



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4361

DATE FILMED 9-17-97 CAMERA NO. 4

CAMERAMAN JmW

970436421

Mr & Mrs Howard F. Stearns
109 Sterling Drive NW
Huntsville, Alabama 35806

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

APR 25 9 55 AM '96

April 21, 1996

Federal Election Commission
999 E. Street NW, Rm 719
Washington, DC 20463

Gentlemen:

On Saturday evening, April 20, 1996, ABC television news blatantly included what we consider to be an unpaid political advertisement for presidential candidate Bill Clinton.

The "news" was deliberately planned and biased to favor Clinton. ABC repeatedly, 4 or 5 times, (We wish we had recorded it) presented ideas originated by Republican candidate Bob Dole and then presented instant biased rebuttals by Clinton Administration appointees. The newscasters' descriptions were obviously biased against Dole.

Clinton has a huge war chest, doesn't have to spend on a primary and doesn't really need unethical help from public-owned airways.

We are certain that neither ABC or the Democratic Party will report this contribution to the FEC. Therefore, we ask that the FEC investigate what we feel is an unethical and illegal campaign contribution.

Most sincerely,

Howard F. Stearns
M/M Howard F. Stearns

970430003422



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 2, 1996

Howard F. Stearns
109 Sterling Drive NW
Huntsville, Alabama 35806

Dear Mr. Stearns:

9704033423
This is to acknowledge receipt on April 25, 1996, of your letter dated April 21, 1996. 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 did not contain a notarization on your signature and was not properly sworn to.

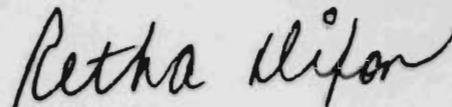
In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this ____ day of ____, 19__." A statement by the notary that the complaint was sworn to and subscribed before him/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.

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

Sincerely,



Retha Dixon
Docket Chief

Enclosure

cc: ABC
DNC Services

9704363424

Howard F. Stearns
109 Sterling Drive NW
Huntsville, Alabama 35806

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 13 3 08 PM '96

May 8, 1996

MUR 4361

Federal Election Commission
999 E. Street NW, Rm 719
Washington, DC 20463

Gentlemen:

On Saturday evening, April 20, 1996, ABC television news blatantly included what I consider to be an unpaid political advertisement for presidential candidate Bill Clinton.

It was obvious to me that the "news" was deliberately planned and biased to favor Clinton. ABC repeatedly, 4 or 5 times, (I wish I had recorded it) presented ideas originated by Republican candidate Bob Dole and then presented biased rebuttals by ABC "newscasters" and by Clinton Administration appointees. The newscasters' descriptions were obviously biased against Dole.

Because the political advertisement consumed approximately five minutes of prime time, it was probably worth over a million dollars. Clinton has a huge war chest, doesn't have to spend on a primary and doesn't really need unethical help from public-owned airways.

I am certain that neither ABC or the Democratic Party will report this contribution to the FEC. Therefore, I ask that the FEC investigate what I feel is an unethical and illegal campaign contribution.

Most sincerely,

Howard F. Stearns
Howard F. Stearns

Subscribed and sworn before me this 8th day of May 1996.

Diane A. Paraguirre
My Commission expires 2-17-97

970433425



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 17, 1996

Howard F. Stearns
109 Sterling Drive, NW
Huntsville, AL 35806

RE: MUR 4361

Dear Mr. Stearns:

This letter acknowledges receipt on May 13, 1996, 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 4361. 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,

A handwritten signature in black ink, appearing to read "Colleen T. Sealander".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

970433426



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 17, 1996

Thomas S. Murphy, Chairman
Capital Cities/ABC, Inc.
77 West 66th Street
New York, NY 10023

RE: MUR 4361

Dear Mr. Murphy:

The Federal Election Commission received a complaint which indicates that ABC-TV Inc., 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 4361. Please refer to this number in all future correspondence.

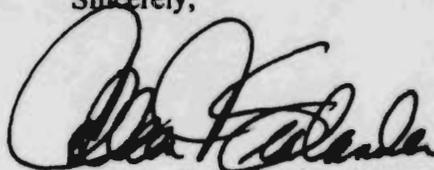
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against ABC-TV Inc., in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted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

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

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 17, 1996

R. Scott Pastrick, Treasurer
DNC Services Corporation
430 S. Capitol Street, SE
Washington, DC 20003

RE: MUR 4361

Dear Mr. Pastrick:

The Federal Election Commission received a complaint which indicates that DNC Services Corporation 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 4361. Please refer to this number in all future correspondence.

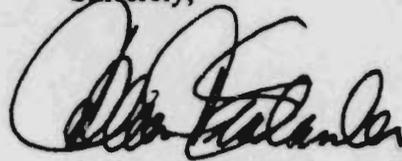
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against DNC Services Corporation and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate,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

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

9704333429

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

97040030430



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 17, 1996

Lyn Utrecht, Esquire
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, NW
Suite 1100
Washington, DC 20036

RE: MUR 4361

Dear Ms. Utrecht:

The Federal Election Commission received a complaint which indicates that Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, 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 4361. Please refer to this number in all future correspondence.

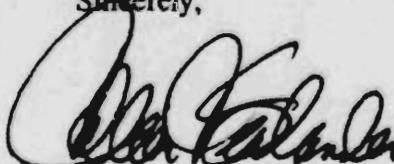
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

970433431

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

9704053432



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 17, 1996

Eric F. Kleinfeld, Esquire
Chief Counsel
Clinton/Gore '96
P.O. Box 19300
Washington, DC 20036

RE: MUR 4361

Dear Mr. Kleinfeld:

The Federal Election Commission received a complaint which indicates that Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, 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 4361. Please refer to this number in all future correspondence.

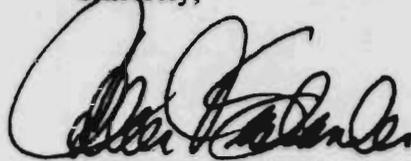
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

970433434

CLINTON GORE '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAY 30 3 17 PM '96

May 30, 1996

Lawrence M. Noble, Esquire
Office of General Counsel
Federal Election Commission
999 E St., N.W.
6th Floor
Washington, D.C. 20463

RE: MUR 4361
Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer

Dear Mr. Noble:

This letter requests an extension of time on behalf of the Clinton/Gore '96 Primary Committee, Inc. (the "Committee") and Joan Pollitt, Treasurer to respond to the complaint filed by Howard Stearns.

Due to commitments by counsel outside of Washington, D.C. at the time the response is due and our need to obtain and adequately review the videotape complained of, in order to file a complete response, we hereby request an extension of time of fifteen days. Accordingly, we propose to file our response on June 19, 1996.

If you have any questions concerning this matter, please contact me at (202) 728-1010.

Sincerely,

Lyn Utrecht
Lyn Utrecht
General Counsel

97040030430

P.O. Box 19300 • WASHINGTON, D.C. 20036-9300 • 202 · 331 · 1996 • FAX: 202 · 496 · 4849

PAID FOR BY THE CLINTON/GORE '96 PRIMARY COMMITTEE, INC. • CONTRIBUTIONS TO CLINTON/GORE '96 ARE NOT TAX-DEDUCTIBLE.



DEMOCRATIC * NATIONAL * COMMITTEE

Donald L. Fowler, National Chair • Christopher J. Dodd, General Chair

May 30, 1996

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

Attention: Colleen T. Sealander, Esq.

Re: MUR 4361

Dear Ms. Sealander:

This will respond to the complaint filed against Democratic National Committee/DNC Services Corporation in the above-referenced MUR, transmitted with your letter dated May 17, 1996. A Statement of Designation of Counsel is enclosed.

The complaint alleges that an ABC news program broadcast on April 20, 1996, was in some way biased in favor of President Clinton and against Senator Bob Dole. On its face, the complaint fails to set forth any set of facts which could establish any violation of the Federal Election Campaign Act of 1971, as amended (the "Act") or the Commission's regulations. The Act exempts from the definition of "expenditure" 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). This exemption is further implemented in the Commission's regulations, which exempt such news programs from the definitions of "contribution" and "expenditure." 11 C.F.R. §§ 110.7(b)(2) and 100.8(b)(2).

It is manifest that ABC, and the affiliated broadcasting stations which carry its news and other programs, are covered by this exemption. ABC is not owned or controlled by any political party, and in broadcasting news programs it (and its affiliated stations) are clearly acting as a press entity. Accordingly, no degree of alleged bias or other aspect of the content of the network's programs can result in any contribution or expenditure subject to the limits or prohibitions of the Act. See, e.g., FEC

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COUNSEL

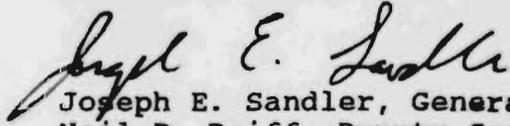
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Colleen Sealander, Esq.
May 30, 1996
Page 2

v. Phillips Publishing Company, 517 F. Supp. 1308 (D.D.C. 1981).

For these reasons, the Commission should find no reason to believe that the DNC has committed any violation of the Act or the Commission's regulations, and should dismiss the complaint.

Sincerely yours,



Joseph E. Sandler, General Counsel
Neil P. Reiff, Deputy General Counsel
Democratic National Committee

Counsel for Respondent DNC Services
Corporation

9704363437

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4361

NAME OF COUNSEL: Joseph E. Sandler, General Counsel
Neil P. Reiff, Deputy General Counsel

FIRM: Democratic National Committee

ADDRESS: 430 S. Capitol Street, S.E.
Washington, D.C. 20003

TELEPHONE: (202) 863-7110

FAX: () 202 863-8081

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAY 30 4 40 PM '96

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.

May 30, 96
Date

[Signature]
Signature

RESPONDENT'S NAME: DNC Services Corporation

ADDRESS: 430 S. Capitol Street, S.E.
Washington, D.C. 20003

TELEPHONE: HOME ()

BUSINESS ()

9704000433



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1996

Lyn Utrecht, Esquire
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, N.W.
Suite 1100
Washington, DC 20036

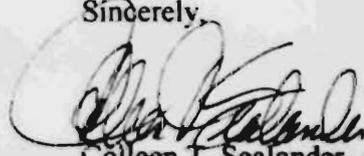
RE: MUR 4361
Clinton/Gore '96 Primary Committee, Inc.
and Joan Pollitt, as treasurer

Dear Ms. Utrecht:

This is in response to your letter dated May 30, 1996, requesting an extension until June 19, 1996, 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 19, 1996.

If you have any questions, please contact the Central Enforcement Docket at (202) 219-3400.

Sincerely,


Colleen T. Sealander, Attorney
Central Enforcement Docket

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

970436439



John W. Zucker
Senior General Attorney
Law-Journalism

May 31, 1996

Lawrence M. Noble Esq.
Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 4361

Dear Mr. Noble:

I write on behalf of Capital Cities/ABC, Inc. ("ABC") in response to the complaints filed with the Federal Election Commission ("FEC") by Howard F. Stearns of Huntsville, Alabama. In those complaints, dated April 21, 1996, and May 8, 1996, Mr. Stearns asserted that the "ABC television news" of Saturday evening, April 20, 1996, contained "what I feel is an unethical and illegal campaign contribution" to the campaign of President Bill Clinton. This "contribution," Mr. Stearns contends, consisted of an ABC news report that was "deliberately planned and biased to favor Clinton" and that "4 or 5 times...presented ideas originated by Republican candidate Bob Dole and then presented biased rebuttals by ABC 'newscasters' and by Clinton Administration appointees."

As is apparent on the face of these complaints, Mr. Stearns has presented no valid claim under the Federal Election Campaign Act ("FECA"). What he contends was an illegal campaign contribution was instead the kind of news reporting and analysis by a professional media organization which FECA expressly excludes from its definition of campaign expenditures or contributions.

That exclusion is found at 2 U.S.C. §431(9)(B)(i), which exempts from the reach of the Act "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."¹

This provision was intended "to make it plain that it is not the intent of Congress in [FECA] to limit or burden in any way the first amendment freedoms of the press or of association. [The

¹ See also 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2) ("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").

June 3
MAY 31 11 42 AM '96

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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Lawrence M. Noble, Esq.
May 31, 1996
Page -2-

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, p. 4 (1974).

There can be no question that the broadcast at issue -- the April 20, 1996 edition of the ABC News "World News Saturday" evening newscast -- falls squarely within this statutory media exemption.

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ABC News is a division of American Broadcasting Companies, Inc., a wholly owned subsidiary of Capital Cities/ABC, Inc., which in turn is wholly owned by the Walt Disney Company; its broadcast facilities are neither owned nor controlled by any political party, political committee, or candidate. Therefore, as courts and the Commission have recognized repeatedly, the sole issue under FECA's media exemption is 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., FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 250-51 (1986); Reader's Digest Association, Inc. v. FEC, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981); AO 1982-44; AO 1980-109. Clearly, the news report in question, part of the weekly ABC News Saturday evening newscast, broadcast from the facilities of ABC News in New York and disseminated over the ABC Television Network, qualifies as a "normal business activity of a press entity," FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. at 251 n.5, and therefore cannot be considered a campaign contribution under FECA.

A transcript of the broadcast itself is attached hereto as Attachment A. Although Mr. Stearns fails to identify the portions of the broadcast he considers illegal campaign contributions, his complaint apparently alludes to the news report by ABC News correspondent John Cochran which appears on pages 6-7 of the transcript regarding Bob Dole's criticism of Clinton judicial appointees as "too liberal," Mr. Clinton's defense of his appointment record, and the standing of the two candidates with the National Rifle Association. Far from an illegal campaign contribution, this report provide a classic example of news coverage of political campaign events and issues. Contrary to Mr. Stearns' criticism of the report as "obviously biased," ABC believes it was in fact balanced and even-handed; it presented both sides of the debate about the President's record on judicial appointments and crime and even included the same number of "sound bites" (two each) from Mr. Dole and Mr. Clinton, as well as statements by their respective supporters. Of course, even if this news report could be deemed one-sided or partisan,

Lawrence M. Noble, Esq.
May 31, 1996
Page -3-

it would still be protected under FECA's media exemption, which explicitly covers media editorials and commentary as well as news reports.

The broadcast in question represents an exercise by ABC News of its "unfettered right...to cover and comment on political campaigns." H.R. Rep. No. 93-1239, id. at 4. It is protected by the First Amendment and explicitly exempted by Congress from the reach of FECA. The complaints by Mr. Stearns should be summarily dismissed.

Sincerely,



John W. Zucker

cc: Colleen T. Sealander, Esq.
Attorney, General Enforcement Docket

970053444

**World News Saturday
EST Edition**

ATTACHMENT A

AARON BROWN: *[voice-over]* Another day of warfare along the Israeli-Lebanese border, as the diplomatic effort to reach a cease-fire intensifies; in Moscow, President Clinton and other world leaders reach a landmark agreement to stop nuclear testing; and the auction — the insatiable desire for anything Kennedy.

ANNOUNCER: From ABC, this is World News Saturday. Here's Aaron Brown.

AARON BROWN: Good evening. After 10 days of intense and deadly fighting along the Israeli-Lebanese border, there is some hope tonight that the extraordinary diplomatic effort to stop the fighting will be successful. Secretary of State Warren Christopher is in Syria, representing the United States in what is becoming a virtual international summit on the Middle East.

ABC's David Ensor is in the Syrian capital.

DAVID ENSOR, ABC News: *[voice-over]* For those seeking an end to the bloodshed, Damascus was the center of gravity today: an unprecedented gathering in one city of seven foreign ministers, all drawn by the week's carnage, to work on a cease-fire, ranging from Israel's closest ally, the United States, to European nations, including Russia, to Iran's foreign minister, whose government has supplied Hezbollah with the rockets it fires against Israel and with whom U.S. officials said they do not intend to meet.

The gathering was a tribute to the central importance to peace of one man, Syria's Hafez al-Assad. With 35,000 troops in Lebanon, Assad could, many believe, force Hezbollah to stop firing rockets at Israel, if he wanted to. Secretary of State Warren Christopher promised shuttle diplomacy between Damascus and Jerusalem to stop the shooting, but he said it will not be easy.

WARREN CHRISTOPHER, Secretary of State: I don't take it for granted that we could get a cease-fire, and I expect some difficult discussions over the next 24 or 48 hours.

DAVID ENSOR: *[voice-over]* Only with a cease-fire can Christopher start work again on the more ambitious goal of a permanent Middle East peace. But some Middle East observers argue that by not criticizing Israel for the shells that killed so many Lebanese civilians this week, the U.S. may have weakened itself as a mediator in Arab eyes.

SHIBLEY TELHAMI, Cornell University: It looks like we're not paying attention to their internal problems, to their humanitarian consequences, because innocent civilians are paying the price — 10 percent of Lebanon's population, you know, is — is homeless.

DAVID ENSOR: *[voice-over]* U.S. officials respond that Israel will only trust American mediation, and that Christopher is in the Middle East trying to save Lebanese as well as Israeli lives.

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[on camera] Public U.S. officials said they were delighted that Europeans like the French foreign minister are here, working on peace, but there was private irritation that the French are making their own proposals on terms for a cease-fire. Tomorrow, Secretary Christopher plans to carry his shuttle diplomacy to Jerusalem.

David Ensor, ABC News, Damascus.

AARON BROWN: The Israelis said again today what they have said before. They will stop their attacks on southern Lebanon when Hezbollah guerrillas stop their rocket attacks into northern Israel. Neither happened today.

From Lebanon tonight, ABC's Richard Gizbert.

RICHARD GIZBERT, ABC News: [voice-over] In Tyre, trucks carrying relief supplies to refugees narrowly escaped the shelling. While Israeli jets raided the hills of south Lebanon today, Israeli gunboats just offshore intensified their artillery attacks. They were aiming in the vicinity of the main coastal highway, nowhere near Hezbollah fighters and their rocket launchers.

[on camera] By shelling the road, the Israeli military wants to block the flow of people from north to south, where the fighting is.

[voice-over] Blocking the road would cut off Hezbollah fighters from new supplies, but it also blocks food aid from reaching the people who need it. Among those waiting for the road to open, one family that fled the fighting four days ago, trying to get back home today, despite the danger.

"Our situation is bad. We have no money," the father said "We left our village, but it is better to go back and die there. We are human beings, not animals."

In Beirut, students protested, not only against Israel, but against western governments, including the United States, for not condemning the Israeli military's killing of civilians.

1st LEBANESE STUDENT: The whole world should see and understand that we do not accept these military actions of Israel.

2nd LEBANESE STUDENT: Not only Hezbollah is resisting, all the Lebanese are resisting now.

RICHARD GIZBERT: [voice-over] In the Middle East, where funeral processions often resemble political rallies, Hezbollah supporters paraded through south Beirut today with the remains of a fighter killed in action against the Israeli military.

"Death to Israel, death to America," they chanted. Then they buried their martyr. But the way things go here, cease-fire or not, there will be no shortage of volunteers to take his place.

Richard Gizbert, ABC News, Beirut.

AARON BROWN: The violence in the Middle East nearly overshadowed today's summit in Moscow—

[voice-over] —where global nuclear security was topic A; that story when we come back. Later: the newest issue in the presidential campaign — judging the judges; and tonight, hail to the taxis.

[Commercial break]

AARON BROWN: In Moscow today, President Clinton and other world leaders say they have made the world a little safer from the

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nuclear threat. The heads of state from the richest industrialized countries joined Russia today in reaching a landmark agreement on nuclear testing.

Here's ABC's Brit Hume.

BRIT HUME, ABC News: *[voice-over]* They met in a Kremlin chamber so splendid that President Clinton could not help gazing up in wonder.

Pres. BILL CLINTON: This is an amazing room. Awesome.

BRIT HUME: *[voice-over]* Recent restoration has left this room, including its domed ceiling, looking as it did before the Russian revolution. The eight leaders gathered here at Boris Yeltsin's invitation agreed to back a treaty banning nuclear testing of any kind, something Russia has, until now, resisted, and they agreed to intensify their cooperation to stop nuclear materials from falling into the wrong hands. But as Yeltsin made clear afterward, these pledges of cooperation do not mean Russia will halt its sale of nuclear technology to Iran. Indeed, Yeltsin said, that wasn't even discussed.

BORIS YELTSIN: *[through interpreter]* We are operating under contracts with Iran, and we intend to go through with it.

BRIT HUME: *[voice-over]* For his part, President Clinton hailed this meeting as a major step toward world nuclear safety.

Pres. BILL CLINTON: This important summit has put these issues of nuclear safety at the top of the international agenda. Today, we took yet another step back from the nuclear precipice.

BRIT HUME: *[voice-over]* He insisted the summit's accomplishments overshadowed the clear disagreement with Yeltsin over the Iran deal.

Pres. BILL CLINTON: On balance, we've gotten a lot more progress out of this nuclear relationship with the Russians than this one setback would indicate, number one; and number two, he didn't say one thing and do another here. They—I mean he's publicly said what they were going to do, so there's no evidence of dishonesty on the part of the Russian position whatever. I just think they're wrong.

BRIT HUME: *[voice-over]* Mr. Clinton did have time for the obligatory walk through Red Square, a photo opportunity no American president has been able to resist.

[on camera] Much of the drama went out of these Moscow summits when the cold war ended, but the very subject of this one, nuclear safety, is proof that some cold-war dangers have still not ended.

Brit Hume, ABC News, Moscow.

AARON BROWN: Also at the summit, Ukraine's president promised again to close the damaged Chernobyl nuclear plant by the year 2000 if the West helps pay the price. It has been 10 years this week since the fire at Chernobyl, the worst nuclear accident in history, and from the *Bulletin of Atomic Scientists* comes this warning: the risk of a major nuclear accident in the former Soviet Union is greater today than a decade ago.

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In Russia, ABC's Gillian Findlay.

GILLIAN FINDLAY, ABC News: *[voice-over]* Three hundred miles from Moscow, at the Kursk nuclear power plant, workers say not a day goes by when they don't think about Chernobyl. The four reactors at this plant are of the same design, the same vintage, and even though they've been modified in the last 10 years, no one pretends another accident is impossible.

VALERY GALBERG, Acting Chief Engineer: *[through interpreter]* This plant is old. Block one was designed a long time ago. Of course it's impossible to observe all the modern safety requirements.

GILLIAN FINDLAY: *[voice-over]* With the help of the West, the 15 Chernobyl-type reactors still operating in the former Soviet Union are being upgraded, slowly. But experts say there are certain design flaws that can't be overcome, including an emergency cooling system that's not adequate, a graphite core that is a fire hazard, and no containment shell that would cover the reactor to prevent nuclear material escaping if an accident occurs.

But the biggest threat, experts say, comes not from the plant, but the people who operate it. Like many Russian workers, operators at Kursk often go months at a time without being paid. Last year was so bad, some went on a hunger strike.

YEVGENY ADAMOV, Russian Nuclear Advisor: *[through interpreter]* Do you think people who have not been paid for three months work as they should? That's what worries me.

GILLIAN FINDLAY: *[voice-over]* The Russians are gambling, analysts say, that they can run the reactors without another serious accident.

THOMAS COCHRAN, Nuclear Physicist: If they are right, they will have saved a little money. If they are wrong, it will be another Chernobyl disaster.

GILLIAN FINDLAY: *[voice-over]* In Russia, nuclear power provides 12 percent of the energy. Shutting down the old reactors would cost billions of dollars. In fact, at Kursk they are putting the finishing touches on a new Chernobyl-type reactor, scheduled for start-up in two years. A decade after the world's worst nuclear accident, Russia is expanding its nuclear program, using the same technology that destroyed so much.

Gillian Findlay, ABC News, Kursk.

AARON BROWN: In Washington, the nasty side of the Capitol's budget impasse — that story when we come back.

[Commercial break]

AARON BROWN: The past 24 hours have brought dangerous and deadly weather to parts of the Midwest and the South.

[voice-over] Tornadoes killed at least two people and destroyed hundreds of homes in at least seven states. In Decatur, Illinois, a funnel cloud touched down, damaging at least 200 homes. In Indianapolis, twisters destroyed homes and businesses. But Berea, Kentucky, population, 8,000, was hit the hardest. A tornado damaged or destroyed as many as 1,000 homes there, but remarkably, no one was seriously hurt.

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President Clinton have been in Moscow, but he all has to deal with the presidential campaign.

Yesterday, in what his aides called a major policy speech, Senator Bob Dole attacked Mr. Clinton's judicial appointments. "Too liberal," said Dole, "a hail of shame," not the kind of tough conservative judges Dole said he would name if elected.

Here's ABC's John Cochran.

JOHN COCHRAN, ABC News: *[voice-over]* In Moscow, President Clinton said his judicial appointments must not be so liberal if Bob Dole voted for them.

Pres. BILL CLINTON: Senator Dole voted for 98 percent of the judges that I appointed.

JOHN COCHRAN: *[voice-over]* Doesn't matter, says Dole.

Sen. BOB DOLE, (R), Presidential Candidate: *[Friday]* And out of a deference to the President's constitutional prerogative, I have not opposed most of President Clinton's judicial nominees. But the fact is, when it comes to what kind of judges we want to appoint to the federal bench, President Clinton and I fundamentally differ.

JOHN COCHRAN: *[voice-over]* The President contends he has not appointed judges who are soft on criminals.

Pres. BILL CLINTON: The rating systems for judges, going back to the Eisenhower administration, by the American Bar Association, indicate that I have appointed the best-qualified judges of any president since Mr. Eisenhower was in this job.

JOHN COCHRAN: *[voice-over]* But in his speech, Dole also attacked the American Bar Association, saying the ABA should no longer be permitted to review potential appointees.

Sen. BOB DOLE: The ABA has become nothing more than another blatantly partisan liberal advocacy group.

JOHN COCHRAN: *[voice-over]* Not true, says the ABA president.

ROBERTA COOPER RAMO, President, American Bar Association: The ABA is composed of people from both major political parties, and people of all sorts of political views, all along the spectrum.

JOHN COCHRAN: *[voice-over]* Dole, of course, is trying to do what Republicans always try to do, make law and order their issue. But Democrats are already fighting back.

ACTOR: *[Clinton political ad]* A hundred thousand new police, because President Clinton delivered. Dole and Gingrich vote no, want to repeal it.

Strengthen school anti-drug programs. President Clinton did it. Dole and Gingrich? No again.

JOHN COCHRAN: *[voice-over]* Note the attempt to tie Dole to Newt Gingrich, who shows up poorly in popularity polls. Democrats also want to link Dole and Gingrich to the National Rifle Association.

GEORGE STEPHANOPOULOS, Senior White House Advisor: They opposed the assault weapons ban, they opposed the Brady bill, they tried to water down the counterterrorism act, they

opposed putting po on the streets. They opposed stopping cop-killer bullets, because of their ties to the National Rifle Association, and they're out of step with the mainstream of the country.

JOHN COCHRAN: So, on crime, each side is trying to declare the other guilty by association — Dole's association with Gingrich and the gun lobby, and the President's close ties with lawyers, another group whose image needs a lot of work.

John Cochran, ABC News, Washington.

AARON BROWN: The National Rifle Association has yet to endorse a presidential candidate, but when its members met at their annual convention in Dallas today to celebrate the organization's 125th birthday, there was no doubt Bob Dole is their man.

WAYNE La PIERRE, NRA Executive Vice President: One wears the label of the most anti-gun president in United States history. The other wears two Purple Hearts, the Bronze Star with an oak leaf cluster.

AARON BROWN: The NRA has lost about half a million members over the past year, but few question its political clout. The gun lobby has succeeded in convincing 30 states to allow concealed firearms, 10 within the past year.

In Washington, the tourist season has started, and this year, along with the usual sights — the Capitol, the White House and the cherry blossoms — visitors are likely to see something else, something ugly.

[voice-over] In the spring, at a time when the Capitol looks its best, the swastikas appear to be everywhere, along D.C. streets and in its alleys, and on its phone booths.

DAVID FRIEDMAN, Anti-Defamation League: It is hard to imagine that this nation's capital, the symbol of democracy to the entire world, would allow swastikas to appear on its streets, as though this was Berlin in the early 1930s.

AARON BROWN: *[voice-over]* It is not, of course, that city officials want swastikas around the city, nor is it possible to know whether there are more swastikas than there have ever been before. It may simply be that the city can no longer afford to wipe away the hate that has been there all along.

ART LAWSON, Department of Public Works: We cannot address graffiti, in terms of the explosion that we're having across the city, with the budget we're having, but we— we do it where we can.

AARON BROWN: *[voice-over]* This week, city workers were out wiping away as many swastikas as time and budgets would allow. Next week, volunteers will attempt to do the rest.

[on camera] When we come back, on the road to the American dream.

[Commercial break]

AARON BROWN: It can now be said that Jimmy Carter, in addition to all his other talents, has good hands.

[voice-over] That's what Atlanta Braves catcher Javi Lopez said, anyway, after the former President caught a foul ball bare-handed during a Pirates-Braves game last night in Atlanta.

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[on camera] No, we can't actually see it happen. We take his word for it.

Big day for professional football, the NFL draft.

[voice-over] The New York Jets got the first pick and selected USC wide receiver Keyshawn Johnson. The controversial choice of the day was Lawrence Phillips, who last year pleaded no contest to charges he assaulted a former girlfriend. The NFL suggested he stay away from the proceedings today because of the controversy—

[on camera] —but it did not scare away the St. Louis Rams, who made the Nebraska running back their first-round choice, the sixth player taken overall in the draft.

The NFL's newest players will soon sign contracts worth millions of dollars, which, of course, will bring them a whole new set of problems — where to invest their money. We offer a modest suggestion. Consider a New York City cab. For the first time in almost 50 years, the city which often seems choked by yellow cabs will allow hundreds of new ones on the streets.

Here's ABC'S Kevin Newman.

KEVIN NEWMAN, ABC News: [voice-over] For almost 50 years, it's been among the best buys on Wall Street, or any other street in New York City. It's the blue medallion plate bolted to the hood of almost 12,000 taxis, the license to make money.

FAROOQ BHATTI: If I'm operating medallion, my income will be doubled up in the city of New York. That is the value and that is the beauty of medallion.

KEVIN NEWMAN: [voice-over] But Farooq Bhatti, like most cab-drivers, doesn't own one. He has to pay the owner of the medallion \$700 a week, in what amounts to a franchise fee.

[interviewing] How much is that a year?

FAROOQ BHATTI: It's \$33,600, in my calculation.

KEVIN NEWMAN: [voice-over] Which leaves, for most drivers, less than \$20,000 to live on.

FAROOQ BHATTI: It is very poor living. It's a very, very poor living.

KEVIN NEWMAN: [voice-over] But next month, for the first time in half a century, New York City is selling new medallions, 400 of them, and it's created a financing frenzy, as banks compete to offer hopeful drivers mortgage-sized loans for 10, 20 or 30 years.

BANK EMPLOYEE: And I can give you, basically, what your monthly payments will be.

KEVIN NEWMAN: [voice-over] The asking price is about \$200,000, but it's a solid investment. In 1948, the last time new medallions were for sale, they cost only \$10.

But is there room for more taxis? A million cars a day try to move around Manhattan, 'try' being the key word there. And the island's 500 miles of streets are already a wash of yellow.

Michael Higgins drives a cab and also produces a local cable broadcast for taxi drivers. He's taping at the taxi pen at New York's LaGuardia Airport.

MICHAEL HIGGINS: So, what do you think? Too many cabs?

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Do you think the [redacted] just enough?

1st NYC TAXI DRIVER: There's too many cabs, you know.

2nd NYC TAXI DRIVER: And not enough people.

3rd NYC TAXI DRIVER: More medallions is going to kill this medallion.

MICHAEL HIGGINS: They're going to kill the medallions on the road right now?

3rd NYC TAXI DRIVER: Sure. Sure.

KEVIN NEWMAN: *[voice-over]* The drivers who already own medallions worry their value will fall when the new ones hit the streets.

MICHAEL HIGGINS: You could say this— this baby right here is a stock certificate of— of 11,797 cabs. Once you start diluting the market, it's going to have a bad effect on the price of the medallion.

KEVIN NEWMAN: *[voice-over]* But New York's mayor, who remembers trying to hail a cab for almost an hour more than once, insists New York streets can handle more taxis.

Mayor RUDOLPH GIULIANI, (R), New York: I've got plenty of people telling me — this is almost a refrain in New York City — "You can't get a taxi when you need one."

KEVIN NEWMAN: This has got to be the toughest place in America to drive a cab.

FAROOQ BHATTI: Well, I agree with you.

KEVIN NEWMAN: *[voice-over]* But Farooq Bhatti believes even these roads can lead to riches. He's among those hoping to finally own a medallion when they're auctioned in May.

[interviewing] What will it mean to you, to own a medallion?

FAROOQ BHATTI: It means to me my future, my career, my life. I can become a very fine and good taxi driver in the city of New York.

KEVIN NEWMAN: *[voice-over]* Kevin Newman, ABC News, New York.

AARON BROWN: When we come back—

[voice-over] —the auction of a lifetime.

[Commercial break]

AARON BROWN: Finally tonight, what seems to be the oddest sort of mix between history and a garage sale. Starting next week, Sotheby's auction house will begin selling hundreds of bits and pieces of Jacqueline Kennedy's life. Rarely has an auction generated so much attention, which we suspect says far more about the buyers than it could ever say about the owner.

[voice-over] It is not surprising that 400 news crews from 40 countries were sent to cover the event, and not surprising that 40,000 people are expected to pay for just the chance to view the exhibit.

DIANA BROOKS, Sotheby's President: Well, I think that this sale is unlike any other auction sale in history, because of the enormous amount of public interest.

AARON BROWN: *[voice-over]* It was that way in life, and it remains that way two years after her death.

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AUCTION ATTEN E: I think it's a part of America that disappeared when she died, a time of great dignity and a time of great beauty, and so owning anything that belonged to her would be a wonderful thing to have.

AARON BROWN: *[voice-over]* Sotheby's estimates \$5 million or more will be spent for the things her children didn't want — some jewelry, furniture, art, her books — items that reveal just a wee bit more about a woman so reluctant to reveal much of herself.

DIANA BROOKS: I think people are amazed that there could be 3,000 books. She was a reader of books, not necessarily a collector, a lover of history, with certainly a great deal of whimsy.

AARON BROWN: *[voice-over]* She was, she used to say, a mother first and foremost, and there are mother's things — a daughter's baby furniture, a son's high chair, a rocking horse, family things. There is history — a desk where her husband signed the first nuclear test ban treaty, a White House portrait. There are Onassis things — opulent things, emeralds and gold, a 40-karat diamond — opening bid a half a million dollars.

There are things that are tasteful and things some will find gaudy, but all are little glimpses — a cigarette lighter, a pillow, a string of pearls, each with a story, each a little part of a mystery that was and will, no doubt, remain the life of Jacqueline Kennedy. *[on camera]* The auction begins in New York on Tuesday.

That's our report for tonight. Tomorrow, on Good Morning America Sunday, the 125th anniversary of the National Rifle Association.

I'm Aaron Brown in New York. For all of us at ABC News, good night.

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CLINTON
GORE '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 19 1 07 PM '96

June 19, 1996

Lawrence M. Noble, Esquire
Office of General Counsel
Federal Election Commission
999 E St., N.W.
6th Floor
Washington, D.C. 20463

TAPE

RE: MUR 4361
Clinton/Gore '96 Primary Committee, Inc. 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 that he viewed a news segment, broadcast on the April 20, 1996 ABC Evenings News, which he characterizes as biased in favor of President Clinton and which he further characterizes as a "political advertisement". According to complainant, ABC News allegedly made, and the Committee allegedly accepted, an illegal campaign contribution.

The News Story Was Not A Political Advertisement

The "political advertisement" referred to by the Complainant is a news story, not a "political advertisement". It was neither solicited, controlled, directed nor paid for by the Committee or the candidate. The news story was shown on the April 20, 1996 evening edition of the ABC News, and was part of their continuing coverage of the 1996 Presidential election campaign. A videotape copy of the news story and a written transcript are enclosed for your review.

Although the content of the news story is not relevant to the analysis under the Act, as set forth below, nonetheless a review of the transcript or video demonstrates that the story offers a balanced portrayal of the issue presented. The presentation by ABC News was clearly that of a

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legitimate news report and not a paid political advertisement. While this news story did discuss the issue of crime, the position of each candidate and the allegations asserted against one another were given equal time and equal representation.

The narrator, ABC's John Cochran, offered balanced introductions and summaries. For example, he stated that Senator Dole was attempting to make law and order his issue but that the Democrats were fighting back. Film clips of both President Clinton and Senator Dole are shown at their respective press conferences and political campaign events responding to each other's statements. ABC included clips from two Democratic National Committee (DNC) paid political advertisements which had previously been presented to various national television markets.

It is evident from the above facts that the ABC News report was a legitimate news story and not a paid political advertisement.

**The Act Exempts A News Story or Commentary by
Broadcasting Stations from the Definition of Contributions**

The news story exemption has long been an integral part of the Act (2 U.S.C. § 431(9)(B)(i)) and the Commission regulations (11 C.F.R. § 100.7(b)(2) and § 100.8(b)(2)). 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 unless the facility is owned or controlled by any political party, political committee or candidate....(11 C.F.R. § 100.7(b)(2)).

Additionally, applying this exemption, the FEC has followed a two-part test set forth in Readers Digest Association, Inc. v. Federal Election Commission, 509 F.Supp. 1210 S.D.N.Y. (1981) which makes the following inquiry: (1) is the press entity owned by the political party or candidate; and (2) is the press entity acting as a press entity in making the distribution.¹

The news story exemption is applicable to the facts as presented by the complainant. Without question, ABC News is a widely recognized, legitimate, bona fide news organization presenting a daily news program consisting of political and non-political news stories. ABC News is not owned or controlled by the Democratic party, the candidate or the Committee. ABC News acted in its capacity as a news entity in disseminating their story during their regularly scheduled evening news on April 20, 1996. Therefore, having satisfied both inquiries in Readers Digest Association, Inc. v. Federal Election Commission, the news story presented by ABC News meets both parts of the two part test and the program qualifies as an exempted news story.

¹ For example, this test was followed by the Commissioners in their analysis of AO 1982-44. See the Federal Election Campaign Finance Guide (CCH) ¶ 5691.

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Moreover, the media may exercise its discretion in determining and presenting political news stories to the public. The news story exemption assures the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns (H.R. Report No. 93-1239, 93d Congress, 2d Sess. 4 (1974)). The legislative history states that it is not the intent of the Congress to limit or burden in any way the First Amendment freedoms of the press and association (*Id.*).

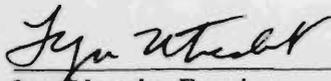
The regulations are intended to protect exactly this kind of news story. By specifically including in its regulations the news story exemption, the FEC has ensured that the media may exercise their right to present media coverage on political campaigns.

The Committee did not receive a contribution from ABC Evening News on April 20, 1996. The news story was not a political advertisement and falls squarely within the news story exemption.

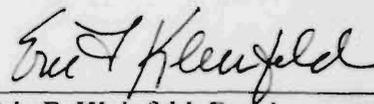
Conclusion

In conclusion, because the news segment complained of is not a "political advertisement" 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 4361.

Sincerely,



Lynn Utrecht, Esquire



Eric F. Kleinfeld, Esquire

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ABC Evening News (April 20, 1996)

Introduction by Desk Correspondent:

President Clinton may have been in Moscow but he still has to deal with the Presidential campaign. Yesterday, in what his aids called a major policy speech, Senator Bob Dole attacked Mr. Clinton's judicial appointments. "Too liberal" said Dole, "a hall of shame". Not the kind of tough, conservative judges Dole said he would name if elected. Here is ABC's John Cochran.

(Footage of President in Moscow)

John Cochran: In Moscow President Clinton said his judicial appointments must not be so liberal if Bob Dole voted for them.

Pres. Clinton: Senator Dole voted for 98% of the judges that I appointed.

John Cochran: Doesn't matter says Dole.

(Footage of Dole at Campaign Event)

Bob Dole: And out of deference to President Clinton's constitutional prerogative I have not opposed most of President Clinton's judicial nominees but the fact is when it comes to what kind of judges we want to appoint to the federal bench President Clinton and I fundamentally differ.

John Cochran: The President contends he has not appointed judges who are soft on criminals.

(Footage of President in Moscow)

Pres. Clinton: The rating system for judges going back to the Eisenhower administration by the American Bar Association indicates that I have appointed the best qualified judges of any president since Mr. Eisenhower was in this job.

(Footage of Dole Campaign Event)

John Cochran: But in his speech Dole also attacked the American Bar Association saying the ABA should no longer be permitted to review potential appointees.

Bob Dole: The American Bar Association has become nothing more than another blatantly partisan liberal advocacy group.

John Cochran: Not true says the ABA President.

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Roberta Cooper Ramo

ABA President: The ABA is composed of people from both major political parties and people of all sorts of political views all along the spectrum.

(Footage of Dole Campaign Event)

John Cochran: Dole is trying to do what all representatives want to do. Make law and order their issue. But Democrats are already fighting back.

(DNC Commercials-Cops ad; Dole/Gingrich ad)

John Cochran: Note the attempt to tie Dole to Newt Gingrich who shows up poorly in popularity polls. Democrats also want to link Dole and Gingrich to the National Rifle Association.

George Stephanopolous: They opposed the Assault Weapons Ban, they opposed the Brady Bill, they tried to water down the Counter Terrorism Act, they opposed putting police on the streets, they opposed stopping cop killer bullets because of their ties to the NRA and they are out of step with the mainstream of the country.

John Cochran: So on crime, each side is trying to declare the other guilty by association. Dole's association with Gingrich and the gun lobby, and the President's close ties with lawyers. Another group whose image needs a lot of work John Cochran, ABC News, Washington.

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BEFORE THE FEDERAL ELECTION COMMISSION

FEDERAL ELECTION COMMISSION
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**EXECUTIVE SESSION
SUBMITTED LATE**

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

II. CASES RECOMMENDED FOR CLOSURE.

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

EPS was created to identify pending cases which, due to the length of their pendency in inactive status or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria which results in a numerical rating of each case.

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified 34 cases which do not warrant further action relative to other pending matters.¹

¹ These cases are: MUR 4470 (*Ward for Congress*); MUR 4478 (*Citizens for Tom Reynolds*); MUR 4492 (*Friends of Ken Poston*); MUR 4498 (*Darryl Roberts for Congress*); MUR 4506 (*The Hon. Ted Little*); MUR 4512 (*Friends of Lane Evans*); MUR 4517 (*Unknown Respondent*); MUR 4518 (*Kansans for Rathbun*); MUR 4520 (*Larry Lerner for*

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Attachment 1 to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more distant in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more remote and consequently more difficult to develop. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of these facts, EPS also provides us with the means to identify those cases which, though earning a higher rating when received, remained unassigned due to a lack of resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources.

Congress); MUR 4522 (Republican Party of Bexar County); MUR 4523 (Cong. Andrea Seastrand); MUR 4524 (Danny Covington Campaign Fund Committee); MUR 4526 (Hoeffell for Congress); MUR 4528 (Pete King for Congress); MUR 4529 (Pete King for Congress); MUR 4532 (Citizen's Committee for Gilman for Congress); MUR 4535 (Visclosky for Congress); MUR 4537 (Di Nicola for Congress); MUR 4541 (Ross Perot); MUR 4548 (Blagojevich for Congress); MUR 4550 (Friends of Wamp for Congress); MUR 4551 (John N. Hostettler); MUR 4557 (De La Rosa for Congress); MUR 4559 (Bill Baker for Congress); MUR 4560 (George Stuart Jr. for Congress); MUR 4562 (Wayne E. Schile); MUR 4566 (Al Gore); MUR 4574 (Danny Covington Campaign Fund Committee); MUR 4576 (Volunteers for Shimkus); MUR 4579 (New Zion Baptist Church); MUR 4580 (Friends of Mike Forbes); MUR 4584 (Bill Baker for Congress); MUR 4588 (Navarro for Congress); and MUR 4613 (Guy Kelley for Congress).

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The U.S. District Court for the District of Columbia, however, held in *Democratic Senatorial Campaign Committee v. FEC*, Civil Action No. 95-0349 (D.D.C. April 17, 1996) that 24 months was too long a time in which to hold a case in an inactive status.

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Twenty one cases have remained on the Central Enforcement Docket for a sufficient period of time to render them stale, all of which are recommended for closure in this Report.⁴ This group includes four MURs that became stale several months ago, but were held pending criminal prosecution by the Department of Justice.⁵ DOJ obtained convictions in the two criminal cases related to these four MURs (*U.S. v. Jay Kim* and *U.S. v. Dynamic Energy Resources*) based upon guilty pleas by the key defendants, who are also the principal respondents in our pending matters. Pursuit of civil enforcement action in view of the satisfactory results obtained in the criminal cases would not be the most effective use of the Commission's scarce resources at this time.

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective August 29, 1997. Closing these cases as

⁴ These cases are: MUR 4274 (GOPAC); MUR 4358 (*Miller for Senate*); MUR 4361 (ABC-TV); MUR 4368 (Citizens Business Bank); MUR 4380 (AFGE Local 2391 PAC); MUR 4385 (*Dial for Congress*); MUR 4386 (*Zimmer for Senate*); MUR 4396 (ABC); MUR 4404 (*Friends of Steve Stockman*); MUR 4410 (39th Legislative District); MUR 4417 (*Our Choice II*); MUR 4422 (*Desana for Congress Committee*); and Pre-MUR 336 (*Park National Bank & Trust*).

⁵ These cases are: MUR 3796 (*Jay Kim for Congress*); MUR 3798 (*Jay Kim*); MUR 4275 (*Jay Kim*); and MUR 4358 (*Dynamic Energy Resources*). In dismissing the Jay Kim cases, we also recommend closing Pre-MUR 352, which is the transmittal of the guilty plea agreement and related documentation in the criminal case against Congressman Kim, forwarded by United States Attorney's office.

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of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

Pre-MUR 336

Pre-MUR 352

B. Take no action, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:

MUR 3796	MUR 4396	MUR 4522	MUR 4559
MUR 3798	MUR 4404	MUR 4523	MUR 4560
MUR 4274	MUR 4410	MUR 4524	MUR 4562
MUR 4275	MUR 4417	MUR 4526	MUR 4566
	MUR 4422	MUR 4528	MUR 4574
MUR 4356	MUR 4470	MUR 4529	MUR 4576
MUR 4358	MUR 4478	MUR 4532	MUR 4579
MUR 4361	MUR 4492	MUR 4535	MUR 4580
MUR 4368	MUR 4498	MUR 4537	MUR 4584
	MUR 4506	MUR 4541	MUR 4588
MUR 4380	MUR 4512	MUR 4548	MUR 4613
MUR 4385	MUR 4517	MUR 4550	
MUR 4386	MUR 4518	MUR 4551	
	MUR 4520	MUR 4557	

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8/14/97

Date

Lawrence M. Nobile (7/2)

Lawrence M. Nobile
General Counsel

Attachment:
Case Summaries

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Enforcement Priority) Agenda Document No. X97-55

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 19, 1997, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions with respect to Agenda Document No. X97-55:

- A. Decline to open a MUR, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:
1. Pre-MUR 336.
 2. Pre-MUR 352.
- B. Take no action, close the file effective August 29, 1997, and approve the appropriate letters in the following matters:
1. MUR 3796.
 2. MUR 3798.
 3. MUR 4274.
 4. MUR 4275.
 5. MUR 4356.
 6. MUR 4358.
 7. MUR 4361.
 8. MUR 4368.
 9. MUR 4380.
 10. MUR 4385.
 11. MUR 4386.
 12. MUR 4396.
 13. MUR 4404.
 14. MUR 4410.
 15. MUR 4417.
 16. MUR 4422.
 17. MUR 4470.
 18. MUR 4478.

(continued)

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Federal Election Commission
Certification: Enforcement Priority
August 19, 1997

Page 2

19. MUR 4492. 20. MUR 4498. 21. MUR 4506.
22. MUR 4512. 23. MUR 4517. 24. MUR 4518.
25. MUR 4520. 26. MUR 4522. 27. MUR 4523.
28. MUR 4524. 29. MUR 4526. 30. MUR 4528
31. MUR 4529. 32. MUR 4532. 33. MUR 4535.
34. MUR 4537. 35. MUR 4541. 36. MUR 4548
37. MUR 4550. 38. MUR 4551. 39. MUR 4557.
40. MUR 4559. 41. MUR 4560. 42. MUR 4562.
43. MUR 4566. 44. MUR 4574. 45. MUR 4576.
46. MUR 4579. 47. MUR 4580. 48. MUR 4584.
49. MUR 4588. 50. MUR 4613.

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

Attest:

8-21-97
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Howard F. Stearns
109 Sterling Drive, NW
Huntsville, AL 35806

RE: MUR 4361

Dear Mr. Stearns:

On May 13, 1996, 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 exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 29, 1997. 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. § 437(g)(a)(8).

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

John W. Zucker, Esq.
Senior General Attorney
Capital Cities/ABC, Inc.
77 West 66 Street
New York, NY 10023

RE: MUR 4361

Dear Mr. Zucker:

On May 17, 1996, the Federal Election Commission notified Thomas S. Murphy 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 exercised its prosecutorial discretion to take no action against ABC-TV Inc. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 29, 1997.

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 Jennifer Henry on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Joseph E. Sandler, Esq., General Counsel
Democratic National Committee
430 S. Capitol Street, SE
Washington, DC 20003

RE: MUR 4361
DNC Services Corporation, R. Scott Pastrick, Treasurer

Dear Mr. Sandler:

On May 17, 1996, the Federal Election Commission notified R. Scott Pastrick 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 exercised its prosecutorial discretion to take no action against DNC Services Corporation and R. Scott Pastrick, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 29, 1997.

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 Jennifer Henry on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Lyn Utrecht, Esq.
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, NW, Suite 1100
Washington, DC 20036

Eric F. Kleinfeld, Esq., Chief Counsel
Clinton/Gore '96
818 Connecticut Avenue, NW, 10th Floor
Washington, DC 20006

RE: MUR 4361
Clinton/Gore '96 Primary Committee, Inc.
Joan Pollitt, Treasurer

Dear Ms. Utrecht and Mr. Kleinfeld

On May 17, 1996, 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 exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on August 29, 1997.

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 Jennifer Henry on our toll-free number, (800)-424-9530. Our local number is (202) 219-3690.

Sincerely,


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4361

DATE FILMED 9-17-97 CAMERA NO. 4

CAMERAMAN JM12

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