or the Commission's Rules, 2 U.S.C. §431(4), 11 C.F.R. §100.5, as discussed at length in the response of WBAP filed June 24, 1995, which GTE incorporates by reference herein. As a commercial radio station, WBAP comes

¹ To GTE's knowledge and belief, GTE has not been an advertising sponsor on the Rush Limbaugh program on WBAP, although it has sponsored other WBAP radio programs.

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within the "media exemption" of the Act, which permits newspapers and broadcast media to present news stories, commentaries and editorials without engaging in a prohibited expenditure or contribution. 2 U.S.C. §431(9)(B)(i). There is nothing in the Complaint to support a finding that WBAP has been acting other than as a legitimate news media. While the media exemption applies directly to the media, the Commission has recognized that the media must derive revenues from advertising. See A.O. 1989-28; A.O. 1980-109. Thus, neither WBAP nor its programs should be considered political committees.

Second, the advertising sponsored by GTE is not a contribution within the terms of the Act. A contribution includes "any direct or indirect payment . . . to any candidate, campaign committee or political party or organization, in connection with a [Federal] election. . ." 2 U.S.C. §441b(b)(2). Under the terms of this definition, to be considered a contribution, the payment must be to a candidate, committee or party and it must be in connection with a Federal election. As discussed above, WBAP is not a political committee. Moreover, any money paid by GTE to WBAP was for advertising its products and services in the ordinary course of business, in a commercially reasonable manner, not to influence a Federal election.

The Commission has considered corporate advertising in the past and has recognized its legitimate role. For example, in A.O. 1987-8, the Commission found that a corporation, American International Group, Inc. ("AIG"), sponsoring candidate interviews on a television broadcast "would not result in a contribution or expenditure in connection with a Federal election." The Commission found that since the advertiser did not control or influence the nature of the interviews, the content, the timing or the production, it was involved solely as a corporate advertiser. The Commission considered the advertiser's sponsorship, therefore, to be a permissible activity.

GTE is in a similar position. GTE has no control or influence over the nature, content, timing or production of the programs on WBAP Radio. GTE merely advertises its products and services on various programs, at various times. While the AIG Advisory Opinion found corporate sponsorship of candidate interviews permissible, GTE's advertising involves no candidates or political committees. Since the Commission found corporate sponsorship of candidate interviews permissible, clearly corporate advertising of political discussions not by candidates or political committees must be similarly permissible.

Lawrence M. Noble, Esq.
July 7, 1995
Page 4

Conclusion

The Complaint fails to show that GTE's advertising sponsorship of programs on WBAP Radio is anything but advertising in the ordinary course of business. Thus, the Complaint fails to show that GTE has engaged in any prohibited activity or that GTE has violated the Act. Accordingly, the Commission should find "no reason to believe" that a violation has occurred and deny the Complaint.

Respectfully submitted,



Gail L. Polivy
Attorney for GTE Corporation

Enclosure

9 6 0 4 3 7 3 0 8 5 1

I, EDWARD C. MACEWEN, hereby affirm under oath the following:

I am Vice President-Corporate Communications for GTE Service Corporation. I am responsible for overseeing all advertising for GTE and its subsidiaries. I have read GTE's response in MUR 4212 and affirm the facts represented therein.

GTE advertises using various communications media to promote its products and services. GTE neither chooses the specific radio programs nor controls the content of any radio programs it advertises on. Rather, GTE procures radio advertising, usually through an agency, in the ordinary course of business. GTE relies on the agency to place its advertisements using the most effective radio media, under standard advertising industry criteria, to best promote GTE's products and services.



Edward C. MacEwen
GTE Service Corporation
One Stamford Forum
Stamford, CT 06904
(203) 965-2115

Sworn and subscribed to before
me this 6th day of July, 1995.


Notary Public

My Commission expires 5/31/96

96043730672

July 6, 1995

JUL 11 12 05 PM '95

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Charles W. Ahner, Jr.
Attorney

Lawrence M. Noble, Esq.
Office of the General Counsel
Federal Election Commission
909 East Street, N.W.
Washington, D.C. 20463

Attention: Mary L. Taksar, Esq.

Re: MUR 4212

Dear Mr. Noble:

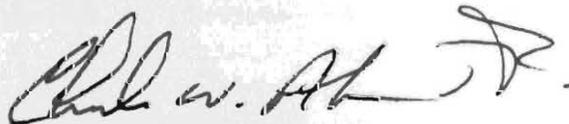
The undersigned represents Southwestern Bell Yellow Pages, Inc. (SWBYP) in connection with the above matter. To date, this Company has not been officially served with the complaint and it has not been named as a respondent. Nevertheless, SWBYP anticipates that its views may be requested by the Commission at some point in the future, and it wishes to take this opportunity to briefly state its position.

SWBYP has been provided with courtesy copies of the responses submitted by respondent Southwestern Bell Telephone Company and respondent WBAP. After carefully reviewing those responses, SWBYP has concluded that the factual situation applicable to Southwestern Bell Telephone does not differ, in any legally relevant way, to SWBYP's situation. Accordingly, SWBYP adopts the legal conclusions and arguments set out in Southwestern Bell Telephone's response as applicable to its own situation. SWBYP also adopts that portion of WBAP's response which addresses the lack of any proper claim against corporate ("commercial") advertisers. SWBYP joins the respondents in urging summary dismissal of the complaint.

Should SWBYP be served with a complaint and be named as a respondent in this matter, it reserves the right to supplement this position statement. In any case, please contact the undersigned if you have any questions or if anything further is required.

Thank you.

Sincerely,



Charles W. Ahner, Jr.

12800 Publications Drive
P.O. Box 31907
St. Louis, MO 63131

Phone 314 957-2258
Telecopier 314 957-4311



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

July 19, 1995

Rush Limbaugh
c/o EFM Media
366 Madison Avenue
New York, NY 10017

RE: MUR 4212
Rush Limbaugh

Dear Mr. Limbaugh:

On July 11, 1995, we were informed by Howard Abraham that you did not received the enclosed information because it was mailed to an incorrect address. Accordingly, this information, the May 25, 1995 letter and complaint, is now being sent to you. Thus, you still have 15 days from receipt of the May 25, 1995, letter to respond to the complaint.

We apologized for the administrative oversight. Should you have any questions please contact Alva E. Smith at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

96043730854

SUMMARY

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6

WBAP broadcasts the Rush Limbaugh talk-radio program to engage, inform, and entertain its listeners through political commentary and discussions of a broad range of issues.¹ WBAP neither hired nor employs, nor compensates, Limbaugh for the purpose of espousing any particular views. Moreover, as with all WBAP talk-radio commentators, Limbaugh's terms and conditions of engagement by WBAP are in no way affected by the particular views he expresses or editorial positions he takes. *Id.* WBAP pays a syndication fee for the right to broadcast the Rush Limbaugh Show within WBAP's community of license set by the Federal Communications Commission.

WBAP's Rush Limbaugh talk-radio program does not constitute a political committee under the terms of the FECA and the regulations promulgated thereunder. 2 U.S.C. § 431; 11 C.F.R. §§ 100.7 and 100.8. The "media exemption" in the FECA clothes the program with immunity as a "news story, commentary, or editorial distributed through the facilities of any broadcasting station" 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2). Contrary to the unsupported implication in the Complaint, the media exemption bestows on media entities such as WBAP the unfettered right to cover and comment on political campaigns and issues. As numerous FEC Advisory Opinions and federal court decisions instruct, nothing in the FECA and companion regulations restricts the content of the commentary insulated by the media exemption, the

¹ WBAP-KCSC Operating, Ltd., the licensee of WBAP, is a wholly-owned subsidiary of ABC Holding Company, Inc., which is wholly-owned by Capital Cities/ABC, Inc.

range of permissible topics, the format of discussion, or the length of time devoted to such commentary. Thus, WBAP's Rush Limbaugh broadcasts fit squarely within the media exemption, and the complaint is without merit.

DISCUSSION

By its express terms, the FECA excludes from the definition of "expenditure" all costs incurred in covering or carrying "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate[.]" 2 U.S.C. § 431(9)(B)(i) (emphasis added); see also 11 C.F.R. § 100.8(b)(2).² Ignoring the plain language of this provision, McCord incredibly asserts that the Rush Limbaugh program is a political committee because it "makes expenditures for the purpose of influencing or attempting to influence the selection, nomination, or election" of political candidates. Complaint at 1. However, because the media exemption of Section 431(9)(B)(i) carves out an explicit category from the definition of "expenditures," McCord's complaint is baseless.

The legislative history of the media exemption reflects Congress' desire to afford broad protection to the very activity at

¹ A parallel provision in 11 C.F.R. § 100.7(b)(2) provides an identical exemption from the definition of "contribution": "Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not a contribution" (emphasis added).

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issue in the instant complaint. "[I]t is not the intent of Congress . . . to limit or burden in any way the first amendment freedoms of the press and of association. [The media exemption] assures the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns." H.R. Rep. No. 93-1239, 93d Cong., 2d Sess. 4 (1974) (emphasis added).

Guided by the statute, regulations, and legislative history, FEC Advisory Opinions and jurisprudence uniformly underscore the expansive protection that the media exemption affords news stories, political commentary, and editorials distributed through the facilities of a media entity. This authority teaches that the media exemption turns on only two criteria: (1) the medium -- i.e., whether the communication emanates from a broadcast station, newspaper, magazine, or periodical publication in the ordinary course of its business; and (2) the nature of the communication -- i.e., whether it is a news story, commentary, or editorial.³

Both criteria are indisputably met here. Indeed, McCord's complaint does not dispute that WBAP's broadcasts satisfy both criteria.

McCord rests his complaint instead on the nonsensical assertion that WBAP's broadcasts constitute "expenditures" in violation of the FECA because "[f]or eight hours a day, five days a week, WBAP is openly republican talk-radio." Complaint at 1. He

³ Of course, the FECA and regulations impose a threshold bar against media entities "owned or controlled by any political party, political committee, or candidate[.]" 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. § 100.7(b)(2) and 100.8(b)(2). However, the attached affidavit affirms -- and McCord does not dispute -- that WBAP is not owned by any political party, political committee, or candidate.

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seeks to engraft novel limitations of dubious constitutionality on the media exemption -- namely, the duration of the broadcast and its content -- that clash with the unequivocal language of the FECA, the regulations, and existing authority. McCord's complaint ignores that the statutory and regulatory language not only does not qualify the term "editorial" as used in the media exemption, but also expressly includes (and does not qualify) the terms "news story" and "commentary." 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2).

Not surprisingly, McCord's complaint cites no FEC authority or case law, and we have found none, that supports his argument. That is because courts and the Commission scrutinize the nature of the communication solely to discern whether the press entity was conducting a legitimate press function in the ordinary course of business when it disseminated the challenged news story, commentary, or editorial. See, e.g., Federal Election Comm'n v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 250-51 (1986) ("MCFL"); Reader's Digest Ass'n, Inc. v. Federal Election Comm'n, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981); AO 1982-44; AO 1980-109.

This Commission's decisions require dismissal of McCord's complaint. In AO 1982-44, the Commission held that the media exemption extends to a television station's donation of two hours of free air time to the Democratic and Republican National Committees to discuss public policy issues, encourage viewer support, and solicit contributions. The Commission anchored its conclusion on the absence of any content-based or temporal

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restrictions to the media exemption. "The statute and regulations do not define the issues permitted to be discussed or the format in which they are to be presented under the 'commentary' exemption nor do they set a time limit as to the length of the commentary." AO 1982-44. The FEC in AO 1982-44 further explained that the media exemption insulates not just broadcasters themselves, but also "third persons" who offer their political commentary through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication. Id. Citing with approval H.R. Rep. 93-1239, the FEC underscored the consistency between the absence of such limitations on the media exemption and Congress' intent to protect the "unfettered right" of the media to critique political candidates and party platforms. Id.; see also AO 1980-109 (concluding that the media exemption permits a financial newspaper to endorse, and urge readers to contribute to, a candidate for the U.S. House of Representatives because the media exemption "insure[s] the right of the media to cover and comment on election campaigns"); MUR 3366 (finding "no reason to believe" that KABC-TV, KABC Radio, and Capital Cities/ABC, Inc. violated the FECA by employing a candidate for federal office as a political commentator because, inter alia, the news exemption insulated the daily broadcasts);⁴ AO 1987-8 (opining that the media exemption extends to corporate sponsorship of candidate interviews published in a

⁴ Although two "Statements of Reasons" were issued in MUR 3366, both concluded that the news exemption applied to the challenged conduct. See MUR 3366 (Statement of Reasons, Chairman Joan D. Aikens and Commissioner Lee Ann Elliot) (Statement of Reasons, Vice Chairman Scott E. Thomas and Commissioner John Warren McGarry).

national magazine and aired on television).

Nor does the case law support McCord's position. In MCFL, the Supreme Court held that a special edition newsletter published by Massachusetts Citizens for Life, Inc. ["MCFL"] did not fit within the media exemption of 2 U.S.C. § 431(9)(B)(i) due to the marked production differences between the special edition and MCFL's regular newsletter. MCFL, 479 U.S. at 250-51.⁵ The MCFL Court's media exemption analysis focused, not on the length or content of the publication, but rather on whether it was produced by a media entity in the normal course of its business.

The analysis MCFL employed was presaged by Reader's Digest, 509 F. Supp. at 1214-15, and Federal Election Comm'n v. Phillips Publishing, Inc., 517 F. Supp. 1308, 1312-13 (D.D.C. 1981) -- and has been consistently embraced by the Commission in its Advisory Opinions. In Reader's Digest, the court stated that the media exemption turns on "whether the press entity was acting as a press entity in making the distribution complained of." Reader's Digest, 509 F. Supp. at 1215. There, a magazine publisher sought to enjoin the Commission from investigating whether the publisher's dissemination of a video tape to other media outlets violated the FECA ban on corporate expenditures. The court concluded that the media exemption would apply if the magazine publisher had acted "in its magazine publisher capacity" by distributing a news story through its facilities, but not if the publisher "was acting in a manner unrelated to its publishing function." Id.

⁵ The Court did not decide whether the media exemption applies to MCFL's regular newsletter. MCFL, 479 U.S. at 250.

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the ... press exemption." Id. See also AO 1980-90 (media exemption does not extend to the Atlantic Richfield Company's independent distribution of taped interviews of U.S. Presidential candidates because the exemption "was intended to apply to election-related communications by a broadcaster, newspaper or other form of recognized public media"). In each instance, the Commission did not base its decision on the content of the commentary or the length of air time devoted thereto. Nor could we find any instance in which the Commission denied the media exemption to any news story, commentary, or editorial, produced by a media entity, that reflected the subjective views of the broadcaster, publisher, or commentator.

What this authority teaches is that the media exemption applies to "any" news story, commentary, or editorial that a media entity produces in its ordinary course of business. 2 U.S.C. § 431 (9) (B) (i) (emphasis added); 11 C.F.R. §§ 100.7 (b) (2) and 100.8 (b) (2). WBAP's programs clearly satisfy this standard. Unlike the MRLC in AO 1989-28, and Atlantic Richfield in AO 1980-90, WBAP is a media corporation and airs the Rush Limbaugh program as an integral component of its business objective to inform, engage, and entertain listeners. In short, WBAP's broadcasts constitute "legitimate press functions." Phillips Publishing, 517 F. Supp. at 1313; AO 1980-109. Moreover, whereas the unusual production form and distribution of the "special edition" in MCFL glaringly stood apart from MCFL's typical newsletter, the production characteristics of the Rush Limbaugh program unmistakably "associated [it] . . . with the normal [WBAP production]." MCFL,

479 U.S. at 250.

In sum, the media exemption protects the "unique role that the press plays in 'informing and educating the public, offering criticism, and providing a forum for discussion and debate.'" Austin v. Michigan Chamber of Commerce, 494 U.S. 652, 667-68 (1990) (upholding the constitutionality of an identical media exception in § 51 of the Michigan Campaign Finance Act) (quoting First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765, 781 (1978)).⁷ WBAP's political commentary advances these objectives and fits squarely within the media exemption. To hold otherwise, and to accept McCord's gloss on the definition of expenditures, would ignore the unequivocal language of, and Congressional intent underlying, the media exemption and would raise grave First Amendment issues.

Equally preposterous is McCord's characterization of the independent corporate advertising on WBAP's programs as "contributions" under the terms of the FECA. Advertisers purchase air time on WBAP's programs to promote their products and services, not to influence federal elections generally or expressly advocate the election or defeat of any specific candidate.

Directly on point is the Commission's opinion in AO 1987-8, which held that American International Group, Inc.'s ("AIG") sponsorship of a series of candidate interviews that appeared in a magazine and on television "would not result in a contribution or

⁷ Cf. Columbia Broadcasting Sys., Inc. v. Democratic Nat'l Comm., 412 U.S. 94, 117 (1973) (plurality) ("The power of a privately owned newspaper to advance its own political, social, and economic views is bounded by only two factors: first, the acceptance of a sufficient number of readers -- and hence advertisers -- to assure financial success; and second, the journalistic integrity of its editors and publishers").

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expenditure in connection with a Federal election." AO 1987-8. As a threshold matter, the Commission noted that AIG is a holding company which, through its subsidiaries, is engaged in insurance and insurance-related activities in the United States and abroad. Id. The Commission further stated that AIG "advertises in a wide variety of media to enhance its image and promote its products and services." Id.

There, as here, the corporate advertisers do not exercise any control or influence over the content, duration, timing, or nature of the broadcasts. There, as here, the advertisers have no responsibility for the production costs of the broadcasts. There, as here, the editorial independence of the news and commentary is absolute. There, as here, the corporations' sole involvement in the broadcasts is as a "commercial advertiser." And there, as here, the press entity -- in the ordinary course of covering and commenting on political affairs -- derives revenues from the sale of such advertising. For these reasons, the Commission in AO 1987-8 held that AIG's sponsorship of the broadcasts constituted a "permissible activity under the Act and Commission regulations." Id. The same holds true for WBAP's commercial advertisers and McCord's protestations to the contrary are without merit. See also AO 1994-30 ("There is nothing in the [FECA] requiring a business entity to target its business toward clients or individuals that represent all parties or ideologies."); AO 1989-28 ("[The media exemption] applies to a press entity engaged in the normal press-business of covering and commenting on political campaigns and requires that the press entity derive revenues from the sale of

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subscriptions...and advertising.").

CONCLUSION

For the foregoing reasons, McCord's complaint against Limbaugh should be dismissed.

Respectfully submitted,


Howard Abrahams

Cowan, Gold, DeBaets,
Abrahams & Sheppard
40 West 57th Street
New York, NY 10019
Tel: (212) 974-7474

Counsel for Rush H. Limbaugh, III

July 25, 1995

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STATEMENT OF DESIGNATION OF COUNSEL

NOR 4212

NAME OF COUNSEL: HOWARD ABRAHAMS

ADDRESS: C/O COWAN, GOLD, DeBAETS, ABRAHAMS & SHEPPARD
40 WEST 57TH STREET

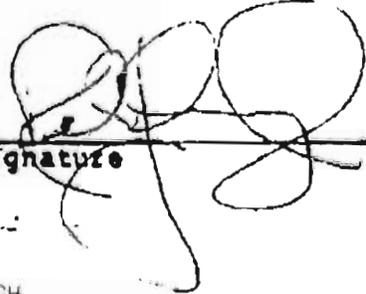
NEW YORK, NEW YORK 10019

TELEPHONE: (212) 974-7474

JUL 20 12 30 PM '95
THE NEW YORK COUNTY CLERK
100 WALL STREET
NEW YORK, NY 10038

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

7.25.95
Date


Signature

RESPONDENT'S NAME: RUSH LIMBAUGH

ADDRESS: C/O EFM MEDIA
366 MADISON AVENUE
NEW YORK, NEW YORK 10017

HOME PHONE: _____

BUSINESS PHONE: (212) 338-1403

96043730647

Michael J. Kurman
Mitchell Lazarus
Tel: 202/857-6345
202/857-6466
Fax: 202/857-6395

August 7, 1995

VIA MESSENGER

Enforcement Division
Office of the General Counsel
Federal Election Commission
Room 657
999 E Street, N.W.
Washington, DC 20463

Attention: Mary L. Taksar, Esq.

Re: MUR 4212 -- CompUSA Inc.
Response to Additional Information

Dear Ms. Taksar:

On behalf of CompUSA Inc. ("CompUSA"), we hereby respond to the "additional information" filed with the Federal Election Commission ("Commission") by the complainant Robert E. McCord, and forwarded to respondent CompUSA along with the Commission's letter of June 27, 1995.

Mr. McCord's latest filing (which, like his original complaint, was also filed under cover letter dated March 16, 1993 (*sic*)), adds no probative information to the complaint's vague and unsubstantiated allegations. There is still no logic to the complainant's contention (*i.e.*, that payments for product advertising time somehow constitute an illegal campaign contribution, notwithstanding the fact that such advertising time was purchased in the normal course of business by CompUSA (and, presumably, by the other named corporations) from a licensed broadcasting facility at standard advertising rates, and in accordance with the advertiser's market-driven demographic and commercial preferences for maximizing its products' exposure to relevant markets).

As CompUSA stated in its "Response to Complaint" (filed June 19, 1995):

CompUSA advertising on WBAP-AM (not to mention numerous other media outlets across the country) is strictly market-oriented: it has no political or election-influencing purpose, does not expressly advocate the election or defeat of a candidate, is not campaign-related, does not support a political committee, does not entail arrangements with campaigns, etc. It is commercial advertising on the broadcast media, pure and simple.

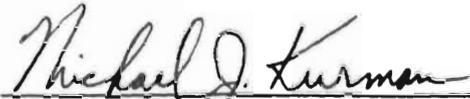
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Arent Fox

Mary L. Taksar, Esq.
August 7, 1995
Page 2

Again, CompUSA urges that the Commission summarily reject this complaint as to CompUSA by finding that there is no reason to believe that CompUSA has committed a violation, and closing the file in this matter.

Respectfully submitted,



Michael J. Kurman
Mitchell Lazarus

ARENT FOX KINTNER PLOTKIN
& KAHN
1050 Connecticut Avenue, NW
Washington, DC 20036-5339
Telephone: (202) 857-6345
(202) 857-6466

Counsel for Respondent CompUSA

WILMER, CUTLER & PICKERING

2445 M STREET, N.W.
WASHINGTON, D. C. 20037-1420

TELEPHONE (202) 663-8000
FACSIMILE (202) 663-8363

WASHINGTON
LONDON
BRUSSELS
BERLIN

October 3, 1995

BY MESSENGER

Lawrence M. Noble, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Mary L. Taksar, Esq.

Re: MUR 4212

Dear Mr. Noble:

On behalf of respondents WBAP-KSCS Radio, Inc., Tyler Cox, and Mark Davis (collectively, "WBAP"), we submit the enclosed apology that WBAP recently received from Mr. Bob McCord ("McCord"), the complainant in the above-captioned matter. This submission supplements the timely response to McCord's frivolous complaint that WBAP filed with the Federal Election Commission ("Commission") on June 26, 1995.

As the enclosed letter indicates, McCord now describes as "naive and misguided" his original charge against the content of WBAP's talk-radio political commentary. This apology undermines the gravamen of McCord's complaint to the Commission.

Consistent with our June 26 response, WBAP reaffirms that WBAP's political commentary fits squarely within the "media exemption" of the Federal Election Campaign Act ("FECA"), which bestows on media entities such as WBAP the unfettered right to cover and comment on political issues. See 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. §§ 100.7(b)(2), 100.8(b)(2). Accordingly, WBAP's broadcasts do not violate the FECA and we respectfully renew our request that the Commission find "no reason to believe" and summarily dismiss the complaint.

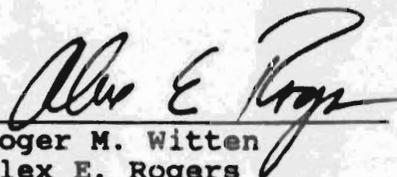
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Lawrence M. Noble, Esq.
October 3, 1995
Page 2

Respectfully submitted,



Roger M. Witten
Alex E. Rogers

Counsel for WBAP-KSCS; Tyler
Cox; and Mark Davis

Enclosure

96043730871

Another Communication from

Sun Baked Bob

Exposing the Prevarications in Conservative Talk-Radio

September 13, 1995

Mark Davis

Subject: Advertisers

At the beginning of the summer I contacted several of your major advertisers in an effort to dissuade them from sponsoring your show. At the time I truly believed my effort was justified by the disparity in political talk radio. I now realize this effort was naive and misguided. I apologize to you and WBAP for my actions.

In the next few weeks some exciting things will happen in Washington DC and New York City. These events will help bring balance to political talk-radio. I am excited to be a participant in these upcoming events.

Good luck with your show Mark.

Sincerely,

Bob McCord

Bob McCord

(214) 404-1556

Fax: (214) 788-0677

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November 21, 1995

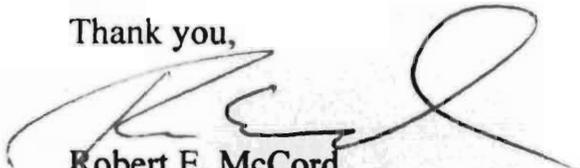
Federal Election Commission
Mary Taksar, Attorney
999 East N.W. Street
Washington DC 20463

In Re: MUR-4212

Dear Ms. Taksar:

Please accept this letter as my formal request to withdraw the above mentioned complaint.

Thank you,

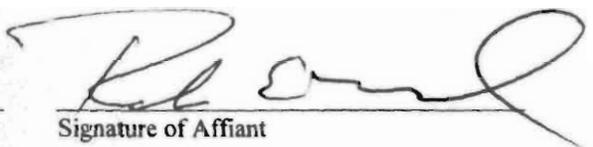


Robert E. McCord
7812 El Pensador
Dallas, Texas 75248
(214) 404-1556
Fax: (214) 788-0677

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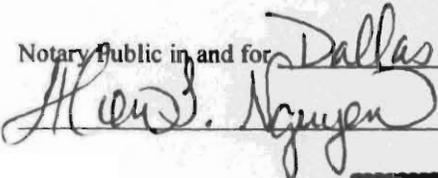
SUBSCRIBED AND SWORN TO BEFORE ME THIS

30th DAY OF November, 19 95



Signature of Affiant

Notary Public in and for Dallas County, Texas



My Commission Expires:

8-11-98





FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 29, 1995

Robert E. McCord
7812 El Pensador
Dallas, TX 75248

RE: MUR 4212

Dear Mr. McCord:

This is in reference to your letter dated, December 11, 1995, requesting that the complaint you filed be withdrawn.

Under 2 U.S.C. § 437g, the Federal Election Commission is empowered to review a complaint properly filed with it and to take action which it deems appropriate under the Federal Election Campaign Act of 1971, as amended ("the Act"). A request for withdrawal of a complaint will not prevent the Commission from taking appropriate action under the Act. Your request will become part of the public record within 30 days after the entire file is closed.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

)
) Enforcement Priority
)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

This report is the General Counsel's Report to recommend that the Commission no longer pursue the identified lower priority and stale cases under the Enforcement Priority System.

II. CASES RECOMMENDED FOR CLOSING

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

A critical component of the Priority System is identifying those pending cases that do not warrant the further expenditure of resources. Each incoming matter is evaluated using Commission-approved criteria and cases that, based on their rating, do not warrant pursuit relative to other pending cases are placed in this category. By closing such cases, the Commission is able to use its limited resources to focus on more important cases.

Having evaluated incoming matters, this Office has identified 10 cases which do not warrant further pursuit relative to the other pending cases.¹ A short description of each case and the factors leading to assignment of a relatively

1. These matters are: MUR 4165 (Attachment 2); MUR 4187 (Attachment 3); MUR 4188 (Attachment 4); MUR 4199 (Attachment 5); MUR 4211 (Attachment 6); MUR 4212 (Attachment 7); MUR 4216 (Attachment 8); MUR 4224 (Attachment 9); MUR 4243 (Attachment 10); MUR 4245 (Attachment 11).

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low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 2-11. As the Commission requested, this Office has attached the responses to the complaints for the externally-generated matters and the referrals for matters referred by the Reports Analysis Division in instances where this information was not previously circulated. See Attachments 2-11.

B. Stale Cases

Investigations are severely impeded and require relatively more resources when the activity and evidence are old.

Consequently, the Office of General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 33 cases that

do not

warrant further investment of significant Commission resources.²

2. These matters are: PM 308 (Attachment 12); RAD 94L-29 (Attachment 13); RAD 94L-34 (Attachment 14); RAD 94NF-10 (Attachment 15); RAD 94NF-13 (Attachment 16); MUR 4027 (Attachment 17); MUR 4028 (Attachment 18); MUR 4033 (Attachment 19); MUR 4042 (Attachment 20); MUR 4045 (Attachment 21); MUR 4047 (Attachment 22); MUR 4049 (Attachment 23); MUR 4057 (Attachment 24); MUR 4059 (Attachment 25); MUR 4062 (Attachment 26); MUR 4065 (Attachment 27); MUR 4066 (Attachment 28); MUR 4067 (Attachment 29); MUR 4069 (Attachment 30); MUR 4070 (Attachment 31); MUR 4077 (Attachment 32); MUR 4079 (Attachment 33); MUR 4086 (Attachment 34); MUR 4089 (Attachment 35); MUR 4095 (Attachment 36); MUR 4099 (Attachment 37); MUR 4102 (Attachment 38); MUR 4104 (Attachment 39); MUR 4111 (Attachment 40); MUR 4113 (Attachment 41); MUR 4117 (Attachment 42); MUR 4127 (Attachment 43); and MUR 4132 (Attachment 44).

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Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate narratives for these cases. As the Commission requested, the responses to the complaints for the externally-generated matters and the referrals for the internally-generated matters are attached to the report in instances where this information was not previously circulated. See Attachments 12-44.

This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the cases listed below in Section III.A and III.B effective February 13, 1996. By closing the cases effective February 13, 1996, CED and the Legal Review Team will respectively have the additional time necessary for preparing the closing letters and the case files for the public record.

III. RECOMMENDATIONS

A. Decline to open a MUR and close the file effective February 13, 1996 in the following matters:

- 1) PM 308
- 2) RAD 94L-29
- 3) RAD 94L-34
- 4) RAD 94NF-10
- 5) RAD 94NF-13

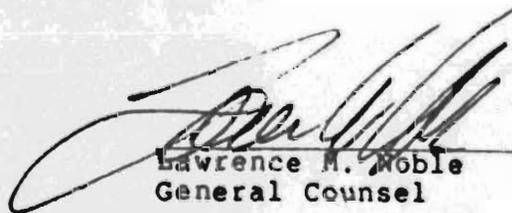
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B. Take no action, close the file effective February 13, 1996, and approve the appropriate letter in the following matters:

- 1) MUR 4027
- 2) MUR 4028
- 3) MUR 4033
- 4) MUR 4042
- 5) MUR 4045
- 6) MUR 4047
- 7) MUR 4049
- 8) MUR 4057
- 9) MUR 4059
- 10) MUR 4062
- 11) MUR 4065
- 12) MUR 4066
- 13) MUR 4067
- 14) MUR 4069
- 15) MUR 4070
- 16) MUR 4077
- 17) MUR 4079
- 18) MUR 4086
- 19) MUR 4089
- 20) MUR 4095
- 21) MUR 4099
- 22) MUR 4102
- 23) MUR 4104
- 24) MUR 4111
- 25) MUR 4113
- 26) MUR 4117
- 27) MUR 4127
- 28) MUR 4132
- 29) MUR 4165
- 30) MUR 4187
- 31) MUR 4188
- 32) MUR 4199
- 33) MUR 4211
- 34) MUR 4212
- 35) MUR 4216
- 36) MUR 4224
- 37) MUR 4243
- 38) MUR 4245

96043730678

2/6/96
Date


Lawrence M. Noble
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Enforcement Priority) Agenda Document #X96-13

CORRECTED CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission, do hereby certify that the Commission decided by votes of 4-0 to take the following action in the above-captioned matter:

- 9 6 0 4 3 7 3 0 8 7 9
- A. Decline to open a MUR and close the file effective March 5, 1996, in the following matters:
- 1) PM 308
 - 2) RAD 94L-29
 - 3) RAD 94L-34
 - 4) RAD 94NF-10
 - 5) RAD 94NF-13
- B. Take no action, close the file effective March 5, 1996, and approve appropriate letter in the following matters:
- 1) MUR 4027
 - 2) MUR 4028
 - 3) MUR 4033
 - 4) MUR 4042
 - 5) MUR 4045
 - 6) MUR 4047
 - 7) MUR 4049
 - 8) MUR 4057
 - 9) MUR 4059

(continued)

Federal Election Commission
Certification: Enforcement Priority
March 6, 1996

Page 2

- 10) MUR 4062
- 11) MUR 4065
- 12) MUR 4066
- 13) MUR 4067
- 14) MUR 4069
- 15) MUR 4070
- 16) MUR 4077
- 17) MUR 4079
- 18) MUR 4086
- 19) MUR 4089
- 20) MUR 4095
- 21) MUR 4099
- 22) MUR 4102
- 23) MUR 4104
- 24) MUR 4111
- 25) MUR 4113
- 26) MUR 4117
- 27) MUR 4127
- 28) MUR 4132
- 29) MUR 4165
- 30) MUR 4187
- 31) MUR 4188
- 32) MUR 4199
- 33) MUR 4211
- 34) MUR 4212
- 35) MUR 4216
- 36) MUR 4224
- 37) MUR 4243
- 38) MUR 4245

(continued)

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Federal Election Commission
Certification: Enforcement Priority
March 5, 1996

Page 3

Commissioners Aikens, Elliott, McDonald, and Thomas
voted affirmatively on the above-noted decisions.
Commissioner McGarry was not present.

Attest:

3/7/96
Date

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

96043730851



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert E. McCord
P.O. Box 612722
Dallas, TX 75261-2722

RE: MUR 4212

Dear Mr. McCord:

On May 22, 1995, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996. 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,

Mary L. Taksar (yes)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043730892

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

The joint response of WBAP-KCCS Radio Inc., Tyler Cox and Mark Davis and the response from Rush Limbaugh mirror each other in their arguments that the radio shows provide political commentary and possess the unfettered right to comment on political campaigns and issues. The respondents state that WBAP is not owned or controlled by a political party, political committee, or candidate and that as a news entity, WBAP is entitled to the media exemption that exempts any news story, commentary, or editorial distributed through the facilities of any broadcasting station from the definition of expenditure.

In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

95043730833



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Tyler Cox, Program Director
WBAP-KSCS Radio, Inc.
1 Broadcast Hill Street
Forth Worth, TX 76103

RE: MUR 4212
Mark Davis and Rush Limbaugh Show

Dear Mr. Cox:

On May 25, 1995, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Mark Davis and Rush Limbaugh Show. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely

Mary L. Taksar (HTS)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment - Narrative

96043730884

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

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In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730535



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Roger M. Witten, Esq.
Alex E. Rogers, Esq.
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037

RE: MUR 4212
Mark Davis, Tyler Cox, and WBAP-KSCS Radio, Inc.

Dear Messrs. Witten and Rogers:

On May 25, 1995, the Federal Election Commission notified your clients, Mark Davis, Tyler Cox, and WBAP-KSCS Radio, Inc., of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your clients. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

96043730896

Page 2

Mark Davis, Tyler Cox, and WBAP-KSCS Radio, Inc.

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

Sincerely

Mary L. Taksar (H28)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730897

HUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

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In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730888



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Michael J. Robinson, Esq.
General Motors Corporation
Office of the General Counsel
3031 West Grand Blvd.
Detroit, MI 48232

RE: MUR 4212
General Motors Corporation

Dear Mr. Robinson:

On May 25, 1995, the Federal Election Commission notified your client, General Motors Corporation, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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DEDICATED TO KEEPING THE PUBLIC INFORMED

96043730889

Page 2
General Motors Corporation

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

Sincerely

Mary L. Taksar ^(S)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

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MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

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In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730891



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Kathryn K. Mlsna
Senior Corporate Attorney
McDonald's Corporation
McDonald's Plaza
Oak Brook, IL 60521

RE: MUR 4212
McDonald's Corporation

Dear Ms. Mlsna:

On May 25, 1995, the Federal Election Commission notified your client, McDonald's Corporation, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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Page 2
McDonald's Corporation

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

Sincerely

Mary L. Taksar ^(yes)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

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MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

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In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730894



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Gary I. Kruger, Esq.
The Goodyear Tire & Rubber Company
Akron, OH 44316-0001

RE: MUR 4212
Goodyear Tire & Rubber Company

Dear Mr. Kruger:

On May 25, 1996, the Federal Election Commission notified your client, Goodyear Tire & Rubber Company, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely

Mary L. Taksar (#28)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730895

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

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The joint response of WBAP-KCCS Radio Inc., Tyler Cox and Mark Davis and the response from Rush Limbaugh mirror each other in their arguments that the radio shows provide political commentary and possess the unfettered right to comment on political campaigns and issues. The respondents state that WBAP is not owned or controlled by a political party, political committee, or candidate and that as a news entity, WBAP is entitled to the media exemption that exempts any news story, commentary, or editorial distributed through the facilities of any broadcasting station from the definition of expenditure.

In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730896



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 7, 1996

Francisco Pavia, Esq.
WINSTON & STRAWN
1400 L Street, N.W.
Washington, D.C. 20005

RE: MUR 4212
Sears, Roebuck and Company

Dear Mr. Pavia:

On May 25, 1995, the Federal Election Commission notified your client, Sears, Roebuck and Company of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

96043730897

Page 2
Sears, Roebuck and Company

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

Sincerely

Mary L. Taksar (x28)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730878

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

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

96043730899



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 7, 1996

Timothy S. O'Reilly, Manager
Sales Promotion & Product Marketing
Kelly-Moore Paint Company, Inc.
987 Commercial Street
San Carlos, CA 94070

RE: MUR 4212
Kelly-Moore Paint Company

Dear Mr. O'Reilly:

On May 25, 1995, the Federal Election Commission notified Kelly-Moore Paint Company of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Kelly-Moore Paint Company. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

96043730900

Page 2
Kelly-Moore Paint Company

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

Sincerely

Mary L. Taksar (MST)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730901

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

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In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730902



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Sally Cowan, Group Counsel
General Counsel's Office
American Express Tower
World Financial Center
New York, NY 10285-4900

RE: MUR 4212
American Express, Inc.

Dear Ms. Cowan:

On May 25, 1995, the Federal Election Commission notified your client, American Express, Inc., of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against American Express, Inc. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

96043730903

Page 2

American Express, Inc.

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

Sincerely

Mary L. Taksar (tes)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730904

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

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

96043730975



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Marlin L. Gilbert, Esq.
Southwestern Bell Telephone
One Bell Plaza, Room 2900
P.O. Box 655521
Dallas, TX 75265-5521

RE: MUR 4212
Southwestern Bell Telephone

Dear Mr. Gilbert:

On May 25, 1995, the Federal Election Commission notified Southwestern Bell Telephone of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Southwestern Bell Telephone. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

96043730906

Page 2

Southwestern Bell Telephone

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

Sincerely

Mary L. Taksar (YES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730907

NUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

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

96043730908



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Janet Quisenberry
Mrs. Baird's Bakeries, Inc.
P.O. Box 417
Dallas, TX 75221

RE: MUR 4212
Mrs. Baird's Bakeries

Dear Ms. Quisenberry:

On May 25, 1995, the Federal Election Commission notified Mrs. Baird's Bakeries of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Mrs. Baird's Bakeries. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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96043730909

Page 2
Mrs. Baird's Bakeries

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

Sincerely

Mary L. Taksar ^(yes)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730910

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

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

96043730911



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

James R. Hale, Secretary
Luby's Cafeterias, Inc.
2211 Northeast Loop 410
San Antonio, TX 78217-4673

RE: MUR 4212
Luby's Cafeterias, Inc.

Dear Mr. Hale:

On May 25, 1995, the Federal Election Commission notified Luby's Cafeterias, Inc., of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Luby's Cafeterias, Inc. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043730912

Page 2
Luby's Cafeterias, Inc.

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

Sincerely

Mary L. Taksar (AES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730913

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

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

96043730914



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Michael J. Kurman, Esquire
Mitchell Lazarus, Esquire
ARENT FOX KINTNER PLOTKIN & KAHN
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

RE: MUR
CompUSA

Dear Messrs. Kurman and Lazarus:

On May 25, 1995, the Federal Election Commission notified your client, CompUSA, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043730915

Page 2
CompUSA

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

Sincerely

Mary L. Taksar (JES)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730916

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

The joint response of WBAP-KCCS Radio Inc., Tyler Cox and Mark Davis and the response from Rush Limbaugh mirror each other in their arguments that the radio shows provide political commentary and possess the unfettered right to comment on political campaigns and issues. The respondents state that WBAP is not owned or controlled by a political party, political committee, or candidate and that as a news entity, WBAP is entitled to the media exemption that exempts any news story, commentary, or editorial distributed through the facilities of any broadcasting station from the definition of expenditure.

In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730917



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 7, 1996

Howard Abrahams, Esquire
COWAN, GOLD, DeBAETS, ABRAHAMS & SHEPPARD
40 West Street
New York, NY 10019

RE: MUR 4212
Rush Limbaugh

Dear Mr. Abrahams:

On May 25, 1995, the Federal Election Commission notified your client, Rush Limbaugh, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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96043730918

Page 2
Rush Limbaugh

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

Sincerely

Mary L. Taksar (x28)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730919

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

The joint response of WBAP-KCCS Radio Inc., Tyler Cox and Mark Davis and the response from Rush Limbaugh mirror each other in their arguments that the radio shows provide political commentary and possess the unfettered right to comment on political campaigns and issues. The respondents state that WBAP is not owned or controlled by a political party, political committee, or candidate and that as a news entity, WBAP is entitled to the media exemption that exempts any news story, commentary, or editorial distributed through the facilities of any broadcasting station from the definition of expenditure.

In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730920



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 7, 1996

Gail Polivy, Esquire
GTE Services, Corporation
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036

RE: MUR 4212
GTE Corporation

Dear Ms. Polivy :

On May 25, 1995, the Federal Election Commission notified your client, GTE Corporation, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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96043730921

Page 2
GTE Corporation

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

Sincerely

Mary L. Taksar (MST)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

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MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

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In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

96043730923



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 1996

Tennessee Nielsen
Corporate Counsel
15110 North Dallas Parkway
Dallas, TX 75248

RE: MUR 4212
Greyhound Lines, Inc.

Dear Mr. Nielsen:

On May 25, 1995, the Federal Election Commission notified Greyhound Lines, Inc., of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Greyhound Lines, Inc. See attached narrative. Accordingly, the Commission closed its file in this matter on March 5, 1996.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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96043730924

Page 2
Greyhound Lines, Inc.

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

Sincerely

Mary L. Taksar (428)

Mary L. Taksar, Attorney
Central Enforcement Docket

Attachment
Narrative

96043730925

MUR 4212

WBAP RADIO/MARK DAVIS AND RUSH LIMBAUGH SHOWS

Robert McCord filed a complaint alleging that the syndicated radio shows hosted by Mark Davis and Rush Limbaugh, which are broadcast on WBAP Radio in Dallas, Texas, are unregistered political committees. Mr. McCord also alleges that the corporations which advertise on the radio shows are making illegal corporate campaign contributions. Mr. McCord states that the radio shows should be required to register as political action committees.

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In their responses, the corporate advertisers state that advertising funds are spent to sell their products not to influence Federal elections and that payments for advertising constitute business expenses not campaign contributions.

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4212

DATE FILMED 3/26/96 CAMERA NO. 3

CAMERAMAN E.S.

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