



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4249

DATE FILMED 2/8/96 CAMERA NO. 4

CAMERAMAN 2LT

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM  
AUG 7 10 23 AM '95

William Lingley  
4444 29th Ave. S.E.  
Lacey, Wa. 98503  
phone 360 459 7444

August 3, 1995

Federal Election Commission  
999 E street N.W.  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
AUG 7 12 14 PM '95

Dear Commissioners:

This complaint concerns what, in my opinion, was a blatantly political ad that was not identified as such. It ran for about two weeks in the local news of Seattle affiliate of N.B.C. station KING, channel 5.

The substance of the ad was the listing of three good people who had been killed by assault weapons. Then President Clinton came on and told how he was the first President to get a law passed to ban the weapons and to get them off the streets. There was no mention of pending legislation. The clear message was that President Clinton was doing a great job and, by inference, was a man who should be re-elected.

My wife and I frequently watch the channel 5 news in the late afternoon. About July 19th, I realized that this item had been appearing regularly for quite a few days. I think it was the next day, the 20th, that I phoned the station and asked who was paying for what seemed to be a political ad. They refused to tell me, but stated that if I came to Seattle they would let me look at their records. I said that I would not, and if they would not tell me anything I would file a complaint. I phoned your office and you sent me information on the 24th regarding how to file.

In my opinion, this was a political ad prepared by someone interested in President Clinton's re-election. Moreover, it was either run by or paid for by someone sympathetic to the same.

I have used the past tense, because this material suddenly left the air.

If my conclusions are correct, I hope all parties will be publicly reprimanded.

25% Sincerely,  
*William Lingley*  
William Lingley

State of Washington  
County of Thurston

I certify that I know or have satisfactory evidence that William Lingley signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument. Dated this 3rd day of August 1995.

*Kathy M. Edwards*  
KATHY M. EDWARDS  
Notary Public, My appointment expires 9/29/97

96043721056



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 9, 1995

William Lingley  
4444 29th Avenue S.E.  
Lacey, WA 98503

Dear Mr. Lingley:

This is to acknowledge receipt on August 7, 1995, of your letter dated August 3, 1995. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this \_\_\_ day of \_\_\_, 19\_\_." A statement by the notary that the complaint was sworn to and subscribed before her also will be sufficient. We regret the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

Enclosed is a Commission brochure entitled "Filing a Complaint." I hope this material will be helpful to you should you wish to file a legally sufficient complaint with the Commission.

Please note that this matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. The respondents will then have an additional 15 days to respond to the complaint on the merits. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

96043721057

If you have any questions concerning this matter, please contact me at (202) 219-3410.

Sincerely,

*Retha Dixon by lcs*

Retha Dixon  
Docket Chief

Enclosure

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 24, 1995

William Lingley  
4444 29th Avenue, SE  
Lacey, WA 98503

RE: MUR 4249

Dear Mr. Lingley:

This letter acknowledges receipt on August 21, 1995, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent 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 4249. 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

96043721059

William Lingley  
4444 29th Ave. S.E.  
Lacey, Wa. 98503  
Phone 360 459 7444  
August 16, 1995

Federal Election Commission  
999 E street N.W.  
Washington, D.C. 20463

MUR 4249

Dear Commissioners:

This complaint concerns what, in my opinion, was a blatantly political ad that was not identified as such. It ran for about two weeks in the local news of the Seattle affiliate of N.B.C. station KING, channel 5.

The substance of the ad was the listing of three good people who had been killed by assault weapons. Then President Clinton came on and told how he was the first President to get a law passed to ban the weapons and get them off the streets. There was no mention of pending legislation. The clear message was that President Clinton was doing a great job and, by inference, was a man who should be re elected.

My wife and I frequently watch the channel 5 news in the late afternoon. About July 19th, I realized that this item had been appearing regularly for quite a few days. I think it was the next day, the 20th, that I phoned the station and asked who was paying for what seemed to be a political ad. They refused to tell me, but stated that if I came to Seattle they would let me look at their records. I said that I could not and if they would not tell me anything I would file a complaint. I phoned your office and you sent me information on the 24th regarding how to file.

In my opinion, this was a political ad prepared by someone interested in President Clinton's re election. Moreover, it was either ran by or paid for by someone sympathetic to the same.

I have used the past tense, because this material suddenly left the air.

If my conclusions are correct, I hope that all parties will be publicly reprimanded.

Sincerely,

*William Lingley*  
William Lingley

State of Washington  
County of Thurston

Signed and sworn to before me this 16th day of August 1995  
by William Lingley.

*Kathy M. Edwards*  
Notary Public KATHY M. EDWARDS  
My appointment expires 9/29/97

RECEIVED  
FEDERAL ELECTION COMMISSION  
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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 24, 1995

Tony Twibell, Station Manager  
KING 5 Television  
333 Dexter Avenue, North  
Seattle, WA 98109

RE: MUR 4249

Dear Mr. Twibell:

The Federal Election Commission received a complaint which indicates that the KING 5 Television 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 4249. 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 KING 5 Television Station 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.

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

9604321051

If you have any questions, please contact me 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

96043721012



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 24, 1995

Joan Pollitt, Treasurer  
Clinton/Gore '96 Primary Committee  
2100 M Street, NW  
Washington, DC 20036

RE: MUR 4249

Dear Ms. Pollitt:

The Federal Election Commission received a complaint which indicates that the Clinton/Gore '96 ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4249. 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.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

960437210

If you have any questions, please contact me 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

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

AUG-30-95 WED 8:42 AM

AUG 30 1 47 PM '95

P. 2

STATEMENT OF DESIGNATION OF COUNSEL

NO. 4249

NAME OF COUNSEL: Covington & Burling (RODNEY Burchfield, William Pitt)

ADDRESS: 1201 Pennsylvania Avenue, N.W.

P.O. Box 7566

Washington, D.C. 20044

TELEPHONE: (202) 662-6000 / Fax (202) 662-6291

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.

August 30, 1995  
Date

  
Signature  
Anthony R. Twibell

RESPONDENT'S NAME: King 5 Television (Anthony R. Twibell, General Manager)

ADDRESS: 333 Dexter Avenue North  
P.O. Box 24525

Seattle, WA 98124 (Fax 98109)

HOME PHONE: \_\_\_\_\_

BUSINESS PHONE: 206/449-3773

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**OVINGTON & BURLIN**

1201 PENNSYLVANIA AVENUE, N. W.

P.O. BOX 7566

WASHINGTON, D.C. 20044-7566

(202) 662-6000

TELEFAX: (202) 662-6291

TELEX: 89-593 (COVING WSH)

CABLE: COVING

**WILLIAM H. FITZ**

DIRECT DIAL NUMBER

(202) 662-5120

LECONFIELD HOUSE

CURZON STREET

LONDON W1Y 8AS

ENGLAND

TELEPHONE 44 (71) 495 8898

TELEFAX 44 (71) 495 3101

BRUSSELS CORRESPONDENT OFFICE

44 AVENUE DES ARTS

BRUSSELS 1040 BELGIUM

TELEPHONE 32 2 512 9900

TELEFAX 32 2 507 1908

August 31, 1995

By Hand

Mary L. Taksar, Esquire  
Federal Election Commission  
Office of General Counsel  
Enforcement Division  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4249

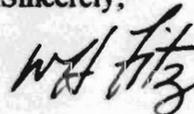
Dear Ms. Taksar:

On behalf of King Broadcasting Company, licensee of station KING-TV, Seattle, Washington, this is to request an extension of time within which to respond to your August 24 letter that asks for comments on a letter from Mr. William Lingley regarding a commercial spot about efforts to regulate assault weapons. Your letter was received on or about August 28, and the station's response would, absent an extension, be due on or before Tuesday, September 12.

After receipt of your letter, the station contacted our law firm (FCC counsel for the licensee) to ask for assistance. On August 30, we provided a designation of counsel statement to Ms. Clime Short, who suggested that we briefly recite the reason for the extension in a letter to you. The attorney (Bobby R. Burchfield) who will be principally responsible for this matter is currently preparing for a trial in major litigation scheduled to commence on Monday, September 18, in Detroit, Michigan. In view of the scheduling difficulty and the need to coordinate with our Washington State client about Mr. Lingley's letter, it is respectfully requested that the time for the response by KING-TV be extended to October 12, 1995.

We would appreciate it if your office could call us at its earliest convenience once the Commission has reached a determination on this request. Please feel free to call us with any question about this matter.

Sincerely,



William H. Fitz

AUG 31 2 48 PM '95

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# CLINTON GORE

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COUNSEL  
SEP 5 10 07 AM '95

August 31, 1995

Lawrence M. Noble, General Counsel  
Federal Election Commission  
999 E Street, NW  
6th Floor  
Washington, DC 20515

Re: MUR 4249, Clinton/Gore '96 Primary  
Committee and Joan Pollitt, as Treasurer

Dear Mr. Noble:

Attached please find a Designation of Counsel Statement for the Clinton/Gore '96 Primary Committee ("Committee") in connection with the above-referenced MUR.

With respect to filing a response to the complaint in this matter, I am requesting an extension of time of two weeks from our initial response date, until September 26, 1995. Our General Counsel and other campaign officials, who have the information necessary for preparing and filing a response, are out of the office and will not return until September 6, 1995. Because of their absence, we are unable to begin work on a response until they return.

Thank you for consideration of this matter, and if you have any questions, please contact the Committee's counsel.

Sincerely,



Joan Pollitt  
Treasurer

cc: Lyn Utrecht

Attachment

CLINTON/GORE '96  
P.O. BOX 19300 WASHINGTON, D.C. 20036-9300 PHONE 202/331-1996  
Paid for by the Clinton/Gore '96 Primary Committee, Inc.  
Contributions to Clinton/Gore '96 are not Tax Deductible.

9504372107

**STATEMENT OF DESIGNATION OF COUNSEL**

**NR** 4249

**NAME OF COUNSEL:** Lyn Utrecht, Esq.

**ADDRESS:** Oldaker, Ryan & Leonard  
818 Connecticut Ave., NW #1100  
Washington, DC 20036

**TELEPHONE:** (202) 728-1010

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. Please send duplicate notifications/communications to Eric F. Kleinfeld, Esq. at the Committee's address.

8-31-95  
Date

*Eric F. Kleinfeld*  
Signature

**RESPONDENT'S NAME:** Clinton/Gore '96 Primary Committee, Inc.

**ADDRESS:** P.O. Box 19300  
Washington, DC 20036-9300

**HOME PHONE:** \_\_\_\_\_

**BUSINESS PHONE:** (202) 331-1996

96043721068



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 6, 1995

Bobby R. Burchfield, Esq.  
William Fitz, Esq.  
Covington & Burling  
1201 Pennsylvania Ave., N.W.  
P. O. Box 7566  
Washington, DC 20044

RE: MUR 4249  
KING 5 Television

Dear Mr. Burchfield and Mr. Fitz:

This is in response to Mr. Fitz's letter dated August 31, 1995, requesting an extension until October 12, 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 October 12, 1995.

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

Sincerely,

Eric S. Brown, Paralegal  
Central Enforcement Docket

96043721059



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 6, 1995

Lyn Utrecht, Esq.  
Oldaker, Ryan & Leonard  
818 Connecticut Ave., NW #1100  
Washington, DC 20036

RE: MUR 4249  
Clinton/Gore '96 Primary  
Committee, Inc. and  
Joan Pollitt, as treasurer

Dear Ms. Utrecht:

This is in response to Joan Pollitt's letter dated August 31, 1995, requesting an extension until September 26, 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 September 26, 1995.

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

Sincerely,

Eric S. Brown, Paralegal  
Central Enforcement Docket

cc:  
Eric F. Kleinfeld, Esq.  
Clinton/Gore '96 Primary Committee, Inc.  
P. O. Box 19300  
Washington, DC 20036-9300

9604372100

**COVINGTON & BURLINGAME**

1201 PENNSYLVANIA AVENUE, N. W.

P. O. BOX 7566

WASHINGTON, D.C. 20044-7566

(202) 662-6000

TELEFAX (202) 662-6291

TELEX 88-593 COVING WSH

CABLE COVING

**WILLIAM H. FITZ**

DIRECT DIAL NUMBER

(202) 662-5120

LECONFIELD HOUSE

CURZON STREET

LONDON W1T 8AB

ENGLAND

TELEPHONE 44 (71) 496 9686

TELEFAX 44 (71) 496 3172

BRUSSELS CORRESPONDENT OFFICE

4-9 AVENUE DES ARTS

BRUSSELS 1040 BELGIUM

TELEPHONE 32 2 512 9890

TELEFAX 32 2 509 1508

September 21, 1995

By Hand

Mary L. Taksar, Esquire  
Federal Election Commission  
Office of General Counsel  
Enforcement Division  
999 E Street, N.W.  
Washington, D.C. 20463

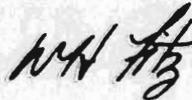
Re: MUR 4249

Dear Ms. Taksar:

On behalf of King Broadcasting Company, the licensee of broadcast station KING-TV, Seattle, Washington, we submit herewith the station's response to your letter of August 24, 1995.

Please feel free to call us if there are any questions regarding this matter.

Sincerely,



William H. Fitz

Enclosure

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

SEP 21 11 12 AM '95

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**KING 5 TV**

333 Dexter Avenue North  
P.O. Box 24525  
Seattle, Washington 98124  
206/448-3925

September 20, 1995

Tony Twibell  
President and  
General Manager

By Hand

Mary L. Taksar, Esq.  
Federal Election Commission  
Office of General Counsel  
Enforcement Division  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4249

Dear Ms. Taksar:

King Broadcasting Company, licensee of television station KING-TV, Seattle, Washington, hereby responds to your letter of August 24, 1995, which was received by the station on August 28. By letter dated September 6, 1995, the Commission extended the time for KING-TV's response to and including October 12.

This action was initiated by a letter dated August 16, 1995, from a Mr. William Lingley. Mr. Lingley's letter states that on or about July 19 (and perhaps also earlier) he viewed on KING-TV a broadcast advertisement in which President Clinton mentioned his role in obtaining a law restricting the sale of assault weapons. Mr. Lingley's letter suggests that the advertisement was "political", and that Mr. Lingley failed to see a political disclaimer. Mr. Lingley's letter further states that the KING-TV telephone receptionist declined to identify the sponsor of the spot, but instead invited him to review the records available for public inspection at the station's business office. Although Mr. Lingley's letter does not state how KING-TV may have violated the Federal Election Campaign Act of 1971, as amended, it appears that he is asserting a failure to identify the sponsor of the advertisement as required by 11 C.F.R. § 110.11(a)(1)(i).

Our review reflects that in June 1995, the advertising agency of Squier Knapp Ochs Communications, acting with the written authorization of the Clinton-Gore '96 Primary Committee, Inc., purchased time on KING-TV to air 30-second spots during the period June 27 through July 23, 1995. The spots ran a total of 73 times. KING-TV sold the spots at its standard advertising rates -- the rates that it would have charged other commercial spot advertisers for a comparable use of the station.

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COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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Ms. Mary L. Taksar, Esq.  
September 20, 1995  
Page Two

Furthermore, our review confirms that the spots as provided to KING-TV contained the sponsorship identification "Paid for by Clinton-Gore '96 Primary Committee, Inc.", and that the spots were aired without editing by the station. This disclaimer complies fully with the Commission's regulations. See 11 C.F.R. § 110.11(a)(1)(i). The visual sponsorship identification was given in letters equal to or greater than 4% of vertical picture height and aired for not less than four seconds, hereby meeting the FCC's standards applicable to political "use" spots.

KING-TV also placed information identifying the entity that paid for the spots in its public inspection file for issue-oriented spots. We note that it is common industry practice for TV and radio broadcast stations not to provide such details about issue-oriented spots or political "use" spots over the telephone because the sponsorship information is, as here, provided in the advertisement, because of the availability of the records in station's public inspection file at the main studios, and because of the administrative burden of having staff perform this service for any or all persons who may make similar requests.

For the foregoing reasons, we respectfully submit that no action should be taken against KING-TV in this matter. Should you need any further information, please contact me or our counsel Bobby R. Burchfield at Covington & Burling, P.O. Box 7566, Washington, D.C. 20044 (202/662-5350).

Respectfully submitted,

By: 

Anthony R. Twibell  
President/General Manager

Ms. Mary L. Taksar, Esq.  
September 20, 1995  
Page Three

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



Anthony R. Twibell

Dated: September 20, 1995

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CLINTON GORE

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

SEP 22 3 04 PM '95

September 22, 1995

Lawrence M. Noble, Esquire  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW  
6th Floor  
Washington, D.C. 20463

Re: MUR 4249, Clinton/Gore '96 Primary  
Committee and Joan Pollitt, as Treasurer

Dear Mr. Noble:

This is the response of the Clinton/Gore '96 Primary Committee (the "Committee") and Joan Pollitt, as Treasurer, to the complaint filed in the above-captioned MUR. As more fully explained below, the Committee respectfully requests that the Federal Election Commission (the "Commission" or "FEC") find no reason to believe that any violation of the Federal Election Campaign Act of 1971, as amended, (the "Act") occurred and close this matter.

**Statement of the Case**

Complainant alleges having viewed a television advertisement on a local television station in Seattle, Washington, which he characterizes as a "political ad." According to the complainant, the subject of the advertisement was crime and the assault weapon ban, and it included an appearance by President Clinton stating "how he was the first President to get a law passed to ban the weapons and get them off the streets." See Complaint paragraph 2.

Complainant admits that the advertisement in question contained no express advocacy but, instead, alleges that "[t]he clear message was that President Clinton was doing a great job

CLINTON/GORE '96  
P.O. BOX 19300 WASHINGTON, D.C. 20036-9300 PHONE 202/333-1996  
*Paid for by the Clinton/Gore '96 Primary Committee, Inc.  
Contributions to Clinton/Gore '96 are not Tax Deductible.*

and, by inference, was a man who should be re-elected." (Emphasis added.)<sup>1</sup> See Complaint paragraph 2.

**The Act Requires a Disclaimer for Advertisements which Expressly Advocate the Election of a Clearly Identified Candidate**

The Act, at 2 U.S.C. section 441d, requires any communication by television station, which expressly advocates the election or defeat of a clearly identified candidate, to contain a disclaimer containing certain specific language:

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, . . . such communication --

- (1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee. . . . 2 U.S.C. Section 441d(a)(1).

See also 11 CFR section 110.11(a)(1)(i). Accordingly, in applying the disclaimer requirements of section 441d to a television advertisement, the Commission must determine whether the advertisement contains express advocacy, and, if so, whether the appropriate disclaimer was affixed thereto.

**This Advertisement Contains the Required Disclaimer**

The television advertisement in question was prepared by the Committee and contains the

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<sup>1</sup>This complaint is clearly deficient, as a matter of law, under the Commission's regulations at 11 CFR section 111.4, both for failing to "clearly identify" a respondent and for failing to clearly recite facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. The complaint refers to "someone interested in President Clinton's re-election" -- it is the Commission which chose to make the Committee a respondent. In addition, complainant does not allege that the ad in question failed to contain a disclaimer, rather, he is apparently disgruntled over his inability to obtain information over the telephone directly from the Seattle television station as to the payor of the ad.

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appropriate disclaimer under the Act.<sup>2</sup> The ad is entitled "Victims," and the Committee has attached a certified copy of the entire transcript to this response. A copy of the video which was shown on Seattle television station Channel 5 is also attached to this response. This advertisement was planned to run and did, in fact, run on KING-TV for a period of four weeks, June 27, 1995 to July 23, 1995.<sup>3</sup>

The pertinent part reads: **"Paid for by the Clinton/Gore '96 Primary Committee, Inc."**

The disclaimer appears in the opening frame and lasts the four seconds required by the Federal Communications Commission (the "FCC"). Nothing in the Act or the regulations promulgated by the FEC prohibits the disclaimer from appearing at the beginning of a television advertisement, as long as the disclaimer appears in a "clear and conspicuous manner" to give the viewer adequate notice of the person who paid for the ad. 11 CFR section 110.11(a)(1).

Here, the ad "Victims" states up-front, clearly and conspicuously, who paid for it: the Committee. No attempt has been made to confuse, mislead or otherwise conceal information from the prospective television viewers. Simply put, this advertisement was produced in accordance with all applicable FEC and FCC requirements.

In support of this assertion, the Committee's media company, Squier, Knapp, Ochs Communications has provided a sworn statement affirming that the advertisement in question, "Victims," was produced by them and contains the disclaimer "[p]aid for by the Clinton/Gore '96 Primary Committee, Inc." See affidavit of William N. Knapp. There is no evidence in the complaint or otherwise for the Commission to conclude that the ad "Victims" failed to contain the appropriate disclaimer under the Act. In the absence of such evidence, this matter should be dismissed.

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<sup>2</sup>Because the advertisement complained of did, indeed, contain an appropriate disclaimer, the Committee's response does not address the question as to whether that ad is actually "express advocacy" under the Act. However, the Commission should note that it is the Committee's position that the advertisement does not contain express advocacy. Moreover, complainant has adopted an identical position and asserts not that the ad contains express advocacy, but that it advocates "by inference". Thus, the complaint falls short of alleging the standard necessary for inclusion of a disclaimer.

<sup>3</sup>Although the complaint states that this ad "suddenly left the air," in fact, it ran for the full amount of the media buy and for the entire time period intended; the ad was not pulled from the air.

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**Conclusion**

In conclusion, because the advertisement complained of does, in fact, contain the appropriate disclaimer under the Act, the complaint in this matter should be dismissed forthwith. The Committee respectfully requests that the Commission find no reason to believe that any violation of the Act or of the Commission's regulations occurred and close the file in MUR 4249.

Sincerely,

*Lyn Utrecht*

Lyn Utrecht, Esquire  
Oldaker, Ryan & Leonard  
818 Connecticut Avenue, NW  
Suite 1100  
Washington, D.C. 20036

*Eric F. Kleinfeld*

Eric F. Kleinfeld, Esquire  
Clinton/Gore '96 Primary Committee  
P.O. Box 19300  
Washington, D.C. 20036

Attachments

Transcript of "Victims"  
Videotape of "Victims"  
Affidavit of William N. Knapp

**"Victims"**

BC-07-30

6/21/95

30 Seconds

**Opening Frame:** "Paid for by Clinton/Gore '96 Primary Committee, Inc."  
(4-5 seconds)

**Narration:** "An officer killed in the line of duty. A father gunned down at work. A student shot at school. A mother murdered in cold blood. Victims killed with deadly assault weapons. Bill Clinton did something no President has ever been able to accomplish. He passed and signed a tough law to ban deadly assault weapons."

**President:** "Deadly assault weapons off our streets. 100,000 more police on the streets. Expand the death penalty. That's how we will protect America."

**End.**

I certify under penalty of perjury that the foregoing is a true and accurate depiction of the "Victims" commercial.

Executed this 22 day of September, 1995

*[Signature]*

William N. Knapp

County of Arlington  
Commonwealth of Virginia

The foregoing instrument was  
acknowledged before me this 22 day of  
September, 1995 by William N. Knapp.

*[Signature]*  
My Commission Expires September 30, 1998

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**AFFIDAVIT OF WILLIAM N. KNAPP**

I, William N. Knapp, hereby declare the following:

1. I am a partner at Squier, Knapp, Ochs Communications located at 511 2nd St., NE, Washington, D.C. 20002, and I am responsible for the production of numerous political advertisements and the purchase of television time for the airing of said advertisements.

2. The Federal Communications Commission has promulgated very strict rules which must be adhered to in the production of political commercials for television. Specifically, such rules govern the placing of a disclaimer on the commercial, the size of the disclaimer and the length of time during which the disclaimer must appear. Television stations will not air political commercials without the proper disclaimer. Squier, Knapp, Ochs Communications adheres to all applicable Federal Communications Commission and Federal Election Commission requirements when producing political advertisements.

3. Squier, Knapp, Ochs Communications has a contract with the Clinton/Gore '96 Primary Committee, Inc. to produce television communications on behalf of the Committee. In accordance with this agreement, Squier, Knapp, Ochs Communications produced a television commercial entitled "Victims".

4. Squier, Knapp, Ochs Communications produced and distributed "Victims" in accordance with the Federal Communications Commission and Federal Election Commission rules. The disclaimer, "Paid for by the Clinton/Gore '96 Primary Committee, Inc.", appeared at the beginning of the commercial and was displayed for the mandatory 4 seconds.

5. The VHS tape titled "Victims" is a true and accurate reproduction of the tape which was distributed to station KING-5 Television in Seattle, Washington.

I declare under penalty of perjury that the foregoing is true and accurate.

Executed this 9 day of September, 1995.



William N. Knapp

County of Arlington  
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 9 day of September, 1995 by William N. Knapp. *Julie DeVoe*

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

JUL 4 3 33 PM '95

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

**SENSITIVE**

**FIRST GENERAL COUNSEL'S REPORT**

MUR: 4249  
DATE COMPLAINT FILED: 8-21-95  
DATE OF NOTIFICATION: 8-24-95  
DATE ACTIVATED: 11-27-95  
STAFF MEMBER: X.McDonnell

COMPLAINANT: William Lingley  
RESPONDENTS: Clinton/Gore '96 Primary Committee, Inc. and  
Joan Pollitt, as treasurer  
King 5 Television  
RELEVANT STATUTES: 2 U.S.C. § 441d(a)  
11 C.F.R. § 110.11(a)  
INTERNAL REPORTS CHECKED: Disclosure Reports  
FEDERAL AGENCIES CHECKED: None

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed by William Lingley containing allegations suggesting that Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer ("Clinton/Gore," or "Committee") may have violated 2 U.S.C. § 441d(a) in connection with a television advertisement which allegedly aired without a disclaimer in Seattle, Washington during June and July, 1995. The television station which aired the advertisement, King 5-Television ("TV"), was also notified of the complaint. Responses have been received. See Attachments 1 and 2.

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## II. FACTUAL AND LEGAL ANALYSIS

### A. Applicable Law

The Federal Election Campaign Act of 1971, as amended ("The Act") provides that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, direct mailing, or other type of general public political advertising, such communication shall contain a disclaimer in accordance with 2 U.S.C. § 441d(a). If the communication is authorized by a candidate or candidate's committee, it shall clearly state the name of the person who paid for it. 2 U.S.C. § 441d(a)(1). The Commission's regulations provide that such disclaimers "shall appear in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of the person who paid for" such communication. 11 C.F.R. §110.11(a)(1).<sup>1</sup>

### B. Summary of Complaint and Responses

Complainant contends that an advertisement which aired "for about two weeks" on television station King 5-TV in Seattle "was a blatantly political ad that was not identified as such." Complaint at Page 1. Mr. Lingley describes the ad as one featuring "three good people who had been killed by assault weapons [and then] President Clinton came on and told how he was the first President to get a law passed to ban the weapons and get them off the streets." *Id.* Complainant asserts that there was "no mention of pending legislation," and that the "clear message was that President Clinton was doing a great job and, by inference, was a man who

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1. As discussed in more detail below in footnote 3, on December 20, 1995, subsequent to when the Clinton Gore advertisement at issue was aired, the Commission's disclaimer regulations were revised.

should be re-elected." Complaint at 1. The complaint also states: "in my opinion, this was a political ad prepared by someone interested in President Clinton's re-election. Moreover, it was either run by or paid for by someone sympathetic to the same." *Id.* Complainant further states that the ad "suddenly left the air," apparently sometime after he called King 5-TV to inquire about who paid for it. *Id.*

Clinton/Gore acknowledges paying for and authorizing an advertisement which appears to be the ad that is the subject of the complaint. Attachment 1 at 3. The ad is entitled "Victims." However, Clinton/Gore denies that such ad violated the Act. *Id.* According to the Committee, the 30 second ad did in fact contain a disclaimer which met the requirements of Section 441d(a)(1). Clinton/Gore enclosed a videotaped copy of the ad which it claims was shown on King 5-TV. It has also provided the affidavit and certified copy of the transcript of the ad sworn to by William N. Knapp, a partner from the advertising agency which produced the ad in question and purchased the air time. Attachment 1 at 5-6.

The visual portion of the 30 second "Victims" ad opens with photographs of persons who subsequently became victims of assault weapons. As a photograph of each victim appears, the narrator describes them and each assault: "An officer killed in the line of duty. A father gunned down at work. A student shot at school. A mother murdered in cold blood. Victims killed with deadly assault weapons." Attachment 1 at 5. The photographs are shown between flashes of an assault weapon being loaded. The words "Paid for by Clinton/Gore '96 Primary Committee, Inc." appear for roughly four seconds at the very opening of the ad, superimposed on the victims' photographs. *Id.* Next, an American flag and a judge's gavel are shown briefly, and then President Clinton appears seated at his desk in the Oval Office apparently signing the assault

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weapons ban into law. At this point, the narrator asserts "Bill Clinton did something no President has ever been able to accomplish. He passed and signed a tough law to ban deadly assault weapons." Attachment 1 at 5. The next clip is a close-up of President Clinton, who concludes the ad by saying: "Deadly assault weapons off our streets. 100,000 more police on the streets. Expand the death penalty. That's how we will protect America." Attachment 1 at 5; video of Clinton/Gore's 30 second "Victims" ad (available in OGC's docket).<sup>2</sup>

Clinton/Gore contends that, as the script above illustrates, a disclaimer appeared in the opening frame of its "Victims" ad. It claims that the disclaimer appeared in a "clear and conspicuous" manner to give the viewer adequate notice of the identity of those who paid for it. 11 C.F.R. § 110.11(a)(1)(i). Clinton/Gore further asserts that the disclaimer met the Federal Communication Commission's ("FCC") requirements for sponsorship identification of political ads because it lasted four seconds and its letters were roughly four percent of the vertical picture height, in accordance with 47 C.F.R. § 73.1212(a)(2)(ii). The Committee also states that neither the Act nor the Commission's regulations prohibit a disclaimer from appearing at the beginning of a television ad. In his sworn statement, William N. Knapp, the partner in the firm which produced the ad, avers that the aforementioned disclaimer appeared on the ad in question. Attachment 1 at 5-6. In addition, the President of King 5-TV, Anthony R. Twibell, states under penalty of perjury that the video received from Mr. Knapp's firm contained the disclaimer and aired without editing by his television station. Attachment 2. The response of Clinton/Gore also

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2. As the "Victims" ad itself indicates, the law discussed therein (the assault weapon ban, etc.) had already been "passed and signed into law" by the time the ad was aired. Attachment 1 at 5. In fact, the statute in question, the Violent Crime Control and Law Enforcement Act of 1994, became law on September 13, 1994, approximately nine months prior to when this ad was aired. See 42 U.S.C. 13701.

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denies that the ad "suddenly left the air" as the complainant implied, asserting that instead it aired for a period of four weeks as originally scheduled. Attachment 1 at page 3.

**C. Analysis**

The first issue addressed is whether any disclaimer appeared within the "Victims" ad. The sum of the evidence offered by the respondents refutes the complainant's contention that the Clinton/Gore "Victims" ad did not contain any disclaimer. Specifically, Clinton/Gore has produced a videotaped copy of the "Victims" ad which contains a disclaimer, and a sworn statement from a partner in the ad agency involved who avers that the ad contained such a disclaimer. The President of the television station in Seattle which aired the ad provided a similar statement. In contrast, the complainant has not offered any evidence to support his general claim that this was "a blatantly political ad that was not identified as such." Complaint at page 1.

The second issue raised by this matter involves the adequacy of the disclaimer that appeared on Clinton/Gore's "Victims" ad. The disclaimer on the ad in question stated: "Paid for by Clinton/Gore '96 Primary Committee, Inc." The words used within the disclaimer clearly indicate that the ad was paid for by an authorized political committee, and thus generally meet the requirements of 2 U.S.C § 441d(a)(1). The remaining question is whether the disclaimer was "clear and conspicuous" so as to give the viewer "adequate notice" of who paid for the communication. The disclaimer appeared on the screen for roughly four seconds at the opening of this 30 second ad. As Respondents assert, there is nothing in the Act or Commission regulations that prohibits placing a disclaimer in the opening segment of an ad, as was done with

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the ad in question. The disclaimer on Clinton/Gore's "Victims" advertisement provides adequate notice of who paid for it, and thus meets the requirements of 11 C.F.R. § 110.11(a)(1)(i).<sup>3</sup>

Finally, in a footnote of its response Clinton/Gore offers an alternative argument, asserting that although the "Victims" ad contained a Section 441d(a) disclaimer such was not required because the ad in question did not even "expressly advocate." Attachment 1 at 3, footnote 2. We do not address Clinton/Gore's alternative argument in this matter, however, because the "Victims" ad meets the requirements of Section 441d(a) whether or not it expressly advocated the election or defeat of any candidate.<sup>4</sup> Accordingly, the Office of General Counsel recommends that the Commission find no reason to believe that Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, or King 5 Television, violated 2 U.S.C. § 441d(a) based on the evidence presented in the complaint in MUR 4249.

### III. RECOMMENDATIONS

1. Find no reason to believe that Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, or King 5 Television, violated 2 U.S.C. § 441d(a) based on the evidence presented in the complaint in MUR 4249.

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<sup>3</sup> Because the Commission's revised disclaimer rules did not become effective until December 20, 1995, they have not been applied to Clinton/Gore's "Victims" ad, which aired during June and July of 1995. Under the revised rules, a disclaimer for a television ad is considered to be "clear and conspicuous" if it meets the FCC's size and timing requirements for candidate ads as set forth at 47 C.F.R. § 73.1212(a)(2)(ii). See 11 C.F.R. § 110.11 (a)(5)(iii) (1995). The FCC's regulations require sponsorship identification to appear on the screen for roughly four seconds and require that the letters of the disclaimer equal four percent of the vertical picture height. As Respondents assert, the "Victims" ad appears to meet those FCC requirements.

<sup>4</sup> This airing of the "Victims" ad also predates the effective date for the Commission's revised regulation at 11 C.F.R. 100.22, which addresses what speech constitutes "express advocacy." That regulation became effective on October 5, 1995.

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- 2. Approve the appropriate letters.
- 3. Close the file.

Lawrence M. Noble  
General Counsel

1/4/96  
Date

By:   
Lois G. Lerner  
Associate General Counsel

Attachments:

- Clinton/Gore's response
- King-5 TV's response

96043721097

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Clinton/Gore '96 Primary Committee, ) MUR 4249  
Inc. and Joan Pollitt, as treasurer; )  
King 5 Television. )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 16, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4249:

1. Find no reason to believe that Clinton/Gore '96, Inc. and Joan Pollitt, as treasurer, or King 5 Television, violated 2 U.S.C § 441d(a) based on the evidence presented in the complaint in MUR 4249.
2. Approve the appropriate letters, as recommended in the General Counsel's Report dated January 4, 1996.
3. Close the file.

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

Attest:

1-16-96  
Date

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

Received in the Secretariat:	Thurs., Jan. 04, 1996	3:33 p.m.
Circulated to the Commission:	Fri., Jan. 05, 1996	12:00 p.m.
Deadline for vote:	Wed., Jan. 10, 1996	4:00 p.m.
Deadline Extended:	Tues., Jan. 16, 1996	4:00 p.m.

lrd

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**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

January 22, 1996

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

William Lingley  
4444 29th Avenue, S.E.  
Lacey, WA 98503

RE: MUR 4249

Dear Mr. Lingley:

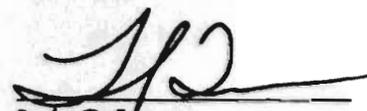
On January 16, 1996, the Federal Election Commission reviewed the allegations of your complaint dated August 16, 1995, and found that on the basis of the information provided in your complaint, and information provided by the Clinton/Gore '96 Primary Committee, Inc., and King 5 Television, that there is no reason to believe that the Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, or King 5 Television violated 2 U.S.C. § 441d(a). Accordingly, on January 16, 1996, the Commission closed the file in this matter.

The Federal Election Campaign Act of 1971, as amended ("the Act") allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosure  
General Counsel's Report

96043721039



FEDERAL ELECTION COMMISSION  
Washington, DC 20483

January 22, 1996

Bobby R. Burchfield, Esq.  
William H. Fitz, Esq.  
Covington & Burling  
1201 Pennsylvania Ave., N.W.  
Washington, DC 20044-7566

RE: MUR 4249  
King 5 Television

Dear Mr. Burchfield and Mr. Fitz:

On August 24, 1995, the Federal Election Commission notified King 5 Television, your client, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On January 16, 1996, the Commission found, on the basis of the information in the complaint, and information provided by you on behalf of your client, that there is no reason to believe King 5 Television violated 2 U.S.C. § 441d(a). Accordingly, the Commission closed its file in this matter.

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

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

Lois G. Lerner  
Associate General Counsel

Enclosure  
General Counsel's Report

96043721070



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

January 22, 1996

Lyn Utrecht, Esq.  
Oldaker, Ryan & Leonard  
818 Connecticut Ave., N.W.  
Suite 1100  
Washington, DC 20036

RE: MUR 4249  
Clinton/Gore '96 Primary Committee, Inc., and  
Joan Pollitt, as treasurer

Dear Ms. Utrecht:

On August 24, 1995, the Federal Election Commission notified the Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, your clients, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On January 16, 1996, the Commission found, on the basis of the information in the complaint, and information provided by you on behalf of your clients, that there is no reason to believe Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, violated 2 U.S.C. § 441d(a). Accordingly, the Commission closed its file in this matter.

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

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosure  
General Counsel's Report

cc: Eric F. Kleinfeld, Esq.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4249

DATE FILMED 2/8/96 CAMERA NO. 4

CAMERAMAN 2L7

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