



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

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PEROT '96, INC.
7616 LBJ Freeway, Suite 727
Dallas, Texas 75251

September 20, 1996

214/939-5416

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

Re: FECA Complaint

Gentlemen:

In connection with our complaint filed with your office this morning, enclosed please find a revised originally executed and notarized complaint correcting the typographical errors noted in the corrected and marked copy of the complaint faxed to you this morning.

Very truly yours,



J. Michael Poss
Treasurer

JMP:rm
Enclosures

SEP 21 12 01 PM '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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PEROT '96, INC.
7616 LBJ Freeway, Suite 727
Dallas, Texas 75251

September 19, 1996

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

Re: FECA Complaint

1. This Complaint is filed against the Commission on Presidential Debates ("CPD") by PEROT '96, INC. ("Perot '96") which is the authorized general election campaign committee of presidential candidate Ross Perot. The address of the Perot '96 is 7616 LBJ Freeway, Suite 727, Dallas, Texas 75251.

2. CPD is a not for profit corporation organized under the laws of the District of Columbia. It has been recognized by the Internal Revenue Service for exemption from taxation under Internal Revenue Code (the "Code") § 501(c)(3). The address of CPD is 601 Thirteenth Street, N.W., Suite 310 South, Washington, D.C. 20005. CPD is chaired by the former chairmen of the Democratic and Republican National Committees; its membership is divided equally among representatives of the Democratic and Republican parties.

3. Ross Perot is on the ballot as a candidate for president in the 50 states and the District of Columbia for the general election to be held on November 5, 1996. His campaign has qualified for approximately \$29 million in funding from the Presidential Election Campaign Fund as the candidate of the Reform Parties, based upon his polling approximately 19% of the popular vote in the 1992 presidential election.

4. The CPD staged debates between candidates for president in 1988 and 1992. The CPD is implementing plans to stage debates during the 1996 general election campaign.

5. Although the debates have not yet been held, the CPD has expended substantial funds from its corporate treasury and has devoted substantial in-kind corporate resources in preparation for the debates.

6. Based on information and belief, the CPD contends that these expenditures are exempt from the prohibition on corporate contributions to federal candidates contained in 2 U.S.C. § 441b by virtue of the Federal Election Commission's regulations concerning nonpartisan candidate debates, 11 C.F.R. §§ 110.13 and 114.4 (the "Debates Regulation").

7. CPD operates in violation of the Debates Regulation at 11 CFR § 110.13(c), which provides:

staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For federal election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate. (emphasis supplied)

8. CPD has invited two candidates to debate based solely on the criterion that each is the nominee of a particular party. It has excluded Ross Perot through the purported application of subjective criteria applied only to candidates of parties other than the Democratic or Republican parties. Application of the subjective criteria is made by CPD members who are without exception members of the Democratic and Republican parties, and whose membership in the CPD is balanced evenly between Democratic and Republican representatives. CPD does not qualify for the exemption set forth in the Debates Regulation, and it has made and will make illegal corporate contributions on behalf of federal candidates invited to debate in violation of 2 U.S.C. § 441b.

9. CPD is also in violation of 11 C.F.R. § 110.13(a), which stipulates that the sponsors must be organizations "which do not endorse, support or oppose political candidates or political parties ..." (emphasis supplied), and of 2 U.S.C. § 433, in that it has failed to register as a political committee. The CPD is an affiliated committee of the Democratic National Committee and the Republican National Committee. It is a bipartisan political organization that expends money and resources to assist in the election of either the nominee of the Democratic Party or of the Republican Party. Expenditures by the CPD amount to illegal in-kind contributions to the Clinton campaign and the Dole campaign, as expenditures coordinated with those campaigns.

CPD ORIGINS

10. In 1985, the respective chairmen of the Democratic and Republican National Committees executed an agreement stating that the major parties would work together to sponsor presidential debates, and replace the debates sponsored by the League of Women Voters with "nationally televised joint appearances conducted between the presidential and vice presidential nominees of the two major political parties ..." (emphasis supplied). Memorandum of Agreement on Presidential Candidate Joint Appearances, November 26, 1985 (copy attached as Exhibit A).

11. Fifteen months later, the major parties issued a joint press release, as well as parallel separate press releases, announcing the incorporation of the CPD. The releases declared that the CPD was a "bi-partisan" organization and that it was "formed to implement joint sponsorship of general election ... debates ... by the national Republican and Democratic Committees between their respective nominees." (emphasis supplied). News from the Democratic and Republican National Committees, February 18, 1987 (copy attached as Exhibit B).

12. From its inception, the CPD has been co-chaired by Frank J. Fahrenkopf, Jr., now the former chairman of the Republican National Committee, and Paul G. Kirk, Jr., now the

former chairman of the Democratic National Committee. All communications of the CPD carefully note Messers. Fahrenkopf's and Kirk's status as party chairmen.

"HOODWINKING THE AMERICAN PEOPLE"

13. In July 1987, the CPD formed an advisory committee to formulate criteria for selecting candidates other than those of the Democratic and Republican parties. The committee recommended that the CPD invite only those other candidates who had a "realistic chance" of winning the election. The committee's report stated that "the [Theodore] Roosevelt example [in 1912] stands alone in the 20th century" as a third party candidate who would satisfy this criterion. Theodore Roosevelt had previously been elected President of the United States as the candidate of the Republican Party. Such lesser lights as Henry Wallace, George Wallace or John Anderson would be excluded from debates under this standard.

14. In 1988, a compromise was reached between the League of Women Voters and the CPD, providing that debate sponsorship would alternate between them. The League of Women Voters withdrew, however, when it was presented by the Bush and Dukakis campaigns with a script for every detail of the staging of the debates, ranging from selection of questioners to the color of the timer lights on the podiums. The League of Women Voters explained its withdrawal by stating that to hold itself out as an independent sponsor of such a production would make it "an accessory to the hoodwinking of the American public." See League of Women Voters, Presidential Debates 1988, News Release, October 3, 1988 (copy attached as Exhibit C).

15. After the League's withdrawal, CPD became the sole sponsor of the 1988 debates. It followed the exact specifications of the Bush and Dukakis campaigns, which the League of Women Voters had refused to do. CPD functions as a partisan, though bi-partisan, political committee; as a production company for in-kind contributions to the major parties. These contributions are subsidized by the United States Treasury through tax deductible contributions by large business corporations, foundations and other parties who either are barred from contributing at all to federal candidates, or who are subject to contribution ceilings. These contributions made to the CPD, and by the CPD to the Republican and Democratic candidates, violate prohibitions against majority candidates accepting contributions in the general election.

16. In 1992, Ross Perot was invited to participate in debates by the Bush and Clinton campaigns pursuant to an agreement which offered Ross Perot, and the CPD, the opportunity to participate on a "take it or leave it" basis.

17. The CPD's third party and independent selection criteria, which have been publicly described by the Co-Chairmen of the CPD as "virtually identical" to those used in 1996, were perceived by the major party candidates as posing a possible obstacle to their debate agreement. To keep third party candidates out of debates the CPD had erected such a flexible standard that it could be found that Perot would not qualify. Because the criteria were so subjective, there was no predictability for anyone. As counsel to the Bush campaign explained:

[W]e were not able to predict with any confidence the result of applying [the CPD] criteria. Therefore the Bush campaign insisted, and the Clinton campaign agreed, that Mr. Perot and [his running mate] be invited to participate in the debates.

See Testimony of Bobby R. Burchfield in Presidential Debates, Hearing Before the Subcommittee on Elections of the Committee on House Administration, House of Representatives, One Hundred Third Congress, First Session, June 17, 1993, Washington, D.C. (U.S. Government Printing Office 1993), pp. 44-52, at 50-51 (copy attached as Exhibit D).

18. The CPD responded by stating that it would include Ross Perot in the first presidential debate, but it would reserve judgment on whether or not Perot would participate in second and third presidential debates. The Bush and Clinton campaigns responded to the CPD that if it did not extend the invitation to Perot for every debate, under the terms of the candidates' debate agreement, then it would find another debate sponsor. Within 24 hours the CPD capitulated and held that Ross Perot satisfied the criteria to be included in all debates. *Id.* at 51-52.

VIOLETIONS OF THE DEBATES REGULATION

19. As noted above, the Debates Regulation, at subsection 110.13(c), provides that:

staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For federal election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate. (emphasis supplied).

The Debates Regulation also provides, at subsection 110.13(a), that the staging organization must be one that "do[es] not endorse, support, or oppose political candidates or political parties...." (emphasis supplied). The revised provisions at 11 CFR § 110.13(c) took effect March 13, 1996.

20. The CPD Candidate Selection Criteria for 1996 (copy attached as Exhibit E) provides that the CPD automatically will extend "an invitation to the respective nominees of the two major parties to participate in the Commission's 1996 debates." The CPD extended invitations to President Clinton and Senator Dole to participate in its debates solely on the basis of their nomination by the Democratic and Republican parties. No criteria of "realistic chance of winning the election" was applied to either major party candidate.

21. Representatives of the CPD have had ongoing substantive communications with representatives of the Clinton campaign, the Dole campaign, the Democratic National Committee and the Republican National Committee, regarding the staging of the 1996 debates. All members of the CPD are current or former Democratic or Republican officeholders or persons closely associated with those parties.

22. Prior to the CPD announcement of its decision regarding inclusion of third party candidates, a representative of Perot '96, Russell Verney, requested of the CPD that persons other than those with direct and substantial ties to the Democratic and Republican parties be included in the deliberative and decision making processes of the CPD. See letter dated September 9, 1996 (copy attached as Exhibit F). The CPD refused this request. Mr. Verney also requested the opportunity to address the CPD, which request was denied.

23. On September 17, 1996, the CPD issued a press release stating that it will exclude all third party candidates from CPD debates. (Copy attached as Exhibit G.) It also released a letter from its Advisory Committee setting forth the rationale for the decision. (Copy attached as Exhibit H.)

24. The CPD communicated its decision to representatives of the Clinton and Dole campaigns before it was communicated to the public or to Perot '96 or Ross Perot.

25. The CPD violated subsection 110.13(c) by using nomination by a particular party as the sole criterion for selection; CPD also violated subsection 110.13(a), because it is an organization which "supports" two political parties, and "opposes" all others. This is underscored by the position of the Advisory Committee and the CPD that Ross Perot could be excluded because the \$29 million his campaign received as a candidate of a new or minor party was inadequate to compete with the Republican and Democratic party nominees, who as "major party" nominees receive several times the resources accorded minor or new parties. But minor parties will by definition always receive less funding from the Presidential Election Campaign Fund. In effect, the CPD ruled that a Minor Party under Federal Election Commission regulations should always be excluded from presidential debates, a ludicrous position.

CPD CRITERIA

26. Four elements of the CPD Selection Criteria are objective. Ross Perot was denied an invitation to the debates even though he satisfied each of the objective elements. These criteria and the subjective criteria are summarized by the CPD under three headings:

Evidence of National Organization

Signs of National Newsworthiness and Competitiveness

Indicators of National Public Enthusiasm or Concern

27. That these criteria include predominantly subjective standards is not contested by the CPD. "Signs of National Newsworthiness" for example involves an analysis of "the opinions of Washington bureau chiefs of major newspapers and broadcast networks", the "opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration", and "published views of prominent political commentators." Virtually every unemployed professional campaign manager and pollster has a direct affiliation with either the Democratic or Republican parties.

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28. Under its third heading, the CPD proposes to rely upon findings of "significant public opinion polls." Obviously, the CPD believes these factors leave much room for subjectivity. For example, the CPD apparently determined that Ross Perot met these criteria in 1992 when he stood at the exact level in polls when the CPD made its 1992 decision as he did on September 17, 1996, when the CPD concluded he had only a "theoretical chance" of election. Similarly, his "negative rating" is referenced as a reason for exclusion in the CPD's release of September 19, 1996, as a counter-balance to polls showing the overwhelming majority of voters want Ross Perot involved in the debates. Yet that rating is virtually identical to the 70% negative rating prior to the 1992 debates, which rating fell to 20% following the 1992 debates.

29. The use of subjective criteria to exclude Ross Perot from CPD sponsored debates is self-evident. Analogous court decisions regarding the meaning of "objectivity" with regard to the non-electioneering provisions of Internal Revenue Code § 501(c)(3) should be utilized in assessing the language of the regulations.

30. A § 501(c)(3) organization engaged in voter education must also base its assessments of candidates for electoral office in accordance with criteria that are objective, as well as being valid and nondiscriminatory. Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert. denied, 109 S.Ct. 1768 (1989) (Court upholds decision of Commission of Internal Revenue that prestigious bar association is disqualified from § 501(c)(3) status because methodology for rating candidates for elective law enforcement positions includes subjective standards).

31. In 1993, the Southern District of New York found that a 1992 presidential primary debate did not meet the objective standard set forth by the Commission of Internal Revenue and upheld by the court in Association of the Bar. The court found that a sponsor may not give itself unacceptable discretion to pick and choose among candidates based on the subjective judgments of its board members, a process ripe for political gerrymandering. 809 F.Supp. 1112 (S.D.N.Y. 1993).

32. The Debates Regulation mandates that the "staging organization(s) shall not use nomination by a particular party as the sole objective criterion to determine whether to include a candidate in a debate." The CPD selection criteria violate this regulation. The Democratic and Republican party candidates are guaranteed participation in the debates prior to the "evaluation" of the third party candidates; there is no evaluation of public support for their candidacies. Even with regard to the invalid subjective standard, "realistic chance of being elected," the CPD did not even purport to evaluate whether Gov. Dukakis had a realistic chance of being in 1988, President Bush in 1992, or Senator Dole in 1996.

33. The CPD has functioned as a political committee and its failure to register is a violation of 2 U.S.C. sec. 433. Violations of 11 C.F.R. § 110.13 render CPD expenditures illegal corporate campaign contributions. Because of its violations of § 110.13(a) and (c), CPD's expenditures and in-kind contributions to federal candidates constitute corporate contributions illegal under 2 U.S.C. § 441b.

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Respectfully submitted,
PEROT '96, INC.

By: J. Michael Poss
J. Michael Poss
Treasurer

ACKNOWLEDGMENT

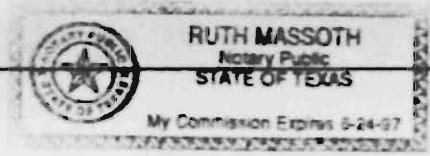
THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

SIGNED AND SWORN TO before me by J. Michael Poss, this 20th day of September, 1996.

GIVEN under my hand and seal of office.

Ruth Massoth
Notary Public in and for
the State of Texas

My Commission Expires:



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H ELECTING THE PRESIDENT

Memorandum of Agreement on
 Presidential Candidate Joint Appearances
 November 26, 1985

Frank J. Fahrenkopf, Jr., Chairman of the Republican National Committee, and Paul G. Kirk, Jr., Chairman of the Democratic National Committee, acknowledge and recognize that nationally televised joint appearances by the presidential nominees of both parties have often played an important and constructive role in recent presidential campaigns. We hope that they will play a similar role in future presidential campaigns, and we hereby commit ourselves toward achieving that goal. We recognize, of course, that the ultimate decision regarding participation in joint appearances will necessarily be made by the nominees themselves. Nonetheless, this memorandum of agreement is intended to express our strong belief that joint appearances deserve to be made a permanent and integral part of the presidential election process and our determination to bring that about.

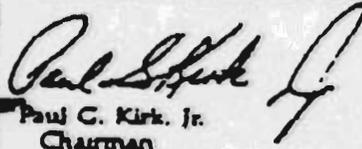
It is our bipartisan view that a primary responsibility of each major political party is to educate and inform the American electorate of its fundamental philosophy and policies as well as its candidates' positions on critical issues. One of the most effective means of fulfilling that responsibility is through nationally televised joint appearances conducted between the presidential and vice presidential nominees of the two major political parties during general election campaigns. Therefore, to better fulfill our parties' responsibilities for educating and informing the American public and to strengthen the role of political parties in the electoral process, it is our conclusion that future joint appearances should be principally and jointly sponsored and conducted by the Republican and Democratic National Committees.

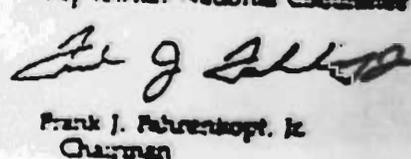
We believe that the format and most other details of joint appearances for each general election campaign should be determined through negotiations between the chairmen and the nominees of the two political parties (or their designees) following the nominating conventions of each presidential election year.

We thank the League of Women Voters for having effectively laid the ground work on which we are building today. We hope that the League will continue to offer its experience, advice and resources to the joint appearance process.

Democratic National Committee

Republican National Committee


 Paul G. Kirk, Jr.
 Chairman


 Frank J. Fahrenkopf, Jr.
 Chairman

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News from the...
DEMOCRATIC AND REPUBLICAN NATIONAL COMMITTEES

Release: Wednesday, February 18, 1987

Contact: Robert P. Schmermund, RNC
202/863-8550

Terry Michael, DNC
202/863-8020

RNC AND DNC ESTABLISH
COMMISSION ON PRESIDENTIAL DEBATES

WASHINGTON, D.C.--Republican National Committee Chairman Frank J. Fahrenkopf, Jr. and Democratic National Committee Chairman Paul G. Kirk, Jr. announced the creation of the Commission on Presidential Debates at a joint press conference today at the Capitol.

The 10-member commission is a bipartisan, non-profit, tax exempt organization formed to implement joint sponsorship of general election presidential and vice presidential debates, starting in 1988, by the national Republican and Democratic committees between their respective nominees.

In launching this new initiative, the two party chairmen said, "A major responsibility of both the Democratic and Republican parties is to inform the American electorate on their philosophies and policies as well as those of their respective candidates. One of the most effective ways of accomplishing this is through debates between their nominees. By jointly sponsoring these debates, we will better fulfill our party responsibilities to inform and educate the electorate, strengthen the role of political parties in the electoral process and, most important of all, we can institutionalize the debates, making them an integral and permanent part of the presidential process."

In emphasizing the bipartisan nature of the commission, both chairmen noted the contributions to the debate process by the League of Women Voters: "We applaud the League for laying a foundation from which we can assume our own responsibilities. While the two party committees will be sponsors for all future presidential general election debates between our party nominees, we would expect and encourage the League's participation in sponsoring other debates, particularly in the presidential primary process."

Kirk and Fahrenkopf, in stressing the need to institutionalize the debates, said it will be the Commission's goal to recommend the number of presidential and vice presidential debates, as well as the dates and locations of these debates, before the 1988 nominating conventions. Potential candidates for the parties' respective nominations have committed to support party-sponsored debates. The Commission's recommendations will be forwarded to all potential candidates for concurrence as soon as they are completed.

EX.D

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"This degree of certainty about the debates going into the general election," the chairmen said, "is an historic breakthrough in institutionalizing them. It means that we won't spend most of the general election campaign debating about debates, as we have too often in the past. The American people have an expectation that debates will occur every four years; this process is designed to assure that that expectation will be realized."

Fahrenkopf and Kirk will serve as co-chairs of the new Commission. They appointed as vice chairs:

- Richard Moe, Washington lawyer and partner in the firm of Davis, Polk & Wardwell;
- David Norcross, Washington lawyer and partner in the firm of Myers, Matteo, Rabil, Pliese & Norcross.

Others named to the Commission are:

- U.S. Rep. Barbara Vucanovich (R-NV);
- former U.S. Senator John Culver (D-IA), now a partner in the Washington law firm of Arent, Fox, Kintner, Plotkin & Kahn;
- Republican Gov. Kay Orr of Nebraska;
- Vernon Jordan, a Democrat, former president of the Urban League, now a partner in the law firm of Akin, Gump, Strauss, Hauer & Feld;
- Pamela Harrison, chairman of Democrats for the '80's;
- U.S. Senator Pete Wilson (R-CA).

The two chairmen said the Commission will hire staff and open a Washington office shortly. They said articles of incorporation for the Commission have been filed in the District of Columbia as well as an application for tax exemption with the Internal Revenue Service.

Kirk and Fahrenkopf concluded by saying, "We have no doubt that with the help of the Commission we can forge a permanent framework in which all future presidential debates between the nominees of the two political parties will be based. It is our responsibility as Party chairmen to have an informative and fair presidential process. The establishment of the Commission on Presidential Debates will go a long way toward achieving that goal."

Today's announcement stems from a recommendation of the Commission on National Elections, which during 1985 studied the presidential election system. On Nov. 26, 1985, Kirk and Fahrenkopf signed a joint memorandum agreeing in principle to pursue the party sponsorship concept.

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NEWS RELEASE

FOR IMMEDIATE RELEASE:
October 3, 1988

CONTACT: Stephanie Dree
or
Bill Woodwell
(202) 429-1965

LEAGUE REFUSES TO "HELP PERPETRATE A FRAUD" WITHDRAWS SUPPORT FROM FINAL PRESIDENTIAL DEBATE

WASHINGTON, DC — "The League of Women Voters is withdrawing its sponsorship of the presidential debate scheduled for mid-October because the demands of the two campaign organizations would perpetrate a fraud on the American voter," League President Nancy M. Neuman said today.

"It has become clear to us that the candidates' organizations aim to add debates to their list of campaign-trail charades devoid of substance, spontaneity and honest answers to tough questions," Neuman said. "The League has no intention of becoming an accessory to the hoodwinking of the American public."

Neuman said that the campaigns presented the League with their debate agreement on September 28, two weeks before the scheduled debate. The campaigns' agreement was negotiated "behind closed doors" and was presented to the League as "a done deal," she said. Its 16 pages of conditions not subject to negotiation.

LEAGUE OF WOMEN VOTERS
PRESIDENTIAL DEBATES
1988

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Most objectionable to the League, Neuman said, were conditions in the agreement that gave the campaigns unprecedented control over the proceedings. Neuman called "outrageous" the campaigns' demands that they control the selection of questioners, the composition of the audience, hall access for the press and other issues.

"The campaigns' agreement is a closed-door masterpiece," Neuman said. "Never in the history of the League of Women Voters have two candidates' organizations come to us with such stringent, unyielding and self-serving demands."

Neuman said she and the League regretted that the American people have had no real opportunities to judge the presidential nominees outside of campaign-controlled environments.

"On the threshold of a new millennium, this country remains the brightest hope for all who cherish free speech and open debate," Neuman said. "Americans deserve to see and hear the men who would be president face each other in a debate on the hard and complex issues critical to our progress into the next century."

Neuman issued a final challenge to both Vice President Bush and Governor Dukakis to "rise above your handlers and agree to join us in presenting the fair and full discussion the American public expects of a League of Women Voters debate."

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PRESIDENTIAL DEBATES

HEARING
BEFORE THE
SUBCOMMITTEE ON ELECTIONS
OF THE
COMMITTEE ON
HOUSE ADMINISTRATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS
FIRST SESSION

JUNE 17, 1982, WASHINGTON, DC



Printed for the Committee on House Administration

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1982

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ISBN 0-16-041223-6

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LESSONS FROM THE 1992 PRESIDENTIAL DEBATES

STATEMENT BEFORE THE SUBCOMMITTEE ON
ELECTIONS, COMMITTEE ON HOUSE ADMINISTRATION,
UNITED STATES HOUSE OF REPRESENTATIVES

June 17, 1993

Bobby R. Burchfield
Covington & Burling
Washington, D.C.

Good morning. My name is Bobby R. Burchfield. I am a partner at the law firm of Covington & Burling here in Washington, D.C., where I am engaged primarily in corporate problem-solving and complex litigation. During 1992, I served as General Counsel of President Bush's re-election campaign, and participated on the team that negotiated and drafted the debate agreement.

The Subcommittee has asked me to comment on the 1992 Presidential Debates. I will take this opportunity to comment in a larger context about the lessons that can be learned from the 1992 Presidential Debates, and the appropriateness of Congressional action regarding future presidential debates. I should emphasize that I am here as an individual, not representing any client or cause, and the views expressed are solely my own.

THE 1992 PRESIDENTIAL DEBATES

The Subcommittee might find a brief description of the 1992 debate negotiations and agreement useful. To place the events leading up to the 1992 Presidential Debates in context, we

must begin in 1987. In that year, the Commission on Presidential Debates was formed as, in its words, "an on-going entity in the recognition that its lasting legacy lies in both debate sponsorship and in a continuing commitment to promote the value of debates and the educational information which they impart."¹ The CPD was not established or funded by either the federal government or the Democratic or Republican Parties. It received its funding from private sponsors. "It is not an advocacy organization and does not take positions on public policy issues."² The CPD sponsored all the 1988 presidential and vice presidential debates.

At the Bush campaign, our understanding was that the CPD held itself out primarily as one of many potential sponsors for the debates, that it claimed no mandate from either political party or any candidate in 1992, and that it would not insist or advocate any specific schedule or format for the 1992 presidential debates. This view was supported by a letter dated April 16, 1992 from CPD Co-Chairman Frank Fahrenkopf, Jr. to Samuel Skinner, White House Chief of Staff. In the first paragraph of that letter, Mr. Fahrenkopf wrote:

"As I have indicated to you in person and in prior communication, it is the understanding of the CPD, and we reply to all press inquiries, that THE QUESTION AS TO WHETHER DEBATES WILL BE HELD, HOW MANY, WHERE, WHEN, FORMAT, ETC., IS A MATTER THAT WILL NOT BE FINALLY RESOLVED UNTIL THE NOMINEES AND/OR THEIR REPRESENTATIVES HAVE AN OPPORTUNITY

¹ CPD Brochure (1992).

² *Id.*

TO MEET AND DISCUSS SOME FOLLOWING THE TWO NOMINATING CONVENTIONS." (emphasis in original).

On June 11, 1992, the CPD issued the following proposal for three presidential and one vice presidential debates:

Debate	Date	Format
First Presidential Debate	Sept. 22	Single Moderator
Vice Presidential Debate	Sept. 29	Single Moderator
Second Presidential Debate	Oct. 4	Single Moderator
Third Presidential Debate	Oct. 11	Single Moderator

We at the Bush campaign viewed this proposal as just that -- one proposal to be considered in direct negotiations between the candidates, and certainly not a mandate. In contrast, the Clinton campaign immediately accepted the CPD's proposal as tendered.

By August, the dynamics of the race had changed dramatically. Governor Clinton, previously trailing both President Bush and H. Ross Perot in most polls, had become the frontrunner. On August 10, 1992, the Friday before the Republican Convention, the CPD announced sites for the four debates it had proposed: East Lansing, Michigan; Louisville, Kentucky; San Diego, California; and Richmond, Virginia, respectively. On September 14, Bush-Gore's '92 campaign Chairman Bob Teeter responded to the CPD on behalf of President Bush:

"As in past campaigns, it is our belief the terms and conditions of presidential debates are appropriately the subject of discussion and agreement between the two candidates. Accordingly, I have been in contact with Governor Clinton's campaign.

This is the same process used in the past four Presidential elections which serve the public interest and the interest of the candidate well.

Therefore, I will not be attending any meeting involving the Commission on Presidential Debates until the two campaigns have agreed on the terms and conditions under which they will debate, have selected the Commission as the sponsor, and the Commission has agreed to sponsor the debate or debates in accordance with those terms and conditions."

Simultaneously, Mr. Teeter wrote to Mickey Kantor, chairman of the Clinton/Gore campaign, inviting discussions of debates, and stating further:

"We strongly believe that in the General Election Campaign the candidates themselves should determine the criteria upon which they debate and then seek a sponsor who will agree to the terms and conditions of the candidates. No one organization or group should be able to arrogate unto itself the authority to unilaterally make decisions that can be so critical to the final election result. A considerable amount of time and effort has gone into arriving at these debate terms [used in prior presidential debates] by good Democrats and Republicans over a period of sixteen years."

From our perspective, it was unfortunate that the media and the public appeared to misunderstand what the CPD is and the source of its authority. Indeed, many in the public -- and I dare say in the media -- erroneously believed that the self-named "Commission on Presidential Debates" was either a government-created entity or an entity sponsored by the two political parties.

Not surprisingly, and this is not a criticism, the Clinton/Gore campaign took full advantage of this situation. Governor Clinton appeared at the sites proposed by the CPD for

COWINGTON & BURLING

- 5 -

the first presidential debate (East Lansing, Michigan on September 22) and the vice presidential debate (Louisville, Kentucky on September 23). Having obtained a tactical advantage for adhering steadfastly to the CPB's proposal, the Clinton/Dore campaign refused even to meet with representatives of the Bush campaign.

Only after President Bush's challenge on September 29 to Governor Clinton to debate on each of the last four Sundays before the election did the two campaigns finally sit down together, as the candidates' representatives had done in each of the preceding four elections, to negotiate a debate agreement. The negotiations began on September 30, and the outlines of an agreement were reached on October 1. Drafting the agreement consumed the next four days.

From my experience in many negotiations over the years, it is surprising in retrospect how few points of controversy there were in these negotiations. The Bush team entered the negotiations with the following goals:

First, we wanted debates, presumably four but at least three.

Second, we wanted Ross Perot to be included if, as expected, he reentered the race.

Third, it was important to us that each debate cover all topics, with a balanced treatment of both domestic and foreign policy issues.

COWINGTON & BURLING

- 6 -

Fourth, we preferred debates of one hour versus ninety minutes, although we recognized that inclusion of Ross Perot would likely require expansion to ninety minutes.

Fifth, the President was adamant in his refusal to sit at a table.

Sixth, we wanted the first debate to be in the traditional format featuring a moderator with a panel.

Finally, if audiences were allowed -- and we believed that audiences created a number of problems -- they should be strictly controlled, and each candidate should receive an equal share of the tickets.

The primary jousting during the negotiations concerned the scheduling of the debates. As in any negotiation, both sides spent the amount of time they thought necessary to probe the contours of the other side's position. Once it became clear that President Bush was unwilling to debate before October 11, and that Governor Clinton was unwilling to debate after October 19, the schedule fell promptly into line. Harry Thomson, Governor Clinton's media advisor in the negotiations, persuaded everyone that, like a television mini-series, the compact schedule of four debates in eight days would engage the public and build viewership from debate to debate. This would, he opined, reverse the trend in recent years in which viewership declined with each debate.

Discussion of formats, while extensive, was much less problematic. The Clinton campaign proposed, and we accepted, the

"town hall" format for one of the debates. Since 1977 in his first run for the presidency, George Bush had held "Ask George Bush" forums in which members of the audience could directly ask him questions; he liked the format, and had historically performed very well in it. Moreover, both campaigns recognized that the popularity of radio and television call-in shows during the 1992 campaign indicated considerable potential public interest and support for such a format.

On October 1, while the negotiations were in progress, Ross Perot announced his reentry into the presidential race. At that point, Mr. Perot stood at less than ten percent in every national poll, and few if any commentators gave him a chance of winning. Under the CPD's criteria for determining whether a non-major party candidate would be included in the debates, it was far from clear that Mr. Perot would qualify. For example, those criteria required consideration of such factors as whether the candidate had declared his candidacy before the major party political conventions, or after the conventions "by disaffiliating from the party"; national newsworthiness and competitiveness based on such indices as the opinions of Washington Bureau chiefs of major newspapers, news magazines, and networks; and national public enthusiasm or concern as shown by "significant public opinion polls" and reported attendance at campaign meetings and rallies. Although other criteria favored Mr. Perot's participation, we were not able to predict with any confidence the result of applying those criteria. Therefore, the

Bush campaign insisted, and the Clinton campaign agreed, that Mr. Perot and Admiral Stockdale be invited to participate in the debates.

The final agreement was announced on October 1. It included the following schedule:

Debate	Date	Location	Format
First Presidential Debate	Oct. 11	St. Louis, MO	Panel
Vice Presidential Debate	Oct. 13	Atlanta, GA	Moderator
Second Presidential Debate	Oct. 15	Richmond, VA	Town Hall
Third Presidential Debate	Oct. 19	East Lansing, MI	Half-Moderator, Half-Panel

On October 9, the two campaigns submitted the agreement to the CPD and invited it to sponsor all the debates on a "take it or leave it" basis. The CPD expressed concern about the requirement that Mr. Perot be included, and ultimately asked its advisory committee, chaired by Professor Richard Neustadt of Harvard, to evaluate Mr. Perot's participation under the CPD's criteria. On October 6, the CPD wrote to Messrs. Teeter and Kantor accepting their invitation to sponsor the debates "subject to [four] conditions and understandings." The second such condition was:

"The Commission has determined, pursuant to the recommendation of its non-partisan advisory committee on candidate selection, that N. Ross Perot and Adm. James Stockdale should be invited to participate in the October 11 and 13, 1992 debates, respectively. The Commission will make its candidate participation determination regarding the October 15 and 19 debates after the initial debates. The Commission understands that, if it subsequently determines not to invite Mr.

Perot to additional debates under its sponsorship, you each reserve the right to seek an alternative sponsor for these debates.

The campaign responded that piecemeal sponsorship of the debates was unacceptable. Accordingly, the CPD reconsidered its position and informed Messrs. Teeter and Kantor by letter dated October 7 that:

"The Commission has determined that H. Ross Perot should be invited to participate in the October 11, 13, and 19 Presidential Debates and that Admiral James Stockdale should be invited to participate in the October 13 Vice Presidential Debate."

Meanwhile, on October 6, Mr. Perot and Admiral Stockdale had accepted the campaign's invitation "to participate in the debates in accordance with the Agreement." The debates proceeded as agreed by the participants, under the sponsorship of the CPD, and achieved some of the highest ratings in the history of television.

LOOKING FORWARD

The Need to "Institutionalize" Presidential Debates by Legislation

One of the key lessons of the 1992 campaign is that, so long as public enthusiasm for debates is high, the political pressure to participate in debates will be an effective inducement.

¹ Letter from Paul G. Kirk, Jr. and Frank J. Fahrenkopf, Jr. to Robert H. Teeter and Mickey Kantor dated October 6, 1992.

² Letter from Paul G. Kirk, Jr. and Frank J. Fahrenkopf, Jr. to Robert H. Teeter and Mickey Kantor dated October 7, 1992.

³ Letter from H. Clayton Malford to Mickey Kantor and Robert H. Teeter dated October 6, 1992.

ment for candidates to debate. For each of the last five presidential elections -- 1976, 1980, 1984, 1988, and 1992 -- the major party presidential candidates have debated each other during the fall campaign. Candidates who were perceived, whether correctly or incorrectly, as unwilling to debate (President Carter in 1980 and President Bush in 1992) paid a heavy price as a result of that perception. Not only did each candidate appear to lose support due to the uncertainty of whether he would debate, but the public and media focus on whether he would debate interfered with his campaign.

But public expectations of presidential candidates evolve over time, and it is not a foregone conclusion that the public will always be enamored of face-to-face candidate debates. Some persons have expressed the view that debates are not, in the final analysis, all that informative. Someday, the public might conclude that other forums are more effective at testing the candidates' positions and mettle. Although I personally believe that public enthusiasm for debates will continue into the foreseeable future, it is precarious at best to predict the public expectation three years hence.

Statutory Requirement To Debate

Even assuming debates are clearly in the public interest, attempts to require participation in such debates would present serious Constitutional and practical difficulties. Section 703 of the "Congressional Campaign Spending Limit and Election Reform Act of 1993" would add a new Section 315(b)(3)(A)

**COMMISSION ON PRESIDENTIAL DEBATES'
CANDIDATE SELECTION CRITERIA
FOR 1996 GENERAL ELECTION DEBATE PARTICIPATION**

A. INTRODUCTION

The mission of the Commission on Presidential Debates ("the Commission") is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The Commission sponsored a series of such debates in 1988 and again in 1992, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 1996 general election.

The goal of the Commission's debates is to afford the members of the voting public an opportunity to sharpen their views of those candidates from among whom the next President or Vice President will be selected. In light of the large number of declared candidates in any given presidential election, the Commission has determined that its voter education goal is best achieved by limiting debate participation to the next President and his or her principal rival(s).

A Democratic or Republican nominee has been elected to the Presidency for more than a century. Such historical prominence and sustained voter interest warrants the extension of an invitation to the respective nominees of the two major parties to participate in the Commission's 1996 debates.

In order to further the educational purposes of its debates, the Commission has developed nonpartisan criteria upon which it will base its decisions regarding selection of nonmajor party candidates to participate in its 1996 debates. The purpose of the criteria is to identify nonmajor party candidates, if any, who have a realistic (i.e., more than theoretical) chance of being elected the next President of the United States and who properly are considered to be among the principal rivals for the Presidency. The realistic chance of being elected need not be overwhelming, but it must be more than theoretical.

The criteria contemplate no quantitative threshold that triggers automatic inclusion in a Commission-sponsored debate. Rather, the Commission will employ a multifaceted analysis of potential electoral success, including a review of (1) evidence of national organization, (2) signs of national newsworthiness and competitiveness, and (3) indicators of national enthusiasm or concern, to determine whether a candidate has a sufficient chance of election to warrant inclusion in one or more of its debates.

Judgments regarding a candidate's election prospects will be made by the Commission on a case-by-case basis. However, the same multiple criteria will be applied to each nonmajor party candidate. Initial determinations with respect to candidate selection will be made after the major party conventions and approximately contemporaneously with the commencement of the general election campaign. The number of debates to which a qualifying nonmajor party candidate will be invited will be determined on a flexible basis as the general election campaign proceeds.

B. 1996 NONPARTISAN SELECTION CRITERIA

The Commission's nonpartisan criteria for selecting nonmajor party candidates to participate in its 1996

general election presidential debates include:

1. EVIDENCE OF NATIONAL ORGANIZATION

The Commission's first criterion considers evidence of national organization. This criterion encompasses objective considerations pertaining to the eligibility requirements of Article II, Section 1 of the Constitution and the operation of the electoral college. This criterion also encompasses more subjective indicators of a national campaign with a more than theoretical prospect of electoral success. The factors to be considered include:

- a. Satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution of the United States.
- b. Placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority.
- c. Organization in a majority of congressional districts in those states.
- d. Eligibility for matching funds from the Federal Election Commission or other demonstration of the ability to fund a national campaign, and endorsements by federal and state officeholders.

2. SIGNS OF NATIONAL NEWSWORTHINESS AND COMPETITIVENESS

The Commission's second criterion endeavors to assess the national newsworthiness and competitiveness of a candidate's campaign. The factors to be considered focus both on the news coverage afforded the candidacy over time and the opinions of electoral experts, media and non-media, regarding the newsworthiness and competitiveness of the candidacy at the time the Commission makes its invitation decisions. The factors to be considered include:

- a. The professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks.
- b. The opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration.
- c. The opinions of representative political scientists specializing in electoral politics at major universities and research centers.
- d. Column inches on newspaper front pages and exposure on network telecasts in comparison with the major party candidates.
- e. Published views of prominent political commentators.

3. INDICATORS OF NATIONAL PUBLIC ENTHUSIASM OR CONCERN

The Commission's third criterion considers objective evidence of national public enthusiasm or concern. The factors considered in connection with this criterion are intended to assess public support for a candidate, which bears directly on the candidate's prospects for electoral success. The factors to be considered include:

- a. The findings of significant public opinion polls conducted by national polling and news organizations.
- b. Reported attendance at meetings and rallies across the country (locations as well as numbers) in comparison with the two major party candidates.

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PEROT

FOR PRESIDENT '96

Perot '96, Inc.
7616 LBJ Freeway, Suite 727
Dallas, Texas 75251

VIA FACSIMILE

September 9, 1996

Frank J. Fahrenkopf, Jr. (202) 783-5923
Paul G. Kirk, Jr.
Co-Chairs, Commission on Presidential Debates
601 Thirteenth Street, N.W.
Suite 310 South
Washington, DC 20005

Peter Knight (202) 496-1006
Campaign Manager
Clinton/Gore '96
P.O. Box 19300
Washington, D.C. 20036

Scott Reed (202) 402-9468
Campaign Manager
Dole/Kemp '96
810 First Street N.E., Suite 300
Washington, D.C. 20002

Gentlemen:

It is important to the American people that all three principal candidates for president participate in the presidential debates. Notwithstanding a particular candidate's campaign strategy or preference for debate participants or format, the public interest dictates participation by all candidates the public desires to hear. And all data is quite clear that the public believes there are three principal candidates for president and overwhelmingly desires that all three be included in the presidential debates.

It is in the public interest that our discussions regarding the format and structure of the presidential debates be initiated immediately.

September 9, 1996

Page 2

News reports indicate you anticipate a meeting at the offices of the bipartisan Commission on Presidential Debates on September 12, 1996. If those reports are accurate, I expect that meeting will include a representative of the Perot campaign. Regardless of any partisan impulses harbored by the Republicans and Democrats who make up the Commission on Presidential Debates, the Reform Party has every right to be represented in the debates.

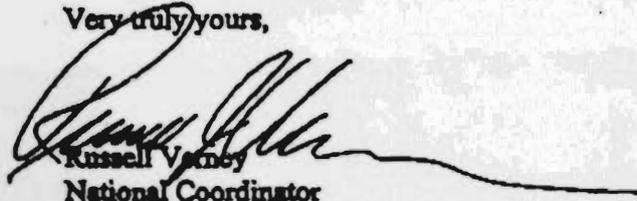
This year represents the first time in history that the Federal Election Commission, also composed of Republican and Democrat representatives, has provided pre-election campaign funding for candidates of three political parties. The Republicans and Democrats who compose the Commission on Presidential Debates surely must also put aside partisan sentiments and include Ross Perot in the 1996 debates. This is so not only because Ross Perot brings issues to the fore which are otherwise unlikely to be addressed, as many editorial writers have noted, but plainly and simply because Ross Perot meets the criteria established by the Commission, including a standing in current polls comparable to that when the Commission made its determination to include him among debate participants in 1992. More importantly, the vast majority of Americans -- by margins of more than 2 to 1 in every poll that has been conducted on the subject -- believe it is important that Ross Perot be in the 1996 presidential debates.

To exclude third party candidates recognized by the Federal Election Commission and the public as the principal players in the public policy debate would be to diminish the Commission and its hopes to be perceived as a nonpartisan, rather than bipartisan, force. Defending the interests of the two established parties is not in the best interest of the public, nor is it the Commission's mission or in its long term interests.

Accordingly, all meetings regarding the debates should include representatives of the three campaigns. To protect the public's faith in the process, we also request that the Republican and Democrat members of the Commission, as well as any committee of the Commission, publicly reveal all non public written or oral communications they receive or have received which could reasonably be interpreted as intended to affect their recommendation on debate participation. This information should also be recorded and chronicled for the public record.

The public has invested in each of three presidential campaigns and has expressed its strong desire that debates occur with all three participants present. Accordingly, we seek your agreement that our representatives will be included in any meeting held regarding the debates or with the Commission, including the meeting proposed for September 12th.

Very truly yours,


Russell Varney
National Coordinator

RV:mmm

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**COMMISSION ON
PRESIDENTIAL DEBATES** 601 Thirdcath Street, N.W. • Suite 310 South • Washington, DC 20005 • (202) 872-1020

For immediate release
September 17, 1996

Contact: Janet H. Brown
(202) 872-1020

**Commission on Presidential Debates Announces
Results of Candidate Selection Process**

Paul G. Kirk, Jr. and Frank J. Fahrenkopf, Jr., Co-chairmen of the nonprofit Commission on Presidential Debates, today issued the following statement.

"The nonpartisan Commission on Presidential Debates (CPD) has just concluded its scheduled meeting where we considered the recommendation of our independent Advisory Committee on the question of whether any independent or third-party candidate qualifies to be invited to participate in the 1996 presidential and vice presidential debates to be sponsored by the CPD. The Commission unanimously agreed with the unanimous recommendation of our independent Advisory Committee that only President Clinton and Senator Dole and their running mates be invited to participate.

"Our decision and that of our Advisory Committee was made on the basis that only President Clinton and Senator Dole have a realistic chance, as set forth in our criteria, to be elected the next President. The application of the criteria to Mr. Perot and other third-party or independent candidates did not result in a finding that any of them has a 'realistic' chance to win election. As we have consistently indicated publicly, participation is not extended to candidates because they might prove interesting or entertaining. The purpose of the CPD is to bring before the American people, in an unvarnished debate format, those candidates from whom the American people actually will choose the next President and Vice President of the United States."

-30-

Co-Chairmen

Frank J. Fahrenkopf, Jr.
Former Republican
National Committee Chairman
Paul G. Kirk, Jr.
Former Democratic
National Committee Chairman

Honorary Co-Chairmen

Gerald R. Ford
James Carter
Executive Director
Irene H. Stoen

Directors

Senator John C. Danforth
Arthur M. Hays Sulzberger
Representative John R. Lewis
Nathan N. Miner

Key Officers

Charles Kennedy Wickhamberg
Representative Barbara Vucanovich

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HARVARD UNIVERSITY
JOHN F. KENNEDY SCHOOL OF GOVERNMENT
CAMBRIDGE, MASSACHUSETTS 02138

Richard E. Neustadt
Douglas Dillon Professor
of Governmental Emergence

Tel: (617) 495-1196
Fax: (617) 495-1972

September 17, 1996

Mr. Paul G. Kirk, Jr.
Mr. Frank J. Fabroskopf, Jr.
Commission on Presidential Debates
601 13th Street, N.W.
Washington, D.C. 20005

Dear Chairman Kirk and Chairman Fabroskopf:

The Advisory Committee has been asked to review the electoral prospects of minor party candidates in light of the latest available data on the Commission's criteria, and then to judge, by the Commission's standard for admission to its debates, whether each candidate does or does not have a realistic chance of becoming President of the United States next January 20. The chance need not be overwhelming but must be more than theoretical. An affirmative answer to that question is the only basis, under long-established policy, for the Commission to invite him or her to the debates it sponsors. That single standard ("realistic chance") is for the Commission to apply. This Committee merely offers its advisory judgment.

The electoral principle behind the Commission's single standard is, as we understand it, that this Fall's debate, coming at the end of a year-long nomination and election process, should help the voters face the actual choice before them, and therefore ought to be as realistic as possible. Since 1957, you, the Commission, have stressed, rightly in our view, that your debates should be confined to the presidential and vice presidential candidates who will be sworn in next January, along with their principal rivals.

"Realistic chance" is meant to focus attention on that real choice.

We began with Mr. Ross Perot, now of the Reform Party. We have reviewed the data your staff has assembled for us, supplemented by telephonic inquiries of our own to political scientists and political journalists across the country. We have concluded that, at this stage of the campaign, Mr. Perot has no realistic chance either of popular election in November or of subsequent election by the House of Representatives, in the event no candidate obtains an Electoral College majority. None of the expert

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Chairman Kirk and Chairman Fahrenkopf
September 17, 1996
Page 2

observers we have consulted think otherwise. Some point to possibilities of extraordinary events later in the campaign, but grant that those possibilities do not change the likelihoods as of today.

Four years ago, we confronted an unprecedented condition when Mr. Perot rejoined the campaign in October. We were mindful that the preceding Spring, before his withdrawal, he had registered approximately 40 percent in the polls, and that upon rejoining the campaign, he could spend unlimited funds on television campaigning. Unable to predict the consequences of this combination, we agreed that he must be presumed to have a remote chance of election, should he do well enough so that no one else won a majority of electoral votes. His chances in the House of Representatives we found incalculable. So, we concluded that his prospect of election was unlikely but not unrealistic.

With the 1992 results and the circumstances of the current campaign before us, including Mr. Perot's funding limited by his acceptance of a federal subsidy, we see no similar circumstances at the present time. Nor do any of the academic or journalistic individuals we have consulted.

Moving on to the other minor party candidates, we find no one with a realistic chance of being elected President this year. Applying the same standard and criteria to them individually as to Mr. Perot, our response is again "no" in each case. The observers we have consulted take the same view. Three of the minor party candidates, in addition to Mr. Perot, do have a theoretical chance of election in November, by virtue of placement on the ballots of enough states to produce an Electoral College majority. We do not, however, see their election as a realistic possibility.

Therefore, the Advisory Committee unanimously concludes at this time that only President Clinton and Senator Dole qualify for admission to CPD's debates. We stand ready to reassess should present circumstances change.

Sincerely yours,



Richard E. Newport
For the Advisory Committee on Candidate Selection

Richard E. Newport, Chairman
Diana Peatrice Carlin
Dorothy S. Rollins
Kenneth W. Thompson
Eddie N. Williams

98043863274



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1996

J. Michael Poss, Treasurer
Perot '96, Inc.
7616 LBJ Freeway, Suite 727
Dallas, TX 75251

RE: MUR 4473

Dear Mr. Poss:

This letter acknowledges receipt on September 20, 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 4473. 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

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 26, 1996

R. Scott Pastrick, Treasurer
DNC Services Corporation/Democratic
National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 4473

Dear Mr. Pastrick:

The Federal Election Commission received a complaint which indicates that DNC Services Corporation/Democratic National Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4473. Please refer to this number in all future correspondence.

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

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

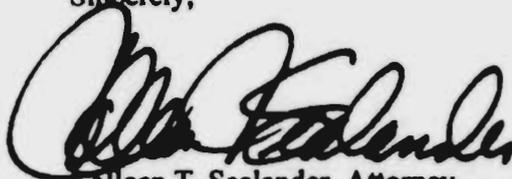
Celebrating the Commission's 26th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

98043865276

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

9 8 0 4 3 8 6 5 2 7 7



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1996

William J. McManus, Treasurer
Republican National Committee-RNC
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 4473

Dear Mr. McManus:

The Federal Election Commission received a complaint which indicates that the Republican National Committee-RNC ("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 4473. Please refer to this number in all future correspondence.

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

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

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If you have any questions, please contact 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

9 8 0 4 3 8 6 5 2 7 9



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1996

Robert E. Lighthizer, Treasurer
Dole/Kemp '96, Inc.
P.O. Box 77658
Washington, D.C. 20013

RE: MUR 4473

Dear Mr. Lighthizer:

The Federal Election Commission received a complaint which indicates that Dole/Kemp '96, Inc., 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 4473. 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 Dole/Kemp '96, Inc., 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.

98043065200

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

9 8 0 4 5 6 6 5 2 8 1



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1996

Mr. Lewis Loss
Mr. William H. Briggs, Jr.
Ross, Dixon & Masback, P.C.C.
601 Pennsylvania Avenue, N.W..
South Building
Washington, D.C. 20004-2688

RE: MUR 4473

Dear Messrs. Loss and Briggs:

The Federal Election Commission received a complaint which indicates that the Commission on Presidential Debates 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 4473. 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 Commission on Presidential Debates 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.

Celebrating the Commission's 25th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

9 3 0 4 3 8 6 5 2 8 2

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

9 0 0 4 3 0 6 3 2 8 3



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 26, 1996

Lyn Utrecht, Esq.
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Ave., N.W.
Suite 1100
Washington, D.C. 20036

Eric F. Kleinfeld, Esq.
Chief Counsel
Clinton/Gore '96
P.O. Box 19300
Washington, D.C. 20036

RE: MUR 4473

Dear Ms. Utrecht and Mr. Kleinfeld:

The Federal Election Commission received a complaint which indicates that the Clinton/Gore '96 General Committee ("Committee") 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 4473. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and 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.

9 8 0 4 3 6 6 5 2 8 4

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

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WALLACE A. CHRISTENSEN
JOHN R. GERSTEIN
CURTIS EMERY VON KANN
CATHY A. BIRCH
DAVID H. BISCHKE
RICHARD A. SIMPSON
LEE LEVINE
SEAN M. MANIFIN
PETER B. THOMPSON
ELIZABETH SARAH BERE
BARBARA E. EYRING
ROBERT H. POSIN
REBECCA L. ROSS
MICHAEL D. SULLIVAN
LEWIS K. LOSS

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CHARLES I. HADSEN
WILLIAM E. O'BRIEN, JR.
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CELESTE PHILLIPS
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October 7, 1996

VIA FACSIMILE AND FIRST CLASS MAIL

Ms. Colleen Sealander
Attorney, Control Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: **PEROT '96 Complaint**
Respondent: Commission on Presidential Debates
MUR Docket Number: 4473

Dear Ms. Sealander:

We represent the Commission on Presidential Debates ("CPD"). On September 17, 1996 we received, on behalf of CPD, the PEROT '96 ("Perot") Complaint from the Federal Election Commission ("FEC"). CPD's response to the Perot Complaint is presently due on October 15, 1996. We respectfully request that CPD be given a brief extension of time, to and including October 31, 1996, within which to file its response to the Perot Complaint. In support of this request we note the following:

1. The Perot Complaint is closely related to the Natural Law Party's FEC Complaint against CPD, MUR 4451. CPD will be responding to MUR 4451 on October 31, 1996. Thus, the requested extension will permit CPD to file responses to these two similar matters at the same time.

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COMMISSION
OFFICE OF GENERAL
COUNSEL

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ROSS, DIXON & MASBACK, L.L.P.

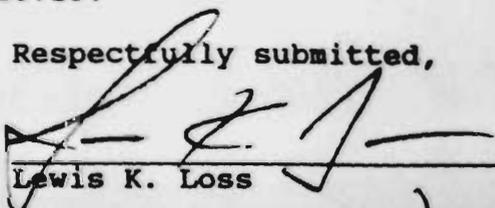
Ms. Colleen Sealander
October 7, 1996
Page 2

2. The CPD has a very small staff that is fully occupied in preparations for the currently scheduled Presidential and Vice Presidential debates. The first debate between President Clinton and Senator Dole was held last night, October 6, 1996, in Hartford, Connecticut; the second Presidential debate is scheduled for October 16, 1996, in San Diego, California. Debates between Vice President Gore and Congressman Kemp are scheduled for October 9, 1996 in St. Petersburg, Florida.

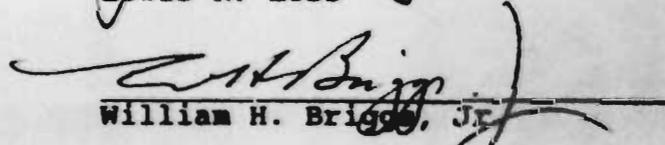
3. The NLP and Ross Perot filed separate lawsuits against CPD in the United States District Court for the District of Columbia. Both of these lawsuits challenge the CPD's criteria for selecting candidates to participate in the debates that it sponsors. The District Court dismissed both lawsuits on October 1, 1996, and the District of Columbia Circuit affirmed that decision after emergency appeals were taken. We have been fully occupied in responding to these lawsuits and the accompanying emergency motions.

Thank you for your consideration of this request. CPD looks forward to participating in the FEC's proceedings and to demonstrating that its selection criteria fully meet the requirements of 11 C.F.R. § 110.13.

Respectfully submitted,



Lewis K. Loss



William H. Briggs, Jr.

On behalf of the Commission on
Presidential Debates

LKL/WHB/jmh

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 8, 1996

Lewis K. Loss, Esq.
William H. Briggs, Esq.
Ross, Dixon & Masback
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2688

RE: MUR 4473
Commission on Presidential Debates

Dear Messrs Loss and Briggs:

This is in response to your letter dated October 7, 1996 which we received on that same day requesting an extension 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 31, 1996.

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

Sincerely,

A handwritten signature in cursive script that reads "Erik Morrison".

Erik Morrison, Paralegal
Central Enforcement Docket

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CLINTON GORE '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Oct 11 11 15 AM '96

October 11, 1996

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

Re: MUR 4473, The Clinton Gore '96 General
Committee and Joan C. Pollitt, Treasurer

Dear Mr. Noble:

This is the response of the Clinton/Gore '96 General Committee, Inc. (the "Committee") and Joan C. Pollitt, as treasurer, to the complaint in the above-captioned matter. As more fully demonstrated below, the Commission should find no reason to believe that the Committee has violated any provision of the Federal Election Campaign Act of 1971, as amended, (the "Act" or "FECA"), 2 U.S.C. §431 et seq. or the Commission's regulations and dismiss this complaint forthwith.

It should be noted at the outset that the complaint filed by Perot '96, Inc. (the "complainant") names the Commission on Presidential Debates (the "CPD") as the sole respondent against whom the complaint is being filed. Despite the fact that complainant did not intend to name the other presidential campaigns in this matter, the FEC, on its own initiative and without any consideration as to the merit of the claim, has made the major party presidential campaigns respondents. While the Committee appreciates the opportunity to respond to this matter, for the reasons stated below, making the debate participants in this particular case respondents is not only extraneous to the appropriate FEC analysis, it renders the Commission's debate regulations unworkable.

It is a matter of public record, as widely disseminated through the news media, that, since the start of the general election, the Committee fully supported the wishes of Ross Perot to be included in the CPD-sponsored presidential debates and had hoped that the CPD would make a determination to include him. The Committee has attached to this response a number of news articles reflecting this viewpoint. In addition, numerous statements were made by Committee representatives to broadcast media reflecting this point of view.

As a review of the attachments reveals, the statements of Committee representatives were unequivocal, both before and after the CPD made its determination on September 17, 1996 to exclude Perot. For example, on September 18th, The Cleveland Plain Dealer reported that "[t]he Clinton campaign, which thinks including Perot would help its cause, called the ruling regrettable and pledged to continue to push for Perot's inclusion." *Perot Is Denied Role In Debates*, The Cleveland Plain Dealer, Sept. 18, 1996, at A1. The Washington Post, Newsday, USA Today, and The Houston Chronicle, to name just a few, contained similar reports.

Accordingly, there can be no doubt, regardless of the legal analysis of this matter, of the Committee's position with respect to the inclusion of Perot in the CPD debates. Obviously, the Committee's position, while known to the CPD through its public statements, had absolutely no influence on the CPD, which made an independent determination contrary to the Committee's wishes.

The Committee was thus left with the facts being that two candidates only were extended invitations to participate in the CPD-sponsored debates. Under 11 C.F.R. §110.13, which governs candidate debates, a debate may be structured to include as few as two candidates, despite the wishes of the those included as to who else will be invited to participate. Nothing under that provision allows debate participants to dictate or otherwise select who else may participate, and the Committee was unable to do so here. In addition, nothing under 11 C.F.R. §110.13, requires the candidates, as a condition of participating, to make an independent conclusion as to whether the sponsor complied with the requirements of that section.

As far as the Committee knew, then, two candidates were invited to participate, and the CPD made its determination in accordance with the FEC's regulations. Certainly, the FEC's regulations do not require, or even suggest, that President Clinton decline to participate, simply because the number or identity of other presidential candidates desired by him is not reflected in the sponsor's independent determination as to who to should be included.

Moreover, as a practical matter, to hold participating candidates responsible for the costs of the debates, when the sponsor has exercised its independent decision-making authority as to who should be included, is inconsistent with the Act and is unworkable in a presidential campaign. Clearly, participants should not have contributions attributed to them from the debate funding source, when the determination as to who to include in the debate was made independently by the sponsor.¹ To otherwise place the legal burden of shouldering the debate costs on the candidates will have an obvious chilling effect on the debates and cause candidates to decline participation in a forum which, to them, appears to be otherwise permissible, though in

¹See Advisory Opinion 1986-37, Fed. Election Campaign Financing Guide, (CCH) ¶5875 (November 10, 1986).

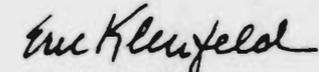
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a less than preferred structure.²

Accordingly, even though the Committee had made its desires for participants well known, the Committee concluded that it would nonetheless participate in the debates of two rather than three candidates, despite the structure not being precisely to its liking. While this determination was made on obviously political, rather than legal, grounds, the facts herein are sufficient to dismiss this matter as it affects the Committee. Therefore, the Committee respectfully requests that the Commission find no reason to believe that the Committee has violated any provision of the Act or regulations.

Sincerely,


Lyn Utrecht
General Counsel


Eric Kleinfeld
Chief Counsel

Attachment

²As is well known, the Dole/Kemp campaign is on record as opposing Ross Perot's inclusion. If the FEC were to accept Mr. Perot's argument, then the adoption of the Dole/Kemp "position" on this issue by the CPD could result in a contribution from the CPD to the Dole/Kemp Committee. Conversely, if the CPD had included Mr. Perot and Bob Dole had declined to debate, then, under the complainant's reasoning, the CPD could have made a contribution to the participating campaigns. These consequences are unworkable and make obvious why the Commission should not have named the campaigns as respondents.

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LEVEL 1 - 157 OF 200 STORIES

Copyright 1996 The Daily Telegraph plc
The Daily Telegraph

July 12, 1996, Friday

SECTION: INTERNATIONAL: Pg. 18

LENGTH: 439 words

HEADLINE: Perot stifles revolt by electing himself to run for White House

BYLINE: By Stephen Robinson in Washington

BODY:

ROSS PEROT, the Texas billionaire, moved quickly yesterday to snuff a rebellion in his organisation's ranks by indicating that he alone was qualified to lead the third party presidential challenge in November. Since setting up the Reform Party last year as his political vehicle, Mr Perot has been coy when asked if he planned to repeat his 1992 presidential run. Four years ago he spent more than pounds 40 million of his fortune and won 19 per cent of the vote. He has repeatedly said that the Reform Party was "not about me" and that he was searching for a leader of calibre - perhaps General Colin Powell - to take the party into this year's presidential contest. But Mr Perot seemed to be irritated when Richard Lamm, the former Colorado governor, said this week he was seeking the Reform Party nomination and suggested that he would make a better candidate than the Texan. Mr Perot likes to portray himself as a reluctant politician answering the call of a clamouring populace. But Mr Lamm's intervention forced him into the open to declare his ambitions. "The American people want me to do this," said Mr Perot. "If anybody should do this, I should, and I will do it and I'm in a unique position to do it." In theory, the Reform Party nominee will be selected by a ballot of its 1.3 million members, but in practice Mr Perot will secure the position if he wants it. The presidential election laws mean that Mr Perot can bankroll his own campaign, but not anyone else's. Mr Lamm, unknown outside his home state, has just pounds 4,000 in his campaign coffers. Moreover, Mr Perot has said that a polling organisation of his own choosing - and one he is not prepared to name - will count the party votes for the presidential nomination. It is not clear which of the two main candidates will benefit from Mr Perot's bid. In 1992, Mr Perot drew Republican voters away from President George Bush and probably cost him the election. Four years on, the electoral arithmetic may have changed, and Mr Perot might attract support of blue collar Democrats in the industrial heartland who are disenchanted by Mr Clinton's support for free trade. The White House professed to be unconcerned by Mr Perot's announcement and Michael

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McCurry, the presidential spokesman, said a third party candidate would "enliven the debate with serious substantive ideas". However, all the indications are that Mr Perot will not perform as strongly this time and will not be as big a factor in the outcome. Opinion polls show that Mr Perot's popularity has fallen sharply since the 1992 campaign, with voters growing weary of his studied folksiness.

LANGUAGE: ENGLISH

LOAD-DATE: July 12, 1996

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The Plain Dealer

September 18, 1996 Wednesday, FINAL / ALL

SECTION: NATIONAL; Pg. 1A

LENGTH: 468 words

HEADLINE: PEROT IS DENIED ROLE IN DEBATES; HE PLANS SUIT

BYLINE: FROM WIRE REPORTS

DATELINE: WASHINGTON

BODY:

In a decision cheered by Republicans, a nonpartisan commission recommended yesterday that Ross Perot be denied a spot in this fall's presidential debates.

An outraged Perot vowed to sue, and the Democrats continued to argue that he should share the stage.

The Commission on Presidential Debates said Perot should be excluded because he had no realistic chance of winning the White House.

Its nonbinding recommendations are now the subject of negotiations between the Dole and Clinton campaigns.

The Clinton campaign suggested two two-hour presidential debates, with Perot to be invited to one. Republican Bob Dole wants four debates - all without Perot. The gulf between the two camps made it appear certain that the first debate would not occur next week as proposed by the commission.

"Participation is not extended to candidates because they might prove interesting or entertaining," said the panel of five Democrats and five Republicans, which has played host to the fall debates since 1987.

The Clinton campaign, which thinks including Perot would help its cause, called the ruling regrettable and pledged to continue to push for Perot's inclusion.

Last week, the Dole campaign proposed four hourlong debates between Dole and Clinton and two vice presidential forums. With Clinton scheduled to address the United Nations on Sept. 24, Dole also offered to let the first

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proposed debate slide from the 25th to the 26th but no further.

Russell Verney, national coordinator of Perot's Reform Party, said the party would file suit by Friday in U.S. District Court in Washington against the commission and its individual officers. Election-law experts dismissed any such suit as futile.

"What is the legal right that Mr. Perot claims he has? I'm a little hard-pressed to come up with one," said attorney Jan Baran, who represents mostly Republicans. "There's certainly a political point, but I don't see any legal point."

CNN-TV announced yesterday it would air special editions of "Larry King Live" to provide a forum for five independent candidates for president immediately following the Debate Commission's debates.

Four candidates - the Green Party's Ralph Nader, Libertarian Party's Harry Browne, Natural Law Party's John Hagelin and U.S. Taxpayers Party's Howard Phillips - have accepted the invitations, said CNN. Perot is considering the offer, said a Perot representative.

Besides learning yesterday that he won't be invited to the debates, Perot also is having trouble persuading the networks to sell him time for his 30-minute and hour-long commercials that are the basis of his campaign style.

The Perot campaign wants to run one-hour infomercials weekly between now and the Nov. 5 election on each of the four major networks. The only acceptance so far has been from ABC.

GRAPHIC: PHOTO BY: ASSOCIATED PRESS; Ross Perot: His troubles mount.

LANGUAGE: ENGLISH

LOAD-DATE: September 19, 1996

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Copyright 1996 Star Tribune
Star Tribune

September 18, 1996, Metro Edition

SECTION: News; Pg. 3A

LENGTH: 537 words

HEADLINE: Panel urges excluding Perot from debates

SOURCE: News Services

DATELINE: Washington, D.C.

BODY:

The bipartisan Commission on Presidential Debates unanimously recommended Tuesday that Ross Perot be excluded from this year's campaign debates with President Clinton and GOP candidate Bob Dole, arguing that the Reform Party nominee has no "realistic chance to win" the election.

The Perot campaign called the decision a travesty and promised a lawsuit by the end of the week to try to overturn it.

The recommendation represented a serious blow to Perot's hopes of reestablishing the role he played in the 1992 presidential campaign as a champion for those dissatisfied with the major parties and in helping to shape the issues agenda. But it was a big victory for Dole, who has been angling for a series of one-on-one meetings with Clinton to boost his candidacy. Aides to Clinton, who have made no secret of their hope that Perot's presence would dilute Dole's chances of making gains, said they would continue to insist that Perot be included in at least one debate.

The commission's recommendations are not binding but in recent elections have served as the starting point for negotiations between the presidential campaigns. Negotiators for Clinton and Dole met for three hours Tuesday without reaching agreement.

The Clinton campaign suggested two two-hour presidential debates, with Perot to be invited to one. Dole wants four debates, all without Perot, and it appeared certain that the first debate would not occur next week, as proposed by the commission.

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The commission, composed of five Democrats and five Republicans, said its purpose in recommending the exclusion of Perot and his running mate, Pat Choate, was to provide a forum for candidates "from whom the American people actually will choose the next president."

Russell Verney, national coordinator of Perot's Reform Party, argued that Perot met all of the objective criteria set up by the commission, which was established in 1987 by the two major political parties to handle the logistics of presidential debates. Verney said Perot is on the ballot in all 50 states, has organizations in most congressional districts and has qualified for about \$ 30 million in federal funds. He claimed that Perot was ruled out subjectively.

Although there are 11 criteria, Harvard Prof. Richard E. Neustadt, who headed the commission's advisory board, said the board ultimately evaluated Perot on the single standard of whether he has a "realistic chance" of winning the election.

Frank Fahrenkopf, a commission co-chairman and former chairman of the Republican National Committee, said that although Perot met some of the criteria for inclusion, the panel was designed to provide the public with debates featuring only those who might become president, not those with merely theoretical chances.

Perot, who received 19 million votes in his 1992 campaign, participated in all three presidential debates four years ago. But he now is running in single digits in most polls, and a survey of political scientists and journalists turned up no one who believed that he could win the election or carry even a single state, the commission said.

Choate denounced the commission process as a "corrupt little game."

LANGUAGE: ENGLISH

LOAD-DATE: September 20, 1996

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Copyright 1996 Gannett Company, Inc.
USA TODAY

September 18, 1996, Wednesday, FINAL EDITION

SECTION: NEWS; Pg. 1A

LENGTH: 283 words

HEADLINE: Perot's party to sue over debate snub

BYLINE: Mimi Hall

BODY:

Ross Perot's Reform Party Tuesday vowed a court challenge of the recommendation to exclude the Texas billionaire from this fall's presidential debates -- even as President Clinton pressed to include him in one.

Late Tuesday, Clinton's campaign proposed two 2-hour presidential debates -- one including Perot -- on Oct. 6 and 13, and one 2-hour vice presidential debate Oct. 9.

The Dole campaign, which opposes Perot's inclusion, proposed three 75-minute presidential debates on Oct. 6, 13 and 21, and one vice presidential debate on Oct. 9.

Earlier, Reform Party director Russell Verney said the decision by the Commission on Presidential Debates to keep Perot out "exposes again the two-party system that is desperately afraid of losing its stranglehold" on voters.

The commission said Perot should not be in the debates because he does not stand a "realistic" chance of winning.

"Participation is not extended to candidates because they might prove interesting or entertaining," said commission chairmen Paul Kirk and Frank Fahrenkopf, former heads of the Democratic and Republican parties.

But a USA TODAY/CNN/Gallup poll Tuesday found most voters -- 52% -- think Perot should be included, though 87% said he can't win.

**The Clinton and Dole campaigns have the final say.
Perot was in the debates in 1992 when he won 19% of the vote as**

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an independent.

Clinton wants Perot included in part because he believes Perot will attack Dole's plan for a 15% tax cut. But he's not concerned about debating Dole one-on-one: "I'm not afraid of any debate. "

Despite his opposition, Dole reached out to Perot supporters: "We are the reform party."

LANGUAGE: ENGLISH

LOAD-DATE: September 18, 1996

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Copyright 1996 The Washington Post
The Washington Post

September 19, 1996, Thursday, Final Edition

SECTION: A SECTION; Pg. A13; CAMPAIGN '96

LENGTH: 690 words

HEADLINE: Perot Calls Debate Snub a Setback for Democracy; Citing Poll Favoring His Inclusion. Reform Party Nominee Says Voters 'Don't Have a Voice'

BYLINE: Donald P. Baker, Washington Post Staff Writer

DATELINE: SAN FRANCISCO, Sept. 18

BODY:

An angry Ross Perot today called his exclusion from the upcoming presidential debates "a major setback . . . for democracy and the rights of voters," and sarcastically suggested that America ask "Bosnia and Haiti to send poll-watchers to help us clean up the election process."

He was reacting to Tuesday's decision by the Commission on Presidential Debates to bar him from debating President Clinton and Republican nominee Robert J. Dole because it believed he does not have a chance of being elected. "The American voters don't have a voice. Their views are ignored by the debate commission," Perot said.

"The overriding factor" on whether a candidate should be included in the debates, Perot said, is whether "the owners of this country" want him.

Perot cited a recent Harris poll that found 76 percent of the electorate thinks he should be allowed to debate the major party candidates, as he did four years ago when he received 19 percent of the vote as an independent.

The decision to "freeze me out" of the debates, Perot told 600 members of the Commonwealth Club of California, was made by a commission composed of Democrats and Republicans and "funded by corporations and foundations who have a lot at stake here, and [whose] chairman, believe it or not, is a registered lobbyist for the gambling industry." Perot was referring to commission co-chairman Frank J. Fahrenkopf Jr., former chairman of the Republican National Committee, who is president and chief operating officer of the American Gaming Association.

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Perot is running as the nominee of the Reform Party, which he founded and funded. Perot won the nomination over former Colorado governor Richard A. Lamm, whom Perot refused to debate.

Perot said the Reform Party will sue the commission in U.S. District Court in Washington "to determine whether 76 percent of the voters should decide who gets to debate, or should it be left up to the two political parties and political writers that they call on the phone to get their opinion."

Before the 1992 debates, Perot's standing in the polls was lower than it is now -- between 6 and 8 percent -- but afterward he "roared up" in the polls.

"Now do you understand why they don't want this cur dog included -- just two registered puppies?" Perot said.

Perot placed most of the blame on Dole, whose advisers believe Perot will cut into the anti-Clinton vote, thus helping the president.

"The primary reason for keeping us out of the debates and not selling us television time is to protect and to preserve Washington's corrupt political practices," Perot said.

"This is a blatant display of power by the Republicans and the large donors who fund their campaigns and then get rewarded handsomely, and every penny of those handsome rewards comes from hard-working taxpayers, and we're going to stop that," Perot said.

Perot said that Clinton, the Democratic Party and "40 Republican congressmen, who bolted from Dole, wanted me in, but they were ignored."

Inclusion in the debate is "so critical," Perot said, because it is the only way a candidate can get his views presented to the expected 80 million viewers.

Perot renewed his criticism of the networks for refusing to sell him air time "so we can explain the issues in depth to the voters" via the 30-minute infomercials that boosted his candidacy in 1992.

He said the two major parties want to force him to use one-minute commercials, as they do, because "they don't want you to understand these problems in detail. We are determined that you will. . . . I don't think this is democracy as the framers of the Constitution intended."

With him excluded, Perot said, they will be no discussion of campaign

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finance reform, lobbying reform, the revolving door practice of former government officials working as lobbyists, and setting higher ethical standards for Congress and the White House.

But Perot was philosophical, saying, "Nobody ever said life is fair." Being left out "just gets us excited. I love being the underdog -- there's no place to go but up."

Staff researcher Barbara J. Saffir contributed to this report.

GRAPHIC: Photo, afp/john g. mabanglot , Perot blames major parties in speech to Commonwealth Club of California.

LANGUAGE: ENGLISH

LOAD-DATE: September 19, 1996

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Copyright 1996 Newsday, Inc.
Newsday

September 21, 1996, Saturday, ALL EDITIONS

SECTION: NEWS; Page A13

LENGTH: 382 words

HEADLINE: PEROT CONTESTS DEBATE EXCLUSION

BYLINE: COMBINED NEWS SERVICES

DATELINE: Washington

BODY:

Washington - Ross Perot's campaign lodged a formal complaint yesterday with the Federal Election Commission and plans to file a lawsuit over the decision to bar the Texas billionaire from presidential debates.

The campaign for Perot, the Reform Party's candidate, is seeking an injunction to halt any presidential debates planned by the Commission on Presidential Debates, based on the commission's recommendation that he be excluded from participating.

Perot contends the commission's decision - that he not be allowed to participate because it doesn't believe he has a realistic chance of winning the election - bolsters his contention that the two-party system is closed and needs a shakeup.

"We have huge problems we have to deal with, face and solve," Perot said on NBC's "Today" show yesterday. "And the two parties can't touch them because they created these problems."

Running mate Pat Choate echoed Perot's complaints yesterday in an appearance on CNN's "Talk Back Live," and pointed blame at Bob Dole, who supported the commission's recommendation to exclude third-party candidates. The commission is organizing the debates between Republican challenger Dole and President Bill Clinton.

"We're asking the American people to contact Bob Dole, and just simply say, Bob Dole, if you won't play by the rules, if you will not let Ross Perot in the debates, we're not even going to consider voting for you," Choate said.

Clinton has said he would welcome Perot in the debates.

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Perot's complaint alleges the debate commission has broken federal election law by disregarding an FEC rule stipulating that, in deciding who is eligible to participate in presidential debates, the commission must use objective criteria and is forbidden to use nomination by a particular party as a standard for inclusion.

Commission spokeswoman Janet Brown disputed the complaint's substance.

Brown noted the commission had allowed Perot to participate in 1992's presidential debates using the same criteria as this year, requiring, among other things, that any participant have a realistic chance of being elected.

"We feel that the process is thorough, fair and objective and that the results are based on a complete application of the criteria as they now exist," Brown said.

LANGUAGE: English

LOAD-DATE: September 21, 1996

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Copyright 1996 The Houston Chronicle Publishing Company
The Houston Chronicle

September 23, 1996, Monday, 3 STAR Edition

SECTION: a; Pg. 1

LENGTH: 722 words

HEADLINE: Perot pins blame on Dole for exclusion in debates

BYLINE: BENNETT ROTH, Houston Chronicle Washington Bureau; Staff

DATELINE: WASHINGTON

BODY:

WASHINGTON - Blaming Bob Dole for his exclusion from the presidential debates, Ross Perot Sunday warned that the Republican nominee's action had "'poisoned the attitudes" of independent voters who will be pivotal in this year's election.

Perot, founder and presidential nominee of the Reform Party, angrily reacted to the agreement reached Saturday by the Dole and Clinton campaigns to hold two debates next month and to exclude the Dallas billionaire.

Speaking on NBC's Meet the Press, Perot laid the blame solely on Dole saying President Clinton had fought to have him included in the debates.

Perot said Dole was responsible for "'throwing us out of the debates - and he's the one who did it, no ifs, ands and buts. "

"'Here's a guy that's supposed to be a war hero. You would think he'd be willing to stand up and talk to another person, wouldn't you? But he can't," said Perot, referring to Dole's service during World War II.

The Commission on Presidential Debates - made up of Democrats and Republicans - decided last week that Perot should not be included in the debates - a nonbinding decision embraced by the Dole campaign.

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Libertarian Party nominee Harold Browne, Natural Law Party nominee John Hagelin and U.S. Taxpayer Party nominee Howard Phillips also were denied the opportunity to participate in the debates. All three are on the presidential ballot in Texas along with Clinton, Dole and Perot.

The Reform Party is expected to go to court this week to challenge the commission's decision.

Dole campaign aides have said their candidate will have a better shot at scoring points on Clinton during a debate if Perot is not there to criticize the GOP candidate's 15 percent tax cut plan.

On Sunday, Perot said the decision to exclude him will hurt Dole among independent voters who helped the GOP assume control of both houses of Congress two years ago.

"See, Senator Dole did something really dumb politically, and that is he poisoned the attitudes of millions of independent voters who put the Republicans in power in the House and Senate with what he's done," Perot said.

Perot, who won 19 percent of the vote nationally as an independent presidential candidate in 1992, suggested that Republicans could lose congressional races this year because of the alienation of swing voters.

"Senator Dole, for his own self-interest, was willing to sacrifice the Senate and House races so that he wouldn't have to confront me," Perot said.

Defending Dole on the same show, House Majority Leader Dick Armey, R-Irving, said the candidate was merely going along with the decision of the debate commission.

Armey added, "If Bob Dole's afraid of something, I'm pretty darned sure it is not Ross Perot. "

The chairman of the Democratic National Committee, Sen. Chris Dodd, D-Conn., said that Clinton was forced to capitulate to the Dole campaign on Perot's participation to avoid charges that he was ducking debates.

98043065306

The Houston Chronicle, September 23, 1996

"We wanted Ross Perot in the debates. We made that clear," Dodd said.

Campaigning in suburban Chicago Sunday, Dole said the debate format was "fine with me."

Meanwhile, Dole's spokesman Nelson Warfield continued the campaign's effort to downplay expectations for the former senator.

Clinton "comes in with substantial advantages," Warfield said.

"He's glib, he's agile, and he's willing to stake out positions unrestrained by the truth."

Perot acknowledged that his exclusion from the debates, along with the networks' reluctance to run his 30-minute paid advertisements, has put his campaign at a "serious, serious disadvantage."

Perot also denied that he had refused to debate rival Reform Party presidential candidate Richard Lamm this summer. Perot said that the debate couldn't be worked out because of Lamm's demands.

"We tried to humor everything he wanted to do," said Perot.

The two presidential debates will be held Oct. 6 in Hartford, Conn., and Oct. 16 in San Diego. A debate between vice-presidential candidates Al Gore and Jack Kemp will be held Oct. 9 in St. Petersburg, Fla.

The 90-minute debates will begin at 8 p.m. CDT.

The first presidential debate and the vice-presidential debate will be hosted by a moderator. The second presidential debate will have a town hall format.

GRAPHIC: Mug: Ross Perot (p. 8)

LANGUAGE: ENGLISH

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Copyright 1996 The Houston Chronicle Publishing Company
The Houston Chronicle

September 24, 1996, Tuesday, 3 STAR Edition

SECTION: a; Pg. 1

LENGTH: 861 words

HEADLINE: CAMPAIGN 96;
PRESIDENT;
Debate flap goes to court;
Perot sues in bid to force his way in

BYLINE: WILLIAM E. CLAYTON JR., Houston Chronicle Washington Bureau; Staff

DATELINE: WASHINGTON

BODY:

WASHINGTON - Ross Perot, the feisty Dallas billionaire who shook the political establishment with his 1992 run for president, sued in federal court Monday to force his way into the presidential election debates.

"Perot won the 1992 debates," Perot national coordinator Russell Verney said in papers filed with the U.S. District Court here.

The Commission on Presidential Debates, headed by former Republican National Chairman Frank Fahrenkopf and former Democratic National Chairman Paul Kirk, announced a week ago it had locked Perot out of the presidential debates between Republican candidate Bob Dole and President Clinton. The commission also decided not to let Perot's Reform Party running mate, Pat Choate, into the vice-presidential debate between Republican Jack Kemp and Vice President Al Gore.

Last weekend, the Clinton and Dole campaigns agreed to presidential debates on Oct. 6 and Oct. 16. The two major-party vice-presidential candidates will debate Oct. 9

Clinton had argued for including Perot, possibly on the perception that Perot's independent following would draw more votes from Dole than from Clinton. Political analysts said Perot's votes in 1992 helped Clinton oust President Bush from

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office.

But the Dole campaign, mindful of the same political history, wanted face-to-face debates between Clinton and Dole on the hope that a strong Dole performance would close the lead that polls give Clinton in the race.

Now, Clinton may gain from the Perot exclusion because the Reform Party candidate would be expected to vent more anger on Dole.

""Senator Dole did something really dumb politically, and that is, he poisoned the attitudes of millions of independent voters, who put the Republicans in power in the House and Senate, with what he's done," Perot told NBC's Meet the Press on Sunday.

The lawsuit by Perot and Choate asked the federal court to order the commission to admit them to the debates. The suit asked in the same petition for a court order forcing the Federal Election Commission to arrange debates that include Perot.

A Perot lawyer, Professor Jamin Raskin of American University, said he will pursue the suit ""all the way to the end. "

Courts turned down similar lawsuits by third-party candidates in 1988 and 1992.

Perot's lawsuit contends the debates commission claimed to be applying objective criteria to the debates but then substituted ""overwhelmingly subjective criteria" dominated by a requirement that only candidates with a ""realistic chance" of winning would be invited.

Perot's campaigners said that, while Perot drew 19 percent of the votes in 1992, he was in the single digits in the polls before the presidential debates that year, just as he is now.

That shows the effect of debates and refutes the ""realistic chance" criterion the debates commission applied, the Perot lawsuit contended.

""Polls demonstrate that a substantial percentage of the voting population considers a candidate's debate performance a key

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factor in their final decision," Verney said.

Perot qualified for \$ 30 million in federal funds for his campaign, and his name will be on ballots in all 50 states and the District of Columbia, Verney said.

"This is the first time in our nation's history that a presidential candidate from outside the two major parties has been awarded such a grant of public funds," Verney said in a deposition.

Verney said the announcement creating the debates commission in 1987 called it "bipartisan" and that is the rub. It is so bipartisan, Verney contended, that it ignored the support given smaller parties. All the members of the commission are Republicans and Democrats, he said.

Perot's suit submitted a deposition by American University Professor Allan Lichtman, tracing the history of third parties in the United States. They were "way ahead of major parties in proposing restrictions of slavery, suffrage for women and minimum wages for workers, and yet they face formidable obstructions to electoral success," Lichtman said. One of the obstructions, he said, is the big parties' "exclusionary efforts."

"Declaring the election essentially over for all candidates but two, before a single debate takes place, will only deepen the nation's cynicism about government," the Perot suit said.

Clinton said Monday he had wanted Perot included but agreed with Dole to keep Perot out only after it became obvious during the negotiations "that there would be no debates if Mr. Perot was involved. And I thought the American people were entitled to a debate between Senator Dole and me . . . " Along with the lawsuit, Perot is planning television commercials denouncing the debates commission.

His campaign said it plans to file a complaint today with the Federal Election Commission requesting reasonable access to network facilities and equal time to air his ads after being told no time slots were available this week.

Perot also said he would request that the FEC waive the \$ 50,000 personal spending limit to allow him to spend more of

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his own money on the race.

LANGUAGE: ENGLISH

LOAD-DATE: September 25, 1996

98043065311

LEVEL 1 - 94 OF 200 STORIES

Copyright 1996 Denver Publishing Company
Rocky Mountain News

September 7, 1996, Saturday

SECTION: EDITORIAL; Ed. F; Pg. 53A

LENGTH: 400 words

HEADLINE: Just two debaters, please

Sj

THE ISSUE: Should Perot (or Ralph Nader) participate in presidential debates?

OUR VIEW: Not this time

BODY:

The non-partisan Commission on Presidential Debates is wrestling with this question: Should Ross Perot be invited to the three presidential debates?

It's this simple: No.

Four years ago, the candidate of the self-created Reform Party was invited, and the commission was right to do so. Perot was a viable candidate who went on to get 19% of the vote in the general election and might have done a whole lot better had he not taken a sabbatical from the campaign.

Not so this time.

In the four years since, Perot has engaged in little, if any, party building: recruiting and campaigning for candidates for federal, state and local offices. By that standard, the Libertarian Party (three-tenths of one percent in the '92 election) has a better claim to be invited to the debate. Bill Clinton and Bob Dole stand at the apex of established parties with millions of committed members.

Had he built a credible party, Perot might have a credible nomination. But he was nominated in a bizarre mail and phone-in ballot that attracted only a relative handful of voters. His fading attraction to the public is reflected in his single-digit polls. Everything about Perot in 1996 suggests his is a vanity candidacy - which is his absolute right but doesn't give him a place in the debates.

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The Democrats, however, say Ross Perot should participate. That's understandable, since his candidacy may hurt Bob Dole more than Bill Clinton. The Republicans say if Perot is allowed in, then Green Party candidate Ralph Nader should be, too, transparently because an effective Nader campaign would hurt Clinton most in must-win California.

The debates - the first one is tentatively set for Sept. 25 in St. Louis - should be limited to Bill Clinton and Bob Dole. Both have credentials that Perot cannot match, one is a sitting president, the other the former leader of the Senate, and one of them, unlike Perot, will be the next president of the United States.

LANGUAGE: English

LOAD-DATE: September 11, 1996

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LEVEL 1 - 106 OF 200 STORIES

Copyright 1996 The Atlanta Constitution
The Atlanta Journal and Constitution

September 8, 1996, Sunday, ALL EDITIONS

SECTION: NATIONAL NEWS: Pg. 18A

LENGTH: 626 words

HEADLINE: '96;

Pre-debate wrangling centers on Perot, Nader;
Dole doesn't want Perot dogging him unless Ralph Nader gets to pester;
Clinton.

BYLINE: Scott Shepard; WASHINGTON BUREAU

DATELINE: Washington

BODY:

Every presidential campaign debate is preceded by a debate over the debate, and this year is no exception.

But besides squabbling over formats, podiums and dressing rooms, the Clinton and Dole campaigns are jousting over whether Ross Perot will be included in the three presidential debates slated for the coming weeks.

President Clinton wants Perot in. Republican challenger Bob Dole wants him out. Or, if Perot is in, as the nominee of the brand-new Reform Party, Dole wants Ralph Nader in too, as the nominee of the fledgling Green Party.

"It's all strategic," said Robert Denton, a presidential debate expert and professor of politics and communications at Virginia Polytechnic Institute. "Bob Dole does not want to make the same mistake George Bush made in 1992."

Four years ago, Perot, running as an independent, was included in the debates between Bush and Clinton and, with his harsh criticism of Bush, turned the events into a "two against one" assault on Bush.

Although Clinton can expect some hits from Perot this year, Dole is more likely to be hurt, especially if the deficit-hawk Perot continues his criticism of Dole's proposal for broad and deep tax cuts, Denton added.

And the only reason for insisting that Nader be included is to cut into

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Clinton's commanding lead in California, a must-win state in the Clinton electoral college strategy.

The final decision on whether to include any candidates other than Clinton and Dole will be made by the nonpartisan Commission on Presidential Debates, which has sponsored the election forums since 1988.

The commission has a comprehensive set of criteria it uses to decide whether candidates of parties other than Democratic and Republican should be invited.

An advisory panel of scholars is assembling detailed information on the candidates in order to make a recommendation to the commission next week.

Peter Knight, chairman of the Clinton -Gore campaign, said the president's advisers "have always assumed" that Perot would be invited to the debates. But he questioned whether Nader is, in fact, a serious candidate.

John Buckley, spokesman for the Dole-Kemp campaign, questioned whether anyone who is "not much of a factor" in the presidential election should be included in the debates.

The Dole position is based on the fact that in the most recent public opinion polls, Perot is supported by only about 7 percent of the voters, significantly lower than the 19 percent he got in the 1992 presidential election.

But Russell Varney, Perot's national campaign coordinator, said there is "no conceivable reason" why Perot would not be invited to participate, since he meets the competitiveness standards set by the commission.

Perot is currently polling at the same levels he polled in the fall of 1992. And a USA Today/CNN/Gallup poll last week showed 62 percent of Americans feel the debates should include Perot.

Further, Perot is currently on the ballot in 47 states - Nader is only on the California ballot - and the Texan is the only presidential candidate other than Clinton and Dole who has qualified for federal matching funds to finance his campaign.

Although three presidential debates and one vice presidential debate have been scheduled by the commission, there is no guarantee that even Clinton or Dole will participate.

Every detail of the upcoming debates is under review by both parties and is being negotiated - by Commerce Secretary Mickey Kantor for Clinton and by

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former South Carolina Gov. Carroll Campbell for Dole.

Any disagreement could give either candidate an excuse to pull out, though it seems unlikely that Dole, trailing Clinton by 20 points in the polls, would not want a face-to-face confrontation of the president.

LOAD-DATE: September 10, 1996

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LEVEL 1 - 109 OF 200 STORIES

Copyright 1996 Omaha World-Herald Company
Omaha World Herald

September 10, 1996 Tuesday SUNRISE EDITION

SECTION: EDITORIAL; Pg. 18

LENGTH: 313 words

HEADLINE: Only Dole and Clinton Should Debate

BODY:

The participants in any campaign debate or joint appearance of the presidential candidates should be limited to Bill Clinton and Bob Dole.

Yes, Ross Perot is in the race. Ralph Nader has declared himself a candidate and will be on the California ballot. Various eccentrics and splinter parties are seeking votes. But even Perot, who will be on the ballot in 47 states, is not a major candidate. His support has hovered around 7 percent in the public opinion polls. He didn't campaign across the country in primary elections and caucuses, as did Clinton and Dole.

Perot won the right to call himself the Reform Party nominee by conducting a mail, telephone and Internet poll in which he received 32,145 votes to his opponent's 17,121.

Perot will not be elected. Neither will Nader. The winner on Nov. 5 will be Clinton or Dole. The minor candidates don't belong on the same debate platform with the Republican and Democratic nominees. To put them there would give symbolic standing to people who neither earned nor deserve it.

Moreover, debates would be less informative if the major-party candidates were forced to share their time with people who can't win and have nothing to lose by trying to land a verbal knock-out punch.

Nonetheless, Clinton favors including Perot. The Texas billionaire was allowed to participate in 1992 debates with Clinton and George Bush.

Perot helped Clinton by aiming most of his criticism at Bush. Clinton, in advocating the inclusion of Perot, seems to be angling for the same kind of advantage that Perot gave Clinton in the 1992 debates.

Dole said that if Perot is allowed on the platform, Nader should be there,

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too. Dole is right. But a far more sensible approach would be to say no to both Perot and Nader and focus exclusively on the candidates who have a chance of being elected.

LOAD-DATE: September 11, 1996

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LEVEL 1 - 53 OF 200 STORIES

Copyright 1996 The New York Times Company
The New York Times

September 12, 1996, Thursday, Late Edition - Final

SECTION: Section A; Page 23; Column 2; Editorial Desk

LENGTH: 547 words

HEADLINE: Dole's Secret Weapon?

BYLINE: By Matthew Lifflander; Matthew Lifflander, a lawyer, directed Ross Perot's 1992 Presidential campaign in New York until July of that year.

BODY:

Next week, the Commission on Presidential Debates is scheduled to decide whether Ross Perot should be included in the television debates.

The bipartisan commission bases its decision on useful criteria -- a candidate's "realistic" chances of winning and his national presence, for example. But the commissioners also respond to the wishes of the major party candidates, and the conventional wisdom is that the inclusion of Mr. Perot would be good for President Clinton and bad for Bob Dole.

Earlier this month, Leon Panetta, the White House chief of staff, said he "hoped and expected" that Mr. Perot would be invited to the debates. The more publicity Mr. Perot and his Reform Party get, the fewer votes for Mr. Dole, the thinking goes at the White House -- a view apparently shared by the Dole campaign, which doesn't want Mr. Perot to share the stage with its candidate.

But Mr. Dole should reconsider his advisers' assumptions. There is a way to turn Mr. Perot's participation in the debates to his advantage.

Mr. Perot, who still deserves more credit than anyone else for making the deficit a national issue, would almost certainly use the debates to attack Mr. Dole's promised 15 percent tax cut, the former Senator's core campaign issue. If Mr. Dole is to succeed in getting more voters to pay attention to his plan and to convince them of its appeal, he must have the opportunity to outline its details. Engaging an aggressive Mr. Perot would give him this chance. The Reform Party candidate personifies the nation's concern about the deficit. Some might say, in fact, that this justifies his participation in the debates, his slim chances in November notwithstanding.

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Of course, Mr. Dole must also convince viewers that he can keep his tax-cut promise without making the national deficit worse than it already is. That is a tough sell, made tougher by the number of programs that he has promised not to cut. But if he prevails in a back-and-forth with Mr. Perot on this issue, he will greatly enhance his own position. And it shouldn't be hard to score against Ross Perot.

As a debater, Mr. Perot, who prefers to control his public presentations, is limited. He tends toward repetition and rhetoric and can get flustered or testy if called on to defend his positions or to think "out of the box," as he likes to put it.

For evidence of this, Mr. Dole need only recall how poorly the Texas billionaire did in his televised debate with Vice President Al Gore in 1993 on the North American Free Trade Agreement. Mr. Gore's reasoned support of the agreement demolished Mr. Perot's snappish opposition. It was a rout. The public perceived Mr. Perot as ill-prepared, brittle and even mean. And Now Mr. Perot has picked Pat Choate, an economist who was his coach for that debate, as his running mate.

With Mr. Perot in the mix, Mr. Dole can make him, rather than the President, the foil on the tax cut issue. Mr. Clinton will probably attack Mr. Dole's economic plan, too, but he is more likely to do so effectively. There may be no better way to enhance Mr. Dole's stature and validate his tax cut plan than by engaging Mr. Perot in a televised debate. Unless the Republican candidate, well behind in the polls, has a better idea, what does he have to lose?

GRAPHIC: Drawing

LANGUAGE: ENGLISH

LOAD-DATE: September 12, 1996

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LEVEL 1 - 74 OF 200 STORIES

Copyright 1996 The Dallas Morning News
THE DALLAS MORNING NEWS

September 17, 1996, Tuesday, HOME FINAL EDITION

SECTION: NEWS; Pg. 11A

LENGTH: 435 words

HEADLINE: Perot camp launches PR blitz for debate

BYLINE: Lori Stahl, Staff Writer of The Dallas Morning News

BODY:

With a national panel set to recommend Tuesday who will participate in the presidential debates, Ross Perot's campaign launched a public relations blitz Monday to ensure that he makes the cut.

Although Perot aides insisted that they weren't worried, the campaign released a list Monday afternoon of congressional and media personalities who said that the Dallas billionaire should be allowed to debate President Clinton and Republican Bob Dole.

"We fully expect to be included," Perot '96 spokeswoman Sharon Holman said.

Participation in the debates is critical to the Perot campaign, analysts say, because it will provide the Reform Party nominee with needed media exposure and could enhance his credibility among voters.

Although he got 19 percent of the national vote in 1992, recent national polls have showed him running in the single digits.

A spokesman with the Commission on Presidential Debates said late Monday that no decision had been made but that one was expected by noon Tuesday.

Among the presidential contenders, the Dole campaign does not want Mr. Perot to take part in the debates and has pressed its case to members of the debate commission.

The Clinton campaign has said that it expects Mr. Perot to participate.

Candidates must meet a set of criteria that includes a loosely worded reference to their standing in the polls and how extensively they are covered by

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the news media.

In a letter to members of the debate commission released Monday, Perot '96 national coordinator Russ Verney asked to meet with the panel before a decision is made. He also said the criteria used to decide who gets to debate is biased and flawed.

"Your subjective criteria is more than a little disturbing," Mr. Verney wrote.

In an apparent attempt to address that issue, the Perot campaign released a list of newspaper editorials and columns calling for him to participate.

Others note that Mr. Perot's campaign received almost \$ 30 million in federal funding for his campaign this year. They say that signals a significant public investment that should qualify him for the debates.

Still others point to the fact that Mr. Perot was permitted to debate in 1992, when he also was at a low ebb in the polls.

Finally, his campaign points to a recent Harris poll that found that three out of four voters thought he should be included in the debates.

The Perot campaign released a list of 70 members of Congress - 40 Republicans and 30 Democrats - who they said want Mr. Perot in the debates. No Texans were on the list.

Staff writer Susan Feeney in Washington contributed to this report.

GRAPHIC: CHART(S): (DMN) Issues Watch.

LANGUAGE: ENGLISH

LOAD-DATE: September 19, 1996

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DEMOCRATIC NATIONAL COMMITTEE

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

October 11, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
OCT 11 2 29 PM '96

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

Re: MUR 4473

Dear Mr. Noble:

The undersigned represent respondents DNC Services Corporation/Democratic National Committee and R. Scott Pastrick, as Treasurer, in the above-captioned MUR. A Statement of Designation of Counsel is attached.

On behalf of these respondents, we are providing a response to the complaint filed in this MUR. First, there is simply no basis for having named the DNC a respondent in this MUR. The Commission's regulations, 11 C.F.R. § 111.4(d)(1), require that a complaint, to be valid, must "clearly identify as a respondent each person or entity who is alleged to have committed a violation." In this case, the complaint does clearly identify as a respondent the one entity which is alleged to have committed a violation--the Commission on Presidential Debates ("CPD"). Neither the DNC nor any other entity is identified as a respondent.

Second, the complaint does not in any way allege that the DNC has committed any violation of the Federal Election Campaign Act of 1971, as amended (the "Act") or the Commission's regulations. The complaint does not anywhere suggest any illegal contribution to, or other unlawful conduct by or in any way involving, the DNC.

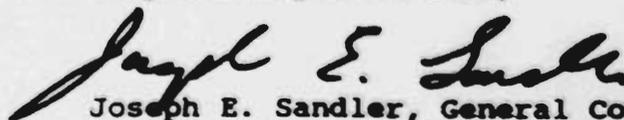
The complaint does assert that the "CPD is an affiliated committee of the Democratic National Committee and the Republican National Committee." The complaint, however, contains no facts whatsoever to support this assertion. There is no evidence in the complaint which could even remotely support the conclusion that the major purpose of the CPD is the nomination or election of candidates, which would be required to find that CPD is a "political committee" under the Act. See *Akins v. FEC*, 66 F.3d 348 (D.C. Cir. 1995).

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Further, even if CPD could conceivably be considered a "political committee," it has not been "established, financed, maintained or controlled" by the DNC, 11 C.F.R. § 110.3(b)(1)(i). CPD obviously has not been established by a single national committee of a particular political party; to the contrary, it was originally established by the chairs of both major parties. The complaint adduces no evidence that the DNC has in any way controlled or financed the CPD, and there is none. The DNC has contributed nothing to the CPD, and the organization is controlled by an independent board of directors, none of whom are DNC members, officers or employees.

For these reasons, the Commission should find no reason to believe that respondents have violated the Act or Commission regulations, and should dismiss the complaint.

Respectfully submitted,



Joseph E. Sandler, General Counsel
Neil P. Reiff, Deputy General Counsel

Attorneys for Respondents DNC
Services Corporation/Democratic
National Committee and R. Scott
Pastrick, as Treasurer

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OCT 15 2 37 PM '96

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter Of)
)
) MUR 4473
)
 Commission on Presidential Debates)
)
)

RESPONSE OF THE REPUBLICAN NATIONAL COMMITTEE
TO THE COMPLAINT OF PEROT '96, INC.

This is in response to the Complaint identified as MUR 4473 filed by Perot '96, Inc. ("Perot") against the Commission on Presidential Debates ("CPD") and, apparently, the Republican National Committee ("RNC") for knowingly and willfully violating various provisions of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 et seq.) and the Presidential Election Campaign Fund Act (26 U.S.C. § 9001 et seq.), as well as the pertinent Federal Election Commission ("FEC") Regulations.

Since the CPD is not an affiliated committee of the RNC as the Complaint alleges, MUR 4473 should be dismissed as it relates to the RNC.

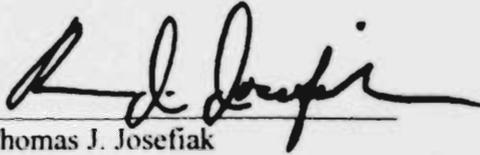
The Complaint erroneously alleges that the CPD is an affiliated committee of the RNC. Under FEC regulations, in order for the CPD to be an affiliated committee of the RNC, it must be a political committee that is "established, financed, maintained or controlled" by the RNC. 11 C.F.R. § 100.5(g). The CPD is a not-for-profit corporation which does not receive funds or any other support from the RNC. It was formed by Frank J. Fahrenkopf, Jr. and Paul G., Kirk, Jr. as a not-for-profit corporation separate and apart from their party organizations, as a potential sponsor for Presidential Candidate debates. Although Mr. Fahrenkopf was Chairman of the RNC at the time, CPD was never an officially sanctioned or approved organization of the RNC. Although Messrs. Fahrenkopf and Kirk, the Chairmen of CPD, served as the chairs of the major national party committees, they no longer do so; Haley Barbour, the current chair of the RNC, does not sit on CPD's Board of Directors. In fact, no CPD Board member is an officer of the Republican National Committee.

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The CPD is not a political committee established by the RNC, nor is it financed, maintained or controlled by the RNC. As a result, the Perot allegations that the CPD is an affiliated committee of the RNC is erroneous. Therefore, this complaint implicating the RNC is frivolous, and should be dismissed as it relates to the RNC.

For all the foregoing reasons, RNC respectfully requests that the FEC dismiss the Perot Complaint against the RNC, find no reason to believe that the RNC violated the Federal Election Campaign Act of 1971, as amended, or the Presidential Election Campaign Fund Act, and close the file with respect to the RNC as it pertains to MUR 4473.

Respectfully submitted,



Thomas J. Josefiak

Counsel for the Republican National Committee
and William J. McManus, as Treasurer

September 15, 1996

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 4473

NAME OF COUNSEL: Thomas J. Josefiak

ORGANIZATION: Republican National Committee

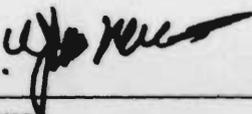
ADDRESS: Counsel's Office
310 First Street, SE
Washington, D.C. 20003

TELEPHONE: (202) 863-8638

FAX: (202) 863-8654

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.

10/15/96
Date


Signature

RESPONDENT'S NAME: Republican National Committee
William J. McManus, Treasurer

ADDRESS: 310 First Street, SE
Washington, D.C. 20003

TELEPHONE: HOME ()
BUSINESS (202) 863-8638

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DOLE KEMP

October 21, 1996

VIA FACSIMILE
202-219-3923
Colleen T. Sealander, Esq.
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

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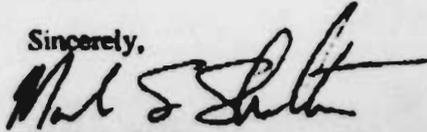
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Dear Ms. Sealander:

This letter will confirm our conversation this morning in which I told you that the campaign received in the mail today a torn portion of your September 26, 1996 letter in connection with MUR 4473. The campaign did not receive the entire letter, or any attachments to the letter. You told me that the FEC would resend the letter with attachments and that the campaign should calculate its statutory time to respond from the date the campaign receives the new letter.

Thank you for your assistance with this matter.

Sincerely,



Mark S. Shelton
Deputy General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 22, 1996

Robert E. Lighthizer, Treasurer
Dole/Kemp '96, Inc.
P.O. Box 77658
Washington, D.C. 20013

RE: MUR 4473

Dear Mr. Lighthizer:

In reference to my telephone conversation with Mark Shelton on October 21, 1996 and his letter dated the same day, enclosed is a copy of the notification package mailed to your office on September 26, 1996. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter.

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

Sincerely,

Colleen Sealander, Attorney
Central Enforcement Docket

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October 25, 1996

Collen T. Sealander, Esq.
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20436

RE: MUR 4473

Dear Ms. Sealander:

Your October 22, 1996 letter to Robert E. Lighthizer was received by the campaign on October 24, 1996. On behalf of Mr. Lighthizer and the campaign, I respectfully request an extension of twenty (20) days up to and including November 28, 1996, within which to file a response. The extension is necessary for the campaign to thoroughly review the complaint and obtain information relevant to a response.

Your favorable consideration of this request will be appreciated.

Sincerely,



Douglas C. Wurth
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

October 31, 1996

Douglas C. Wurth, General Counsel
DOLE/KEMP
810 First Street, N.E.
Suite 300
Washington, D.C. 20002

RE: MUR 4473
Dole/Kemp, Robert Lighthizer,
Treasurer

Dear Mr. Wurth:

This is in response to your letter dated October 25, 1996 which we received on October 28, 1996 requesting an extension 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 November 28, 1996.

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

Sincerely,

Erik Morrison, Paralegal
Central Enforcement Docket

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ROSS, DIXON & MASBACK, L.L.P.

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October 31, 1996

VIA HAND DELIVERY

Colleen T. Sealander, Esquire
Office of the General Counsel
Central Enforcement Docket
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4451 -- Natural Law Party Complaint
MUR 4473 -- Perot '96, Inc. Complaint

Dear Ms. Sealander:

We submit this letter on behalf of the Commission on Presidential Debates ("CPD") in response to the Natural Law Party's ("NLP") September 5, 1996 letter complaint ("NLP Letter Complaint") and Perot '96, Inc.'s ("Perot") September 19, 1996 letter complaint ("Perot Letter Complaint"). The NLP and Perot Letter Complaints raise virtually identical issues. Accordingly, we address the Letter Complaints jointly herein.

The Letter Complaints were filed shortly in advance of the CPD's 1996 presidential debates by political organizations with a decidedly partisan goal: to secure for their respective presidential candidates an invitation to participate in CPD's 1996 debates. With this end in mind, each advances a highly cramped reading of the Federal Election Commission's ("FEC") regulations concerning the sponsorship of debates.

In brief, complainants' principal contention is that the provision in 11 C.F.R. § 110.13(c) that requires "staging organizations" to use "objective criteria" to extend debate

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October 31, 1996
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invitations mandates that such determinations be made based solely on criteria that can be mechanically applied. Complainants would read the rule to bar the exercise of any judgment whatsoever by the staging organization, even if, as here, the staging organization made its invitation decisions pursuant to a published standard that (1) is capable of objective application as to which rational minds would not differ, (2) provides very substantial constraints on the staging organization's exercise of discretion, and (3) bears a close relationship to the nonpartisan educational purposes of the debates in question.

The construction complainants advance is unwarranted under the plain language of the regulation, would render general election presidential debates that include the leading candidates highly unlikely, and would raise a host of serious legal issues. As demonstrated below, neither the NLP nor Perot Letter Complaint would support a finding that there is reason to believe that CPD has violated the Federal Election Campaign Act of 1971, as amended (the "Act").⁴

I. **BACKGROUND**

A. **The Commission on Presidential Debates**

The 1984 presidential election campaign focused national attention on the role of debates in the electoral process. Specifically, although face-to-face debates between the leading presidential candidates ultimately were held in 1984, they were hastily arranged, virtually at the last minute, after an extended period of sporadic negotiations between representatives of the

⁴ In addition to the Letter Complaints, Perot and NLP also filed, in September 1996, separate lawsuits in the United States District Court for the District of Columbia against CPD and the FEC pertaining to the subject matter at issue in the Letter Complaints. Plaintiffs in those actions sought emergency injunctive relief. The two lawsuits, which were consolidated by the district court, have been dismissed, as described more fully in the October 4, 1996 Opinion by the United States Court of Appeals for the District of Columbia Circuit. Perot v. Federal Election Comm'n, No. 96-5287 and Hagelin v. Federal Election Comm'n, No. 96-5288 (D.C. Cir. Oct. 4, 1996) (attached as Exhibit A).

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nominees of the Republicans and Democrats, President Ronald Reagan, and former Vice-President Walter Mondale. The ultimate decision to hold debates during the 1976 and 1980 general election campaigns followed a similar flurry of eleventh-hour negotiations among the leading candidates. In 1972, 1968 and 1964, such last-minute jockeying resulted in no presidential debates at all during the general election campaign. Thus, the 1984 experience reinforced a mounting concern that, in any given election, voters could be deprived of the opportunity to observe the leading candidates for president debate each other.^{2'}

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Following the 1984 election, therefore, two distinguished national organizations, the Georgetown University Center for Strategic and International Studies and the Harvard University Institute of Politics, conducted separate, detailed studies of the presidential election process generally, and of the role of debates in that process specifically. Declaration of Janet Brown (hereinafter, "Brown Declaration") (attached as Exhibit B), ¶ 6. The reports produced by these two independent inquiries found, inter alia, that: (1) debates are an integral and enhancing part of the process for selecting presidential candidates; (2) American voters expect debates between the leading candidates for president; and (3) debates among those candidates should become institutionalized as a permanent part of the electoral process. Both the Georgetown and Harvard reports recommended that the two major political parties endorse a mechanism designed to ensure, to the greatest extent possible, that presidential debates between the leading candidates "be made a permanent part of the electoral process."^{2'}

In response to the Harvard and Georgetown studies, the then-chairmen of the Democratic and Republican National Committees jointly supported creation of the CPD. Id. ¶ 8. The CPD was incorporated in the District of Columbia on February 19, 1987, as a private, not-for-profit corporation to "organize,

^{2'} See generally N. Minow & C. Sloan, For Great Debates 21-39 (1987); Commission on National Elections, Electing the President: A Program for Reform 41-42 (R.E. Hunter ed. 1986); Swerdlow, The Strange -- and Sometimes Surprising -- History of Presidential Debates in America, in Presidential Debates 1988 and Beyond 10-16 (J. Swerdlow ed. 1987).

^{2'} See N. Minow & C. Sloan, supra note 1, at 45.

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manage, produce, publicize and support debates for the candidates for President of the United States." Id. ¶ 3, 9. The CPD Board is jointly chaired by Frank J. Fahrenkopf, Jr., former chairman of the Republican National Committee, and Paul G. Kirk, Jr., former chairman of the Democratic National Committee.¹⁷ Id. ¶ 8, 11.

CPD sponsored two presidential debates during the 1988 general election, id. ¶ 20, and four debates during the 1992

¹⁷ While Messrs. Kirk and Fahrenkopf served as chairmen of the Democratic and Republican National Committees, respectively, at the time the CPD was formed, they no longer do so. Brown Declaration, ¶ 8. The current chairs of the national party committees do not sit on the CPD's Board of Directors. Id. No CPD board member is an officer of the Democratic or Republican National Committees. Id. CPD receives no funding from the government or any political party. Id. ¶ 4.

NLP's and Perot's claims to the contrary notwithstanding, CPD is not controlled by the two major political parties nor has it been operated for the purpose of strengthening the major parties. While the CPD's creation was enthusiastically supported by the then-chairmen of the major parties, it was formed as a separate and independent corporation. Before the CPD began its operations in earnest, there were, as Perot notes, isolated references to the CPD as a "bi-partisan" effort. See, e.g., Perot Letter Complaint at 2. In context, however, such references spoke only to the efforts of the CPD's founders to ensure that it was not controlled by any one political party, not an effort by the two major parties to control the CPD's operations or to exclude debate participation by non-major party candidates in CPD-sponsored debates. Perhaps more importantly, these isolated references ignore not only the undisputed efforts of the CPD and its Advisory Committee to research and establish a scrupulously non-partisan procedure for selecting debate participants, see infra, at 5-6, but also the well-settled law that, for example, a taxpayer may engage in partisan activities in one capacity and nevertheless maintain a § 501(c)(3) exemption to engage in non-partisan activities in another. See Regan v. Taxation with Representation, 461 U.S. 540 (1983) (organization with dual structure could maintain § 501(c)(3) exemption for non-partisan activities, even though it engaged in partisan lobbying in a separate tax capacity).

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election, three between presidential candidates and one between vice presidential candidates, id. ¶ 26. In connection with the 1996 general election campaign, CPD sponsored two presidential debates and one vice presidential debate. CPD's debates have been viewed by tens of millions of Americans, and have served a valuable voter-education function. In addition, CPD has undertaken a number of broad-based, nonpartisan voter education projects designed to enhance the educational value of the debates themselves. Id. ¶ 38.

B. CPD's Promulgation Of Objective Candidate Selection Criteria

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The specific voter education purpose of CPD's debates is to bring before the American people, in a debate, the leading candidates for the Presidency and Vice-Presidency. Brown Declaration, ¶ 36; Declaration of Richard Neustadt, ¶ 5 (hereinafter "Neustadt Declaration") (attached as Exhibit C). In any given presidential election year, there are scores of declared non-major party presidential candidates, including over 130 in 1996. Brown Declaration, ¶ 37; Neustadt Declaration, ¶ 9. Accordingly, virtually from its inception, CPD recognized the need to develop nonpartisan criteria to ensure that it identifies all of the candidates in a particular election year who, regardless of party affiliation and in light of the educational goals of the CPD's debates, properly should be invited to participate in those debates. Brown Declaration, ¶ 13.

In 1987, to assist in the development of participant selection criteria, CPD formed an Advisory Committee, comprised of distinguished persons from various fields, including individuals with no known affiliations with any major party. Brown Declaration, ¶ 15; Neustadt Declaration, ¶ 4. After the Advisory Committee completed its deliberations, the CPD Board of Directors appointed a subcommittee of that group, headed by Professor Richard Neustadt of Harvard University, to develop specific nonpartisan criteria for the identification of appropriate candidates to participate in CPD-sponsored debates. Brown Declaration, ¶ 16; Neustadt Declaration, ¶ 4.

In 1988, pursuant to the recommendations of that committee, and consistent with its educational mission, CPD determined that it would invite to participate in its debates any non-major party candidate with a "realistic chance" of being elected President or Vice President of the United States and

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adopted a series of indicators it would consider in applying that standard. Brown Declaration, ¶ 17; Neustadt Declaration, ¶ 5. Those criteria were applied in connection with the CPD's sponsorship of 1988 debates. Brown Declaration, ¶¶ 19-20; Neustadt Declaration, ¶¶ 6, 8. Subsequently, CPD adopted and applied these criteria again, with only minor changes, in connection with the 1992 debates. Brown Declaration, ¶¶ 22-23; Neustadt Declaration, ¶¶ 6, 8.²⁷

27 Among the background allegations in the Perot Letter Complaint is an attack on aspects of the CPD's sponsorship of debates in 1988 and 1992. With respect to the 1988 debates, the Perot Letter Complaint repeats baseless allegations that, somehow, an agreement between the Bush and Dukakis campaigns rendered the debates a fraud and a "hoodwinking of the American public." Perot Letter Complaint at 3. In fact, the 1988 debates, in which distinguished journalists including Jim Lehrer, Peter Jennings, Bernard Shaw and Tom Brokaw participated, Brown Declaration, ¶ 21, were widely praised. For example, the Wall Street Journal noted, after the first of CPD's 1988 presidential debates, that "the 'no-issues' campaign issue is dead; by the time the debate finished, voters knew they had a clear-cut choice." Wall St. J., Sept. 27, 1988, § 1, at 34. The Baltimore Sun asserted that the first Bush-Dukakis encounter was a "Gold Medal Debate" and "the best presidential debate in history." Baltimore Sun, Sept. 26, 1988, § A, at 6. Nationally syndicated columnist David Broder wrote that the debates provided the voters the "invaluable experience of watching the presidential and vice presidential candidates engage each other -- and panels of journalists" and further opined that sponsorship of future debates by CPD "ought to be continued." Wash. Post, Nov. 9, 1988, § A, at 15.

With respect to the 1992 debates, presented with the inconvenient fact that CPD invited Ross Perot and Admiral James Stockdale to participate in those debates, Perot urges that CPD only invited Messrs. Perot and Stockdale to debate because the major party candidates so insisted. See Perot Letter Complaint at 3-4. This is simply false. As the CPD's contemporaneous correspondence demonstrates, see October 6, 1992 and October 7, 1992 letters from CPD to the Bush and Clinton campaigns (attached as Exhibits D & E); see also Brown Declaration, ¶ 26, CPD made very clear to the major party candidates that it would only agree to sponsor debates that were consistent with its voter education

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C. CPD's Adoption Of Criteria For 1996

On October 31, 1995, CPD publicly announced that it would again employ its "realistic chance of being elected" standard, with only minor changes, when making its determination of which nonmajor party candidates to invite to its 1996 debates. Brown Declaration, ¶ 27. The CPD's Candidate Selection Criteria for 1996 General Election Participation (attached to the Brown Declaration as Exhibit 1) ("1996 Candidate Selection Statement") that were applied to the 1996 debates, and that are put at issue by the NLP and Perot Letter Complaints, state:

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The mission of the Commission on Presidential Debates ("the Commission") is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The Commission sponsored a series of such debates in 1988 and again in 1992, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 1996 general election.

The goal of the Commission's debates is to afford the members of the voting public an opportunity to sharpen their views of those candidates from among whom the next President or Vice President will be selected. In light of the large number of declared candidates in any given presidential election, the Commission has determined that its voter education goal is best achieved by limiting debate participation to the next President and his or her principal rival(s).

A Democratic or Republican nominee has been elected to the Presidency for more than a century. Such

purposes and its candidate selection criteria, even if that meant the 1992 debates would be conducted by another sponsor. For the reasons set forth in the Advisory Committees' 1996 recommendation to the CPD, see Neustadt Declaration, Exhibit 1, Mr. Perot was deemed to satisfy the CPD's criteria in 1992. See note 7, infra.

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historical prominence and sustained voter interest warrants the extension of an invitation to the respective nominees of the two major parties to participate in the Commission's 1996 debates.

In order to further the educational purposes of its debates, the Commission has developed nonpartisan criteria upon which it will base its decisions regarding selection of nonmajor party candidates to participate in its 1996 debates. The purpose of the criteria is to identify nonmajor party candidates, if any, who have a realistic (*i.e.*, more than theoretical) chance of being elected the next President of the United States and who properly are considered to be among the principal rivals for the Presidency. The realistic chance of being elected need not be overwhelming, but it must be more than theoretical.

The criteria contemplate no quantitative threshold that triggers automatic inclusion in a Commission-sponsored debate. Rather, the Commission will employ a multifaceted analysis of potential electoral success, including a review of (1) evidence of national organization, (2) signs of national newsworthiness and competitiveness, and (3) indicators of national enthusiasm or concern, to determine whether a candidate has a sufficient chance of election to warrant inclusion in one or more of its debates.

See Brown Declaration, Exhibit 1 at 1.

Specifically, with respect to evidence of national organization, the criteria provide for:

- Satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution of the United States;
- Placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority;
- Organization in a majority of congressional

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- districts in those states; and
- Eligibility for matching funds from the Federal Election Commission or other demonstration of the ability to fund a national campaign, and endorsements by federal and state officeholders.

Id. at 1.

Likewise, the criteria focus on the national newsworthiness and competitiveness of a candidate's campaign, including evidence of the news coverage of the candidacy over time and the state of the candidacy at the point the CPD makes its invitation decisions. The evidence to be considered includes:

- The professional opinions of Washington bureau chiefs of major newspapers, news magazines, and broadcast networks;
- The opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration;
- The opinions of representative political scientists specializing in electoral politics at major universities and research centers;
- Column inches on newspaper front pages and exposure on network telecasts in comparison with the major party candidates; and
- Published views of prominent political commentators.

Id. at 1-2.

Finally, the criteria consider evidence of national public enthusiasm or concern, including:

- The findings of significant public opinion polls conducted by national polling and news organizations; and

- Reported attendance at meetings and rallies across the country (locations as well as numbers) in comparison with the two major party candidates.

Id. at 2.

D. Application Of The 1996 Criteria

On September 16, 1996, the 1996 Advisory Committee met to apply the CPD's candidate selection criteria in light of the facts and circumstances presented by the 1996 campaign. Brown Declaration, ¶ 31; Neustadt Declaration, ¶ 9.^{1'} In connection with its deliberations, the 1996 Advisory Committee was provided with voluminous public information concerning the 1996 general election campaign and the over one hundred candidates who have declared their candidacy for the office of President or Vice President. Brown Declaration, ¶ 32.

After reviewing and discussing the facts and assembled materials, the 1996 Advisory Committee unanimously concluded that, as described in the CPD's 1996 Candidate Selection Statement, only President Clinton and Senator Dole qualified for participation in the CPD's 1996 debates. Brown Declaration, ¶ 33; Neustadt Declaration, ¶ 9. The Advisory Committee communicated its recommendation in this regard to the CPD Board by letter dated September 17, 1996. Brown Declaration, ¶ 34; Neustadt Declaration, ¶ 10.^{2'} The CPD Board unanimously

^{1'} The 1996 Advisory Committee, as it did in 1992, consisted of the following distinguished citizens: Professor Neustadt; Professor Diana Carlin of the University of Kansas; Dorothy Ridings, President, Council on Foundations and former President, League of Women Voters; Kenneth Thompson, Director of the Miller Center, University of Virginia; and Eddie Williams, President, Joint Center for Political and Economic Studies. See Brown Declaration, ¶ 11.

^{2'} The Advisory Committee's September 17 letter explained:

We have concluded that, at this stage of the campaign, Mr. Perot has no realistic chance either of popular election in November or of subsequent election by the

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accepted that recommendation, after its own deliberation and discussion, in a meeting held that same day. Brown Declaration, ¶ 35.

House of Representatives, in the event no candidate obtains an Electoral College majority.

* * *

Four years ago, we confronted an unprecedented condition when Mr. Perot rejoined the campaign in October. We were mindful that the preceding Spring, before his withdrawal, he had registered approximately 40 percent in the polls, and that upon rejoining the campaign, he could spend unlimited funds on television campaigning. Unable to predict the consequences of this combination, we agreed that he must be presumed to have a remote chance of election, should he do well enough so that no one else won a majority of electoral votes. His chances in the House of Representatives we found incalculable. So, we concluded that his prospect of election was unlikely but not unrealistic.

With the 1992 results and the circumstances of the current campaign before us, including Mr. Perot's funding limited by his acceptance of a federal subsidy, we see no similar circumstances at the present time. Nor do any of the academic or journalistic individuals we have consulted.

Neustadt Declaration, Exhibit 1.

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II. CPD HAS FULLY COMPLIED WITH THE ACT AND APPLICABLE FEC REGULATIONS

A. CPD's Candidate Selection Criteria Fully Comply With Applicable FEC Regulations

CPD's criteria are fair, objective, non-partisan, and lawful; they meet the requirements of 11 C.F.R. § 110.13(c) in all respects.

In applicable part, 11 C.F.R. § 110.13(c) provides as follows:

Criteria for candidate selection. For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.

Both Letter Complaints argue that CPD's debate selection criteria fail to comply with 11 C.F.R. § 110.13(c) in two respects. First, NLP and Perot assert that the CPD does not use solely "objective criteria" in its selection process. Second, both argue that the CPD provided an "automatic" invitation to the major party nominees and that to do so violated the regulation. As explained below, the Letter Complaints badly misconstrue both 11 C.F.R. § 110.13(c) and the CPD's debate selection criteria.

1. The CPD's Criteria Are Objective

Complainants advance the strained proposition that debate invitations should have been extended to any candidate who satisfied the following indicators specified in CPD's Candidate Selection Criteria -- Constitutional eligibility to hold the office of President of the United States, ballot access and eligibility for matching funds from the FEC. See NLP Letter Complaint at 3.¹ The result-oriented Letter Complaints reject

¹ The Perot Complaint states that four elements of CPD's selection criteria satisfy FEC regulations, although it does not provide the FEC with a listing of the specific criteria to which

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CPD's other indicia as "subjective" (including even polling data), and appear to reject the application of any criteria that would require a debate sponsor to exercise any judgment whatsoever in putting together a debate. Given that presidential candidates are not legally required to debate, it is, frankly, difficult to imagine purely mechanical criteria of the sort envisioned by complainants that would have any real prospect of resulting in debates among leading candidates.^{2'}

In fact, the FEC's regulations are not the anti-debate straitjacket NLP and Perot maintain.

First, the regulations do not define the phrase "objective criteria" at all, and certainly do not define the phrase as NLP and Perot would.^{2'} Indeed, in 1994, the FEC Office of General

it gives its imprimatur.

^{2'} As the D.C. Circuit has noted, there is great uncertainty, at a minimum, whether the major party candidates would agree to debate candidates with only modest levels of popular support. See Fulani v. Brady, 935 F.2d 1324, 1329 (D.C. Cir. 1991), cert. denied, 502 U.S. 1048 (1992). Indeed, Mr. Perot's own unwillingness to appear on Larry King Live or to participate in various debates among the "minor" party candidates in 1996 has been well publicized.

A sponsor of general election debates that hopes to afford the American public with a debate that includes all of the leading candidates has a difficult task: to be inclusive enough to invite all those who genuinely are among the leading candidates, but not so inclusive as to eliminate any real chance that the principal candidates will participate. It is very difficult to conceive, in the context of general election presidential debates, of purely mechanical criteria, announced well in advance of the debates (i.e., "pre-established" as required by 11 C.F.R. § 110.13(c)), that could strike the delicate balance needed to serve this legitimate voter education goal.

^{2'} Although complainants urge in the Letter Complaints that the only construction of the phrase "objective criteria" is the equivalent of "mechanical criteria," Perot expressly argued in the litigation that the regulation was "void for vagueness" and

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Counsel submitted for the FEC's consideration a proposal that the regulations be amended to give examples of criteria that would qualify as objective, and examples of those that would not. See NCFL Rulemaking Memorandum at 73-74 (March 9, 1994) (excerpts attached as Exhibit H). Thus, the FEC staff expressly proposed that the FEC consider whether "objective criteria" should exclude "subjective evaluations of whether an individual is a significant, major or important candidate" or "[p]olls or other assessments of a candidate's chances of winning the nomination or election." Id. at 74. This portion of the proposed regulation was rejected by the FEC and is not a part of the rule.¹¹

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susceptible to a construction entirely compatible with the CPD's criteria. Plaintiffs' Amendment to Verified Complaint for Declaratory Judgment and Injunctive Relief (attached as Exhibit F); Transcript of Hearing in Hagelin v. Federal Election Comm'n, C.A. 96-2132 and Perot v. Federal Election Comm'n, C.A. 96-2196 (D.C. Cir. Oct. 1, 1996) (attached as Exhibit G).

¹¹ NLP substantially overreaches by implying that the FEC should apply the "logic and reasoning" of a recommendation that it rejected, rather than adopted. See NLP Letter Complaint at 11. To attribute to the FEC the intention to adopt NLP and Perot's construction of the phrase "objective criteria" is even less tenable in light of the way the term "objective" has been used previously in the context of debate candidate selection criteria. For instance, in the League of Women Voters' candidate selection criteria for the 1988 election, which were very similar to CPD's criteria, the League referred to the criteria as being capable of "objective application." See 1988 League of Women Voters Education Fund Criteria for General Election Debate Participation at 1 (attached as Exhibit I). And in a matter before the FEC, Dartmouth College described its candidate selection criteria, which again were much like the CPD's, as "objective," a characterization with which the FEC did not quarrel when upholding Dartmouth's conduct in its debate. See FEC MUR 1617 (May 9, 1984) (attached as Exhibit J).

Additionally, prior to the adoption of the current regulation, the FEC expressly approved of debate criteria substantially similar to those being used by the CPD. For instance, in connection with a Democratic primary debate in 1984, the League of Women Voters employed selection criteria that, in part, sought to identify "a significant candidacy," as evidenced

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Second, in other contexts, courts have rejected the proposition that the phrase "objective criteria" has a meaning such as NLP and Perot advance here. In Wilson v. Department of Health and Human Services, 770 F.2d 1048, 1052 (Fed. Cir. 1985), for instance, the Federal Circuit explicitly held that the federally mandated usage of "objective criteria" in evaluating agency employees did not require the application of "numerical or quantitative standards" because such a mechanical application of the term could result in "unrevealing, bizarre, or counter-productive" conclusions. In fact, the Wilson court expressly acknowledged that the utilization of "objective criteria" "allows for some subjective judgment on the part of [the] evaluators." Id. at 1055. See also DePauw v. U.S. Int'l Trade Comm., 782 F.2d 1564, 1566 (Fed. Cir.), cert denied, 479 U.S. 815 (1986). Similarly, in this instance, the CPD must retain at least a modicum of judgment in applying its "objective criteria" so as to ensure the avoidance of a potentially "bizarre" or unwelcome result (i.e., an unwieldy debate involving many candidates with no chance of being elected or a debate that does not include the leading candidates) based solely on quantitative factors.²²

Third, most significantly, CPD's criteria are, in fact, objective within the ordinary meaning of that term. Among the definitions of the term found in a leading dictionary is "independent of what is personal or private in our apprehension and feelings: of such nature that rational minds agree in holding it true or valid." Webster's Third New International Dictionary 1556 (1986). The standard employed by the CPD does not rely on the "personal" or "private" "feelings" of its

by, among other things, "recognition by the national media as a candidate meriting media attention" and "other factors providing substantive evidence of national voter interest in a candidate. . . ." See FEC MUR 1659 (May 9, 1984) (attached as Exhibit K). The FEC, in upholding the validity of the League's selection criteria pursuant to § 110.13, ruled that the criteria were "fair and impartial" and properly applied toward "selecting those individuals who had significant candidacies." Id.

²² See also Delaware v. Prouse, 440 U.S. 648, 654-55, 661 (1971) (random automobile "safety checks" may only be conducted by police if they utilize "objective criteria" to guide their discretion; "objective criteria" found lawful were "articulable and reasonable suspicion" of certain violations of law).

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members. The CPD had strictly proscribed the types of evidence that is gathered and considered (evidence of national organization, signs of national newsworthiness and competitiveness, and indicators of national enthusiasm), and has set forth directly the nonpartisan, objective standard that is to be applied in determining eligibility to debate: whether a candidate has a realistic chance of election. The criteria are utterly reasonable in the context of the sponsorship of general election debates. They are capable of logical and consistent application, and they provide very substantial constraints on CPD's exercise of its discretion in extending invitations to debate. This is an objective approach.^{11'}

When the FEC adopted the current version of the regulation, it not only rejected a definition of "objective" like that proposed in this action by NLP and Perot, it also made clear that staging organizations would maintain substantial discretion in extending debate invitations, noting, for instance, that "[t]he choice of which objective criteria to use is largely left to the discretion of the staging organization," and that the criteria may be set "to control the number of candidates participating in a debate if the staging organization believes there are too many candidates to conduct a meaningful debate." See 60 Fed. Reg. 64,260, 64,262 (1995).^{12'} There is simply

^{12'} Significantly, neither the NLP nor Perot maintains that this standard was misapplied as to them.

^{14'} Clearly 11 C.F.R. § 110.13(c) does not specify the precise "objective" criteria that a staging organization must employ to determine whom to invite to a debate other than that they must be "reasonable." Moreover, as noted in the text, the FEC emphasized the broad discretion that a staging organization has to select the criteria it will use and the number of participants it will invite to its debates.

Given these indisputable facts, there is fundamental problem with the NLP and Perot premise that a mechanistic interpretation of the regulation will be more inclusive than CPD's. Even were NLP and Perot correct in asserting that purely mechanistic criteria are required by the regulation (and they are not), the selection and application of such criteria would not automatically yield the debate invitation they seek for their candidates. For example, seemingly nothing in the regulation

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nothing in law or logic to suggest that otherwise proper criteria that require the exercise of some objective judgment should be barred.^{15/}

Fourth, NLP and Perot's construction of the regulation would render it unlawful as having been promulgated without adequate notice. The FEC's Notice of Proposed Rulemaking with respect to the amendments to 11 C.F.R. § 110.13(c) gave no indication that the FEC would alter its long-standing practice of approving debates in which participants were selected with criteria similar to CPD's. See 57 Fed. Reg. 33,548, 33,553 (1992). If subparagraph (c) and its "objective" criteria are interpreted to alter radically the standards the FEC previously accepted, the regulation would go well beyond the limited purpose or effect of the rule as initially proposed (i.e., preventing a

would prohibit a staging organization from holding a debate between candidates whose parties had received at least 20% of the votes in the last general election. While such a criterion would indisputably be purely mechanical (and objective under the NLP and Perot definitions of the term), it would present a far greater obstacle for third party candidates than does the more flexible, but objective standard currently used by the CPD, i.e., whether the candidate has a realistic chance of being elected. See also note 9, supra.

^{15/} Perot's citation to Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert. denied, 490 U.S. 1030 (1989), is inapplicable to this matter. In Association of the Bar, the Second Circuit upheld the Internal Revenue Service's denial of a Section 501(c)(3) tax exemption to the Association as a nonprofit corporation because of its practice of rating candidates for judicial office as "approved," "approved as highly qualified" or "not approved." Id. at 877. The Court found that the ratings of a candidate's ability were subjective and that -- as the Association conceded -- they were designed to prevent the election of candidates considered unqualified. As such, the ratings by their very nature constituted intervention "on behalf of (or in opposition to)" candidates for public office. Id. at 880-81. CPD does not assess the merit of any candidate's views and does not advocate the election of any candidate. Complainants cite no case holding that conduct of a debate sponsor in selecting candidates for debate violates § 501(c)(3), and CPD is aware of no such case.

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staging organization from "favor[ing] one or more participating candidate[s]"), and serious issues would arise as to whether the FEC provided sufficient notice of the rule in order for it to be effective. See American Water Works Assoc. v. EPA, 40 F.3d 1266, 1275 (D.C. Cir. 1994) (vacating EPA rule because "interested parties could not reasonably have anticipated the final rulemaking from the draft") (quotation marks and citation omitted); Kooritzky v. Reich, 17 F.3d 1509, 1513 (D.C. Cir. 1994); AFL-CIO v. Donovan, 757 F.2d 330, 338 (D.C. Cir. 1985).¹⁴

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Fifth, NLP and Perot's construction of the regulation would raise serious constitutional problems. In order to withstand First Amendment scrutiny, government regulation of political activity must be narrowly tailored to serve a compelling government interest.¹⁵ The only governmental interest that is sufficiently compelling to justify restrictions on the expression of participants in the political process is the prevention of corruption or the appearance of corruption. See, e.g., Citizens Against Rent Control v. Berkeley, 454 U.S. 290, 296 (1981) (limits on political activity are contrary to the First Amendment unless they regulate large contributions given to secure a political quid pro quo); Buckley v. Valeo, 424 U.S. 1, 14, 18 (1976). In addition, even when a given regulation is designed to serve the government's compelling interest in preventing corruption, it must be closely drawn so as not to inhibit protected expression unnecessarily. Carver v. Nixon, 72 F.3d 633, 644 (8th Cir. 1995), cert. denied, 116 S. Ct. 2579 (1996). Thus, the government must demonstrate both that "the recited harms are real" and that "the regulation will in fact alleviate these harms in a direct and material way." United

¹⁴ Attached as Exhibit L hereto is a comparison of the text of the pertinent part of the rule as initially proposed and as finally adopted.

¹⁵ In the recently concluded litigation concerning the 1996 presidential debates, the D.C. Circuit specifically recognized the First Amendment concerns implicated by governmental restrictions on a debate sponsor's invitation decisions. Exhibit A at 11 ("[I]f this court were to enjoin the CPD from staging the debates or from choosing debate participants, there would be a substantial argument that the court would itself violate the CPD's First Amendment Rights.").

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States v. National Treasury Employees Union, 115 S. Ct. 1003, 1017 (1995) (quoting Turner Broadcasting Sys. v. FCC, 114 S. Ct. 2445, 2470 (plurality opinion) (recognizing that the government must show that the asserted interest is in "genuine jeopardy" and that the remedy it has adopted does not "burden substantially more speech than is necessary" to further that interest), rehearing denied, 115 S. Ct. 30 (1994)).

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The regulation at issue, if construed in the manner suggested by NLP and Perot, would be unconstitutional precisely because it would greatly limited CPD's First Amendment rights, yet it would not be narrowly tailored to reduce corruption or the appearance of corruption. Indeed, as NLP and Perot construe it, the regulation sweeps both too broadly and not broadly enough. On the one hand, putative debate sponsors could limit debate participation to candidates improperly beholden to them by the simple expedient of gauging their selection criteria to some "objective" characteristic shared only by those candidates. By the same token, the NLP and Perot's construction would surely serve to preclude debates in which the participants are selected pursuant to criteria that pose no such risk -- including CPD's requirement that any invited candidate had a realistic prospect of election. Thus, the regulation would be unconstitutional because it is not narrowly tailored to serve the only legitimate interest that might otherwise support governmental regulations of the debate process.

2. CPD Acted Properly In Extending Invitations To The Major Party Nominees

NLP and Perot also incorrectly argue that the CPD violated FEC regulations by providing an "automatic" invitation to the nominees of the Republican and Democratic parties. In fact, as stated in the Candidate Selection Statement:

A Democratic or Republican nominee has been elected to the Presidency for more than a century. Such historical prominence and sustained voter interest warrants the extension of an invitation to the respective nominees of the two major parties to participate in the Commission's 1996 debates.

See Brown Declaration, Exhibit 1 at 1 (emphasis added).

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The CPD concluded that, in 1996, given the "historical prominence" of, and "sustained voter interest" in, the Republican and Democratic parties, an invitation to the Republican and Democratic nominees was warranted.¹¹ Thus, as an initial matter, the CPD did not extend an automatic invitation based solely on nomination by a particular party. Rather, it made a reasonable determination regarding the prominence and voter interest, in 1996, in the Republican and Democratic nominees and, on that basis, extended debate invitations to the respective nominees of the Democratic and Republican parties.

Moreover, complainants misconstrue the regulation. Both on its face and in the explanatory material the FEC issued when it published the regulation, the FEC made clear that party affiliation could be used as a basis for inviting a candidate so long as other objective criteria were also available and applied to candidates who were not affiliated with that particular party. When it amended the regulations, the FEC made clear that it did not intend to prevent a staging organization from providing an automatic invitation to one or both of the major party candidates, but rather to prohibit "a staging organization [from]

¹¹ The nominees of the major parties traditionally have been the leading candidates for election to the Presidency. This is neither a "partisan" nor a "bipartisan" observation, but rather a fact of our political life reflected in a host of Congressional enactments governing presidential elections. See, e.g., 26 U.S.C. § 9004 (major-party candidates treated more favorably than minor-party candidates for purposes of public funding of general election campaigns); id. § 9008 (major-party presidential nominating conventions treated more favorably than minor-party nominating conventions for purposes of public financing); id. § 9033 (candidates seeking presidential nomination of a political party treated more favorably than independent candidates for purposes of primary matching funds). The aforementioned provisions of the tax code have all withstood constitutional scrutiny. See, e.g., Buckley v. Valeo, 424 U.S. 1, 85-105 (1976).

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bar[ring] minor party candidates . . . from participating simply because they have not been nominated by a major party." See 60 Fed. Reg. 64,260, 64,262 (1995) (emphasis added).¹²

In short, major party affiliation is not the "sole objective criterion [used by CPD] to determine whether to include a candidate in a debate." 11 C.F.R. § 110.13(c). Accordingly, CPD's decision to invite the Republican and Democratic Presidential nominees to debate in 1996 did not violate 11 C.F.R. § 110.13(c).

B. CPD, A Nonprofit, Nonpartisan Corporation, Is Eligible To Sponsor Candidate Debates Pursuant to Applicable FEC Regulations

The Perot Letter Complaint advances a number of ancillary attacks, each of which fails because CPD's debate selection criteria are entirely in compliance with 11 C.F.R. § 110.13(c). Nevertheless, in an abundance of caution, we briefly respond to Perot's "secondary" challenges to the CPD.

First, the Perot Letter Complaint argues that CPD is in violation of 11 C.F.R. § 110.13(a) "because it is an organization which 'supports' two political parties, and 'opposes' all others." See Perot Letter Complaint at 5. In full, 11 C.F.R. § 110.13(a) states that

Nonprofit organizations described in 26 U.S.C. 501(c)(3) or (c)(4) and which do not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with this section and 11 C.F.R. 114.4(f).

¹² When it adopted the earlier version of 11 C.F.R. § 110.13(c), the FEC explained that a debate sponsor could properly "stage a general election debate to which only major party candidates are invited." 44 Fed. Reg. 76734, 76735 (Dec. 27, 1979). The current version of the regulation requires a mechanism for identifying additional candidates whom should be invited, but does not require staging organizations to turn a blind eye on the role of the major parties in our political system.

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As discussed supra, at 4, CPD is a nonprofit corporation, which has been granted tax exempt status by the Internal Revenue Service under § 501(c)(3) of the Internal Revenue Code. A § 501(c)(3) corporation, by definition, "does not participate in, or intervene in . . . any political campaign on behalf of (or in opposition to) any candidate for public office." 26 U.S.C. § 501(c)(3). CPD's limited mission, sponsoring presidential debates and closely related educational activities, is fully in accordance with the requirements of 501(c)(3), and similarly does not violate 11 C.F.R. 110.13(a)'s prohibition of endorsement, support or opposition to any candidate or party. As discussed above, see, supra at 17-18, n.15, CPD makes no assessment of the merits of any candidate's or party's views, and does not advocate or oppose the election of any candidate or party.

At best, Perot's claim that CPD has violated 11 C.F.R. § 110.13(a) amounts to an argument that the very act of inviting candidates to debates constitutes "endorsement" of those invited and "opposition" to those not invited, regardless of the nonpartisan manner in which those selections are made. Under Perot's analysis, no staging organization could ever hold a debate pursuant to § 110.13, because the act of using criteria required by § 110.13(c) would always result in an improper endorsement under § 110.13(a). This result cannot be reconciled with the FEC's regulations and must be rejected.

Second, Perot alleges that CPD is in violation of the Act because it has failed to register as a "political committee" pursuant to 2 U.S.C. § 433. See Perot Letter Complaint at 2. In fact, FEC regulations provide that "[f]unds used to defray costs incurred in staging nonpartisan candidate debates in accordance with the provisions of 11 C.F.R. 110.13" do not constitute contributions or expenditures subject to the provisions of the Act, see 11 C.F.R. §§ 100.7(b)(21) and 100.8(b)(23), and thus CPD does not constitute a "political committee" under the Act, see 2 U.S.C. § 431(4).^{22/} As stated in its corporate charter, and as

^{22/} In an attempt to defeat the safe harbor provided in the FEC's regulations, Perot asserts that CPD is an "affiliated committee of the Democratic National Committee and the Republican National Committee." See Perot Letter Complaint at 2. As set forth supra, at 4, CPD is an independent, nonpartisan corporation, on which no current members of the Democratic or

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evidenced by its actions, CPD's major purpose is to sponsor educational debates, not to nominate or elect a particular candidate or candidates. See Brown Declaration, ¶ 9. CPD is not a "political committee" under the Act, and thus it is not in violation of 2 U.S.C. § 433 for failure to register as such. See FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 252 n.6 (1986) (recognizing that "an entity subject to regulations as a 'political committee' under the Act is one that is either 'under the control of a candidate or the major purpose of which is the nomination or election of a candidate'") (quoting Buckley v. Valeo, 424 U.S. at 79).

Finally, Perot argues generally that CPD's sponsorship of presidential and vice presidential debates constitutes "illegal in-kind contributions to the Clinton campaign and the Dole campaign," in violation of 2 U.S.C. § 441b. See Perot Letter Complaint at 2, 6. As discussed supra, CPD is in full compliance with 110.13, and funds it has received or spent do not constitute "contributions" or "expenditures" as defined in the Act. See 11 C.F.R. §§ 100.7(b)(21) and 100.8(b)(23). Perot's interpretation of the Act is in direct conflict with the FEC's reading of § 441b. As recognized by the Court of Appeals in Perot v. Federal Election Commission,

[a]s early as 1976, the FEC recognized that § 441b could be construed to bar the use of corporate funds to stage debates. See 44 Fed. Reg. 59,162 (1979). To remove doubt about the legality of corporate sponsorship of debates, the FEC promulgated a regulation incorporating its view that "nonpartisan debates are designed to educate and inform voters rather than to influence the

Republican National Committee serve, and which receives no funds from the Democratic or Republican parties. As such, it does not constitute an "affiliated committee" under the Act. The facts that some members have connections to the Democratic and Republican parties, and that the Democratic and Republican National Committees were involved in the formation of CPD, do not meet the threshold connection required to make the CPD an "affiliated committee" pursuant to relevant FEC regulations. See, e.g., 11 C.F.R. § 100.4(g) ("affiliated committees" includes those "established, financed, maintained or controlled by another committee or sponsoring organization").

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nomination or election of a particular candidate,"
and thus "funds expended . . . to defray costs
incurred in staging nonpartisan debates" ought not
run afoul of § 441b. 44 Fed. Reg. 76,734 (1979).

Exhibit A at 2.

The current version of the regulation applicable to sponsorship
of debates continues to afford a "safe harbor" from 441b for the
sponsorship of educational debates.

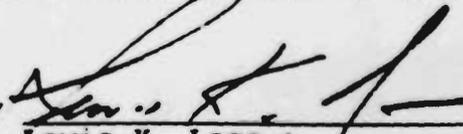
* * * *

For the foregoing reasons, the Letter Complaints filed by
NLP and Perot fail to set forth a possible violation of the Act,
and therefore CPD respectfully urges that no action be taken
against it by the FEC in connection with MUR 4451 and MUR 4473.

Respectfully submitted,

ROSS, DIXON & MASBACK, L.L.P.

By


Lewis K. Loss
William H. Briggs, Jr.
Stacey L. McGraw

COUNSEL FOR THE COMMISSION ON
PRESIDENTIAL DEBATES

EXHIBITS TO:

CPD's October 31, 1996 Letter
To Colleen T. Sealander, Esq.
Regarding

Oct 31 11 49 PM '96

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION
OCT 31 1996

MUR 4451 -- Natural Law Party Complaint
MUR 4473 -- Perot '96, Inc. Complaint

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United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued October 3, 1996

Decided October 4, 1996

No. 96-5287

Ross Perot, Pat Choate, and
Perot '96, Inc.,
Appellants

United States Court of Appeals
For the District of Columbia Circuit

FILED OCT 04 1996

v.

Federal Election Commission,
and the Commission on Presidential Debates,
Appellees

No. 96-5288

Dr. John Hagelin, Dr. Mike Tompkins, and
the Natural Law Party of the United States of America,
Appellants

v.

Federal Election Commission,
the Commission on Presidential Debates,
Appellees

Appeals from the United States District Court
for the District of Columbia
(96cv2196 & 96cv2132)

Thomas O. Gorman argued the cause for appellants Ross Perot, et al., with whom *Samuel W. Lanham, Jr., Jamin B. Raskin,* and *Thomas O. Sargentich, pro hac vice,* and *Robert E. Steinberg* were on the briefs.

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Thomas M. Newmark argued the cause (*pro hac vice*) for appellants Dr. Hagelin, et al., and was on the brief.

Richard B. Bader, Associate General Counsel, argued the cause for appellee Federal Election Commission, with whom *Lawrence M. Noble*, General Counsel, was on the brief.

Lewis K. Loss, Attorney, argued the cause for appellee Commission on Presidential Debates, with whom *William H. Briggs, Jr.*, was on the brief.

Before: SILBERMAN, RANDOLPH, and ROGERS, *Circuit Judges*.

Opinion for the Court filed *Per Curiam*.

Per Curiam: Two days hence a series of debates between candidates nominated by the Democratic Party and the Republican Party for President and Vice President of the United States is scheduled to begin. One day ago this court heard argument concerning those debates. The case was argued before the district court on October 1, 1996. In view of the importance of the issues and the short time remaining before the debates begin, this court granted the motions for expedited review.

Appellants in these consolidated appeals are Ross Perot and Pat Choate, the presidential and vice-presidential nominees of the Reform Party, and their campaign organization, Perot '96, Inc. (collectively "Perot"); and Dr. John Hagelin and Dr. Mike Tompkins, the nominees of the Natural Law Party of the United States, and their party (collectively "Dr. Hagelin"). They appeal from the denial of injunctive relief and the grant of summary judgment to the Federal Election Commission ("FEC") and the Commission on Presidential Debates ("CPD"). Appellants now raise only two contentions. Perot contends that the FEC has unlawfully delegated legislative authority to a private, non-profit corporation, in violation of Article I of the Constitution. Dr. Hagelin contends that the district court erred in granting summary

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judgment on the grounds that it lacked jurisdiction to enjoin a violation of the Federal Election Campaign Act of 1971 ("FECA"), 2 U.S.C. § 431 *et seq.* (1994), despite the inability of the FEC to address the violation prior to the 1996 presidential debates scheduled by the CPD to begin on October 6, 1996. Hence, we do not address the merits of appellants' other claims, presented to the district court, that they were wrongfully excluded from the debates. On the issues before this court, we find no merit to Perot's constitutional challenge or Dr. Hagelin's contentions. As to the validity of the FEC regulation at the center of this controversy, we conclude that the grant of summary judgment sustaining it was premature. Accordingly, we affirm the denial of injunctive relief, vacate the grant of summary judgment relating to the claim that the regulation is inconsistent with the statute, and remand with instructions to dismiss the regulatory claim without prejudice.

I.

The CPD is a private, non-profit corporation formed in 1987 for the purpose of sponsoring presidential debates. In prior years, that task had been performed by another non-profit entity, the League of Women Voters. Beginning with the 1988 presidential election, the CPD assumed that function. The members of the CPD include a former chairman of the Democratic National Committee, a former chairman of the Republican National Committee, and other representatives of the Democratic and Republican parties. In connection with the 1996 presidential election, the CPD has scheduled a series of two presidential and one vice-presidential debates, with the first presidential debate scheduled to take place on October 6, 1996. The only candidates invited to participate are President William Jefferson Clinton and former Senator Robert J. Dole, the respective nominees of the Democratic and Republican

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Parties, and their vice-presidential running mates. The CPD, relying on its preannounced criteria, and the recommendation of an advisory committee consisting primarily of political scientists, based its decision to exclude other candidates on the grounds that no other candidates have a "realistic chance of winning" the 1996 election.

To understand the nature of appellants' claims, we set forth the underlying statutory and regulatory framework. The FECA prohibits "any corporation" from making "a contribution or expenditure in connection with" any federal election. 2 U.S.C. § 441b(a). Both a "contribution" and an "expenditure" are defined to include, *inter alia*, any advance of "anything of value ... for the purpose of influencing any election for Federal office." *Id.* § 431(8)(A)(I); *id.* § 431(9)(A)(I). An "expenditure" does not, however, include "nonpartisan activity designed to encourage individuals to vote or to register to vote." *Id.* § 431(9)(B)(ii).

As early as 1976, the FEC recognized that § 441b could be construed to bar the use of corporate funds to stage debates. *See* 44 Fed. Reg. 59,162 (1979). To remove doubt about the legality of corporate sponsorship of debates, the FEC promulgated a regulation incorporating its view that "nonpartisan debates are designed to educate and inform voters rather than to influence the nomination or election of a particular candidate," and thus "funds expended ... to defray costs incurred in staging nonpartisan debates" ought not run afoul of § 441b. 44 Fed. Reg. 76,734 (1979). The current version of this regulation, to be codified at 11 C.F.R. § 110.13, was transmitted to Congress in December 1995, and became effective March 13, 1996. It provides that eligible non-profit organizations may stage candidate

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debates, so long as they "use pre-established objective criteria to determine which candidates may participate in a debate."¹

On September 19, 1995, approximately six months before the effective date of § 110.13, the CPD announced its selection criteria for participants in the 1996 presidential debates. The CPD had concluded that the historical prominence of Democratic and Republican nominees warranted an invitation to the respective nominees of the two major

¹ The regulation reads in relevant part:

§ 110.13 Candidate debates.

(a) *Staging organizations.* (1) Nonprofit organizations described in 26 U.S.C. 501(c)(3) or (c)(4) and which do not endorse, support, or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 C.F.R. 114.1(f).

.....

(b) *Debate Structure.* The structure of debates staged in accordance with this section and 11 C.F.R. 114.4(f) is left to the discretion of the staging organization(s), provided that:

(1) Such debates include at least two candidates; and

(2) The staging organization(s) does not structure the debates to promote or advance one candidate over another.

(c) *Criteria for candidate selection.* For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate....

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parties in 1996. With respect to "non-major party candidates," the CPD announced criteria by which it could identify those who had "a realistic (i.e., more than theoretical) chance of being elected." These criteria included evidence of national organization (such as placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority), signs of national newsworthiness (as evidenced, for example, by the professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks), and indicators of public enthusiasm (as, for instance, reflected in public opinion polls). On September 17, 1996, the CPD issued a press release indicating its conclusion that no candidate other than President Clinton or Senator Dole had a realistic chance of being elected, and that, therefore, only those candidates and their vice-presidential running mates, would be invited to participate in the debates.

On September 6, 1996, Dr. Hagelin filed an administrative complaint against the CPD with the FEC, asserting that the CPD violated 11 C.F.R. § 110.13(c) by using subjective criteria to choose whom to invite as participants in its debates and by inviting President Clinton and Senator Dole based solely on their nominations by the Democratic and Republican parties. On September 13, Dr. Hagelin filed a verified complaint against the FEC and the CPD in the United States District Court for the District of Columbia seeking to enjoin the CPD from using unlawful debate selection criteria or, in the alternative, to order the FEC to take immediate action on his complaint as well as authorize it to take expedited action against the CPD's alleged violations of FECA.

Meanwhile, on September 20, 1996, Perot filed an administrative complaint against the CPD with the FEC. He too challenged the CPD's application of its selection criteria. On

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September 23, 1996, Perot filed a verified complaint in the district court, requesting that the court enjoin the FEC and the CPD from violating FEC regulations, the FECA, and various constitutional provisions.

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The FEC and the CPD filed motions to dismiss the complaints. The district court consolidated the cases for argument, and, after expedited briefing, heard oral argument and ruled from the bench on October 1, 1996. The district court denied appellants' requests for preliminary injunctive relief. Applying the factors set forth in *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977), the court determined first that neither Dr. Hagelin nor Perot could show a likelihood of success on the merits. The court noted that Congress had granted the FEC exclusive primary jurisdiction to adjudicate civil claims under the FECA, and it emphasized that the FECA precluded its exercise of jurisdiction over the instant claims until the FEC acted on the claims or until 120 days after those claims had been filed. The district court then looked to the balance of equities presented in the appellants' claims for injunctive relief. This factor also weighed against Dr. Hagelin and Perot, as the damage they would suffer if the debates were to be held without their participation could at least be partially remedied in subsequent proceedings, and in any event it did not outweigh the public interest in allowing the debates to go forward without interference.

In addition to denying both appellants' claims for injunctive relief, the district court rejected Perot's claim that the CPD threatened a violation of his First Amendment right to freedom of speech. Relying on *San Francisco Arts & Athletics, Inc. v. United States Olympic Committee*, 483 U.S. 522 (1987), the court held that no such claim could lie against CPD

since it was not a state actor. The court summarily rejected Perot's equal protection, due process, and nondelegation claims. Finally, the court, treating the motions to dismiss as motions for summary judgment, granted summary judgment for the FEC on the claim that § 110.113 was beyond the scope of its statutory authority. Fed. R. Civ. P. 12(b), 56. Under *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), the court found the regulation a permissible interpretation of FECA's exemption from the definition of "expenditure" nonpartisan activity designed to encourage individuals to vote.

II.

We agree with the district court that it lacked jurisdiction to adjudicate the validity of the complaints filed with the FEC or to order the FEC to do so before the CPD-sponsored debate on October 6, 1996. Accordingly, we affirm the district court's dismissal of these claims on jurisdictional grounds.

Congress could not have spoken more plainly in limiting the jurisdiction of federal courts to adjudicate claims under the FECA. The statute explicitly states that "[e]xcept as provided in section 437g(a)(8) of this title, the power of the [FEC] to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act." 2 U.S.C. § 437d(e); accord 2 U.S.C. § 437c(b)(1) ("The [FEC] shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act The [FEC] shall have exclusive jurisdiction with respect to the civil enforcement of such provisions. ").

Section 437g requires the FEC to proceed with due deliberation after it receives a complaint alleging violations of the Act. 2 U.S.C. § 437g(a)(1). Dr. Hagelin filed his

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complaint with the FEC on September 6, 1996; Perot filed his complaint on September 20, 1996. CPD, which is alleged to have violated the Act, had to be notified within 5 days. *Id.* § 437g(a)(1). We presume this was done. The next step is for the FEC to vote to determine whether there is reason to believe the subject of the complaint has violated the Act. *Id.* § 437g(a)(2). If the complaint is not dismissed at that stage, the FEC conducts an investigation. *Id.* If the FEC's general counsel recommends that the FEC proceed to the next statutory step - a vote on whether there is probable cause to believe the respondent violated the Act -- the respondent is notified and is given 15 days to submit a brief stating its legal and factual position and replying to the general counsel's brief. *Id.* § 437g(a)(3). If the FEC then decides there is probable cause, it "shall attempt, for a period of at least 30 days," or at least 15 days if an election is imminent, to have the respondent correct or prevent the violation. *Id.* § 437g(a)(4)(A)(i) & (ii). The FEC may skip this step and refer the matter to the Attorney General for enforcement action only if it determines that the violation is knowing and willful and only if the violation is of a type included in § 437g(d). *Id.* § 437g(a)(5)(C).

Other procedural requirements, unnecessary to mention, also bind the FEC's deliberations about, and investigation of, complaints. The end of the administrative road is a civil complaint filed by the FEC in the district court or an action by the complaining party. Section 437g(a)(8)(A) states: "[a]ny party aggrieved by an order of the [FEC] dismissing a complaint filed by such party under paragraph (1), or by failure of the [FEC] to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a

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petition with the United States District Court for the District of Columbia." *Id.* § 437g(a)(8)(A).² The district court's decision may be appealed to this court. *Id.* § 437g(a)(9).

Dr. Hagelin claims that we may ignore these elaborate statutory requirements and force the FEC to act immediately because otherwise he would suffer irreparable harm. To do so, however, would place us in conflict with our decision in *In re Carter-Mondale Reelection Committee, Inc.*, 642 F.2d 538 (D.C. Cir. 1980). *Carter-Mondale* is, as the FEC argues, directly on point. The plaintiffs in that case asked the court to find a violation of the federal election laws, and requested alternatively "that the FEC be directed to conduct an immediate investigation of the [plaintiffs'] charges." *Id.* at 542. The court held that "the exclusive jurisdiction of the FEC extends to assure that the [FEC's] initial investigation is completed, or the statutory time limit allowed for an investigation has expired, before any judicial review is invoked." *Id.* It therefore declined to hear the case because "the entire matter at this time is within the exclusive jurisdiction of the Federal Election Commission." *Id.*

It is true, as Dr. Hagelin points out, that the *Carter-Mondale* opinion said there might be extraordinary circumstances allowing a party to "hurdle the explicit time restraints of the [Federal Election Campaign] Act." 642 F.2d at 543. But the opinion never specified what these circumstances might be. It did not indicate on what basis, short of holding § 437g unconstitutional (which no one urges), a court could disregard the statutory commands. And the statement in *Carter-Mondale* was made before the Supreme Court instructed us that if

² Apart from § 437g(a)(8)(C), there is no private right of action to enforce the FECA against an alleged violator. See *Karahalios v. National Fed'n of Fed. Employees, Local 1263*, 489 U.S. 527, 533 (1989); see also *Corn v. Ash*, 422 U.S. 66, 82-85 (1975).

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"Congress specifically mandates, exhaustion is required." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). Section 437g is as specific a mandate as one can imagine; as such, the procedures it sets forth -- procedures purposely designed to ensure fairness not only to complainants but also to respondents -- must be followed before a court may intervene. We assume that in formulating those procedures Congress, whose members are elected every two or six years, knew full well that complaints filed shortly before elections, or debates, might not be investigated and prosecuted until after the event. Congress could have chosen to allow judicial intervention in the face of such exigencies, but it did not do so. And as we have said, a court is not free to disregard that congressional judgment.

Even if we could somehow ignore the jurisdictional requirements of § 437g(a), *but see Carter-Mondale*, 642 F.2d at 542, Dr. Hagelin could not achieve the result he seeks. This court could not compel the FEC to enforce its regulation in accordance with the FECA. We have interpreted § 437g(a)(8)(C) to allow nothing more than an order requiring the FEC action when the FEC's failure to act is contrary to law. *See FEC v. Rose*, 806 F.2d 1081, 1084 (D.C. Cir. 1986). Since the FEC is given 120 days to act on a submitted complaint, § 437g(a)(8)(A), its delay in this case is neither unlawful nor unreasonable. *See Rose*, 806 F.2d at 1084-85. Second, if this court were to enjoin the CPD from staging the debates or from choosing debate participants, there would be a substantial argument that the court would itself violate the CPD's First Amendment rights. *See Nebraska Press Ass'n v. Stuart*, 427 U.S. 539 (1976) (prior restraint); *Hurley v. Irish-American Gay, Lesbian & Bisexual Group of Boston*, 115 S. Ct. 2338 (1995) (speaker's choice of content).

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III.

In addition to the statutory arguments, Perot also raises a novel constitutional claim. As we understand it, he contends that the FEC's "candidate debates" regulation unlawfully delegates legislative authority to a private, non-profit corporation, in violation of Article I of the Constitution. In fact, this attack on the regulation rests on what might be termed a subdelegation of authority theory, since the claim is that the Congress has delegated authority to the FEC, which in turn has delegated some portion of that authority to the CPD. The FEC acknowledges that we have jurisdiction under 28 U.S.C. § 1331 to decide this issue, although it questions whether Perot is entitled to any relief. We agree that we have jurisdiction over the claim, but we are unpersuaded that the regulation delegates legislative authority to the CPD.

It is well established that Congress may, by a legislative act, grant authority to an executive agency such as the FEC to adopt rules and regulations, so long as it provides some "intelligible principle" by which the agency is to exercise that authority. *Mistretta v. United States*, 488 U.S. 361, 372 (1989) (quoting *J. W. Hampton, Jr. & Co. v. United States*, 276 U.S. 394, 406 (1928)). We agree with the general proposition that when Congress has specifically vested an agency with the authority to administer a statute, it may not shift that responsibility to a private actor such as the CPD. *Cf. A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 537 (1935).

In the cases before us, however, the FEC has not delegated any authority to the CPD. It has issued a regulation permitting eligible nonprofit organizations to stage candidate debates, provided that they employ "pre-established objective criteria" to determine who may participate. Rather than mandating a single set of "objective criteria" all staging organizations

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must follow, the FEC gave the individual organizations leeway to decide what specific criteria to use. 60 Fed. Reg. 64,262 (1995). One might view this as a "delegation," because the organizations must use their discretion to formulate objective criteria they think will conform with the agency's definition of that term. But in that respect, virtually any regulation of a private party could be described as a "delegation" of authority, since the party must normally exercise some discretion in interpreting what actions it must take to comply.

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The contention that the regulation delegates authority to the CPD because it does not spell out precisely what the phrase "objective criteria" means goes far beyond the normal usage of the term "delegation." This position would go further than the position of Justice Scalia, who dissented from the Supreme Court's decision in *Mistretta* that a congressional grant of rulemaking authority to the United States Sentencing Commission was not an unconstitutional delegation of legislative power, but acknowledged that "no statute can be entirely precise, and ... some judgments, even some judgments involving policy considerations, must be left to the officers executing the law and to the judges applying it" 488 U.S. at 415 (Scalia, J., dissenting). So too, a regulation's use of a term that may be susceptible to differing interpretations does not automatically result in a delegation of authority to the entities that it governs.

Here, the FEC has chosen to give the CPD and any other organizations that wish to sponsor debates the latitude to choose their own "objective criteria." In adopting such standards, a staging organization acts at its peril, unless it first secures an FEC advisory opinion pursuant to 2 U.S.C. § 437f. Without such an opinion, the organization runs the risk that the FEC will subsequently determine that its criteria are not objective, and that its

sponsorship of the debate violated § 441b. If that happens, the staging organization may be subject to the penalties provided in the FECA. The authority to determine what the term "objective criteria" means rests with the agency, however, and to a lesser extent with the courts that review agency action.

In sum, we are unpersuaded that the FEC has unconstitutionally delegated legislative authority to the CPD. At oral argument counsel suggested that this court should order the FEC, either through mandamus or some other extraordinary remedy, to "take back" the authority it has "delegated" to the CPD. As we understand this argument, Perot seeks to have the FEC either withdraw its regulation or revise it to define in detail what are "objective criteria." It is unclear how the FEC could accomplish this goal in time to have any effect on the presidential debates. Before prescribing new regulations, the FEC must transmit a statement of its proposed action to Congress, and the regulation may not take effect until thirty legislative days have passed. 2 U.S.C. § 438(d). Nor may the FEC render an advisory opinion concerning the legality of the CPD's preannounced criteria upon request of a third party. *Id.* § 437f(a)(1). As noted in Part II, a complaint is subject to the statutory timetable that also would preclude relief prior to the debates.

IV.

Before the district court, Perot also argued as an appendage to the request for a preliminary injunction that the FEC lacked authority to promulgate 11 C.F.R. §§ 110.13 and 114.4(f) and that the regulations carve out an illegal exception to the corporate contribution and expenditure limits of 2 U.S.C. § 441b. On appeal Perot mentions this argument -- that the

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FEC's debate regulation, 11 C.F.R. § 110.13, is *ultra vires* — only in a footnote of his brief, and counsel did not address it at oral argument.

The district court granted summary judgment on this claim, finding the regulations permissible under 2 U.S.C. § 431(9)(B)(ii), which exempts from the definition of "expenditure" "nonpartisan activity designed to encourage individuals to vote or to register to vote." Perot's footnote claims that the CPD's sponsorship of debates does not fall within this exemption, primarily because it is not truly nonpartisan. We need not reach the merits of this contention.

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The FECA has no provisions governing judicial review of regulations, so an action challenging its implementing regulations should be brought under the judicial review provisions of the Administrative Procedure Act (APA), 5 U.S.C. § 701 *et seq.* Among other things, the APA directs courts to consider the administrative record in determining the legality of agency action. *Id.* § 706. Perot has not invoked the APA, and no party has produced the administrative record. *See Fed R. App. P.* 15, 17. Consequently, the district court did not have the opportunity to consider the regulations' legality in terms of that record or the APA and the case law under it. Especially since we do not have the administrative record before us, and this issue was not fully briefed, we will refrain from reviewing the district court's grant of summary judgment. The case is simply not in a posture to permit an important question of this sort to be properly adjudicated.

Accordingly, we remand this part to the district court with instructions to dismiss without prejudice only Count IV of Perot's complaint, which raises this claim. Perot will then be free to file a new suit properly challenging the FEC's authority to promulgate the

regulations. He will not suffer unduly from any delay in resolving this issue, as even an immediate order invalidating the regulations would not provide him with any meaningful relief from the alleged harms. In all other respects, the district court's order is affirmed.

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4. CPD receives no government funding; nor does it receive funds from any political party.

5. CPD sought and has been granted by the Internal Revenue Service tax exempt status under § 501(c)(3) of the Internal Revenue Code.

6. CPD was organized in response to the recommendations of two separate studies on presidential elections and debates: (1) the April 1986 Final Report of the Commission on National Elections, entitled Electing the President: A Program for Reform, a nine-month study of presidential elections by a distinguished group of news executives, elected officials, business people, political consultants, and lawyers conducted under the auspices of the Georgetown University Center for Strategic and International Studies and (2) the Theodore H. White Conference on Presidential Debates held in March 1986 at the Harvard Institute of Politics and chaired by Newton Minow, former chairman of the Federal Communications Commission.

7. Both of these studies underscored the importance presidential debates had assumed in American electoral politics. Rather than permit the existence of debates to turn on the vagaries of each election, the studies recommended that the debates be "institutionalized." More specifically, both studies recommended that the two major political parties create a mechanism designed to ensure, to the greatest extent possible, that debates become a permanent and integral part of the presidential election process.

8. Frank J. Fahrenkopf, Jr. and Paul G. Kirk, Jr., then-chairman of the Republican and Democratic National Committees respectively, responded by initiating CPD as a not-for-profit corporation separate and apart from their party organizations. While Messrs. Kirk and Fahrenkopf served as the chairs of the major national party committees at the time CPD was

formed, they no longer do so; nor do the current chairs of those committees sit on CPD's Board of Directors. No CPD Board member is an officer of the Democratic or Republican National Committee.

9. CPD's very first corporate document, its February 19, 1987 Articles of Incorporation, identified its purpose as "to organize, manage, produce, publicize and support debates for the candidates for President of United States . . ."

10. Prior to CPD's sponsorship in 1988, televised presidential debates were produced in only four general election years: by the networks in 1960, and by the non-profit League of Women Voters in 1976, 1980, and 1984. To my knowledge, the federal government has never sponsored a televised debate between presidential candidates.

11. CPD has a ten-member Board of Directors ("CPD Board"). The members of the CPD Board, all volunteers, are:

Frank J. Fahrenkopf, Jr., President, American Gaming Association (Co-Chairman of the Commission.)

Paul G. Kirk, Jr., Lawyer and of counsel, Sullivan & Worcester. (Co-Chairman of the Commission.)

The Honorable Paul Coverdell, Member of the U.S. Senate from Georgia.

John C. Danforth, Lawyer and Partner, Bryan Cave.

Antonia Hernandez, President, Mexican American Legal Defend Fund.

Caroline Kennedy, Author.

The Honorable John R. Lewis, Member of the U.S. House of Representatives from Georgia.

Newton Minow, Lawyer and Partner, Sidley & Austin.

The Honorable Kay Orr, former Governor of Nebraska.

The Honorable Barbara Vucanovich, Member of the U.S. House of Representatives from Nevada.

12. Former Presidents Gerald Ford, Jimmy Carter and Ronald Reagan serve as Honorary Co-Chairmen of CPD.

13. From virtually the beginning of CPD's operations, CPD's Board recognized that, although the leading contenders for the offices of President and Vice President of the United States historically have come from the major parties, CPD's educational mission would be furthered by developing criteria by which to identify any nonmajor party candidate who, in a particular election year, was a leading candidate for the Office of President or Vice President of the United States, and to whom an invitation should be extended to participate in one or more CPD-sponsored debate.

14. I understand that plaintiffs in this action challenge CPD's candidate selection criteria both on their face and as applied in connection with preparations for the 1996 debates. The criteria were promulgated and applied as follows.

15. Over nine years ago, on July 7, 1987, CPD formed an advisory panel of distinguished Americans, including individuals not affiliated with any major party, in order to provide guidance to CPD with respect to several areas, including nonmajor party candidate participation in CPD sponsored debates. The individuals serving on the advisory panel (and their then-current principal affiliation) included:

Charles Benton, Chairman, Public Media Inc.;

Ambassador Holland Coors, 1987 Year of the Americas;

Marian Wright Edelman, President, Children's Defense Fund;

Mary Hatwood Patrell, President, National Education Association;

Carla A. Hills, Partner, Weil, Gotshall & Manges;

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Barbara Jordan, Professor, LBJ School of Public Affairs, University of Texas;
Melvin Laird, Senior Counselor, Readers' Digest;
Ambassador Carol Laise;
William Leonard, former President, CBS News;
Kate Rand Lloyd, Managing Editor, Working Woman Magazine;
Newton Minow, Partner, Sidley & Austin;
Richard Neustadt, Professor, Kennedy School of Government, Harvard University;
Ed Ney, Vice Chairman, Paine Webber Inc.;
Paul H. O'Neill, Chairman and Chief Executive Officer, Aluminum Company of America;
Nelson W. Polsby, Professor, University of California at Berkeley;
Jody Powell, Chairman and Chief Executive Officer, Ogilvy & Mather Public Affairs;
Murray Rossant, Director, Twentieth Century Fund;
Jill Ruckelshaus;
Lawrence Spivak, former Producer and Moderator, "Meet the Press";
Robert Strauss, Partner, Akin, Gump, Strauss, Hamer & Feld;
Richard Thornburgh, Director, Institute of Politics, Harvard University;
Marietta Tree, Chairman, Citizen's Committee for New York City;
Anne Wexler, Chairman, Wexler, Reynolds, Harrison & Schule;
Mrs. Jim Wright.

16. The advisory panel convened in Washington on October 1, 1987 to discuss the issues of its mandate, including the candidate selection criteria. Formal presentations, including a presentation on the inclusion of nonmajor party candidates by Professor Richard Neustadt of the Kennedy School of Government, Harvard University, were followed by deliberations. After

the advisory panel had completed its discussion, the CPD Board appointed a subcommittee of the advisory panel, headed by Harvard Professor Neustadt, to draw on the deliberations and develop nonpartisan criteria for the identification of appropriate third-party candidates to participate in CPD sponsored debates.

17. On November 20, 1987, Professor Neustadt's subcommittee reported back to the CPD Board and recommended the adoption of specific nonpartisan candidate selection criteria intended to identify those candidates other than the major party nominees with a realistic chance of becoming President or Vice President of the United States. According to the Neustadt Subcommittee, its criteria were intended to distinguish those candidates who, by virtue of ballot access in a sufficient number of states, have a mathematical, but no more than theoretical, chance of becoming President from independent and third party candidates who have a more than theoretical chance of becoming President. The Neustadt subcommittee reported that the adoption and application of such criteria would help ensure that the primary educational purpose of CPD -- to ensure that future Presidents and Vice Presidents of the United States are elected after the voters have had an opportunity to hear them debate their principal rivals -- would be fulfilled.

18. While the candidate selection criteria themselves are quite detailed, they include a review of (1) evidence of national organization, (2) signs of national newsworthiness and competitiveness, and (3) indicators of national public enthusiasm or concern, to determine whether a candidate has a realistic chance of election.

19. On February 4, 1988, the CPD Board unanimously adopted the selection criteria proposed by Professor Neustadt's subcommittee. The sole objective of the criteria adopted by CPD in 1988 was to structure the CPD debates so as to further the nonpartisan educational purpose of those debates while at the same time complying fully with applicable law. An

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Advisory Committee to the CPD Board, chaired by Professor Neustadt, was created for the purpose of applying the 1988 candidate selection criteria to the facts and circumstances of the 1988 campaign.

20. Pursuant to the guidelines of the 1988 candidate selection criteria, CPD sponsored two Presidential debates during the 1988 general election. No nonmajor party candidate was invited to participate in either debate.

21. Although the Bush and Dukakis campaigns reached an agreement that applied to certain production aspects of the 1988 debates, that agreement did not impair the voter education value of those debates, in which a number of prominent journalists participated, including Jim Lehrer, Peter Jennings, Tom Brokaw and Bernard Shaw.

22. On or about January 16, 1992, the CPD Board requested that the Advisory Committee, again chaired by Professor Neustadt, assist the CPD in promulgating nonpartisan candidate selection criteria in connection with the 1992 election. Pursuant to the Advisory Committee's recommendation, the CPD Board adopted the same selection criteria used in 1988, with minor technical changes.

23. The 1992 advisory committee, consisting of Professor Neustadt, Professor Diana Carlin of the University of Kansas, Dorothy Ridings, Publisher and President of the Bradenton (Fla.) Herald and former President, League of Women Voters; Kenneth Thompson, Director of the Miller Center, University of Virginia; and Eddie Williams, President, Joint Center for Political and Economic Studies (the "1992 Advisory Committee"), met on September 9, 1992 to apply the candidate selection criteria to the 100-plus declared presidential candidates seeking election in 1992. It was the unanimous conclusion of the 1992 Advisory Committee that no

nonmajor party candidate then seeking election had a realistic chance in 1992 of becoming the next President of the United States. As of September 9, 1992, Ross Perot was not a candidate for President.

24. After receipt of the data provided to the 1992 Advisory Committee and its own deliberation and discussion, the CPD Board accepted the 1992 Advisory Committee's recommendation.

25. On October 5, 1992, the 1992 Advisory Committee reconvened at the request of the CPD Board to update its application of the 1992 criteria to include subsequent developments, including Ross Perot's October 1, 1992 reentry into the campaign. After consideration of the selection criteria, the Advisory Committee concluded that Mr. Perot satisfied the selection criteria. As stated by Professor Neustadt in his October 6, 1992 letter to the co-chairmen of CPD, reporting the results of his committee's meeting:

Four days after Mr. Perot's reentry, we believe that he has a remote, but real -- more than theoretical -- chance of becoming President next January 20 Our discussion took into account Mr. Perot's previous ability to gain a large national constituency, his present resources, financial and otherwise, the media attention he currently attracts, and the reported "softness" in support for other candidates. We therefore recommend Mr. Perot's inclusion in the first debate.

26. The CPD Board subsequently determined that it would accept the recommendations of the Advisory Committee and that Mr. Perot and his running mate, Adm. James B. Stockdale, would be extended an invitation to participate in the 1992 debates sponsored by CPD. See October 6, 1992 letter (Exhibit A to Plaintiffs' Verified Complaint) (letter to Bush and Clinton campaigns, agreeing to sponsor debates on condition that Mr. Perot be able to participate, per advisory committee's recommendation). When it became clear that the debate schedule -- four debates in eight days -- would prevent any meaningful reapplication of the

selection criteria, CPD extended its original recommendation that the Perot/Stockdale campaign participate in two debates to four debates. See October 7, 1996 letter (Exhibit B to Plaintiffs' Verified Complaint). Thereafter, CPD produced three presidential debates, involving President Bush, Governor Clinton, and Mr. Perot, and one vice presidential debate between Senator Gore, Admiral Stockdale, and Vice President Quayle.

27. On September 19, 1995, the CPD Board adopted the same selection criteria, with minor changes, for use in the 1996 debates. The CPD's Candidate Selection Criteria for 1996 General Election Debate Participation are attached hereto as Exhibit 1. The criteria document states in its introductory paragraph that:

The goal of the Commission's debates is to afford the members of the voting public an opportunity to sharpen their views of those candidates from among whom the next President or Vice President will be selected. In light of the large number of declared candidates in any given presidential election, the Commission has determined that its voter education goal is best achieved by limiting debate participation to the next President and his or her principal rival(s).

. . .

In order to further the educational purposes of its debates, the Commission has developed nonpartisan criteria upon which it will base its decisions regarding selection of nonmajor party candidates to participate in its 1996 debates. The purpose of the criteria is to identify nonmajor party candidates, if any, who have a realistic (i.e., more than theoretical) chance of being elected the next President of the United States and who properly are considered to be among the principal rivals for the Presidency. The realistic chance of being elected need not be overwhelming, but it must be more than theoretical.

28. In light of the fact that a Democrat or a Republican has been elected to the presidency in each election for more than a century, and because the attainment of the nomination of one of the major parties is itself great evidence of widespread voter interest and

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national enthusiasm in the nominee's candidacy, the CPD concluded that it was reasonable to conclude that in the 1996 campaign, the nominees of the major parties met the criteria for inclusion.

29. On October 31, 1995, at a press conference held in Washington, D.C., CPD publicly announced its adoption of the 1996 criteria and released the criteria to the public. A copy of CPD's October 31, 1995 press release on this and other topics in connection with the 1996 debates is attached as Exhibit 2. Since that time, those criteria have been available on CPD's site on the WorldWide Web, and CPD has consistently and repeatedly indicated that it intends to apply those criteria in connection with the 1996 debate.

30. In July of 1996, CPD formed a 1996 advisory committee, which would provide recommendations to the CPD Board regarding application of its candidate selection criteria. The 1996 advisory committee consists of the same members as the 1992 Advisory Committee: Professors Neustadt and Carlin, Ms. Ridings (formerly of the League of Women Voters and now President of the Council on Foundations), Mr. Thompson and Mr. Williams (the "1996 Advisory Committee").

31. On September 16, 1996, the 1996 Advisory Committee met to apply the candidate selection criteria to the over 130 declared nonmajor party presidential candidates seeking election in 1996. At that time, CPD anticipated that the first presidential debate would be held on September 25, 1996 at Washington University in St. Louis.

32. In connection with its deliberations, the 1996 Advisory Committee was provided with voluminous information concerning the 1996 general election campaign and candidates. Neither the major parties nor any CPD sponsor had any input into or influence on CPD's candidate selection process. Moreover, the Federal Election Commission had no direct input

into or influence on CPD's candidate selection process, beyond its rules and regulations that apply to any debate sponsor.

33. I was in attendance on September 16, 1996, when the 1996 Advisory Committee convened for the purpose of applying CPD's 1996 criteria to the facts and circumstances of the 1996 general election campaign. Although the 1996 Candidate Selection Criteria do not require it to do so, the 1996 Advisory Committee independently applied the criteria to the Democratic and Republican party candidates. After reviewing and discussing the facts and assembled materials, the 1996 Advisory Committee unanimously concluded that only President Clinton and Senator Dole have realistic chances of being elected President and only Vice President Gore and Congressman Kemp have realistic chances of being elected Vice President in the 1996 general election.

34. In light of its findings, the 1996 Advisory Committee recommended to CPD's Board that only President Clinton and Senator Dole be invited to participate in CPD's 1996 Presidential debate and only Vice President Gore and Congressman Kemp be invited to participate in CPD's 1996 Vice Presidential debate. The Advisory Committee communicated its recommendation in this regard to the CPD Board by letter dated September 17, 1996.

35. On September 17, 1996, the CPD Board met to consider the recommendation of the 1996 Advisory Committee and to consider itself, pursuant to its criteria, which candidates have a realistic chance of becoming President or Vice President of the United States in 1996. I was in attendance at this meeting. After receipt of the data provided to the 1996 Advisory Committee and its own deliberation and discussion, the CPD Board unanimously accepted the 1996 Advisory Committee's recommendation that only President Clinton and Senator Dole be invited to participate in CPD's 1996 Presidential debate and only Vice President Gore and

Congressman Kemp be invited to participate in CPD's 1996 vice presidential debate. CPD informed Mr. Perot's representatives of the decision promptly.

36. Immediately following the September 17, 1996 CPD Board meeting, CPD issued a press release (attached as Exhibit 3), which announced that

The Commission unanimously agreed with the unanimous recommendation of our independent Advisory Committee that only President Clinton and Senator Dole and their running mates be invited to participate [in the debates sponsored by CPD].

Our decision and that of our Advisory Committee was made on the basis that only President Clinton and Senator Dole have a realistic chance, as set forth in our criteria, to be elected the next President. The application of the criteria to Mr. Perot and other third-party or independent candidates did not result in a finding that any of them has a "realistic" chance to win election. As we have consistently indicated publicly, participation is not extended to candidates because they might prove interesting or entertaining. The purpose of the CPD is to bring before the American people, in an unvarnished debate format, those candidates from whom the American people actually will choose the next President and Vice President of the United States.

37. It would be completely unworkable to conduct a debate to which all declared candidates in 1996 or any other year were invited. As noted above, there are over 130 nonmajor party candidates seeking election to the Presidency in 1996. See Federal Election Commission's "1996 Presidential Address List" (Aug. 31, 1996) (attached as Exhibit 4). There would be no educational value whatever in a debate to which all of those candidates were invited. Accordingly, if a debate is to have any education value whatsoever, choices among candidates must be made. As described in this affidavit, CPD has determined in good faith that a choice should be made between those candidates who have a realistic chance of becoming the next President or Vice President of the United States and those candidates who do not, and toward that goal has applied its candidate selection criteria in good faith.

38. In addition to sponsorship of the 1988 and 1992 debates and planned sponsorship of the 1996 debates, CPD has engaged in a number of other related voter education activities, each intended in a nonpartisan manner to enhance the educational value of the debates themselves. In 1988, CPD, in conjunction with the Library of Congress and the Smithsonian Institute, prepared illustrated brochures on the history and role of political debates. In 1990, the CPD sponsored a symposium on debate format attended by academic experts, journalists, political scientists and public policy observers. Also in 1990, the CPD produced a videotape and brochure giving guidance to schools and civic groups on how to sponsor debates. In addition, CPD has produced a 1992 viewers guide to debates in cooperation with the Speech Communication Association. Finally, in connection with the 1996 Debates, CPD is sponsoring its largest voter education project to date, Debate Watch '96, in which over 130 organizations will be participating by hosting forums in which citizens view the debates together and have the opportunity to discuss the debates afterwards with other viewers and listeners. Organizations participating in Debate Watch '96 include numerous cities and town, high schools, Presidential libraries, associations, universities and chambers of commerce.

39. Currently, CPD is in the final, and very intense, stages of four years of preparations for the production of the 1996 debates. At this time, President Clinton and Senator Dole have agreed to participate in presidential debates under CPD sponsorship on October 6, 1996 in Hartford, Connecticut and on October 16, 1996 in San Diego, California, and Vice President Gore and Congressman Kemp have agreed to participate in a vice presidential debate under CPD's sponsorship on October 9, 1996 in St. Petersburg, Florida.

40. I know of no other debate sponsor who has adopted pre-established candidate selection criteria for debates in 1996. If CPD's 1996 debates are enjoined, or disrupted by

injunction, debates including the major party candidates are very likely not to take place this year. If that were the case, in addition to the immeasurable injury to the American public and the electoral process, the time, energy and effort of an enormous number of people would have been expended for naught. Among those who would be injured are CPD's many contributors, Debate Watch hosts and participants, and the time, money and effort spent in preparing for the debates would be lost. Moreover, communities hosting the debates themselves (Hartford, Connecticut; St. Petersburg, Florida; San Diego, California and the University of San Diego) would be greatly damaged.

41. I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of September, 1996.


JANET H. BROWN

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**COMMISSION ON PRESIDENTIAL DEBATES'
CANDIDATE SELECTION CRITERIA
FOR 1996 GENERAL ELECTION DEBATE PARTICIPATION**

A. INTRODUCTION

The mission of the Commission on Presidential Debates ("the Commission") is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice President of the United States. The Commission sponsored a series of such debates in 1988 and again in 1992, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice Presidency in the 1996 general election.

The goal of the Commission's debates is to afford the members of the voting public an opportunity to sharpen their views of those candidates from among whom the next President or Vice President will be selected. In light of the large number of declared candidates in any given presidential election, the Commission has determined that its voter education goal is best achieved by limiting debate participation to the next President and his or her principal rival(s).

A Democratic or Republican nominee has been elected to the Presidency for more than a century. Such historical prominence and sustained voter interest warrants the extension of an invitation to the respective nominees of the two major parties to participate in the Commission's 1996 debates.

In order to further the educational purposes of its debates, the Commission has developed nonpartisan criteria upon which it will base its decisions regarding selection of nonmajor party candidates to participate in its 1996 debates. The purpose of the criteria is to identify nonmajor party candidates, if any, who have a realistic (i.e., more than theoretical) chance of being elected the next President of the United States and who properly are considered to be among the principal rivals for the Presidency. The realistic chance of being elected need not be overwhelming, but it must be more than theoretical.

The criteria contemplate no quantitative threshold that triggers automatic inclusion in a Commission-sponsored debate. Rather, the Commission will employ a multifaceted analysis of potential electoral success, including a review of (1) evidence of national organization, (2) signs of national newsworthiness and competitiveness, and (3) indicators of national enthusiasm or concern, to determine whether a candidate has a sufficient chance of election to warrant inclusion in one or more of its debates.

Judgments regarding a candidate's election prospects will be made by the Commission on a case-by-case basis. However, the same multiple criteria will be applied to each nonmajor party candidate. Initial determinations with respect to candidate selection will be made after the major party conventions and approximately contemporaneously with the commencement of the general election campaign. The number of debates to which a qualifying nonmajor party candidate will be invited will be determined on a flexible basis as the general election campaign proceeds.

B. 1996 NONPARTISAN SELECTION CRITERIA

The Commission's nonpartisan criteria for selecting nonmajor party candidates to participate in its 1996 general election presidential debates include:

1. EVIDENCE OF NATIONAL ORGANIZATION

The Commission's first criterion considers evidence of national organization. This criterion encompasses objective considerations pertaining to the eligibility requirements of Article II, Section 1 of the Constitution and the operation of the electoral college. This criterion also encompasses more subjective indicators of a national campaign with a more than theoretical prospect of electoral success. The factors to be considered include:

- a. Satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution of the United States.
- b. Placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority.
- c. Organization in a majority of congressional districts in those states.
- d. Eligibility for matching funds from the Federal Election Commission or other demonstration of the ability to fund a national campaign, and endorsements by federal and state officeholders.

2. SIGNS OF NATIONAL NEWSWORTHINESS AND COMPETITIVENESS

The Commission's second criterion endeavors to assess the national newsworthiness and competitiveness of a candidate's campaign. The factors to be considered focus both on the news coverage afforded the candidacy over time and the opinions of electoral experts, media and non-media, regarding the newsworthiness and competitiveness of the candidacy at the time the Commission makes its invitation decisions. The factors to be considered include:

- a. The professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks.
- b. The opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration.
- c. The opinions of representative political scientists specializing in electoral politics at major universities and research centers.
- d. Column inches on newspaper front pages and exposure on network telecasts in comparison with the major party candidates.
- e. Published views of prominent political commentators.

3. INDICATORS OF NATIONAL PUBLIC ENTHUSIASM OR CONCERN

The Commission's third criterion considers objective evidence of national public enthusiasm or concern. The factors considered in connection with this criterion are intended to assess public support for a candidate, which bears directly on the candidate's prospects for electoral success. The factors to be considered include:

- a. The findings of significant public opinion polls conducted by national polling and news organizations.
- b. Reported attendance at meetings and rallies across the country (locations as well as numbers) in comparison with the two major party candidates.

Adopted: September 19, 1995

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HARVARD UNIVERSITY
JOHN F. KENNEDY SCHOOL OF GOVERNMENT
CAMBRIDGE, MASSACHUSETTS 02138

Richard E. Neustadt
Douglas Dillon Professor
of Government, Emeritus

Tel: (617) 495-1196
Fax: (617) 495-1972

September 17, 1996

Mr. Paul G. Kirk, Jr.
Mr. Frank J. Fahrenkopf, Jr.
Commission on Presidential Debates
601 13th Street, N.W.
Washington, D.C. 20005

Dear Chairman Kirk and Chairman Fahrenkopf:

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The Advisory Committee has been asked to review the electoral prospects of minor party candidates in light of the latest available data on the Commission's criteria, and then to judge, by the Commission's standard for admission to its debates, whether each candidate does or does not have a realistic chance of becoming President of the United States next January 20. The chance need not be overwhelming but must be more than theoretical. An affirmative answer to that question is the only basis, under long-established policy, for the Commission to invite him or her to the debates it sponsors. That single standard ("realistic chance") is for the Commission to apply. This Committee merely offers its advisory judgment.

The electoral principle behind the Commission's single standard is, as we understand it, that this Fall's debates, coming at the end of a year-long nomination and election process, should help the voters face the actual choice before them, and therefore ought to be as realistic as possible. Since 1987, you, the Commissioners, have stressed, rightly in our view, that your debates should be confined to the presidential and vice presidential candidates who will be sworn in next January, along with their principal rivals.

"Realistic chance" is meant to focus attention on that real choice.

We began with Mr. Ross Perot, now of the Reform Party. We have reviewed the data your staff has assembled for us, supplemented by telephonic inquiries of our own to political scientists and political journalists across the country. We have concluded that, at this stage of the campaign, Mr. Perot has no realistic chance either of popular election in November or of subsequent election by the House of Representatives, in the event no candidate obtains an Electoral College majority. None of the expert

Chairman Kirk and Chairman Fahrenkopf
September 17, 1996
Page 2

observers we have consulted think otherwise. Some point to possibilities of extraordinary events later in the campaign, but grant that those possibilities do not change the likelihoods as of today.

Four years ago, we confronted an unprecedented condition when Mr. Perot rejoined the campaign in October. We were mindful that the preceding Spring, before his withdrawal, he had registered approximately 40 percent in the polls, and that upon rejoining the campaign, he could spend unlimited funds on television campaigning. Unable to predict the consequences of this combination, we agreed that he must be presumed to have a remote chance of election, should he do well enough so that no one else won a majority of electoral votes. His chances in the House of Representatives we found incalculable. So, we concluded that his prospect of election was unlikely but not unrealistic.

With the 1992 results and the circumstances of the current campaign before us, including Mr. Perot's funding limited by his acceptance of a federal subsidy, we see no similar circumstances at the present time. Nor do any of the academic or journalistic individuals we have consulted.

Moving on to the other minor party candidates, we find no one with a realistic chance of being elected President this year. Applying the same standard and criteria to them individually as to Mr. Perot, our response is again "no" in each case. The observers we have consulted take the same view. Three of the minor party candidates, in addition to Mr. Perot, do have a theoretical chance of election in November, by virtue of placement on the ballots of enough states to produce an Electoral College majority. We do not, however, see their election as a realistic possibility.

Therefore, the Advisory Committee unanimously concludes at this time that only President Clinton and Senator Dole qualify for admission to CPD's debates. We stand ready to reconvene should present circumstances change.

Sincerely yours,



Richard E. Neustadt
For the Advisory Committee on Candidate Selection

Richard E. Neustadt, Chairman
Diana Prentice Carlin
Dorothy S. Ridings
Kenneth W. Thompson
Eddie N. Williams



COMMISSION ON
PRESIDENTIAL DEBATES

601 Thirtieth Street, N.W. • Suite 510 North • Washington, DC 20005 • (202) 872-1020 • Fax (202) 781-3923

October 31, 1995
Embargoed for release until 11.30 a.m. EST

Contact: Janet Brown
(202) 872-1020

COMMISSION ON PRESIDENTIAL DEBATES
RECOMMENDS FOUR DEBATES, SINGLE MODERATOR, SCHEDULE,
VARIED FORMATS FOR 1996

The co-chairmen of the nonpartisan Commission on Presidential Debates (CPD), which sponsored all the presidential debates in 1988 and 1992, today announced the CPD board of directors' recommendations for 1996. Paul G. Kirk, Jr. and Frank J. Fahrenkopf, Jr. stated that the recommendations were based on lessons learned from the 1992 debates which drew the largest television audience for any political event in history, culminating in 97 million viewers for the third and final presidential debate. Exit poll data for both 1988 and 1992 showed that more voters based their balloting decisions on the debates than on any other single issue.

The CPD board of directors made the following recommendations for the 1996 general election debates

- Three presidential debates and one vice presidential debate will be held in 1996.
- The four debates, each ninety minutes in length, will take place on four consecutive Wednesdays: September 25, October 2, October 9, and October 16 with October 2 being the vice presidential debate
- Each debate will be moderated by a single individual.
- Three different formats will be utilized. during one presidential debate, the candidates will stand behind the traditional podiums, during a second, citizens will question the candidates in a town meeting format; and during a third, the candidates and moderator will be seated. The vice presidential debate will also be held with the candidates and moderator seated.
- Each debate will cover both foreign and domestic policy topics.

Kirk and Fahrenkopf said that the recommendations reflected substantial study by the CPD. "In 1992, we sponsored the first focus groups ever convened to measure the effectiveness

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Chairman
Frank J. Fahrenkopf, Jr.
Former Republican
National Committee Chairman

Paul G. Kirk, Jr.
Former Democrat
National Committee Chairman

Minority Co-Chairman
Cynthia R. Ford
James Carter
Ronald Reagan

Executive Director
Janet H. Brown

Deputy
—
Steven Paul Casper, III
James C. Henthorn
Andrew Hershman
A. Gordon Kenney

Representative John R. Lewis
Richard W. Miller
Kay Orr
Representative Barbara Vucanovich

of various debate formats. Focus group participants expressed their clear preference for the single moderator and a variety of formats. They also stated their strong support for the citizen involvement which occurred during the Richmond town hall meeting. We listened to their suggestions and are now acting on them."

The CPD also announced sites which have asked to announce the 1996 debates. They are:

Furman University, Greenville, SC
George Washington University, Washington, DC
Hartford/Trinity College, Hartford, CT
Michigan State University, East Lansing, MI
St. Petersburg/Tampa/University of South Florida, FL
University of Maryland, College Park, MD
University of Oklahoma, Norman, OK
University of Pennsylvania, Philadelphia, PA
University of San Diego, San Diego, CA
Washington University, St. Louis, MO

"We are very pleased with the quality of the proposals submitted by these sites, and by the community interest they reflect," the co-chairmen said.

Kirk and Fahrenkopf also issued the candidate selection criteria which will be used to determine the participants in the 1996 debates. A copy of the criteria is attached.

Finally, the co-chairmen announced plans for "DebateWatch '96," the CPD's nationwide voter education project. "The 1992 focus group participants told us they had learned much more from the debates by watching and discussing them with people they did not know and with whom they did not necessarily agree. They urged that more citizens be given a similar opportunity in 1996. DebateWatch '96 will bring people together in schools, libraries, and civic auditoriums in all fifty states to watch and talk about the candidates and their views."

Kirk and Fahrenkopf introduced the DebateWatch '96 packet which includes all the materials necessary to host a DebateWatch. It will be available in hard copy and on the CPD's home page on the Internet. The CPD is working in partnership with the Internet Multicasting Service to create a home page which will feature not only information regarding 1996 but also historic data, research and transcripts on past debates.

DebateWatch '96 will be run by CPD advisory board member Dr. Diana Carlin of the University of Kansas. "We owe Dr. Carlin great thanks for developing and organizing the focus groups and resulting research, including editorship of The 1992 Presidential Debates in Focus (Westport, CT: Praeger)," Kirk and Fahrenkopf said. Carlin will direct DebateWatch '96 from the University campus in Lawrence, KS.

Fundraising for DebateWatch is underway with a \$1 million goal. Kirk and Fahrenkopf noted that early support for the production of the debates has already been received from the Dun & Bradstreet Corporation, the Philip Morris Companies, the Marjorie Kovier Fund, and the Sara

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Lee Corporation.

The CPD plans to work with its voter education partners to promote DebateWatch. They include the American Library Association, Close Up Foundation, League of Women Voters, National Association of Broadcasters, National Association of Secondary School Principals, National Association of Secretaries of State, National Cable Television Association, National Federation of State High School Associations, National Forensic League, National School Boards Association, Newspaper Association of America, and Speech Communication Association.

Established in 1987, the nonpartisan CPD is a non-profit corporation based in Washington, DC. For more information, please contact the CPD at the telephone number listed above or consult the CPD home page at: <http://park.org/fair/Events/Debates>.

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COMMISSION ON PRESIDENTIAL DEBATES 601 Thirteenth Street, N.W. • Suite 310 South • Washington, DC 20005 • (202) 872-1020

For immediate release
September 17, 1996

Contact: Janet H. Brown
(202) 872-1020

**Commission on Presidential Debates Announces
Results of Candidate Selection Process**

Paul G. Kirk, Jr. and Frank J. Fahrenkopf, Jr., Co-chairmen of the nonprofit Commission on Presidential Debates, today issued the following statement.

"The nonpartisan Commission on Presidential Debates (CPD) has just concluded its scheduled meeting where we considered the recommendation of our independent Advisory Committee on the question of whether any independent or third-party candidate qualifies to be invited to participate in the 1996 presidential and vice presidential debates to be sponsored by the CPD. The Commission unanimously agreed with the unanimous recommendation of our independent Advisory Committee that only President Clinton and Senator Dole and their running mates be invited to participate.

"Our decision and that of our Advisory Committee was made on the basis that only President Clinton and Senator Dole have a realistic chance, as set forth in our criteria, to be elected the next President. The application of the criteria to Mr. Perot and other third-party or independent candidates did not result in a finding that any of them has a 'realistic' chance to win election. As we have consistently indicated publicly, participation is not extended to candidates because they might prove interesting or entertaining. The purpose of the CPD is to bring before the American people, in an unvarnished debate format, those candidates from whom the American people actually will choose the next President and Vice President of the United States."

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Co-Chairmen

Frank J. Fahrenkopf, Jr.
Former Republican
National Committee Chairman
Paul G. Kirk, Jr.
Former Democratic
National Committee Chairman

Honorary Co-Chairman

Gerald R. Ford
Jimmy Carter

Executive Director

Janet H. Brown

Directors

—
Senator John C. Danforth
Antonio Hernandez
Representative John R. Lewis
Newton N. Minow

Key Ott

Caroline Kennedy Schlossberg
Representative Barbara Vucanovich

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1996 PRESIDENTIAL ADDRESS LIST

THIS COMPUTER PRINTOUT LISTS THE NAMES AND ADDRESSES OF INDIVIDUALS AND COMMITTEES INVOLVED IN THE 1996 PRESIDENTIAL CAMPAIGNS. SECTION I OF THE LIST INCLUDES ALL PERSONS WHOSE CAMPAIGNS HAVE SUBMITTED STATEMENTS AND REPORTS TO THE FEDERAL ELECTION COMMISSION INDICATING THAT THEY CONSIDER THEMSELVES TO BE 'CANDIDATES' FOR THE OFFICE OF PRESIDENT. THE TERM 'CANDIDATE' IS DEFINED IN 2 U.S.C. SEC. 431 TO MEAN 'AN INDIVIDUAL WHO SEEKS NOMINATION FOR ELECTION, OR ELECTION, TO FEDERAL OFFICE, AND FOR PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL SHALL BE DEEMED TO SEEK NOMINATION FOR ELECTION, OR ELECTION--

- (A) IF SUCH INDIVIDUAL HAS RECEIVED CONTRIBUTIONS AGGREGATING IN EXCESS OF \$5,000 OR HAS MADE EXPENDITURES AGGREGATING IN EXCESS OF \$5,000; OR
- (B) IF SUCH INDIVIDUAL HAS GIVEN HIS OR HER CONSENT TO ANOTHER PERSON TO RECEIVE CONTRIBUTIONS OR MAKE EXPENDITURES ON BEHALF OF SUCH INDIVIDUAL AND IF SUCH PERSON HAS RECEIVED SUCH CONTRIBUTIONS AGGREGATING IN EXCESS OF \$5,000 OR HAS MADE SUCH EXPENDITURES AGGREGATING IN EXCESS OF \$5,000.

SECTION II IS A LISTING OF ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR COMMITTEE STATEMENTS OF ORGANIZATION, REGARDLESS OF THE AMOUNTS OF ACTIVITY IN THE CAMPAIGN.

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FEDERAL ELECTION COMMISSION

DATE 06/31/1996

1996 PRESIDENTIAL CANDIDATES WITH PRINCIPAL CAMPAIGN OR AUTHORIZED COMMITTEES REPORTING RECEIPTS OR DISBURSEMENTS GREATER THAN \$5000

SECTION I
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P60003225	ALEXANDER, ANDREW L REP	PO BOX 23071	NASHVILLE	TN 37202
PCC	C00300673 ALEXANDER FOR PRESIDENT INC TODD HARDENSON 512 N WASHINGTON STREET	TREASURER	ALEXANDRIA	VA 22314
P60003043	BOONE, HARRY LTD	3927 QUAIL RIDGE RD	LAFAYETTE	CA
PCC	C00300400 HARRY BOONE FOR PRESIDENT INC SHARON AYRES 2600 VIRGINIA AVE NW SUITE 100	TREASURER	WASHINGTON	DC 20037
P00000005	BUCHANAN, PATRICK J REP	6062 ELM STREET SUITE 210	MCLEAN	VA 22101
PCC	C00301003 BUCHANAN FOR PRESIDENT INC SCOTT B MACKENZIE 6062 ELM STREET SUITE 210	TREASURER	MCLEAN	VA 22101
P60004215	CASAMASSIMA, SALVATORE J SEN	15 GREENWAY PLAZA #270	BOUSTON	TX 77046
PCC	C00311613 SAL CASAMASSIMA CAMPAIGN BOYDE S RAMSON 5090 RICHMOND RD 300	TREASURER	BOUSTON	TX 77056
P60003332	CASEY, ROBERT P		SCRANTON	PA
PCC	C00301762 CASEY FOR PRESIDENT EXPLORATORY COMMITTEE FRANCIS J MERRILL III 903 FRANKLIN AVENUE	TREASURER	SCRANTON	PA 18503
P60004124	CRESTON, ERIC (VICE-PRESIDENT) SEN	55 LAFAYETTE ST	ARLINGTON	MA 02174

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

1996 PRESIDENTIAL CANDIDATES WITH PRINCIPAL CAMPAIGN OR AUTHORIZED COMMITTEES REPORTING RECEIPTS OR DISBURSEMENTS GREATER THAN \$5000

SECTION I
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC 000309211	BOLLIS/CHESTER 1996 CAMPAIGN GREGORY PASHA 40 WASHINGTON ST SUITE C-10	TREASURER	EAST ORANGE	NJ 07017
P60004397	CRIVENTO, CARMEN C SEN	24 OLD MILFORD RD	BROOKLINE	MA 03033
PCC 000315007	CARMEN C CRIVENTO COMMITTEE 24 OLD MILFORD RD	TREASURER	BROOKLINE	MA
P20000642	CLINTON, WILLIAM JEFFERSON SEN	1600 PENNSYLVANIA AVE NW	WASHINGTON	DC 20000
PCC 000302265	CLINTON/GORE '96 PRIMARY COMMITTEE INC JOHN POLLITT 2100 N ST NW	TREASURER	WASHINGTON	DC 20036
P60003004	COLLINS, CHARLES EDWIN REP	8501 NORTH LAGOON DR P O BOX 9450	PANAMA CITY BEACH	FL 32408
PCC 000299420	CHARLES E COLLINS ELECTION COM FOR 1996 PRISCILLA FORD 10279 FRONT BEACH RD SUITE 2	TREASURER	PANAMA CITY BEACH	FL 32407
P60003431	DIDONINICUS, WICK	3680 MONROE ST #605	RIVERSIDE	CA 92504
PCC 000302455	COMMITTEE TO ELECT WICK DIDONINICUS NICHOLAS A DIDONINICUS 10662 KLOIBER STREET	TREASURER	RIVERSIDE	CA 92505
P60003425	BILLARD, BURGESS GLENN SEN	1209 S CLINTON AVE	TRENTON	NJ 08611
PCC 000303407	COMMITTEE OF ONE (PCC BILLARD) BURGESS GLENN BILLARD 1209 S CLINTON AVE	TREASURER	TRENTON	NJ 08611

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FEDERAL ELECTION COMMISSION

DATE 08/11/1996

1996 PRESIDENTIAL CANDIDATES WITH PRINCIPAL CAMPAIGN OR AUTHORIZED COMMITTEES REPORTING RECEIPTS OR DISBURSEMENTS GREATER THAN \$5000

SECTION I
EXTRACTION FROM TRV. 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P00000400	DOLE, ROBERT J REP	141 HART SENATE OFFICE BUILDING	WASHINGTON	DC 20510
PCC C00317743	DOLE/KEOP '96 INC ROBERT E LIGHTRISER PO BOX 77650	TREASURER	WASHINGTON	DC 20013
P00003300	DORNAN, ROBERT R REP	9037 NORTHEDGE DR	SPRINGFIELD	VA 22153
PCC C00301465	DORNAN FOR PRESIDENT INC ROBERT R DORNAN, MC 6320 AUGUSTA DRIVE SUITE 1101	TREASURER	SPRINGFIELD	VA 22150
P00004033	DUCEY, SUSAN GAIL REP	422 ORIO AVE	WILMONT PARK	PA 19033
PCC C00300406	SUSAN DUCY FOR PRESIDENT JAN C RUTHER PO BOX 146	TREASURER	RIDLEY PARK	PA 19070
P20000009	FELLURE, LOWELL JACKSON REP	P O BOX 507	HURRICANE	WV 25526
PCC C00270457	JACK FELLURE CAMPAIGN COMMITTEE '96 LOWELL JACKSON FELLURE P O BOX 507	TREASURER	HURRICANE	WV 25526
P00003052	FORBES, MALCOLM S JR REP	1400 ROUTE 206 NORTH	BEDMINSTER	NJ 07921
PCC C00306472	FORBES FOR PRESIDENT COMMITTEE INC JOSEPH A CANNON PO BOX 1009	TREASURER	BEDMINSTER	NJ 07921
P00001344	GRUND, WILLIAM PHILLIP REP	1735 I STREET N W SUITE 900	WASHINGTON	DC 20006

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

1996 PRESIDENTIAL CANDIDATES WITH PRINCIPAL CAMPAIGN OR AUTHORIZED COMMITTEES REPORTING RECEIPTS OR DISBURSEMENTS GREATER THAN \$5000

SECTION I
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS			
PCC 00000017	PEEL GRASS FOR PRESIDENT, INC. HEITE A DAVIS 270 S WASHINGTON STREET 0200	TREASURER	ALEXANDRIA	VA	22314
P40004168	GRIFFIN, JAMES D DEM	420 BORGANCE AVE	BUFFALO	NY	14218
PCC 00000007	JIM GRIFFIN FOR PRESIDENT JANICE A DUTTY 6416 POWERS ROAD	TREASURER	ORCHARD PARK	NY	14127
P70001601	ERGELIN, JOHN SAMUEL DEM	810 FACULTY BOX 1069	FAIRFIELD	IA	52557
PCC 00004956	DR JOHN ERGELIN FOR PRESIDENT 1996 MICHAEL SPIVER 51 WEST WASHINGTON	TREASURER	FAIRFIELD	IA	52556
P40004162	HALSTED, LAURA ELLEN GARCIA (VP) DEM	125 SEAMAN AVE 04B	NEW YORK	NY	10034
PCC 00010154	SOCIALIST WORKERS 1996 NATIONAL CAMPAIGN COMMITTEE (HARRIS FOR PRES/GARCIA FOR VICE PRES) ORIS MCCARTAN 406 WEST STREET	TREASURER	NEW YORK	NY	10014
P40003035	HARDER, HEATHER ANNE DR DEM	210 SOUTH MAIN STREET SUITE 102	CROWN POINT	IN	46307
PCC 00020042	COMMITTEE TO ELECT DR HEATHER ANNE HARDER PRESIDENT MART CARL 210 SOUTH MAIN STREET SUITE 102	TREASURER	CROWN POINT	IN	46307
P10000550	HOWARD, MILDRED (HILLIE) ? REP	1485 FAGIN'S RUN ROAD	NEW RICHMOND	OH	45157
PCC 000079745	HILLIE HOWARD FOR PRESIDENT USA 1996 DIANA SHANKLIN P O BOX 362	TREASURER	NEW RICHMOND	OH	45157

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

1996 PRESIDENTIAL CANDIDATES WITH PRINCIPAL CAMPAIGN OR AUTHORIZED COMMITTEES REPORTING RECEIPTS OR DISBURSEMENTS GREATER THAN \$5000

SECTION 1
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P60003639	JORGENSEN, JO ANNE LIB	300 BUTLER AVE	GREENVILLE	SC 29601
PCC C00303529	JO JORGENSEN FOR VICE-PRESIDENT COMMITTEE EDWARD H ALPERT 1754 WOODCROFT RD #201	TREASURER	GREENVILLE	SC 99607
P60003076	RYTES, ALAN LES REP	13533 SCOTTISH AUTUMN LAKE	DARWESTOWN	MD 20878
PCC C00303214	ALAN RYTES FOR PRESIDENT '96 INC WILLIAM G SPIEGEL P.O. BOX 25645	TREASURER	ALEXANDRIA	VA 22313
P60004546	LANE, RICHARD D REP	5401 E DAROTA RD 20	DENVER	CO 80222
PCC C00320945	LANE FOR PRESIDENT INC PETER D HINE 601 BROADWAY SUITE 211	TREASURER	DENVER	CO 80203
P60000452	LAROCHE, LYNDON E JR DEM	RT 1 BOX 284	ROUND HILL	VA 22141
PCC C00203465	COMMITTEE TO REVERSE THE ACCELERATING GLOBAL ECONOMIC & STRATEGIC CRISIS; LAROCHE EXPL CNT KATHY A MORGAN P O BOX 730	TREASURER	LEESBURG	VA 22075
P60004348	LEGAS, FRANK DEM	319 N ASHFORD PLACE	FULLERTON	CA 92631
PCC C00315002	LEGAS-96 PRESIDENTIAL COMMITTEE JULIA LEGAS POST OFFICE BOX 8866	TREASURER	FULLERTON	CA 92634
P60004363	LETULLE, MARY FRANCES REP	PO BOX 26551	AUSTIN	TX 78755

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

1996 PRESIDENTIAL CANDIDATES WITH PRINCIPAL CAMPAIGN OR AUTHORIZED COMMITTEES REPORTING RECEIPTS OR DISBURSEMENTS GREATER THAN \$5000

SECTION I
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC C00315020	LETULLE, MARY FRANCES MARY FRANCES LETULLE PO BOX 26891	TREASURER	AUSTIN	TX 78755
P60003555	LETO-SUVVIE, ELVINA E SEN	1519 S NEWCASTLE AV	WESTCHESTER	IL 60154
PCC C00309591	FRIENDS FOR ELVINA TEMPLE SINS PO BOX 7581	TREASURER PO BOX 7581	WESTCESTER	IL 60154
P60003266	LEBAR, RICHARD G REP	3200 HIGHWOODS COURT	INDIANAPOLIS	IN 46222
PCC C00301333	LEBAR FOR PRESIDENT COMMITTEE INC PATRICK J HIELT 3921 NORTH MERIDIAN STREET	TREASURER	INDIANAPOLIS	IN 46208
P60003070	PAULING, DAVID SEN	5709 BRATTON ST	TEMPLE TERRACE	FL 33617
PCC C00306540	PAULING FOR PRESIDENT NICOLE S PAULING PO BOX 350	TREASURER	TAMPA	FL 33601
P60003159	PHILLIPS, DEAN A SEN	604 E CAPITOL ST NE	WASHINGTON	DC 20003
PCC C00300106	PHILLIPS FOR PRESIDENT DEAN PHILLIPS 305 PENNSYLVANIA AVE SE	TREASURER	WASHINGTON	DC 20003
P60003613	SAFRAN, JOHN SEN	9822 SHARP ROAD	CLIFFORD	MI 48727
PCC C00303479	JOHN SAFRAN FOR PRESIDENT EDWIN W BUND 5000 SHARP RD	TREASURER	CLIFFORD	MI 48727

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

1996 PRESIDENTIAL CANDIDATES WITH PRINCIPAL CAMPAIGN OR AUTHORIZED COMMITTEES REPORTING RECEIPTS OR DISBURSEMENTS GREATER THAN \$5000

SECTION 1
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P60004017	SCUDENFELD, NYRON R MD SEN	2 OVERHILL ROAD	SCARSDALE	NY 10583
PCC	C00307092 DR SCUDENFELD-FOR-PRESIDENT CAMPAIGN COMMITTEE GLORIA T MDIS 2 OVERHILL ROAD SUITE 202	TREASURER	SCARSDALE	NY 10583
P60003894	SCMUS, THOMAS GARY REP	1431 RIDGEVIEW DR	NASHILLA	AK 99687
PCC	C00306589 COMMITTEE TO ELECT THOMAS SCMUS FOR PRESIDENT '96 THOMAS GARY SCMUS PO BOX 770169	TREASURER	EAGLE RIVER	AL 99577
P60003299	SMELLENBERG, FRED THOMAS REP	221 SOUTH 10TH	LIVINGSTON	MT 59047
PCC	C00300558 TOM SMELLENBERG FOR PRESIDENT FRED THOMAS SMELLENBERG 221 S 10TH	TREASURER	LIVINGSTON	MT 59047
P60004280	SKILLEN, RICHARD D REP	14 BELLEVUE AVE	CLAREMONT	NH 03743
PCC	C00314013 SKILLEN FOR PRESIDENT CYNTHIA J BOWARD RR 2 BOX 433	TREASURER	CLAREMONT	NH 03743
P60003233	SPECTER, ARLEN REP	444 NORTH CAPITOL ST NW SUITE 517A	WASHINGTON	DC 20001
PCC	C00300772 ARLEN SPECTER '96 PAUL S DIAMOND PACARD BUILDING 10TH FLOOR	TREASURER	PHILADELPHIA	PA 19102
P60003365	TAYLOR, MAURICE H JR REP	1477 MAINE	QUINCY	IL 62301

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1996 PRESIDENTIAL CANDIDATES WITH PRINCIPAL CAMPAIGN OR AUTHORIZED COMMITTEES REPORTING RECEIPTS OR DISBURSEMENTS GREATER THAN \$5000

SECTION I
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC C00302216	TAYLOR FOR PRESIDENT INC DARLENE SOAVE 1477 MAINE STREET	TREASURER	QUINCY	IL 62301
P60004066	TEMPLIN, DIANE BEALL REP	1016 CIRCLE DRIVE	ESCONDIDO	CA 92025
PCC C00308296	DIANE BEALL TEMPLIN FOR PRESIDENT JEFF ABRAH 1016 CIRCLE DRIVE	TREASURER	ESCONDIDO	CA 92025
P60003829	TOMPKINS, RICHARD LIB	4730 W NORTHERN AVE #1063	GLENDALE	AZ 85301
PCC C00306365	RICK TOMPKINS LIBERTARIAN FOR PRESIDENT SUSANNE KAWHARA 8129 W 30TH AVE 82-262	TREASURER	PHOENIX	AZ 85051
P60004264	WATSON, JERRY D JR REP	PO BOX 92145	WASHINGTON	DC 20090
PCC C00312397	JERRY D WATSON JR FOR PRESIDENT 1996 JERRY D WATSON JR PO BOX 92145	TREASURER	WASHINGTON	DC 20090
P60003301	WILSON, PETE REP	1020 12TH STREET SUITE 300	SACRAMENTO	CA 95814
PCC C00301978	PETE WILSON FOR PRESIDENT COMMITTEE INC DENISE CROCE 20 SOUTH QUINER LANE SUITE 200	TREASURER	ALEXANDRIA	VA 22314
TOTAL:	43			

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ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P6000292	ABRINS, GORDON HALLAM UNK	8610 TURTLE CREEK NORTH STE 312	DALLAS	TX 75225
PCC C00203604	GORDON ABRINS FOR PRESIDENT COMMITTEE GORDON HALLAM ABRINS 13100 PANDORA DR. 01403A	TREASURER	DALLAS	TX 75238
P60004520	ABRINS, JACKSON ALLEN UNK	775 NORTH 440 WEST	PROVO	UT 84601
P60003225	ALEXANDER, ANDREW L REP	PO BOX 23071	NASHVILLE	TN 37202
PCC C00300473	ALEXANDER FOR PRESIDENT INC TODD LARSENBERG 512 N WASHINGTON STREET	TREASURER	ALEXANDRIA	VA 22314
AUT C00315424	ALEXANDER AUDIT FUND INC TODD LARSENBERG 512 N WASHINGTON STREET	TREASURER	ALEXANDRIA	VA 22314
AUT C00300764	ALEXANDER FOR PRESIDENT COMPLIANCE COMMITTEE INC TODD LARSENBERG 512 N WASHINGTON STREET	TREASURER	ALEXANDRIA	VA 22314
P60003905	ALLEN, MICHAEL REP	620 46TH AVE NORTH	ST PETERSBURG	FL 33703
P60003993	ALLEN, THOMAS WAYNE REP	2720 KNOWLES ST	RALEIGH	NC 27603
PCC C00307043	COMMITTEE TO ELECT ALLEN FOR PRESIDENT THOMAS W ALLEN 2720 KNOWLES ST	TREASURER	RALEIGH	NC 27603
P20000003	AMERICA, GEORGE WASHINGTON REP	142 WEST 112TH ST SUITE B-45	NEW YORK	NY 10026

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SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P40000127	BAKER, LARRY LEE SEN	1010 S MAIN ST APT B	COLFAX	WA
PCC C00275091	DEMOCRACY COMMITTEE '96 LARRY LEE BAKER 1010 S HILL APT 7	TREASURER	COLFAX	WA 99111
P60004100	BALDWIN, JAMES L SEN	5022 TRIMBLE RD	TOLEDO	OH 43613
PCC C00309161	COMMITTEE TO ELECT JAMES BALDWIN JAMES L BALDWIN 5022 TRIMBLE RD	TREASURER	TOLEDO	OH 43613
P20001410	BALLARD, GEORGE B III SEN	PO BOX 50702	PHILADELPHIA	PA 19102
P20000162	BARLA, FRANK III REP	1712-C EAST VILLA ST 0316	PHX	AZ 85006
PCC C00241400	PEOPLE'S REVOLUTIONARY CONTINENTAL ARMY FRANK BARLA P.O. BOX 1200	TREASURER	PHOENIX	AZ 85001
P20000469	BAINGARTNER, DONALD SEN	PO BOX 7921	MISBOULA	MT 59807
P60004330	BECK, JERRY G SEN	123 S MAIN POB 205	WINDSOR	MO 65360
P60004411	BECKENDORF, FRANK WILLIAM IND	1809 KINGFISHER DR	ST BERNARD	LA 70085
PCC C00316927	BECKENDORF FOR PRESIDENT! AT LAST FRANK B BECKENDORF 1809 KINGFISHER DR	TREASURER	ST BERNARD	LA 70085

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ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION 11
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P60002013	BENGALE, KATHERINE UNK	914 19TH STREET S	ARLINGTON	VA 22202
P60002219	DEWINTENDI, GUY IND	3660 CATALPA WAY	BOULDER	CO 80304
PCC C00203960	DEWINTENDI FOR PRESIDENT COMMITTEE GUY DEWINTENDI 3660 CATALPA WAY	TREASURER	BOULDER	CO 80304
P00002592	BENTLEY, THOMAS ALAN IND	15 SHEPARD AVENUE	MT MORRIS	NY 14510
PCC C00150400	COALITION TO ELECT TOM BENTLEY PRESIDENT THOMAS A BENTLEY 15 SHEPARD AVENUE	TREASURER	MT MORRIS	NY 14510
P60004050	BIRCHLER, DAVID HAROLD REP	2932 CENTRAL	INDIANAPOLIS	IN 46205
PCC C00300122	DAVID HAROLD BIRCHLER COMMITTEE DAVID HAROLD BIRCHLER 2932 CENTRAL	TREASURER	INDIANAPOLIS	IN 46205
P60003400	BITAR, HADEEN UNK	PO BOX 610046	HOUSTON	TX 77208
PCC C00302745	HADEEN BITAR FOR PRESIDENT HADEEN BITAR PO BOX 610046	TREASURER	HOUSTON	TX 77208
P60003241	BRACKINS, HAROLD TAYLOR REP	11541 KITCHING ST	MORENO VALLEY	CA 92557
P20000535	BRADLEY, THOMAS JOSEPH JR REP	912 PENNSYLVANIA AVE	SCHENECTADY	NY 12303

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ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION 11
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC C00306845	PEOPLE'S CHOICE COMMITTEE TO ELECT ROGER A SMITH FOR PRESIDENT REBECCA ANN SMITH 109 WEST CHESTNUT STREET	TREASURER	CRAWFORDSVILLE	IN 47933
P60004140	SPAUD, STEPHEN L IND	6031 WESTCHESTER PK DR T-1	COLLEGE PARK	MD 20740
PCC C00309435	STEPHEN L SPAID ELECTION COMMITTEE STEPHEN L SPAID BOX 634	TREASURER	SILVER SPRING	MD 20910
P60003233	SPECTER, ARLEN REP	444 NORTH CAPITOL ST NW SUITE 517A	WASHINGTON	DC 20001
PCC C00300772	ARLEN SPECTER '96 PAUL S DIAMOND PACKARD BUILDING 14TH FLOOR	TREASURER 111 SOUTH 15TH STREET	PHILADELPHIA	PA 19102
P60003019	STAGGS, CLYDE LEROY REP	GENERAL DELIVERY	PATSON	AZ 05561
PCC C00295873	CLYDE STAGGS FOR PRESIDENT CLYDE L STAGGS GENERAL DELIVERY	TREASURER	PATSON	AZ 05561
P20000972	STARADUMSKY, JOHN J IND	30 RUDDERON AVE APT 48B	MAPLESHADE	NJ 08052
PCC C00255943	COMMITTEE TO ELECT JOHN J STARADUMSKY JOHN JOSEPH STARADUMSKY 30 RUDDERON AVE APT 48	TREASURER PO BOX 316	MAPLE SHADE	NJ 08052
P00000331	STARR, FRANK UNK	HCR33-BOX 450	ELKINS	AR 72727
PCC C00297259	COMMITTEE TO ELECT FRANK STARR PRESIDENT FRANK STARR HCR33-BOX 450	TREASURER	ELKINS	AR 72727

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ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

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EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC C00300400	LACEY SIVAK FOR PRESIDENT IN 1996 LACEY SIVAK PO BOX 5214	TREASURER	INDIC	ID 03705
P60004280	SKILLEN, RICHARD D REP	14 BELLEVUE AVE	CLAREMONT	WA 03743
PCC C00314013	SKILLEN FOR PRESIDENT CYNTHIA J HOWARD RR 2 BOX 435	TREASURER	CLAREMONT	WA 03743
P20001640	SLINKER, KEITH HAROLD REP	412 RIDGE AVENUE	BUTLER	PA 16001
PCC C00266569	SLINKER FOR PRESIDENT KEITH HAROLD SLINKER 412 RIDGE AVENUE	TREASURER	BUTLER	PA 16001
P60003373	SMITH, JACK UNK	PO BOX 922004	STANBR	CA 91392
PCC C00301903	WATCH OUT JACK IS BACK COMMITTEE JACK SMITH PO BOX 922004	TREASURER	STANBR	CA 91392
P20000949	SMITH, OSCAR JR DEM	340 DUNDONT AVENUE 10-B	BRUSSELYN	NY 11212
P80000250	SMITH, ROBERT J REP	1205 WEST 110TH PLACE	CHICAGO	IL 60643
PCC C00201269	PRINCE FOR THE REPUBLIC ROBERT J SMITH 1205 W 110TH PL	TREASURER	CHICAGO	IL 60643
P60003928	SMITH, ROGER ALAN UNK	109 WEST CHESTNUT STREET	CRANFORDSVILLE	IN 47933

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ID#	NAME/PARTY	ADDRESS		
P20001582	SELMA, ROBERT A		ST CLAIR SHORES	MI
PCC C00304303	WHITE HOUSE CANDIDATE COMMITTEE FOR ROBERT A SELMA ROBERT A SELMA 20919 ARDMORE PARK DRIVE	TREASURER	ST CLAIR SHORES	MI 48061
P60003936	SHARP, CRAIG ERIC DEM	9502 CHARLESTON	EL PASO	TX 79924
PCC C00306886	CRAIG ERIC SHARP CRAIG ERIC SHARP 9502 CHARLESTON	TREASURER	EL PASO	TX 79924
P60003415	SHEAR'REE, REP	5761 E LA PALMA AVE 0121	ARMETH BILLS	CA 92007
PCC C00302315	SHEAR'REE PRESIDENTIAL CAMPAIGN SHEAR'REE 5761 E LA PALMA AVE 0121	TREASURER	ARMETH BILLS	CA 92007
P60003209	SHELLENBERG, FRED THOMAS REP	221 SOUTH 10TH	LIVINGSTON	MT 59047
PCC C00300558	TOM SHELLENBERG FOR PRESIDENT FRED THOMAS SHELLENBERG 221 S 10TH	TREASURER	LIVINGSTON	MT 59047
P60004314	SHEPHERD, LARRY E SR DEM	14719 CONDON AVE	LAMDALE	CA 90260
PCC C00314526	SHEPHERD, LARRY E SR LARRY E SHEPHERD 14719 CONDON AVE	TREASURER	LAMDALE	CA 90260
P60003183	SIVAK, LACEY UNK	PO BOX 5214	BOISE	ID 83705

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ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

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EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC	C00298844 ROBERT 96 ROBERT L SAUNDERS PO BOX 1737	TREASURER	NEW YORK	NY 10274
AUT	C00234153 BOBBY SAUNDERS FOR PRESIDENT BOBBY SAUNDERS PO BOX 2399	TREASURER	WASHINGTON	DC 20002
AUT	C00279059 BOBBY SAUNDERS FOR PRESIDENT 96' ROBERT LEE SAUNDERS PO BOX 2399	TREASURER	WASHINGTON	DC 20013

P60004488	SAUTER, DONALD IND	9316 WYATT DRIVE	LAWREN	MD 20706
PCC	C00318758 DONALD SAUTER FOR PRESIDENT DONALD SAUTER 9316 WYATT DR	TREASURER	LAWREN	MD 20706

P60004017	SCHOENFELD, MYRON R MD DEM	2 OVERHILL ROAD	SCARSDALE	NY 10583
PCC	C00307892 DR SCHOENFELD-FOR-PRESIDENT CAMPAIGN COMMITTEE GLORIA T EDIS 2 OVERHILL ROAD SUITE 202	TREASURER	SCARSDALE	NY 10583

P60003894	SCHUG, THOMAS GARY REP	1431 RIDGEVIEW DR	WABILLA	AR 99607
PCC	C00306589 COMMITTEE TO ELECT THOMAS SCHUG FOR PRESIDENT 96 THOMAS GARY SCHUG PO BOX 770169	TREASURER	BASLE RIVER	AL 99577

P60003126	SEIP, LARRY ARLING IND	250 STERLING HWY 04	BOWEN	AR 99603
PCC	C00300061 LARRY SEIP AND THE PEOPLE LARRY ARLING SEIP 250 STERLING HWY 04	TREASURER	BOWEN	AR 99603

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ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P60003472	ROSE, MAX WADE REP	789 ST MICHAEL WAY	SALINAS	CA 93905
PCC C00302638	ROSE FOR PRESIDENT DEBBIE A ROSE 789 ST MICHAEL WAY	TREASURER	SALINAS	CA 93905
P60001351	ROSS, JOHN MICHAEL LEWIS IND	7129 NE BROADWAY	PORTLAND	OR 97213
P60002425	RUSSIN, RONALD EDWARD UNK	5113 GLENWOOD POINTE LANE NE	ALBUQUERQUE	NM 87111
P60003613	SAFRAN, JOHN DEM	9822 SHARP ROAD	CLIFFORD	MI 48727
PCC C00303479	JOHN SAFRAN FOR PRESIDENT EDWIN W BURD 9822 SHARP RD	TREASURER	CLIFFORD	MI 48727
P40001109	SAINT AUGUSTINE, CAESAR UNK	PO BOX 4003	MALIBU	CA 90264
P60004439	SAMBATARO, JAMES VINCENT IND	50 GLEN RIDGE AVENUE	GLEN RIDGE	NJ 07020
P60004447	SAMBATARO, JOSEPH ANTHONY JR IND	50 GLEN RIDGE AVENUE	GLEN RIDGE	NJ 07020
P20000303	SARTAIN, AARON WAYNE UNK	2415 FRANCIS	ST JOSEPH	MO 64501
P80000326	SAUNDERS, ROBERT L IND	PO BOX 1737	NEW YORK	NY 10074

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EXTRACTION FROM THE 1996 DATABASE

IDS	NAME/PARTY	ADDRESS		
P60003282	REED, HARRY THOMAS REP	110 PEARSE ST	CORPUS CHRISTI	TX 78415
P60003464	REMS, BOB S REP	906 GARLAND #18	FLINT	MI 48503
PCC C00302620	BOB S REMS BOB S REMS 906 GARLAND #18	TREASURER	FLINT	MI 48503
P60003605	ROBINSON, RICHARD GUY II IND	165 ELM RD SE	WARREN	OH 44483
PCC C00303370	COMMITTEE TO ELECT RICHARD ROBINSON ROSEANN L ROBINSON 165 ELM RD SE	TREASURER	WARREN	OH 44483
P60003563	ROGERS, ALFORD UNK	PO BOX FROM GENERAL DELIVERY	SAINT PAULS	NC 28384
PCC C00303081	AMERICAN DOLLAR (PCC ROGERS) ALFORD ROGERS PO BOX 623	TREASURER	SAINT PAULS	NC 28384
P60001799	ROGERS, LEROY IND	5725 JACQUELINE ROAD	FT WORTH	TX 76112
PCC C00281642	LEROY ROGERS FOR PRESIDENT LEROY ROGERS 2907 WEST 7TH STREET	TREASURER	PORT WORTH	TX 76187
P20001210	ROGERS, TENNIE BEATRICE REP	6710 SOUTH QUAKER AVENUE	TULSA	OK 74136
PCC C00301986	ROGERS FOR PRESIDENT TENNIE BEATRICE ROGERS PO BOX 701558	TREASURER	TULSA	OK 74170

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ID#	NAME/PARTY	ADDRESS		
P00002667	POLAND, HAROLD LAWRENCE DEM	108 EAST LINDEN ST	ALEXANDRIA	VA 22301
PCC C00314534	POLAND FOR PRESIDENT LEATEA RUTH POLAND 108 E LINDEN ST	TREASURER	ALEXANDRIA	VA 22301
P60003050	POWELL, COLIN L		LARGO	MD
P60004009	POWELL, SAMUEL LYNDELL UNK	1956 - 2ND ST NW	WASHINGTON	DC 20001
P80001142	PRINCEVAC, SINISA MD DR IND	2475 N GUNNISON ST	CHICAGO	IL 60625
PCC C00279349	INDEPENDENT SINISA PRINCEVAC SINISA PRINCEVAC MD 2475 N GUNNISON ST	TREASURER	CHICAGO	IL 60625
P80002587	QUAYLE, DAN		NASHVILLE	TN
P20000576	RANGE, MARGARET S REP	70-9TH AVE NORTH	B' HAM	AL 35204
PCC C00281782	MARGARET RANGE FOR PRESIDENT COMM MARGARET S RANGE 70-9TH AVE NO	TREASURER	B' HAM	AL 35204
AUT C00252932	REPUBLICAN PARTY OF THE U S MARGARET S RANGE 1120 BOUTHWOOD DRIVE	TREASURER	B' HAM	AL 35217
P60003456	RAVEN, WILLIAM M IND	1021 SO 19TH ST	LA CROSSE	WI 54601

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ID#	NAME/PARTY	ADDRESS		
P60003787	PHILLIPS, CHARLES A		PALMDALE	CA
PCC C00305243	CHARLES ANTON PHILLIPS PRESIDENTIAL CAMPAIGN FUND BEATRICE A MACHUE PO BOX 901334	TREASURER	PALMDALE	CA 93590
P60003159	PHILLIPS, DEAN A DEM	604 E CAPITOL ST NE	WASHINGTON	DC 20003
PCC C00300186	PHILLIPS FOR PRESIDENT DEAN PHILLIPS 205 PENNSYLVANIA AVE SE	TREASURER	WASHINGTON	DC 20003
P20001434	PHILLIPS, HOWARD UNK	9520 BENT CREEK LANE .	VIENNA	VA 22102
PCC C00310847	HOWARD PHILLIPS 1996 CAMPAIGN COMMITTEE JOE P LUTE SR 9520 BENT CREEK LANE	TREASURER	VIENNA	VA 22102
AUT C00259390	TAXPAYERS FOR PHILLIPS MARK WEAVER 9520 BENT CREEK LANE	TREASURER	VIENNA	VA 22102
P60004082	PHILLIPS, RICK L DEM	PO BOX 583	SEASBORO	IA 50242
P60003118	PITTMAN, DENNIS WALDO IND	657 NOEL CONAWAY	GUTTON	GA 31312
PCC C00300012	INDEPENDANT (PITTMAN) DENNIS W PITTMAN 657 NOEL CONAWAY RD	TREASURER	GUTTON	GA 31312
P60003340	PITTMAN, MONTY GENE DEM	113 SOUTH ST	TAFT	CA 93268

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ID#	NAME/PARTY	ADDRESS		
P60004306	PENWELL, MARJORIE A DEM	13603 WOODMORE RD	MITCHELLVILLE	MD 20721
PCC C00314369	PENWELL FOR PRESIDENT MARJORIE PENWELL 13603 WOODMORE RD	TREASURER	MITCHELLVILLE	MD 20721
P60002326	PEREZ, DAVID UNK	431 W GLENDON WAY	SAN GABRIEL	CA 91776
PCC C00285007	GENERAL MOTORS (DAVID PEREZ) DAVID CORTEZ PEREZ 431 W GLENDON WAY	TREASURER	SAN GABRIEL	CA 91776
P60002201	PERKINS, MARVIN EDWARD IND	PO BOX 278	ROWLETT	TX 75088
P20001558	PEROT, ROSS REP	1700 LAKESIDE SQUARE	DALLAS	TX 75251
PCC C00321778	PEROT '96 J MICHAEL POSS 7616 LBJ FREEWAY SUITE 727	TREASURER	DALLAS	TX 75251
AUT C00263145	PEROT '92 MIKE POSS 12377 MERIT DRIVE SUITE 1700	TREASURER	DALLAS	TX 75251
AUT C00315762	PEROT REFORM COMMITTEE MIKE POSS 7616 LBJ FREEWAY SUITE 727	TREASURER	DALLAS	TX 75251
P60002342	PETRY, RAYMOND KENNETH UNK	CO 439 KEONIANA ST PH2B	HONOLULU	HI 96815
PCC C00302794	PETRY FOR VEEP/USA 96 RAYMOND KENNETH PETRY C/O 439 KEONIANA ST PH2B	TREASURER	HONOLULU	HI 96815

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AUT C00164335	NATIONAL COMMITTEE TO ELECT GRADY O' CUMMINGS III WINIFRED ROSS-O' CUMMINGS 198 MCCOUGAL ST APT 3R	TREASURER	BROOKLYN	NY 11233
P40000382	OGIN, FRED EUGENE REP	18668 LAMSON RD	CASTRO VALLEY	CA 94546
PCC C00251231	FREDERICK E OGIN FREDERICK E OGIN SEC 1 VA DOM	TREASURER	WHITE CITY	OR 97503
P60004322	OGLE, JAMES ORLANDO UNK	715 9TH STREET	PACIFIC GROVE	CA 93950
P60003514	OWENS, THOMAS ROBERT UNK	6544 MANGROVE DRIVE	WESLEY CHAPEL	FL 33544
P80002405	PATTY, HUBERT DAVID REP	131 E BROADWAY	MARTVILLE	TN 37003
PCC C00301747	AMERICA REGENERATED PATTY FOR PRESIDENT M M CUMMINGS 210 HARPER AVENUE	TREASURER	MARTVILLE	TN 37003
P60003878	PAULING, DAVID DEN	5709 BRATTON ST	TEMPLE TERRACE	FL 33617
PCC C00306548	PAULING FOR PRESIDENT NICOLE E PAULING PO BOX 350	TREASURER	TEMPA	FL 33601
P60003761	PAULSEN, PATRICK LAYTON DEN	6924 ESTEPA DR	TUJUNGA	CA 91042
PCC C00305219	COMMITTEE TO ELECT PAT PAULSEN WOMA H PAULSEN 7543 WOODLEY AVE #200	TREASURER	VAN NUYS	CA 91406

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PCC C00304014	COMMITTEE TO ELECT DAVID J MORASCINI PRESIDENT FRANK ROBERT SIMLICK 13 FURNACE AVE	TREASURER	STAFFORD SPRINGS	CT 06076
P60004389	MOTOR, LEON IND	24C LONGFELLOW DR	MURKALL	PA 18120
P00000729	MUEYK, GEORGE ALEXANDER DEM	19500 CRYSTAL ROCK DRIVE APT 22	GERMANTOWN	MD 20874
PCC C00283325	DEMOCRATS FOR AMERICANUM GEORGE A MUEYK 19500 CRYSTAL ROCK DRIVE APT 22	TREASURER	GERMANTOWN	MD 20874
P20000527	HADER, RALPH		OAKLAND	CA
P60004272	NOBLE, SANDRA DEM	4506 GEORGIA AVE NW #104	WASHINGTON	DC 20011
PCC C00312405	SANDRA NOBLE FOR PRESIDENT SANDRA NOBLE 4506 GEORGIA AVE NW #104	TREASURER	WASHINGTON	DC 20011
P60003092	WOBQA, RAFAEL ALEJANDRO REP	3838 COLUMBUS RD SW	GRANVILLE	OH 43023
PCC C00299974	WOBQA PRESIDENTIAL COMMITTEE RAFAEL WOBQA 3838 COLUMBUS RD SW	TREASURER	GRANVILLE	OH 43023
P00000588	O'CUMMINGS, GRADY 3RD DEM	198 MACDOUGAL STREET	BROOKLYN	NY 11233
PCC C00304451	NATIONAL COMMITTEE TO ELECT GRADY O'CUMMINGS 3RD IN 96 WINIFRED C ROSS-O'CUMMINGS 198 MACDOUGAL STREET	TREASURER	BROOKLYN	NY 11233

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ID#	NAME/PARTY	ADDRESS		
P60003100	MICHAEL, STEPHEN D DEM	1339 14TH ST NW 05	WASHINGTON	DC 20005
PCC C00299950	STEVE MICHAEL PRESIDENTIAL CAMPAIGN COMM MAYWE TURNER 25 U STREET NW	TREASURER	WASHINGTON	DC 20001
P60004231	MILRO, HILARY MICHAEL REP	BX 72344	LAS VEGAS	NV 89170
P20000220	MILLER, KATHERINE BENGALIE REP	914 19TH STREETS	ARLINGTON	VA 22202
P60001043	MILTON, JERRY R IND	PO BOX 392	PORT MCCOY	FL 32134
PCC C00268086	MILTON FOR PRESIDENT JERRY R MILTON RT 1 BOX 168	TREASURER PO BOX 392	PORT MCCOY	FL 32134
AUT C00215392	JERRY ROGER MILTON (PCC) JERRY ROGER MILTON PO BOX 339	TREASURER 481 SE 3RD AVE	ALACRUA	FL 32615
P00001982	MOONEY, BEATRICE J REP	1278 QUINLAN AVE S	LAKE ST CROIX DCB	MI 55043
P60004403	MOOREHEAD, MONICA GAIL SNP	60 GLENWOOD AVE 0500	JERSEY CITY	NJ 07306
PCC C00316091	WORKERS WORLD PARTY PRESIDENTIAL CAMPAIGN COMMITTEE (MOOREHEAD) GARY WILSON 55 W 17TH ST 5TH FL	TREASURER	NY	NY 10011
P20001145	MORASCINI, DAVID JOHN IND	26 AMIDON DRIVE	ASHFORD	CT 06278

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ID#	NAME/PARTY	ADDRESS		
P60002565	MABARDY, JACK REP	PO BOX 1422	FRAMINGHAM	MA 01701
PCC C00291450	JACK MABARDY FOR PRESIDENT U S A JACK MABARDY PO BOX 1422	TREASURER	FRAMINGHAM	MA 01701
P40000853	MASTERS, ISABELL REP	2425 NE 24TH ST	OR CITY	OR 97111
PCC C00304626	DR ISABELL MASTERS-LOOKING BACK COMMITTEE ISABELL MASTERS 242 WREWA DR	TREASURER	WEST PALM BEACH	FL 33409
P60001468	MATTI, THOMAS ALLEN UNK	GENERAL DELIVERY	ARLINGTON HEIGHTS	IL 60005
P00000133	MCDANIELS, EDISON PENROW SR IND	1224 WEST 26TH STREET	SAN BERNARDINO	CA 92405
PCC C00301168	CRUSADE TO ELECT EDISON P MCDANIELS SR PRESIDENT EDISON P MCDANIELS SR PO BOX 2700	TREASURER	SAN BERNARDINO	CA 92406
P40000820	MCDOWELL, EDOIE IND	PO BOX 568	AL	NY 10460
P60003290	MCWILLAN, JAMES III REP	1996 HOSTRAND AVE	BROOKLYN	NY 11210
PCC C00301408	JIMMY MCWILLAN FOR PRESIDENT JAMES MCWILLAN III PO BOX 10-0086	TREASURER	BROOKLYN	NY 11210
P60004538	MENTER, DAVID NEWBIE IND	4834 PECAN GROVE DRIVE	PEARLAND	TX 77584

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ID#	NAME/PARTY	ADDRESS		
PCC C00300079	THOMAS LIEWEG FOR PRESIDENT FRED GILL 10615 PARKWOOD DR	TREASURER	HEMSINGTON	MD 20695
P60004090	LLOYD, TYRESE ROSS UNK	6205 WILLOW WAY	CLIFTON	MD 20735
P60003555	LLOYD-DUFFIE, ELVENA E DEM	1519 S NEWCASTLE AV	WESTCHESTER	IL 60154
PCC C00309591	FRIENDS FOR ELVENA TEMPIE KING PO BOX 7581	TREASURER PO BOX 7581	WESTCHESTER	IL 60154
P60001187	LOVEWELL, ROBERT S REP	86 1/2 PLEASANT ST	CONCORD	NE 03301
P60003266	LUGAR, RICHARD G REP	3200 HIGHWOODS COURT	INDIANAPOLIS	IN 46222
PCC C00301333	LUGAR FOR PRESIDENT COMMITTEE INC PATRICK J RIELY 3921 NORTH MERIDIAN STREET	TREASURER	INDIANAPOLIS	IN 46206
AUT C00303289	LUGAR FOR PRESIDENT COMMITTEE LEGAL AND ACCOUNTING COMPLIANCE FUND PATRICK J RIELY PO BOX 20484	TREASURER	INDIANAPOLIS	IN 46220
AUT C00315416	LUGAR FOR PRESIDENT-AUDIT FUND PATRICK J RIELY POST OFFICE BOX 20484	TREASURER	INDIANAPOLIS	IN 46220
P20001483	LUMMIS, LESLIE IND	CUMA TRANQUILIDAD APT J-5	TAMUWING	GU 96911
P60004553	LUSK, MICHAEL JAMES UNK	4434 VRM TRL	GILBERT	AZ 85741

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ID#	NAME/PARTY	ADDRESS		
P60003324	LAUR, GEORGE C II DEM	2017 BEAR RIDGE ROAD #104	BALTIMORE	MD 21222
PCC C00301713	COMMITTEE FOR LAUR CHARLES LAUR 2017 BEAR RIDGE	TREASURER	BALTIMORE	MD 21222
P20000055	LEE, RIP LIB	1797 KENTON DRIVE	ROBBING	CA 96001
PCC C00160459	FOR PRESIDENT RIP LEE RIP LEE 1797 KENTON DRIVE	TREASURER	ROBBING	CA 96001
P60003704	LEECH, STEPHEN WAYNE UNR	111 BASCO DRIVE	JACKSONVILLE	NC 28540
PCC C00304162	STEVE LEECH FOR PRESIDENT STEPHEN WAYNE LEECH PO BOX 392	TREASURER	JACKSONVILLE	NC 28541
P60004348	LEGAS, FRANK DEM	310 N AERFORD PLACE	FULLERTON	CA 92631
PCC C00315002	LEGAS-96 PRESIDENTIAL COMMITTEE JULIA LEGAS POST OFFICE BOX 6806	TREASURER	FULLERTON	CA 92634
P60004363	LETULLE, MARY FRANCES REP	PO BOX 24551	AUSTIN	TX 78755
PCC C00315028	LETULLE, MARY FRANCES MARY FRANCES LETULLE PO BOX 24551	TREASURER	AUSTIN	TX 78755
P60003134	LIEKWBG, THOMAS DINEN IND	10615 PARKWOOD DR	KENSINGTON	MD 20895

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P60000452	LAROUCHE, LYNDON B JR DEN	RT 1 BOX 204	ROUND HILL	VA 22141
PCC C00203463	COMMITTEE TO REVERSE THE ACCELERATING GLOBAL ECONOMIC & STRATEGIC CRISIS: KATHY A MAGRAN P O BOX 730	TREASURER	LAROUCHE ENPL CNT LEESBURG	VA 22075
AUT C00107391	CITIZENS FOR LAROUCHE PATRICIA DOLBEARE 65 HILLSIDE AVE	TREASURER	SALISBURY	NY 10040
AUT C00031781	COMMITTEE TO ELECT LYNDON LAROUCHE (1976 COMMITTEE) RICHARD E. WELSH 2450 27TH ST, #3A GPO	TREASURER	LONG ISLAND CITY	NY 11102
AUT C00250191	DEMOCRATS FOR ECONOMIC RECOVERY-LAROUCHE IN 92 KATHY A MAGRAN PO BOX 690	TREASURER	LEESBURG	VA 20170
AUT C00231902	DEMOCRATS FOR NATIONAL ECONOMIC RECOVERY - LAROUCHE IN 80 RICHARD E WELSH P O BOX 926	TREASURER	LEESBURG	VA 22075
AUT C00188888	INDEPENDENT DEMOCRATS FOR LAROUCHE GERALD ROSE C/O WELSH 100 NORTH ST NE	TREASURER	LEESBURG	VA 22075
AUT C00171538	LAROUCHE CAMPAIGN EDWARD SPANNAUS 108 NORTH ST NE	TREASURER	LEESBURG	VA 22075
AUT C00198671	LAROUCHE DEMOCRATIC CAMPAIGN EDWARD SPANNAUS P O BOX 210 DOWNTOWN STATION	TREASURER	LEESBURG	VA 22075
AUT C00272781	LAROUCHE FOR PRESIDENT-INDEPENDENTS FOR ECONOMIC RECOVERY KATHY A MAGRAN PO BOX 266	TREASURER	LEESBURG	VA 22075
AUT C00187435	TEXAS DEMOCRATS TO DRAFT LAROUCHE LINDA BRAUNE 5401 RANPART #300	TREASURER	HOUSTON	TX 77001

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ID#	NAME/PARTY	ADDRESS		
AUT C00309492	KLEINMAN FOR PRESIDENT MARK HAROLD KLEINMAN PO BOX 5473	TREASURER	WASHINGTON	DC 20016
P60003845	ROLB, KENNETH WAYNE IND	1311 DONARD PARK AVENUE	LOUISVILLE	KY 40210
PCC C00306381	COMMITTEE TO ELECT WAYNE ROLB PRESIDENT WILLIAM F PERKINS III PO BOX 34232	TREASURER	LOUISVILLE	KY 40232
P60003217	KOPITSKE, GLENN M UNK	W795 LESSOR-NAVARINO RD	BONDUEL	WI 54107
PCC C00300582	GLENN M KOPITSKE FOR PRESIDENT GLENN M KOPITSKE W795 LESSOR-NAVARINO RD	TREASURER	BONDUEL	WI 54107
P60004249	LACASSE, RUSSELL ARMAND IND	372A RIVER ROAD	NAPLES	ME 04055
P60004546	LAMM, RICHARD D REF	5401 E DAKOTA MO 20	DENVER	CO 80222
PCC C00320945	LAMM FOR PRESIDENT INC PETER D WIMS 601 BROADWAY SUITE 211	TREASURER	DENVER	CO 80203
P60001472	LANDY, BRUCE ALAN REP	2601 VIRGINIA AVE NW	WASHINGTON	DC 20037
P60004074	LANG, OTMAR O MR IND	2475 W GUNNISON STR	CHICAGO	IL 60625
P40001364	LARIVA, GLORIA ESTELA SWP	3207 MISSION STREET APT 9	SAN FRANCISCO	CA 94110

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AUT	C00313569 MICHIGAN FOR KEYES '96 BART LEE STAKER 1931 DUFFIELD #4277	TREASURER	ANN ARBOR	MI	48109
AUT	C00314161 MINNESOTA FOR KEYES THOMAS W STRAHAN SR 6313 LONGFELLOW AVE S	TREASURER	RICHFIELD	MN	55423
AUT	C00307215 NORTHWESTERN STATES FOR KEYES BONNIE J MADON P O BOX 9127	TREASURER	BROOKS	OR	97305
AUT	C00311100 SOUTH CAROLINIANS FOR KEYES '96 CAROLYN B RICE 374-P PINECROFT DRIVE	TREASURER	TAYLORS	SC	29687
AUT	C00311894 SOUTH DAKOTANS FOR ALAN KEYES '96 GRETCHEN A HOFFMAN 300 N DAKOTA AVE SUITE 510	TREASURER	SIOUX FALLS	SD	57102
AUT	C00309427 TEXANS FOR ALAN KEYES FOR PRESIDENT '96 CHRISTOPHER T KUHLMAN 5450 NORTHWEST CENTRAL SUITE 101	TREASURER	HOUSTON	TX	77092
AUT	C00307736 WISCONSIN FOR ALAN KEYES MICHAEL J HEINEN 705 SOUTH 26TH STREET	TREASURER	SHREVEPORT	WI	53601

P60000957	KILLEN, CAROLINE P UNK	262 S FLUMER	TUCSON	AZ	85719

P60001476	KING, HENRY IND	13006 WESTROPP	CLEVELAND	OH	44110

P60004157	KLEINMAN, MARK HAROLD IND	3800 VEASEY ST NW	WASHINGTON	DC	20016
PCC	C00315663 COMMITTEE TO ELECT MARK HAROLD KLEINMAN PRESIDENT MARK HAROLD KLEINMAN 3800 VEASEY ST NW	TREASURER	WASHINGTON	DC	20016

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AUT C00309393	ALAN KEYES FOR PRESIDENT '96 - COLORADO WILLIAM VICTOR NOTE 2025 EDDINGTON WAY	TREASURER COLORADO SPRINGS CO 80916
AUT C00311902	ALAN KEYES FOR PRESIDENT '96 KENTUCKY AFFILIATE JOHN ALVIN SHELTON 2335 BUTTERMILK CROSSING #303	TREASURER CRESCENT SPRINGS KY 41017
AUT C00310433	ALAN KEYES FOR PRESIDENT '96 NORTH CAROLINA COMMITTEE DANIEL CAMERON MORRIS 2022 SUITE B SHADOWOOD COURT	TREASURER GREENVILLE NC 27858
AUT C00311118	ALAN KEYES FOR PRESIDENT '96 NORTHERN TEXAS OFFICE JAMES D GREEN PO BOX 2081	TREASURER DENTON TX 76202
AUT C00309518	ALAN KEYES FOR PRESIDENT - IOWA JONATHAN ANDREW JACKSON 6000 DOUGLAS	TREASURER DES MOINES IA 50322
AUT C00312926	ARIZONA FOR ALAN KEYES '96 ROBERT A GENTALA 10171 E RIO DE ORO DRIVE	TREASURER TUCSON AZ 85749
AUT C00311704	CALIFORNIANS FOR KEYES DAVID JEAN QUACKENBUSH 325 EAST OAK VIEW AVE	TREASURER OAK VIEW CA 93022
AUT C00307835	COMMITTEE TO ELECT ALAN KEYES PRESIDENT OF THE UNITED STATES MARIAN MOSLEY 3075 W KEARNEY BLVD	TREASURER FRESNO CA 93706
AUT C00312934	KEYES CAMPAIGN IN ILLINOIS EUGENE T CARTER 2604 W SIBLEY	TREASURER PARK RIDGE IL 60068
AUT C00309500	MARYLAND FOR KEYES '96 TERRY TURNER 13600 AMBASSADOR DRIVE	TREASURER CROFTON MD 20874
AUT C00311126	MASSACHUSETTS FOR ALAN KEYES PATRICK LANNON 213 SUMMER STREET #3R	TREASURER BONNEVILLE MA 02143

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P60003670	KASICH, JOHN			SENFOLE FL
P80000060	KEMP, JACK (VICE-PRES) REP			BETHESDA MD
PCC C00321620	KEMP FOR VICE PRESIDENT MR KIRK L CLINKENBEARD 2233 WISCONSIN AVENUE NW SUITE 500	TREASURER		WASHINGTON DC 20007
C00217372	KEMP/DANWENEYER COMMITTEE SCOTT B MACKENZIE 5201 LEEBURG PIKE SUITE 1207	TREASURER		FALLS CHURCH VA 22041
AUT C00238972	JACK KEMP COMPLIANCE FUND SAL RUSSO 770 L STREET SUITE 950	TREASURER		SACRAMENTO CA 95814
AUT C00214221	JACK KEMP FOR PRESIDENT '88 SAL RUSSO 770 L STREET SUITE 950	TREASURER		SACRAMENTO CA 95814
P60003696	KESSLER, KEITH KELVIN IND	14405 ARTERY LAKE 011		WOODBRIDGE VA 22193
P60003076	KEYES, ALAN LEE REP	13333 SCOTTISH AUTUMN LAKE		DANESTOWN MD 20678
PCC C00303214	ALAN KEYES FOR PRESIDENT '96 INC WILLIAM G SPIEGEL P.O. BOX 25643	TREASURER		ALEXANDRIA VA 22313
AUT C00312918	ALABAMA KEYES COMMITTEE AMELIA CAROL WISDOM 207 FARRETT COURT	TREASURER		HUNTSVILLE AL 35810
AUT C00299313	ALAN KEYES COMMITTEE ALAN KEYES 34 PEACHTREE ST N W SUITE 2320	TREASURER		ATLANTA GA 30303

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ID#	NAME/PARTY	ADDRESS		
PCC C00301960	ROGER JEWELL FOR PRESIDENT '96 COMMITTEE ROGER JEWELL 4020 CHICAGO #123	TREASURER	RIVERSIDE	CA 92507
P60003753	JOCHEN, EDWIN EDWARD III IND	4706 LIBERTY AVE	NIAGARA FALLS	NY 14305
PCC C00305169	ED FOR THE PEOPLE 96 (PCC JOCHEN) JUWE ALEEM NASCA 4706 LIBERTY AVE	TREASURER	NIAGARA FALLS	NY 14305
P60003191	JOHNSON, AUBREY F DEM	PO BOX 2531	DELMAR	CA 92014
P80000532	JONES, ALFONSO DEM	8624-6 RUTLAND #685	DET	MI 48220
PCC C00211771	COMMITTEE TO ELECT MR ALFONSO JONES FOR PRESIDENT ALFONSO JONES 8624-6 RUTLAND #685	TREASURER	DET	MI 48220
P60003639	JORGENSEN, JO ANNE LIB	300 BUTLER AVE	GREENVILLE	SC 29601
PCC C00303529	JO JORGENSEN FOR VICE-PRESIDENT COMMITTEE EDWARD M ALPORT 1754 WOODRUFF RD #201	TREASURER	GREENVILLE	SC 99607
P60003530	JUDD, KEITH RUSSELL UNK	504 VIRGINIA NE APT D	ALBUQUERQUE	NM 87100
PCC C00302919	KEITH JUDD FOR PRESIDENT KEITH R JUDD 504 VIRGINIA NE APT D	TREASURER	ALBUQ	NM 87100
P60001864	KANE, JOHN VINCENT UNK	18 VALLEY RIDGE DRIVE	SOUTH BURLINGTON	VT 05401

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ID#	NAME/PARTY	ADDRESS	CENTER	TX
PCC C00310722	HUDSON, FRED JR FRED HUDSON JR PO BOX 392	TREASURER		TX 75935
P60004371	JACKSON, ROSE ANNA REP	PO BOX 126144	SAN DIEGO	CA 92112
PCC C00315309	ROSY JACKSON FOR U S PRESIDENT ROSE JACKSON PO BOX 126144	TREASURER	SAN DIEGO	CA 92112
P60002086	JENKINS, MICHAEL DWAYNE IND	121 SOUTH COLONIAL AVENUE	RICHMOND	VA 23221
PCC C00282574	MICHAEL DWAYNE JENKINS I 96 FOR PRESIDENT OF THE UNITED STATES OF AMERICA MICHAEL D JENKINS 121 SOUTH COLONIAL AVENUE	TREASURER	RICHMOND	VA 23221
P20000998	JENSEN, PAUL DEM	BX 4372	ANN ARBOR	MI 48106
PCC C00302836	NEW DEMOCRAT/96 PAUL JENSEN DEMOCRAT FOR US PRESIDENT P JENSEN BX 4372	TREASURER	A A	MI 48106
AUT C00256073	JENSEN FOR PRESIDENT PAUL JENSEN 2040 CHARLTON #5	TREASURER	ANN ARBOR	MI 48103
P60004470	JESERNIG, WILLIAM C REP	2947 E 10TH	KENNEWICK	WA 99336
PCC C00318493	COMMITTEE TO ELECT WILLIAM JESERNIG WM JESERNIG 2947 EAST 10TH	TREASURER	KENNEWICK	WA 99336
P60002458	JEWELL, ROGER HENRY IND	4020 CHICAGO #123	RIVERSIDE	CA 92507

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PCC C00301580	COMMITTEE TO ELECT JERRY D WOLCONBE TROY LYNN CRANDAL 4859 CEDAR SPRINGS #136	TREASURER	DALLAS	TX 75219
P60004116	BOLLIS, MARY CAL SWP	500 SUGAR LOAF ROAD	BOULDER	CO 80302
P60003506	NORION, NORMAN ROBERT V IND	25 OLD CANDIA ROAD	AUBURN	NE 63032
PCC C00302786	N R N FOR PRESIDENT (NORION PCC) NORMAN NORION 25 OLD CANDIA ROAD	TREASURER	AUBURN	NE 63032
P60002466	HOUSTON, GUY VIRGIL JR DEM	2720 NW 18 AVE PL A	MIAMI	FL 33142
PCC C00320861	NO COMMITTEE OTHER THAN MYSELF GUY VIRGIL HOUSTON JR 2720 NW 18 AVE PL A	TREASURER	MIAMI	FL 33142
P20000550	HOWARD, MILDRED (MILLIE) T REP	1485 FAGIN'S RUN ROAD	NEW RICHMOND	OH 45157
PCC C00279745	MILLIE HOWARD FOR PRESIDENT USA 1996 DIANA SHAMBLIN P O BOX 262	TREASURER	NEW RICHMOND	OH 45157
AUT C00252833	COMMITTEE TO ELECT MILLIE HOWARD PRESIDENT USA 1992 DIANA DARLENE SHAMBLIN 1485 FAGIN'S RUN RD	TREASURER	NEW RICHMOND	OH 45157
P60004173	HUBBARD, ANTHONY W IND	6630 OLD JACKS CREEK RD	HENDERSON	TN 38340
P60004199	HUDSON, FRED JR		CENTER	TX

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P20000543	HIRSON, RUSSELL IND	1630 B BEECHAM PL NW	WASHINGTON	DC 20009
PCC	C00311605 RUSSELL HIRSON'S COMMITTEE OF TWUGS DEANN SCHAFFER 1630 B BEECHAM PL NW	TREASURER	WASHINGTON	DC 20009
AUT	C00253062 COMMITTEE TO PUT RUSSELL HIRSON IN THE BIG HOUSE JOYCE R WALKER 1630 FLORIDA AVE NW #202	TREASURER	WASHINGTON	DC 20009
P60003571	BOEISEL, JOHN RICHARD JR IND	1005 S JOSEY LN STE 204	CARROLLTON	TX 75006
PCC	C00303115 JOHN R BOEISEL JR FOR PRESIDENT JOHN RICHARD BOEISEL JR 1005 S JOSEY LN STE #204	TREASURER BOX #1237	CARROLLTON	TX 75006
P80000672	BOFF, SAMUEL B DR IND	813 MAPLE PARKWAY	DOVER	DE 19901
PCC	C00213306 FOR THE RIGHT MIX VOTE BOFF IN 1996 PHYLLIS OLIVETO-BOFF 813 MAPLE PARKWAY	TREASURER	DOVER	DE 19901
P80001134	BOLCOMB, MARGOT SIERRA REP	3700 LAS VEGAS BLVD	LAS VEGAS	NV 89109
PCC	C00302851 MARGOT FOR PRESIDENT MARGOT SIERRA BOLCOMB 3700 LAS VEGAS BLVD	TREASURER	LAS VEGAS	NV 89109
AUT	C00252460 MARGOT BOLCOMB FOR PRESIDENT OF THE UNITED STATES JOSEPH E BOLCOMB 3830 SWENSON SUITE 706	TREASURER	LAS VEGAS	NV 89119
P60003316	BOLCOMBE, JERRY D IND	1922-D TARRANT PLACE	DALLAS	TX 75208

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ID#	NAME/PARTY	ADDRESS		
PCC C00298042	COMMITTEE TO ELECT DR HEATHER ANNE HARDER PRESIDENT MARY DAHL 210 SOUTH MAIN STREET SUITE 102		CROWN POINT	IN 46307
P00000984	HARRIS, CALVIN DURANT REP	PO BOX 2570	CAMP VERDE	AZ 86322
P60004454	HARRIS, JAMES EDWARD JR SWP	342 B MATHEWS AVENUE	ATLANTA	GA 30307
P60003142	HART, JAMES BYRON REP	4112 COLE WAY	SAN DIEGO	CA 92117
PCC C00300103	JAMES B HART PRESIDENTIAL ELECTION COMMITTEE JAMES BYRON HART 4112 COLE WAY	TREASURER	SAN DIEGO	CA 92117
P60003738	HARTMAN, RUSSELL T UNK	401 WEST A STREET SUITE 500	SAN DIEGO	CA 92101
P20000915	HAYES, JIM REP	200 EAST BLEEKER ST	ASPEN	CO 81611
P00000091	HILL, RICHARD RHOER DEM	2817 EASTGROVE LANE	HOUSTON	TX 77027
PCC C00213165	HILL '80 COMMITTEE ROBBINS L MITCHELL JR 3000 MONTROSE 07E	TREASURER	HOUSTON	TX 77006
P60004207	HIRSCH, RONALD R DEM	2761 S 70TH	MILWAUKEE	WI 53219
PCC C00310730	RONALD R HIRSCH FOR PRESIDENT COMMITTEE RONALD R HIRSCH 2761 S 70TH	TREASURER	MILWAUKEE	WI 53219

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PCC C00311654	NATIONAL COMMITTEE TO ELECT TED L GUNDERSON FOR PRESIDENT JOAN A LYMCHE 236 SO RAINBOW BLVD SUITE 252	TREASURER	LAS VEGAS	NV 89128
P60003274	GUTHRIE, DAVID A IND	2801 COTTAGE GLEN DR E	MOBILE	AL 36695
P20001681	HAGELIN, JOHN SAMUEL UNK	M10 FACULTY BOX 1069	FAIRFIELD	IA 52557
PCC C00304956	DR JOHN HAGELIN FOR PRESIDENT 1996 MICHAEL SPIVAK 51 WEST WASHINGTON	TREASURER	FAIRFIELD	IA 52556
P60004512	HALL, WILLIAM A III REF	2657 APT AVE	NAPLES	FL 33742
PCC C00319129	HALL REFORM COMMITTEE MARION HALL 1811 J & C BLVD	TREASURER	NAPLES	FL 33642
P60004462	HALSTRAD, LAURA ELLEN CAREA (VP) SNP	125 SEAMAN AVE 04B	NEW YORK	NY 10034
PCC C00318154	SOCIALIST WORKERS 1996 NATIONAL CAMPAIGN COMMITTEE (HARRIS FOR PRES/GARZA FOR VICE PRES) GREG MCCARTAN 406 WEST STREET	TREASURER	NEW YORK	NY 10014
P60003027	HARDCASTLE, PATRICE DEM	3731 NORTH 15TH STREET	PHILADELPHIA	PA
PCC C00295956	POLITICAL COMMITTEE TO ELECT PATRICE HARDCASTLE PATRICE HARDCASTLE 3731 NORTH 15TH STREET	TREASURER	PHILADELPHIA	PA 19145
P60003035	HARDER, HEATHER ANNE DR DEM	210 SOUTH MAIN STREET SUITE 102	CROWN POINT	IN 46307

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AUT C00303107	ROSAMMA GRAY-HILL & POWELL DEVINE ORDER WAY REV PERCY JOHN NEWTON PO BOX 25391	TREASURER	BARBER WOODS	MI 48225
P80001506	GREEN, RAY FERRILL REP	8 WOODBINE ST	ROXBURY	MA 02119
PCC C00301739	COMMITTEE TO ELECT RAY F GREEN PRESIDENT OF THE UNITED STATES OF AMERICA REV J E BYRD 8 WOODBINE ST	TREASURER	ROXBURY	MA 02119
AUT C00249920	LAWSON FUEL OIL CLIFFORD A FRANKLIN 622 BLUE HILL AVE	TREASURER	DORCHESTER	MA 02122
AUT C00217794	LAWSON'S BARBERING (PCC GREEN) ROBERT FULLER 1979 COLUMBUS AVE	TREASURER	ROXBURY	MA 02119
P60001922	GREGORY, PAUL STEVEN REP	BX 4372	ANN ARBOR	MI 48106
PCC C00282467	GREGORY FOR U S PRESIDENT PAUL GREGORY BX 4372	TREASURER	ANN ARBOR	MI 48106
P60004165	GRIFFIN, JAMES D DEM	420 DORRANCE AVE	BUFFALO	NY 14210
PCC C00309807	JIM GRIFFIN FOR PRESIDENT JANICE A DUFFY 6616 POWERS ROAD	TREASURER	GRAND PARK	NY 14127
P40001349	GUENTHER, IRVIN J		LOUISVILLE	KY
P60004223	GUNDERSON, TED L DEM	750 ROYAL CREST CIRCLE UNIT 252	LAS VEGAS	NV 89109

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ID#	NAME/PARTY	ADDRESS		
PCC C00302489	BENJY'S PRESIDENTIAL DREAMS & HOPES BENJAMIN GLEITMAN 12667 MEMORIAL DR APT 19	TREASURER	BOSTON	TX 77024
P60001419	COMBOS, EDWARD ANDREW UNK	619 S ADDISON ROAD	ADDISON	IL 60101
P80000912	GORE, ALBERT		NASHVILLE	TN
P60002532	COBLE, SAMUEL C SR MR DEM	526 WEST ISABELLA ST	SALISBURY	MD 21001
P60003779	GOTTIER, ROBERT WILLIAM UNK	5117 NIENBAO	LAGUNA HILLS	CA 92653
P60001344	GRAMM, WILLIAM PHILLIP REP	1735 I STREET N W SUITE 900	WASHINGTON	DC 20006
PCC C00299917	PHIL GRAMM FOR PRESIDENT, INC. KEITH A DAVIS 228 S WASHINGTON STREET #200	TREASURER	ALEXANDRIA	VA 22314
AUT C00300632	PHIL GRAMM FOR PRESIDENT AUDIT FUND KEITH A DAVIS 228 S WASHINGTON STREET #200	TREASURER	ALEXANDRIA	VA 22314
P20001046	GRATTO, KAREN LEE DEM	2340 MORO PLACE	ARABIAN	CA 92801
P80001936	GRAY, ROSANNA JESSE O DEM	PO BOX 25391	HARPER WOODS	MI 48225
PCC C00220079	ROSANNA JESSE O GRAY 1996 DEVINE ORDER YEAR OF JUBILEE PERCY JOHN NEWTON PO BOX 25391	TREASURER	HARPER WOODS	MI 48225

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ID#	NAME/PARTY	ADDRESS		
AUT C00250779	LENORA B FULANI FOR PRESIDENT FRANCINE MILLER 200 W 72ND ST #30	TREASURER	NEW YORK	NY 10023
AUT C00278614	LENORA B FULANI FOR PRESIDENT (GEN '92) RACHEL MASSAD C/O BLOCK 72 SPRING ST #1201	TREASURER	NEW YORK	NY 10012
P80000904	GEE, HOOVER MARK REP	507 BUSH STREET #206	SAN FRANCISCO	CA 94108
P60003811	GEISENDORFER, PAUL UNK	BOX 197 300 4TH ST	GRANDY	CO 80446
P60004298	GIDDENS, EMORY LANE IND	803 W OAK ST	VALDOSTA	GA 31601
PCC C00314260	GIDDENS FOR PRESIDENT EMORY LANE GIDDENS 803 W OAK ST	TREASURER	VALDOSTA	GA 31601
P60003886	GILLIAM, DANIEL RICHARD UNK	940 MARJORIE LANE	MADISONVILLE	KY 42431
P60003654	GINGRICH, NEWT		DUNBARTON	NH
P60004504	GIUMARRA, ROSEMARY (VICE-PRES) IND	412 NORTH KAHAI DRIVE	PORTERVILLE	CA 93257
AUT C00318923	ROSEMARY GIUMARRA FOR VICE-PRESIDENT 1996 TRACY RENEE MAXWELL 412 NORTH KAHAI DRIVE	TREASURER	PORTERVILLE	CA 93257
P60003449	GLEITHAN, BENJAMIN SAMSON REP	12667 MEMORIAL DR APT 19	BOSTON	TX 77024

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PCC C00304535	COMMITTEE TO ELECT ARTHUR FLETCHER FOR PRESIDENT CHARLES N OFORI 516 G STREET NW	TREASURER	WASHINGTON	DC 20024
P20001475	FLYNN, RICHARD FRANCIS DEM	1602 WASHINGTON ST APT #4	LAREDO	TX 78040
PCC C00279893	RICHARD FRANCIS FLYNN FOR PRESIDENT 1996 RICHARD FRANCIS FLYNN 1602 WASHINGTON APT #4	TREASURER TRAVELER'S HOTEL	LAREDO	TX 78040
P60003852	FORBES, MALCOLM S JR REP	1400 ROUTE 206 NORTH	BEDMINSTER	NJ 07921
PCC C00306472	FORBES FOR PRESIDENT COMMITTEE INC JOSEPH A CANNON PO BOX 1009	TREASURER	BEDMINSTER	NJ 07921
P60004355	FREDRICKSEN, LYNN MAGDA DEM	2367 S KIMWICKIMIC	MILWAUKEE	WI 53207
PCC C00315010	JOHNSONS SPACE CONTROL CENTER (PCC FREDRICKSEN) LYNN FREDRICKSEN 2367 S. KIMWIC KIMWIC	TREASURER	MILWAUKEE	WI 53207
P60003480	FRICKE, DOUGLAS CARL REP	5901 21ST AVE NORTH	ST PETERSBURG	FL 33710
PCC C00312660	MURRAY FOR DOUG (FRICKE) BRIAN W TRIMBLE 5901 21ST AVE	TREASURER	ST PETERSBURG	FL 33710
P80001118	FULANI, LENORA B UNK	884 WEST END AVENUE	NEW YORK	NY 10025
PCC C00315614	LENORA B FULANI FOR PRESIDENT 96 JACQUELINE SALIT 200 WEST 72ND STREET #37	TREASURER	NEW YORK	NY 10023

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P00001792	ENGLERIUS, MAXIMUS T UNK	POST OFFICE BOX 2622	SEATTLE	WA 98111
PCC C00197384	ENGLERIUS FOR PRESIDENTY CAMPAIGN COMMITTEE CAMERON TAYLOR POST OFFICE BOX 2622	TREASURER	SEATTLE	WA 98111
P80000870	FABISH, THOMAS S REP	265 N GILBERT ROAD 82101	NEHA	AZ 85203
P20000089	FELLURE, LOWELL JACKSON REP	P O BOX 507	HURRICANE	WV 25526
PCC C00278457	JACK FELLURE CAMPAIGN COMMITTEE '96 LOWELL JACKSON FELLURE P O BOX 507	TREASURER	HURRICANE	WV 25526
AUT C00227330	JACK FELLURE CAMPAIGN COMMITTEE LOWELL JACKSON FELLURE POST OFFICE BOX 507	TREASURER	HURRICANE	WV 25526
P20000733	FIGUEROA, FERNANDO RIVERA DEM	HOMELESS	WASHINGTON	DC
PCC C00299693	FIGUEROA FOR PRESIDENT FERNANDO FIGUEROA 1232 M STREET NW	TREASURER	WASHINGTON	DC 20005
P60002292	FIOLA, NELL R IND	1008 WEST BURNSVILLE PRWY APT 225	BURNSVILLE	NW 55337
PCC C00048553	NEW MILLENIUM COMMITTEE (PCC FIOLA) MRS PATRICIA MIKELSON 1008 WEST BURNSVILLE PRWY APT 225	TREASURER C/O MRS NELL R FIOLA	BURNSVILLE	NW 55337
P60003746	FLETCHER, ARTHUR A REP	516 G STREET NW	WASHINGTON	DC 20024

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ID#	NAME/PARTY	ADDRESS		
P60003944	DREW, JOHN		SPRINGFIELD	VA
PCC C00307462	NEW WORLD PARTY (DREW) A JOHN STEWART 8457 KITCHENER DRIVE SUITE 202	TREASURER	SPRINGFIELD	VA 22153
P60004033	DUCEY, SUSAN GAIL REP	422 OHIO AVE	HILMONT PARK	PA 19033
PCC C00308486	SUSAN DUCEY FOR PRESIDENT JAN C KUFNER PO BOX 146	TREASURER	RIDLEY PARK	PA 19078
P60003399	EASTON, ERNEST LEE UNK	3616 WEST WASHINGTON STREET	SOUTH BEND	IN 46619
PCC C00302042	VETERANS INDUSTRIAL POLITICAL PARTY (PCC EASTON) ERNEST LEE EASTON 3616 WEST WASHINGTON STREET	TREASURER	SOUTH BEND	IN 46619
P60003837	EDWARDS, B MYRON MIRE UNK	10017 ESTELLE DRIVE	ROSEMONT	IL 60018
P60004421	EL-RAI, JACK B UNK	430 FIRST AVENUE N SUITE 740	MINNEAPOLIS	MN 55401
PCC C00317545	AMERICANS FOR A BYPREMATED PRESIDENT JACK EL-RAI JACK EL-RAI 430 FIRST AVENUE N SUITE 740	TREASURER	MINNEAPOLIS	MN 55401
P60002136	ERMONS, ROSE MARY REP	2234 N 26 STREET	MILWAUKEE	WI 53205
P60002409	ENGEL, ROBERT D REP	34 SOUTH WASHINGTON STREET	HAVERVILLE	IL 60540

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P60003621	DILLARD, BURGESS GLENN UNK	1209 S CLINTON AVE	TRENTON	NJ 08611
PCC C00303487	COMMITTEE OF ONE (PCC DILLARD) BURGESS GLENN DILLARD 1209 S CLINTON AVE	TREASURER	TRENTON	NJ 08611
P60003910	DOERSCHUCK, GEORGIANA H REP	5 NEW CASTLE DR APT 12	HARRISBURG	PA
P00000489	DOLE, ROBERT J REP	141 HART SENATE OFFICE BUILDING	WASHINGTON	DC 20510
PCC C00317743	DOLE/KEMP '96 INC ROBERT E LIGHTHIZER PO BOX 77658	TREASURER	WASHINGTON	DC 20013
AUT C00300608	DOLE FOR PRESIDENT INC ROBERT E LIGHTHIZER PO BOX 77658	TREASURER	WASHINGTON	DC 20013
AUT C00301077	DOLE/KEMP '96 COMPLIANCE COMMITTEE INC ROBERT E LIGHTHIZER PO BOX 77658	TREASURER	WASHINGTON	DC 20013
P60003308	DORNAN, ROBERT K REP	9057 MORTWEDGE DR	SPRINGFIELD	VA 22153
PCC C00301465	DORNAN FOR PRESIDENT INC ROBERT K DORNAN, MC 6320 AUGUSTA DRIVE SUITE 1101	TREASURER	SPRINGFIELD	VA 22150
P40000473	DOTY, CHARLES RICHARD DEM	1366 E 52 N	TULSA	OK 74126
PCC C00313460	CHARLES R DOTY FOR PRESIDENT REBECCA A DOTY 1366 E 52 N	TREASURER	TULSA	OK 74126

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P40003720	CRAIG, RON R UNK	3034 WEBER RD	LEWIS	MO 65120
P40003680	CVOROVIC, JANRA LIB	310 CALHOUN AVE	BROWN	NY 10465
PCC C00317453	JUSTICE FOR ALL (PCC CVOROVIC) JANRA CVOROVIC 310 CALHOUN AVE BR NY	TREASURER	BROWN	NY 10465
P40003423	DANIELS, BRUCE C DEM	210 WALNUT ST	WINNIPEG/MANITOBA	SS
PCC C00102406	DANIELS COMMITTEE TO ELECT A LIBERAL DEMOCRAT BRUCE C DANIELS 210 WALNUT ST	TREASURER	WINNIPEG/MANITOBA	SS
P40003003	DAVIS, ROGER THOMAS UNK	RFD1 BOX 66	BARRY	IL 62312
P40003022	DE NBO, SAM J UNK	146 HUNTLEY AVENUE	DETVILLE	NJ 08721
P40003712	DEASEN, CHRIS IND	2701 PELICAN CT	ARIZ	AR 99519
P40003357	DICKERSON, LINDA M UNK	1744 E NEW YORK DRIVE	ALTADENA	CA 91001
P40003431	DIDOMINICUS, NICK	3690 MONROE ST 1605	RIVERSIDE	CA 92504
PCC C00302455	COMMITTEE TO ELECT NICK DIDOMINICUS NICHOLAS A DIDOMINICUS 10862 KLOIBER STREET	TREASURER	RIVERSIDE	CA 92505

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ID#	NAME/PARTY	ADDRESS		
PCC	C00302265 CLINTON/GORE '96 PRIMARY COMMITTEE INC JOAN POLLITT 2100 M ST NW	TREASURER	WASHINGTON	DC 20036
AUT	C00253690 CLINTON FOR PRESIDENT INC J L "SKIP" RUTHERFORD 410 THIRD STREET	TREASURER	LITTLE ROCK	AR 72203
AUT	C00272161 CLINTON/GORE '92 COMMITTEE J L "SKIP" RUTHERFORD 410 W THIRD STREET	TREASURER	LITTLE ROCK	AR 72203
AUT	C00268722 CLINTON/GORE '92 GENERAL ELECTION COMPLIANCE FUND J L "SKIP" RUTHERFORD 410 W THIRD STREET	TREASURER	LITTLE ROCK	AR 72203
AUT	C00305938 CLINTON/GORE '96 GEN ELECTION LEGAL & ACCOUNTING COMPLIANCE JOAN POLLITT 2100 M STREET NW	TREASURER	WASHINGTON	DC 20036

P60003548	COFFIN, ROBERT JOSEPH LOUIS IND	606 ARAGELLA STREET	NEW ORLEANS	LA 70119

P60003084	COLLINS, CHARLES EDWIN REP	8501 NORTH LAGOON DR P O BOX 9458	PANAMA CITY BEACH	FL 32408
PCC	C00299420 CHARLES E COLLINS ELECTION COMM FOR 1996 PRISCILLA FORD 10279 FRONT BEACH RD SUITE 2	TREASURER	PANAMA CITY BEACH	FL 32407

P20001319	COOPER, JAMES R DEM	809 WOODLAWN	DALLAS	TX 75208
PCC	C00303917 OUR WORK FOR THE PUBLIC (PCC COOPER) MARTIN FROST 809 WOODLAWN	TREASURER	DALLAS	TX 75208
AUT	C00258087 JAMES R COOPER JAMES ROBERT COOPER 1503 KINGS HIGHWAY	TREASURER	DALLAS	TX 75208

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ID#	NAME/PARTY	ADDRESS		
P60000270	CLEGG, BILLY JOE REP	2361 GRANTS FERRY DR	BILOXI	MS
PCC C00254292	CLEGG (DON'T PULL YOUR LEG) FOR PRESIDENT BILLY JOE CLEGG 2361 GRANTS FERRY DR	TREASURER	BILOXI	MS 39531
AUT C00235366	CEIG COMMITTEE BILLY JOE CLEGG P O BX 6675	TREASURER	TAMPA	FL 33608
AUT C00239152	CHRISTIAN INVOLVED ACTIVISTS BILLY JOE CLEGG 263 EISENHOWER DR #27	TREASURER	BILOXI	MS 39531
AUT C00214403	CHRISTIANS FOR CLEGG FOR PRESIDENT BILLY JOE CLEGG 4877 BE 44 #142	TREASURER	DEL CITY	OK 73135
AUT C00239327	FDA (FOUNDATION DRUG AMNICATION) BILLY JOE CLEGG PO BOX 4987	TREASURER	BILOXI	MS 39531
AUT C00236166	JUST KAUS' COMMITTEE BILLY JOE CLEGG 6815 INTERBAY BLVD	TREASURER	TAMPA	FL 33616
AUT C00272799	LOYAL U S A PARTY (CLEGG PCC) BILLY JOE CLEGG 251 EISENHOWER DRIVE SUITE 177	TREASURER	BILOXI	MS 39531
AUT C00236182	SAVE AMERICA PROGRESSIVE PARTY BILLY JOE CLEGG PO BOX 6675	TREASURER	TAMPA	FL 33608
P20000642	CLINTON, WILLIAM JEFFERSON DEM	1600 PENNSYLVANIA AVE NW	WASHINGTON	DC 20006
PCC C00321414	CLINTON/GORE '96 GENERAL COMMITTEE JOAN POLLITT 2100 M STREET NW	TREASURER	WASHINGTON	DC 20036

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ID#	NAME/PARTY	ADDRESS		
PCC C00311613	SAL CASAMASSINA CAMPAIGN EDYTHE S RAMSON 5090 RICHMOND NO 329	TREASURER	HOUSTON	TX 77056
P60003332	CASEY, ROBERT P		SCRANTON	PA
PCC C00301762	CASEY FOR PRESIDENT EXPLORATORY COMMITTEE FRANCIS J MERKEL CPA 203 FRANKLIN AVENUE	TREASURER	SCRANTON	PA 18503
P60003068	CAUSSEY, CHARLES DWAIN REP	PO BOX 341	RIDGE CREST	CA 93555
PCC C00298836	CHARLES DON CAUSSEY CHARLES DON CAUSSEY PO BOX 314	TREASURER	SEATTLE	WA 98111
P60004124	CHESTER, ERIC (VICE-PRESIDENT) SWP	55 LAFAYETTE ST	ADLINGTON	MA 02174
PCC C00309211	HOLLIS/CHESTER 1996 CAMPAIGN GREGORY PASOM 40 WASHINGTON ST SUITE C-10	TREASURER	EAST ORANGE	NJ 07017
P60004397	CRIMENTO, CARMEN C DEM	24 OLD MILFORD RD	BROOKLINE	MA 03033
PCC C00315887	CARMEN C CRIMENTO COMMITTEE 24 OLD MILFORD RD	TREASURER	BROOKLINE	MA
P60002516	CHRISTENSEN, FRANKLIN DEAN REP	317 C MAPLE DRIVE	SALINA	UT 84650
PCC C00288733	COMMITTEE TO ELECT DEAN CHRISTENSEN AS PRESIDENT IN 1996 DEAN CHRISTENSEN 317 C MAPLE DRIVE	TREASURER	SALINA	UT 84650

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ID#	NAME/PARTY	ADDRESS		
P00002485	CATH, DARYL O REP	LELAND HOTEL RM 17	SAN DIEGO	CA 92101
P20000329	CAPLETTE, RAYMOND J		GLENDALE	AZ
PCC C00306688	CAPLETTE FOR PRESIDENT RAYMOND J CAPLETTE 4728 W BROWN ST	TREASURER	GLENDALE	AZ 85302
P20000774	CAREY, DENNIS BARKER UNK	16031 GREENFIELD APT 34	DETROIT	MI 48235
P00000679	CARROLL, JERRY LEON IND	PO BOX 9079	STOCKTON	CA 95208
PCC C00214999	JERRY CARROLL COMMITTEE FOR PRESIDENT VIVIAN ELAINE CARROLL PO BOX 9079	TREASURER	STOCKTON	CA 95208
P60004496	CARTER, LEWIS SUITER UNK	904 HONESTEAD RD #3	CHAPEL HILL	NC 27516
PCC C00318840	COMMITTEE TO ELECT LEWIS CARTER LEWIS SUITER CARTER 904 HONESTEAD RD #3	TREASURER	CHAPEL HILL	NC 27516
P60004181	CARTER, RONALD H IND	ROUTE 1 BOX 462	WESLACO	TX 76796
PCC C00310458	RONALD H CARTER INDEPENDENT CANDIDATE FOR THE PRESIDENT OF THE UNITED STATES LUCINDA MONTENEGRO CARTER ROUTE 1 BOX 462	TREASURER	WESLACO	TX 76796
P60004215	CASAMASSIMA, SALVATORE J DEM	15 GREENWAY PLAZA #27D	HOUSTON	TX 77046

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC C00300475	LAWRENCE FREDERICK BROWNSTEIN FOR PRESIDENT LAWRENCE FREDERICK BROWNSTEIN 6920 SEPULVEDA BL #243	TREASURER	VAN HOUTS	CA 91405
P20001822	BRYK, WILLIAM MICHAEL DEM	335 EAST 58 STREET 65R	NEW YORK	NY 10022
P80000805	BUCHANAN, PATRICK J REP	6862 ELM STREET SUITE 210	MCLEAN	VA 22101
PCC C00301093	BUCHANAN FOR PRESIDENT INC SCOTT B MACKENZIE 6862 ELM STREET SUITE 210	TREASURER	MCLEAN	VA 22101
AUT C00282715	BUCHANAN COMPLIANCE FUND 6862 ELM STREET	TREASURER SUITE 210	MCLEAN	VA 22101
AUT C00256677	BUCHANAN FOR PRESIDENT ANGELA M. "BAY" BUCHANAN 6862 ELM STREET, SUITE 210	TREASURER	MCLEAN	VA 22101
P60003589	BULLARD, DONALD STEVEN UNK	ROUTE 5 BOX 122	BURLESON	TX 76028
PCC C00303222	OUR FATHER'S WILL (PCC BULLARD) GEORGINA BULLARD ROUTE 5 BOX 122	TREASURER	BURLESON	TX 76028
P60002839	BUONACORSI, JOSEPH HERBERT DEM	ROUTE 1 BOX 770	LEE	FL 32059
P60002524	BUONACORSI, JOSEPH HERBERT DEM	ROUTE 1 BOX 770	LEE	FL 32059
P60001708	BURGESS, TERRY WATTER UNK	169 BLOWING CAVE RD	GURLEY	AL 35748

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC C00310441	SOUTH 23 30' OR FIGHT ELECT TOM BRADLEY PRESIDENT JULIA ELIZABETH BRADLEY 912 PENNSYLVANIA AVE	TREASURER	SCHENECTADY	NY 12303
AUT C00252619	BRADLEY FOR PRESIDENT WILLIAM T DARDEN 1659 OLD HAYWOOD RD	TREASURER	ASHEVILLE	NC 28806
P00001065	BRIDGES, JAMES ROBERT IND	3737 MEADOW FIELD RD	DALLAS	TX 75253
PCC C00293860	JAMES ROBERT BRIDGES FOR PRESIDENT USA JAMES R BRIDGES 5445 WILLIS AVENUE	TREASURER	DALLAS,	TX 75206
P60003647	BRITT, GEORGE G JR DEM	906 SO 60TH ST	PHILA	PA 19143
PCC C00303537	FRIENDS OF GEORGE G BRITT JR PRESIDENT FAITH AVILES 906 SO 60TH ST	TREASURER	PHILA	PA 19143
P60002771	BROWN, SAMMY MUREL IND	1834 FM 418	ROUETTE	TX 77625
PCC C00293050	SAMMY MUREL BROWN FOR PRESIDENT CARLIN RUTH BROWN 1832 FM 418	TREASURER	ROUETTE	TX 77625
P60003043	BROWNE, HARRY LIB	3927 QUAIL RIDGE RD	LAFAYETTE	CA
PCC C00298489	HARRY BROWNE FOR PRESIDENT INC SHARON AYRES 2600 VIRGINIA AVE NW SUITE 100	TREASURER	WASHINGTON	DC 20037
P60003167	BROWNSTEIN, LAWRENCE F DEM	6920 BOLSULVIDA BLVD 6243	VAN NUYS	CA 91405

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FEDERAL ELECTION COMMISSION

DATE 09/31/1996

ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P00000474	STEM, MICHAEL SEN	4103 24TH ST W APT 302	BRADENTON	FL 34205
PCC C00209946	STEM FOR PRESIDENT LISA STEM 4103 24TH ST WEST SUITE 302	TREASURER	BRADENTON	FL 34205
P40000259	STEWART, FRANK ROSS MRS SEN	PO BOX 295	CENTRE	AL 35960
PCC C00305047	COMMITTEE TO ELECT MRS FRANK ROSS STEWART PRESIDENT MRS FRANK ROSS STEWART PO BOX 295	TREASURER	CENTRE	AL 35960
P20000337	STRASSO, MICHAEL ROSS TUNICK SEN	56 FEDERAL ST	NEWBURYPORT	MA 01950
PCC C00230003	COMMITTEE TO REELECT MICHAEL STRASSO MICHAEL STRASSO 56 FEDERAL ST	TREASURER	NEWBURYPORT	MA 01950
P40001404	STRICKLAND, JAMES MICHAEL IND	402 RIVER RD	SELMA	NC 27576
P40000739	SWIDER, PETER PAUL SEBASTIAN REP	33 N ATLANTIC AVE 09	COCOA BEACH	FL 32931
PCC C00240179	SWIDER FOR PRESIDENT ROBERT LEWIS SWIDER 103 S DOCKMAN	TREASURER	CAPE CANAVERAL	FL 32920
P40003902	TATE, CARTER MARSHALL SEN	44533 VA	PETERSBURG	VA 23804
PCC C00306597	TATE FOR U S PRESIDENT JAMES TATE C/O CARTER M TATE	TREASURER	PETERSBURG	VA 23804

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
P60003365	TAYLOR, MURRICE M JR REP	1477 MAINE	QUINCY	IL 62301
PCC C00302216	TAYLOR FOR PRESIDENT INC BARLENE SOAVE 1477 MAINE STREET	TREASURER	QUINCY	IL 62301
P60004066	TEMPLIN, DIANE BRALL REP	1016 CIRCLE DRIVE	ESCONDIDO	CA 92025
PCC C00300296	DIANE BRALL TEMPLIN FOR PRESIDENT JEFF ADAIR 1016 CIRCLE DRIVE	TREASURER	ESCONDIDO	CA 92025
P60003705	THOMPSON, TOMMY		BOYNTON BEACH	FL
P60001004	THORPE, OSIE SEN	2900 CENTRAL AVE NE	WASH	DC 20018
PCC C00305946	COMMITTEE TO ELECT OSIE THORPE PRESIDENT OSIE THORPE PO BOX 4522	TREASURER	WASH	DC 20017
P60003662	TOMBO, BEN JOSEPH REP	7101 SOMERSET FARMS DRIVE	NASHVILLE	TN 37221
P60003029	TOMPKINS, RICHARD LTD	4730 W NORTHERN AVE 01063	GLENDALE	AZ 85301
PCC C00306365	RICK TOMPKINS LIBERTARIAN FOR PRESIDENT SUSANNE KISHARR 0129 N 35TH AVE 02-262	TREASURER	PHOENIX	AZ 85051
P60001294	TUPPIN, LAWRENCE REY IND	406 8TH AVENUE	SALT LAKE CITY	UT 84103

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION 11
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC 000291302	TOPHAM FOR PRESIDENT LAWRENCE RAY TOPHAM 406 8TH AVENUE	TREASURER	SALT LAKE CITY	UT 84103
P00002592	TOUCHETT GESS, NICHELE ANN REP	1599 NORTH PORT WASHINGTON RD N38	CRAFTON	WI 53024
PCC 000232720	NICHELE ANN GESS FOR PRESIDENT NICHELE ANN GESS 1599 NORTH PORT WASHINGTON RD N38	TREASURER	CRAFTON	WI 53024
P60004256	TRASK, BRUCE CALVIN SEN	16341 SW 146 CT	DADE COUNTY	FL 33177
P60002709	URBAN, CASIMER JR SEN	PO BOX 1493	HALL COUNTY	GA 30503
PCC 000293662	USA, ERIC, U.S. PRES CANDIDATE (URBAN) CASIMER URBAN 1600 PENNSYLVANIA AVE	TREASURER WHITE HOUSE	WASHINGTON	DC 20500
P60004025	WALLACE, JEFFERSON SMITH SEN	20727 80 GARFIELD AVE	RIVERDALE LAHARE	CA 93656
P60004041	WARD, ED IND	91 EAST GUNLOG	RUSSELLVILLE	AR 72801
P60004264	WATSON, JERRY B JR REP	PO BOX 92145	WASHINGTON	DC 20090
PCC 000312397	JERRY B WATSON JR FOR PRESIDENT 1996 JERRY B WATSON JR PO BOX 92145	TREASURER	WASHINGTON	DC 20090
P20001432	WATTS, VERA SEN	919.5 W WASHINGTON ST	LANSING	MI 48901

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC C00260596	VERA WATTS FOR PRESIDENT OF THE U S OF A VERA WATTS 910 S W HASTENAN	TREASURER PO BOX 11099	LANSING	MI 48901
P20000782	WEBB, ROBERT GENE UNK	PO BOX 6364	LARADO	TX
PCC C00254600	ROBERT GENE WEBB ROBERT GENE WEBB PO BOX 6364	TREASURER	LARADO	TX 78040
P60003060	WILLIAMS, DAVID CROCKETT JR IND	20411 STEEPLE COURT	TERACRAFT	CA 93581
P60003951	WILLIAMS, RONALD WENDELL DEM	5703 EDGEFARM DR	BALTIMORE	MD 21239
PCC C00307470	PRESIDENT JUST FOR YOU ELANORA SPRINGS 5703 EDGEFARM DR	TREASURER	BALTIMORE	MD 21239
P60003301	WILSON, PETE REP	1020 12TH STREET SUITE 300	SACRAMENTO	CA 95014
PCC C00301970	PETE WILSON FOR PRESIDENT COMMITTEE INC BENNE CROCE 20 SOUTH QUAKER LANE SUITE 200	TREASURER	ALEXANDRIA	VA 22314
AUT C00311086	PETE WILSON FOR PRESIDENT AUDIT FINES AND PENALTIES ACCOUNT INC BENNE CROCE 20 S QUAKER LANE SUITE 200	TREASURER	ALEXANDRIA	VA 22314
AUT C00302463	PETE WILSON FOR PRESIDENT COMPLIANCE COMMITTEE INC BENNE CROCE 20 S QUAKER LANE SUITE 200	TREASURER	ALEXANDRIA	VA 22314
P40000648	WISH, ROBERT BRYANT UNK	455 EAST 1ST AVE 06	MESA	AZ 85204

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
PCC C00281927	CAMPAIGN COMMITTEE OF ROBERT B WINN DIXIE L BOLAKS 223 S MESA DRIVE APT B	TREASURER	MESA	AZ 85204
P60003597	WINSLOW, WILLIAM W UNK	PO BOX 500	LINDALE	TX 75771
PCC C00303362	HAVERICK TRANSITIONS (PCC WINSLOW) WILLIAM DAVIDSON PO BOX 500	TREASURER	LINDALE	TX 75771
P60003250	WOLF, WYONING REP	ROUTE 3 BOX A15 - HELL TOWN	TORRINGTON	WY 82240
PCC C00301267	VOTE WYONING WOLF FOR PRESIDENT IN 96 AL BROWNE ROUTE 3 BOX A15 - HELL TOWN	TREASURER	TORRINGTON	WY 82240
P20001772	WORSWICK, WINTON DANLEY UNK	PO BOX 0129	SILVER CITY	NV 89428
PCC C00298406	WORSWICK FOR PRESIDENT LARRY BADER PO BOX 0129	TREASURER	SILVER CITY	NV 89428
P40001653	TEAGER, JAMES BELL IND	727 MOON ROAD	PLAINFIELD	IN 46168
P60003407	TEAGER, KENNETH EDWARD SEN	2112 N 64TH	SEATTLE	WA 98103
PCC C00302150	KEN TEAGER FOR PRESIDENT KENNETH EDWARD TEAGER 2112 N 64TH	TREASURER	SEATTLE	WA 98103
P60004132	YOUNG, RUBIN REP	11918 S W 12TH STREET	PEMBROKE PINES	FL 33020

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FEDERAL ELECTION COMMISSION

DATE 08/31/1996

ALL INDIVIDUALS WHO HAVE FILED STATEMENTS OF CANDIDACY AND/OR ORGANIZATION-1996 PRESIDENTIAL CAMPAIGN

SECTION II
EXTRACTION FROM THE 1996 DATABASE

ID#	NAME/PARTY	ADDRESS		
770001202	SAR, CURTIS UNK	2501 E COMMERCIAL BLVD	FT LAUDERDALE	FL 33308
PCC C00257261	COMMITTEE TO INDUCE CURTIS SAR AS PRAROAR FOR FEDERAL GOVERNMENT CURTIS SAR 2501 E COMN BLVD SUITE 205	TREASURER	FT LAUD	FL 33308
980002720	SHILLINGER, DANIEL IAN IND	63 GREYLOCK ROAD	NEWTON	MA 02160
AWT C00234460	SHILLINGER FOR PRESIDENT DANIEL IAN SHILLINGER 63 GREYLOCK ROAD	TREASURER	NEWTON	MA 02160

TOTAL: 273

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROSS PEROT, PAT CHOATE, and
PEROT '96, INC.

Plaintiffs,

vs.

FEDERAL ELECTION COMMISSION and
the COMMISSION ON PRESIDENTIAL
DEBATES

Defendants.

)
)
)
) Cause No. 96 CV 2196 (TFH)
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)
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**DECLARATION OF
RICHARD E. NEUSTADT**

1. I, Richard E. Neustadt, am Douglas Dillon Professor of Government, Emeritus, in the John F. Kennedy School of Government at Harvard University. I have personal knowledge of the facts contained in this declaration. I obtained my Ph.D. in Political Economy and Government from Harvard University in 1951. Since that time, I have held numerous government and academic posts, and have served as a Professor at Harvard, Cornell, Columbia, Princeton, and Oxford Universities and as a Visiting Professor at the Universities of California (Berkeley) and Essex. I have authored numerous publications in the field of political science and, more particularly, the Presidency, including:

- 1954-55 "Presidency and Legislation," American Political Science Review, Sept. 1954, April 1955.
- 1955 "Congress and the Fair Deal," Public Policy, IX (1955).
- 1956 "The Presidency at Mid-Century", Law and Contemporary Problems, Winter, 1956.
- 1960
rev. 1990 Presidential Power. New York: Wiley.
- 1963 "Staffing the Presidency: Notes on FDR and JFK," American Political Science Review, Winter, 1963.
- 1964
rev. 1971 "Politicians and Bureaucrats" in D.B. Truman (ed.) Congress and America's Future. New York: American Assembly.
- 1966 "White House and Whitehall," The Public Interest, Fall, 1966.
- 1970 Alliance Politics. New York: Columbia University Press.
- 1971 "Afterword" (with Graham T. Allison) in Robert F. Kennedy, Thirteen Days. New York: Norton.
- 1974 "The Presidency after Watergate," British Journal of Political Science, Winter, 1974.
- 1986 "Presidents, Politics, and Analysis," The Brewster C. Denny Lecture, Graduate School of Public Affairs, University of Washington, Seattle.
- 1986 Thinking in Time (with Ernest R. May), New York: Free Press.

2. I am a member of several organizations, including the American Philosophical Society, Philadelphia, the American Academy of Arts & Sciences, Cambridge, the American Political Science Association, Washington, D.C., the International Institute for Strategic Studies, London, and the Council on Foreign Relations, New York. In 1961, I was awarded the

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Woodrow Wilson Award of the American Political Science Association. In 1982, I was awarded the Charles E. Merriam Award. In 1993, I was awarded the Hubert H. Humphrey Award of the American Political Science Association.

3. I have served the Commission on Presidential Debates ("CPD") in several different capacities, as described in the following paragraphs.

4. On July 7, 1987, CPD formed a 23-member advisory panel in order to provide guidance to it with respect to several areas, including third-party participation in CPD sponsored debates. I served on that advisory panel, which met on October 1, 1987, to discuss and advise CPD with respect to several issues, including third-party candidate participation in CPD-sponsored debates. Also on October 1, 1987, the CPD Board of Directors ("CPD Board") requested that I chair a subcommittee of the advisory committee formed to develop and recommend to the CPD Board nonpartisan criteria for the identification of appropriate third-party candidates to participate in CPD-sponsored debates.

5. After study of the issue, on November 20, 1987, my subcommittee and I reported back to the CPD Board and recommended the adoption of specific nonpartisan candidate selection criteria intended to identify those candidates with a realistic chance of being elected President or Vice President of the United States. We reported to the CPD Board that the adoption and application of such criteria would, in our view, help ensure that the primary educational purpose of CPD -- to ensure that future Presidents and Vice Presidents of the United States are elected after the voters have had an opportunity to hear him/her debate his/her principal rivals -- would be fulfilled.

6. The indicia to be examined pursuant to the proposed criteria were, in broad terms, evidence of national organization, signs of national newsworthiness and competitiveness and signs of national public enthusiasm and concern. The CPD employed these criteria in 1988, and with minor changes, employed them in 1992 and 1996.

7. The sole objective of the criteria the advisory committee recommended to CPD was to establish a structure for the CPD debates that would further the nonpartisan educational purpose of those debates, while at the same time complying fully with applicable law.

8. In both 1988 and 1992, I chaired advisory committees that applied the CPD's candidate selection criteria and made recommendations to the CPD Board based on their deliberations. In 1988, the advisory committee did not recommend that CPD invite any non-major party candidates to participate in its debates. The 1992 advisory committee recommended that CPD invite Ross Perot and his running mate, Admiral James Stockdale, to participate in its debates based on application of the CPD's candidate selection criteria. That recommendation was made following the reconvening of the committee after Mr. Perot's re-entry into the 1992 presidential race.

9. Again, in 1996, the CPD Board asked me to act as chairman of the advisory committee that applied the 1996 candidate selection criteria. The advisory committee convened on September 16, 1996 for the purpose of applying CPD's nonpartisan candidate selection criteria to the more than 130 candidates running for the Presidency and Vice Presidency in the 1996 general election campaign. Although the candidate selection criteria do not require it to do so, the advisory committee independently applied the criteria to the Democratic and

Republican party candidates. After reviewing and discussing the facts and circumstances of the 1996 general election campaign, it was the unanimous conclusion of the advisory committee that, as of September 16, 1996, only President Clinton and Senator Dole have a realistic chance in 1996 of being elected President, and only Vice President Gore and Congressman Kemp have a realistic chance in 1996 of being elected Vice President.

10. The committee's recommendation was conveyed to the CPD Board by letter dated September 17, 1996, which is attached as Exhibit 1. The Advisory Committee's letter recognized that certain

minor party candidates . . . do have a theoretical chance of election in November, by virtue of placement on the ballots of enough states to produce an Electoral College majority. [The committee does] not, however, see their election as a realistic possibility.

Therefore, the Advisory Committee unanimously concludes at this time that only President Clinton and Senator Dole qualify for admission to CPD's debates. We stand ready to reconvene should present circumstances change.

I understand that, on September 17, 1996, the CPD Board unanimously approved our recommendation.

11. In applying the 1996 criteria to Mr. Perot and his running mate, Pat Choate, the committee considered, among other things, the percentage of the popular vote Mr. Perot received in the 1992 general election and the federal campaign funds he has received based on his 1992 performance. Nonetheless, the committee concluded, based on all of the evidence available, that "Mr. Perot has no realistic chance either of popular election in November or of subsequent election by the House of Representatives, in the event no candidate obtains an Electoral College majority." See Exhibit 1.

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12. All three CPD advisory committees on which I served were motivated solely by the desire to formulate and apply nonpartisan candidate selection criteria that would further the educational purposes for which CPD-sponsored debates will be held, and acted in good faith at all times. The committees' recommendations were not designed to support or oppose the candidacy of any particular candidate or party to serve any partisan purpose.

13. I declare under penalty of perjury that the foregoing is true and correct. Executed on September 26, 1996.


RICHARD E. NEUSTADT

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**COMMISSION ON
PRESIDENTIAL DEBATES**

971 Third Street, N.W. - Suite 310 South - Washington, DC 20005 - (202) 872-1030

October 6, 1992

VIA FACSIMILE

**Mr. Robert M. Teeter
Campaign Chairman
Bush/Quayle '92
1030 15th Street, N.W.
Washington, D.C. 20005**

**Mr. Mickey Kantor
National Campaign Chair
Clinton/Gore '92
National Campaign Headquarters
Post Office Box 615
Little Rock, Arkansas 72203**

Gentlemen:

The Board of Directors of the Commission on Presidential Debates voted today to accept your invitation to sponsor debates between the leading candidates for President and Vice President of the United States on October 11, 13, 15, and 19, 1992. The Commission's decision is based on its conclusion that the Memorandum of Understanding (the "Memorandum") executed by your respective campaigns, a copy of which has been provided to us, appears to envision debates that comport with and further the Commission's nonpartisan, educational mission.

The Commission's acceptance is subject to the following conditions and understandings:

- (1) The Commission's sponsorship is expressly contingent upon the ongoing validity of the conclusion that the debates envisioned by the Memorandum will comport with the Commission's nonpartisan educational mission;
- (2) The Commission has determined, pursuant to the recommendation of its nonpartisan advisory committee on candidate selection, that H. Ross Perot and Adm. James Stockdale should be invited to participate in the October 11 and 13, 1992 debates, respectively. The Commission will make its candidate participation determination regarding the October 15 and 19 debates after the initial debates. The Commission understands

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Co-Chairman
Frank J. Scharney, Jr.
Former Republican
National Committee Chairman
Paul G. Cobb, Jr.

Executive Secretary
Gould B. Ford
Mary L. Ford
Executive Director

Executive
John C. Carter
Patrick J. Hartman
William E. Miller, Jr.

David Neustadt
Ray Orr
Representative Barbara Vucanovich

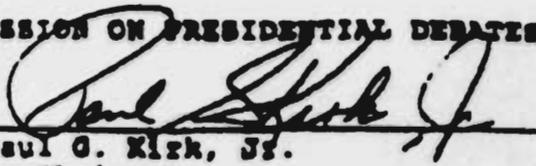
Mr. Robert W. Teeter
Mr. Mickey Kantor
October 6, 1992
Page 2

In all other respects, our letter of October 6, 1992 stands as submitted. If we do not hear from you to the contrary by 4:00 p.m. today, we will assume you are in full agreement and we will proceed accordingly.

Yours sincerely,

COMMISSION ON PRESIDENTIAL DEBATES

By:


Paul G. Kirk, Jr.
Co-Chairman

By:


Frank J. Durkin, Jr.
Co-Chairman

cc: R. Clayton Mulford, Esq. (via facsimile)
Bobby Burchfield, Esq. (via facsimile)
Tom Donilon, Esq. (via facsimile)

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**COMMISSION ON
PRESIDENTIAL DEBATES** 401 Thirtieth St. NW, Suite 1110 South, Washington, DC 20004 • (202) 677-1020

October 7, 1992

VIA FACSIMILE

**Mr. Robert M. Teeter
Campaign Chairman
Bush/Quayle '92
1030 18th Street, N.W.
Washington, D.C. 20009**

**Mr. Mickey Kantor
National Campaign Chair
Clinton/Gore '92
National Campaign Headquarters
P.O. Box 615
Little Rock, AK 72203**

Gentlemen:

The Board of Directors of the Commission on Presidential Debates convened a special meeting today to review changed circumstances since our letter to you of October 6, 1992. Paragraph (2) of the aforementioned letter of October 6 is hereby amended by the Commission to provide as follows:

- (2) The Commission has determined that H. Ross Perot should be invited to participate in the October 11, 12, and 13 presidential debates and that Admiral James Stockdale should be invited to participate in the October 12 vice presidential debate.**

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**Executive Director
David H. Johnson
1000 14th Street, N.W.
Washington, D.C. 20005
National Commission Chairman**

**Executive Co-Chairman
Conrad R. Ford
Barry Carter
Executive Director
Joseph H. Starn**

**Directors
John C. Calvert
Patrick Henry (mod.)
Thomas E. Jordan, Jr.
Richard Lamm**

**David H. Johnson
Ray Orr
Superintendent Richard W. ...
Governor Peter Wilson**

Mr. Robert M. Teater
Mr. Mickey Kantor
October 6, 1992
Page 2

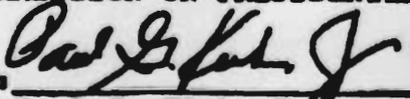
that, if it subsequently determines not to invite Mr. Perot to additional debates under its sponsorship, you each reserve the right to seek an alternative sponsor for these debates;

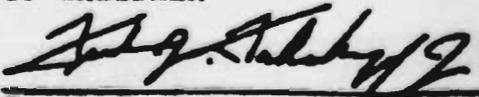
- (3) The Commission understands that Mr. Perot finds the terms of the Memorandum to be acceptable; and
- (4) The Commission has undertaken to provide an opportunity for the University of Richmond community to participate in the October 13 debate. The Commission's acceptance is subject to the understanding that suitable arrangements will be made for a modest number of representatives of the University of Richmond to attend the debate in Richmond. The Commission, working with University officials, will take all reasonable measures to attempt to ensure that the attendees do not interfere with the debate.

Please advise us at your earliest opportunity if these conditions are acceptable to you.

Yours sincerely,

COMMISSION ON PRESIDENTIAL DEBATES

By: 
Paul G. Kirk, Jr.
Co-Chairman

By: 
Frank J. Fahrenkopf, Jr.
Co-Chairman

cc: R. Clayton Mulford, Esq. (via facsimile)
Bobby Durchfield, Esq. (via facsimile)
Tom Dannon, Esq. (via facsimile)

F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROSS PEROT, PAT CHOATE, and)
PEROT '96, INC.,)

Plaintiffs,)

vs.)

Case No. 96-02196 (TFH)

FEDERAL ELECTION COMMISSION, and the)
COMMISSION ON PRESIDENTIAL DEBATES,)

Defendants.)

**PLAINTIFFS' AMENDMENT TO
VERIFIED COMPLAINT FOR
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

Pursuant to Fed. R. Civ. P. 15(a), plaintiffs Ross Perot, Pat Choate, and Perot '96, Inc. ("plaintiffs") hereby submit the following Amendment to their Verified Complaint For Declaratory Judgment And Injunctive Relief which was filed yesterday, September 23, 1996 ("Verified Complaint") This Amendment adds the following material to the original Verified Complaint with no other changes.

**COUNT VII
EEC Violation of Due Process Requirements**

85. Plaintiffs incorporate by reference herein the allegations of paragraphs 1 through 84 of the Verified Complaint.

86. The imposition upon Plaintiffs of 11 C.F.R. § 110.13(c) violates rights guaranteed to Plaintiffs by the First and Fourteenth Amendments, inasmuch as:

- 1. said regulations is impermissibly vague on its face and, therefore void; and

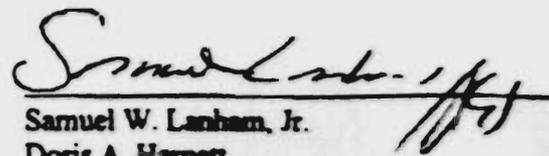
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b. said regulation, as applied to Plaintiffs was applied incorrectly, arbitrarily and capriciously.

WHEREFORE, Plaintiffs pray this Court enter an order declaring 11 C.F.R. § 110.13(c) unconstitutionally void for vagueness in violation of the First and Fourteenth Amendments.

Dated: September 24, 1996

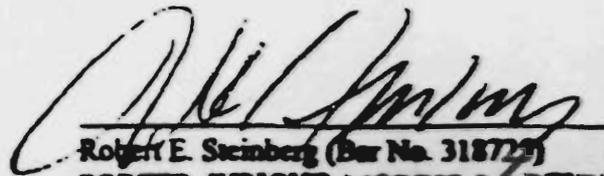
Respectfully submitted,



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W. A. B. 10/20/96-20778 01

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September, 1996, a copy of the foregoing
PLAINTIFFS' AMENDMENT TO ITS VERIFIED COMPLAINT FOR DECLARATORY
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COPY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DR. JOHN HAGELIN, DR. MIKE
TOMPKINS, and the NATURAL
LAW PARTY,

Civil Action No. 96-2132

Plaintiffs,

vs.

Washington, D.C.
October 1, 1996
10:05 a.m.

FEDERAL ELECTION COMMISSION,
and COMMISSION ON PRESIDENTIAL
DEBATES,

Defendants.

-----X

ROSS PEROT, PAT CHOATE, and
PEROT '96, INC.,

Civil Action No. 96-2196

Plaintiffs,

vs.

FEDERAL ELECTION COMMISSION,
and COMMISSION ON PRESIDENTIAL
DEBATES,

Defendants.

MORNING SESSION

TRANSCRIPT OF MOTIONS HEARING
BEFORE THE HONORABLE THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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(APPEARANCES CONT'D. ON PAGE 2)

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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ALSO PRESENT:

DR. JOHN HAGELIN

JANET H. BROWN

OFFICIAL COURT REPORTER:

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3rd and Constitution, N.W.

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1 since then?

2 MR. RASKIN: Which claims, Your Honor?

3 THE COURT: Your constitutional issues you have raised.

4 MR. RASKIN: About the regulation?

5 THE COURT: Yes.

6 MR. RASKIN: That is right, Your Honor.

7 THE COURT: I'm just wondering on the timing of this.

8 MR. RASKIN: Yes. Well, my colleague and co-counsel,
9 Mr. Sargentich, will address this more carefully when he argues
10 about jurisdiction. I think that that's a jurisdictional issue.

11 But the central point is that the obligation should not
12 be put on a candidate for office to run around the country
13 challenging every unconstitutional regulation; that is, Mr. Perot
14 was running for president, and the point was he was hoping that
15 the law would be enforced. It's not up to the citizenry to make
16 sure that the government is going to enforce the law and the
17 Constitution in the proper way.

18 But beyond that, Your Honor, I would prefer to defer to
19 my colleague, who will follow me in just a moment.

20 THE COURT: All right.

21 MR. RASKIN: So the statute -- so the regulation allows
22 private corporations to base their decisions about who should
23 participate explicitly on political party affiliation as long as
24 it's not the exclusive factor. It also charges corporations to
25 use objective criteria in selecting the candidates who will

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1 participate, an absurdly loose instruction which ignores the
2 entire purpose and meaning of the ban on corporate intervention
3 in presidential campaigns and allows corporate-funded debates
4 that clearly are inconsistent with the statute.

5 Now, Your Honor, there are only two plausible
6 constructions of the statute, two plausible constructions of what
7 the statute requires with respect to debates, and either
8 instruction compels this Court to strike down the regulation.

9 The first construction is that corporations may not
10 spend any money at all in connection with presidential election
11 debates, period. This is probably the most faithful reading of
12 the statute, since Congress meant in FECA not simply to prevent
13 corporations from using their funds to favor one candidate over
14 another, but generally to break the nexus between corporations
15 and presidential elections. Congress wanted to prevent the
16 fusion of corporate power with the electoral process even on a
17 nonpartisan basis.

18 THE COURT: What is the exception in the law for then,
19 the nonpartisan activity designed to encourage individuals to
20 vote?

21 MR. RASKIN: You mean in the statute?

22 THE COURT: Yes.

23 MR. RASKIN: Yeah. Well, it's okay internally; that
24 is, the statute says that corporations may proselytize their own,
25 their own corporate personnel and their stockholders, but I think

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1 you might be reading from -- oh, are you referring -- well, that
2 is not explicitly designed for corporations.

3 THE COURT: 2 U.S.C. 931(9)(B)(ii).

4 MR. RASKIN: Okay. Yes. And this is the provision
5 that's not cited by the FEC, but it is cited by the CPD --

6 THE COURT: Right.

7 MR. RASKIN: -- in defense of its regulation.

8 THE COURT: Yes.

9 MR. RASKIN: Your Honor, that provision says nothing
10 about debates. Moreover, the debates regulation does not say
11 anything about registering people to vote or people voting, and
12 moreover, in these debates, no one is ever registered to vote.
13 The debates usually take place long since the deadlines have
14 passed for voters to register to vote.

15 So, I mean, I admire the acrobatics in trying to bring
16 the debates under that provision, but it simply won't wash. This
17 statute is very clear that corporations are not to be involved
18 unless they're dealing with their own members.

19 Now the second plausible construction of the statute
20 was the FEC's own interpretation in the 1970s, when the act was
21 first written, when it was interpreting it as a matter of
22 original impression. Looking at this categorical language,
23 seeing no exception for debates, the FEC took the position that
24 the act absolutely prohibited corporations from spending money on
25 any candidate debates that did not invite every legally qualified

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1 candidate to participate.

2 Any corporation that put together a so-called debate
3 between two candidates when it was a five-candidate field or six-
4 candidate field was making an illegal campaign contribution to
5 the two candidates who got the invitation.

6 The FEC told the League of Women Voters that the only
7 corporate-sponsored debates allowed under the statute are truly
8 nonpartisan, educational affairs in which all candidates have a
9 seat at the table. The league was allowed by the FEC to use
10 corporate contributions for its 1976 primary debates only because
11 they invited all candidates to the forums, whether they were big
12 names like Scoop Jackson or unknown fringe candidates like Jimmy
13 Carter.

14 Now most importantly in the general election, when the
15 league planned its two-person debate between Ford and Carter,
16 just like the one scheduled for this Sunday between Dole and
17 Clinton, the FEC ruled that while the act could not stop the
18 league from, quote, sponsoring such an exclusionary bipartisan
19 debate, quote, the league could not use its own money to pay for
20 them, nor could it use corporate contributions of the sort it
21 relied on for the primary forums, that is, where it had invited
22 all candidates.

23 Because the debates featured just two of the citizens
24 running for office and closed out many legally qualified
25 candidates, the FEC found they were just dressed-up campaign

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1 contributions to or expenditures on behalf of the two parties
2 invited. The FEC's position was so categorical that the National
3 Journal observed critically, quote, events are nonpartisan, the
4 FEC seems to be saying, only if every candidate, major and minor,
5 is invited to appear, and corporations may help to sponsor such
6 events only if all 350 candidates appear.

7 Now we have a lawful way to make the FEC's original
8 doctrine, which is understandable, less absolute than it
9 originally wanted it still without descending into the current
10 FEC's wholesale and ultra vires abandonment of the statute, whose
11 relevant terms have not changed a word since the FEC interpreted
12 it 20 years ago. Our approach is clean, Your Honor, and it goes
13 to the questions that you are addressing to counsel for Natural
14 Law Party.

15 Corporations that want to spend money on general
16 election presidential debates must remain politically neutral
17 within the meaning of the statute by inviting all candidates who
18 are, one, constitutionally eligible to serve as president under
19 Article II, Section 1; two, qualified on sufficient state ballots
20 that it is possible for them to collect a majority in the
21 Electoral College; that is, they could win; and three, they have
22 received federal funds under the General Election Presidential
23 Campaign Fund Act.

24 We don't need to leave it up to a random group of
25 pundits and pollsters whether a candidate is serious, because in

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1 this act, Congress itself defied the objective seriousness of
2 minor party candidates by allocating them millions of dollars of
3 our taxpayer money if they reached 5 percent of the popular vote
4 in the last election, and they get money equal to the major
5 parties if they reach 25 percent, but the FEC and the CPD are
6 taking the position that even if they scale those hurdles, they
7 could still deny them a right in the debate even -- simply
8 because some pundit or pollster that happens to be on their
9 Rolodex says that they don't make the grade.

10 The statutory definition of seriousness in FECA is
11 already embodied in law, and it's the only one that may lawfully
12 be imposed by the FEC or any private actor purporting to operate
13 under the authority of this statute.

14 Now as a practical manner, Your Honor, because
15 obviously we're dealing with a practical problem with the debates
16 on Sunday, there are only three candidates who meet these
17 criteria: Bill Clinton, Robert Dole, and Ross Perot, and I put
18 them in alphabetical order. But let's assume that the regulation
19 allowing corporate debate sponsors to choose their own objective
20 criteria has a basis some where in the statute. Well, then this
21 regulation is profoundly unconstitutional. It's so bad, as one
22 of my research assistants said, it's almost like an issue spotter
23 on a constitutional law exam.

24 First of all, on its face, it authorizes corporations
25 to practice a viewpoint-based partisan discrimination by saying

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1 that political party membership may not be the sole criterion for
2 a candidate selection, but may be used as one factor to be
3 considered among many.

4 Well, imagine if a government agency decided that
5 citizens could receive some public benefit, say, health care or a
6 public job or the right to speak on the basis of a process where
7 their political party affiliation was one relevant factor.
8 Indeed, the Supreme Court has been systematically striking down
9 the use of political party as the basis for the distribution of
10 public benefits. I direct your attention to the Elrod and Rutan
11 cases.

12 Secondly, more importantly, the directive to use
13 objective criteria is hopelessly vague and essentially delegates
14 standardless discretion over fundamental political rights to a
15 private corporation and the political parties it chooses to ally
16 with.

17 The scheme is similar to the one struck down in Larkin
18 v. Grendel's Den, where Massachusetts gave churches and schools
19 the right to veto liquor licenses granted to any premises within
20 500 feet of them. The court said such a delegation on its face
21 violated the First Amendment, because these private actors could
22 decide on an ideological and non-neutral basis even if there had
23 been no proof in court that they had. It struck it down on its
24 face.

25 It's also similar to the Lakewood decision, where the

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1 Supreme Court struck down a municipal ordinance that gave the
2 mayor the right to decide which street corners news racks could
3 be placed on, requiring only a reasonable basis to be stated by
4 the mayor for his decision. This scheme clearly vested
5 discretion to decide on a potentially non-neutral and politically
6 biased basis, and the court struck it down on its face. As it
7 said, without standards governing the exercise of discretion, an
8 official may decide who may speak and who may not based upon the
9 content or viewpoint of the speaker.

10 And that is the problem here, Your Honor. As the CPD
11 puts it beautifully in its brief summing up the whole case, the
12 regulations do not define the phrase "objective criteria" at
13 all. There are no standards governing the exercise of its
14 discretion.

15 Because "objective" is such a nice-sounding word, it
16 may be hard to see at first blush what's wrong with it, but it
17 becomes clear that there are two radically different kinds of
18 standards that can be and are being articulated and enforced
19 under this statute. They both travel under the name
20 "electability," but one is constitutional, Your Honor, and one
21 is not.

22 The first theory of electability is the one I outlined
23 just before: Are you eligible to be president, can you win the
24 Electoral College, have you qualified for federal funding under
25 the statute that most closely defines seriousness.

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1 THE COURT: So it's strictly a mechanical, number-
2 counting criteria, that's all? There's nothing else allowed to
3 inform that decision?

4 MR. RASKIN: That's absolutely right, because the
5 minute you allow arbitrary and subjective criteria into it, then
6 viewpoint and content-based discrimination take over, and I think
7 that we have examples of that in this case.

8 THE COURT: All right. You've got a couple more
9 minutes.

10 MR. RASKIN: Okay. Let me just describe quickly what's
11 wrong with the other interpretation of objective criteria. Even
12 if it's implemented in good faith, as perhaps it was in this
13 case, and we're willing to assume it's implemented in good faith,
14 this standard is not one of legal electability. It's of
15 political electability.

16 On this theory, what matters is where you stand in the
17 polls, with the pollsters, the pundits, the journalists, how many
18 inches of newspaper you get, the Washington Bureau Chiefs, and so
19 on. Now as seductive as this definition may be inside the
20 beltway, this version of electability is a blatant, per se
21 violation of the First Amendment, and I think this is the heart
22 of the case.

23 First, as the Eighth Circuit found, these judgments are
24 so inherently and arbitrary and speculative as to provide no
25 secure basis for exercise of governmental power consistent with

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1 the First Amendment. Second, it's anti-democratic to use
2 predictions of election results to restrict debate. The American
3 people themselves have the right to hear the candidates and to
4 decide for themselves who they want. They are the real party in
5 interest here.

6 The court said in Red Lion it's the right of the
7 viewers and listeners, not the right of the broadcasters, which
8 is paramount, and the White primary cases tell us you cannot
9 substitute an exclusionary private selection process for an open
10 public election process.

11 THE COURT: Well, so Forbes, the Forbes case just
12 doesn't count in your analysis? I'm not sure I follow this.
13 You're saying that this debate, this is not a private forum; this
14 is a public forum basically to apply the First Amendment
15 analysis.

16 MR. RASKIN: Well, here I'm making the argument that if
17 the FEC wants to develop a regulation which says use of objective
18 criteria, there are only certain objective criteria that are
19 constitutionally permissible.

20 THE COURT: But if this is strictly a private
21 operation --

22 MR. RASKIN: Oh, Your Honor, I tried to deal with that
23 at the beginning, when I showed if the, if a group wants to go
24 out and sponsor a debate and they're not covered by any law,
25 Mr. Perot has absolutely no First Amendment right to be there or

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1 statutory right. What we're talking about is the interpretation
2 of the Federal Election Campaign Act.

3 THE COURT: I understand.

4 MR. RASKIN: Now third, let's say we had a computer, an
5 election Web site that could tell us with absolute certainty who
6 was going to win. It would still violate the constitutional
7 rights of candidates to exclude them from debates because they
8 were going to lose. Government could not pass a law that would
9 require Ross Perot and Bob Dole to return their federal funds,
10 say, four weeks before the election because they're behind more
11 than 15 points in the polls, and they both are.

12 Losers have the same First Amendment rights that
13 winners do, and there's a critical First Amendment reason why.
14 In politics, winning is not everything. Candidates run for a lot
15 of legitimate reasons, including raising issues and ideas that
16 others would prefer to ignore or to establish legitimacy for a
17 party or a future run for office.

18 Perot raised the deficit issue in the 1992 campaign.
19 He got 19 percent of the vote, never having run for office
20 before, and he made the deficit public policy issue No. 1 in the
21 Clinton Administration. He also launched a new party that has
22 the potential to change the direction of America.

23 Another example comes from the last century and the
24 most famous debater in our history, Abraham Lincoln. In 1858,
25 after having debated Stephen Douglas on seven occasions all over

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AGENDA DOCUMENT



FEDERAL ELECTION COMMISSION

WASHINGTON, DC

AGENDA ITEM

MAR 9 1994

February 6, 1994

MEMORANDUM

TO:

The Commission

THROUGH:

John C. Cayias
Staff Director

FROM:

Laurence R. White
General Counsel

N. Stanley Pittsfield
Associate General Counsel

Susan A. Stepper
Assistant General Counsel

SUBJECT:

attached.

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in a context that is beyond the scope of this rulemaking. Therefore, we recommend that they be addressed in a separate rulemaking. This will be discussed further in Part III, section H.11, below. A separate NPRM is also warranted to address cablecasters sponsoring candidate debates, and to seek additional comments on whether to initiate a rulemaking concerning candidate appearances in churches and religious facilities.

I. OVERVIEW OF AREAS ADDRESSED IN THE PROPOSED RULES

The NPRM sought comments on proposed revisions to 11 CFR 109.1, 114.12, and 114.1 through 114.4, 114.12 and proposed new section 114.10 in light of recent judicial interpretations of 2 U.S.C. 441b. This section of the Federal Election Campaign Act of 1971 ("the Act" or "FECA") generally prohibits corporations and labor organizations from using general treasury monies to make contributions or expenditures in connection with federal elections. In particular, the NPRM sought comments on the following changes in the regulations:

1. Replacing the partisan/nonpartisan standards in current 11 CFR Part 114 with new language at draft section 114.2 prohibiting corporations and labor organizations from making expenditures for communications to the general public expressly advocating the election or defeat of federal candidates. This new language would apply only to expenditures, since NCFE did not limit the prohibitions on contributions.

2. Revising the definition of express advocacy at 11 CFR 109.1 to provide further guidance on what types of communications constitute express advocacy. In accordance with the judicial interpretation in Balliet v. White, 424 U.S. 1, 44 n. 52 (1975), and Federal Election Commission v. Purnell, 1978-2 CB 2, cert. denied, 108 S. Ct. 151 (1978).

3. Revising provisions regarding candidate debates, candidate registration and voting records, and conducting voter drives in sections 114.3 and 114.4 to replace the previous partisan/nonpartisan standard with a new standard and to resolve a number of issues that have arisen since the NCFE decision.

4. Revising provisions to address activities undertaken by candidates and universities, the use of logos, endorsements of candidates, and the making of contributions.

5. Revising language to 11 CFR 114.2, 114.3 and 114.4 to clarify the question of when election-related communications by a corporation or labor organization will be considered in-kind contributions.

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6. Adding new 11 CFR 114.10 to implement the NCPL Court's conclusion that nonprofit corporations possessing certain essential features (hereinafter "qualified nonprofit corporations") may not be bound by the restrictions on independent expenditures contained in section 441b. This new section would expressly permit qualified nonprofit corporations to use general treasury funds for independent expenditures, and would set out the reporting obligations for qualified nonprofit corporations that make independent expenditures.

II. BACKGROUND ON THE COURT DECISIONS AND THE RULEMAKING

In Federal Election Commission v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986), the Supreme Court held that expenditures must constitute express advocacy to be subject to the prohibition of section 441b. NCPL at 249. In addition, the Supreme Court distinguished between different types of corporations in considering the constitutionality of 2 U.S.C. 441b. The Supreme Court concluded that nonprofit corporations having certain essential features do not have the potential to exert an undesirable influence on the electoral process. Thus, they do not implicate the concerns that legitimately prompted regulation by Congress. The Court cited "three features essential to [its] holding that the [NCPL] may not constitutionally be bound by § 441b's restriction on independent spending." 479 U.S. at 264. First, NCPL was formed for the express purpose of promoting political ideas and cannot engage in business activities. Second, it has no shareholders or other persons affiliated so as to have a claim on assets or earnings or other economic disincentives for disassociating with the corporation. Third, it was not established by a business corporation or a labor union, and it has a policy of not accepting contributions from such entities. NCPL at 264. The Court concluded that section 441b's prohibition of independent expenditures is unconstitutional as applied to nonprofit corporations with these three characteristics.

The NCPL case involved a nonprofit corporation organized to promote specific ideological beliefs. NCPL financed its activities with voluntary contributions from members of the public who shared its beliefs, and with other fundraising activities, such as bake sales and raffles. The case arose because the corporation expended general treasury monies for the production and public distribution of a special newsletter which indicated whether certain clearly identified federal candidates supported or opposed its positions on particular issues. The newsletter also urged readers to vote "pro-life."

When the case reached the Supreme Court, NCPL argued, *inter alia*, that its special newsletter did not expressly advocate the election or defeat of a clearly identified federal candidate, and that only communications containing express advocacy should be prohibited under 2 U.S.C. 441b. First, the Supreme Court stated that "an expenditure must constitute 'express advocacy' in order

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to be subject to the prohibition of § 441b." MCPL at 249. The Supreme Court then ruled that MCPL's publication "goes beyond issue discussion to express electoral advocacy. ... The 'Special Edition' thus falls squarely within § 441b, for it represents express advocacy of the election of particular candidates distributed to members of the general public." Id. at 249-50.

Based on this portion of the decision, the National Right to Work Committee filed a Petition for Rulemaking urging the Commission to revise 11 CFR 114.3 and 114.4 to conform to the statement in the MCPL opinion that "express advocacy" is the appropriate standard for determining when independent communications by corporations and labor organizations are prohibited under section 441b. See Rulemaking Petition; National Right to Work Committee, Notice of Availability, 52 FR 16275 (May 4, 1987). Thus, the petition took the position that the Commission's partisan/nonpartisan standards governing corporate and labor organization communications to the entity's restricted class and the general public are unconstitutional under MCPL.

The Commission subsequently sought public input on whether to initiate a rulemaking to determine the extent to which the MCPL case necessitated changes in the Part 114 rules governing independent expenditures by qualified nonprofit corporations possessing the three essential features, changes in the scope of the "independent expenditure" provisions at 11 CFR Part 109, or the implementation of an "express advocacy" test for all corporations and labor organizations covered by 11 CFR Part 114. An Advance Notice of Proposed Rulemaking, published on January 7, 1988 (53 FR 416), presented these issues. The Commission indicated in the Advance Notice that it viewed the express advocacy statement in MCPL as dicta, noting that the statement was unnecessary to the resolution of the case, and thus did not represent a final resolution of the issue by the Court. ANPRM, 53 FR 416. The Advance Notice also raised the following ancillary questions concerning this portion of the opinion: 1. Should the Commission revise its regulations at that time, or wait until the Court has an opportunity to clarify this area in a case where the issue is squarely presented? 2. Should the Commission revise the 441b regulations to distinguish between independent expenditures that solely involve communications and other activities where communication plays little or no part? 3. Can the nonpartisan standard in 11 CFR 114.4 be interpreted consistently with an express advocacy test, thus eliminating the need for regulatory revision? 4. To what extent and how should the Commission revise the definition of "expressly advocating" in 11 CFR 109.1(b)(2) in light of the MCPL and Furgatch opinions?

The Commission received over 17,000 comments in response to the Advance Notice. Nearly all of the commenters submitted virtually identical letters urging the Commission to act favorably on NKWC's rulemaking petition, and to limit application of its regulations to communications expressly advocating the election or defeat of candidates so as to avoid impinging upon First Amendment.

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rights. However, the Commission received detailed comments from seven sources, and also held a public hearing on November 16, 1988 at which two commenters testified as to how the Commission should implement the MCFL opinion. The detailed comments and testimony reflect a wide range of views as to how the Commission should proceed in response to the MCFL decision.

Some commenters supported adoption of an express advocacy standard and opposed the Commission's position that this statement is dicta that need not be followed. However, these commenters disagreed as to how broadly or narrowly to define express advocacy. Some believed that the concept should be narrowly limited to the phrases enumerated by the Supreme Court in Buckley. However, others pointed to statements in the MCFL and Furgatch opinions to support a substantially broader interpretation of express advocacy.

The Commission also received suggestions concerning election-related activities by business corporations or labor unions where no communication is involved, such as providing the use of facilities to a candidate's campaign. One possibility suggested was to treat such activity as an impermissible in-kind contribution made in connection with a federal election, but not to treat it as an impermissible expenditure. Another suggestion was to adopt an express advocacy standard for contributions as well as expenditures and to treat providing corporate or union facilities as a form of express advocacy. Finally, the Commission notes that two other commenters, including one of the testifying witnesses, favored simply retaining the current statutorily-created prohibition against both contributions and expenditures in connection with federal elections, while creating an exception allowing qualified nonprofit corporations to make independent expenditures.

In subsequent litigation, two lower courts relied upon an express advocacy standard to evaluate corporate communications under section 441b of the FECA. In Fischer v. Federal Election Commission, 743 F. Supp. 64, (D.D.C. 1990) ("Fischer"), the court invalidated the Commission's voter guide regulations at 11 CFR 114.4(b)(5)(i). The Court concluded that the Commission's voter guide rule is not authorized by the FECA "as interpreted by the Supreme Court in [MCFL], to the extent that the regulation makes the permissibility of voter guides . . . hinge upon on whether such guides are "nonpartisan" in a broad sense that includes issue advocacy rather than the narrower test of "express advocacy." Id. at 72. Similarly, in Federal Election Commission v. National Organization of Women, 711 F. Supp. 428 (D.D.C. 1989) ("NOW"), another district court applied an express advocacy test to determine whether section 441b permitted an incorporated membership organization to use general treasury funds for membership recruitment letters directed to the general public. The court concluded that the letters in question did not go beyond issue discussion to express electoral advocacy. The Commission appealed both of these lower court decisions.

In addition, the Supreme Court provided further guidance regarding the exception for qualified nonprofit corporations through its interpretation of a Michigan statute very similar to section 441b of the FECA. Austin v. Michigan Chamber of Commerce, 494 U.S. 682 (1990) ("Austin"). This case prompted the Commission to issue a second notice seeking further comments on what changes to its regulations are warranted. 55 FR 40397 (Oct. 3, 1990), comment period extended 55 FR 45809 (Oct. 31, 1990). This notice also welcomed comments on the express advocacy questions raised by the Faucher and NOW decisions.

Eight commenters responded to the second notice, including some who reiterated their earlier positions. Most, but not all, of the commenters urged the Commission to adopt an express advocacy test for expenditures under section 441b. One comment favored the development of definitions which precisely set out what activity will be deemed within the scope of the FECA under such a standard, while another comment supported the use of a case by case approach. There was also some support for revising the regulations to reflect the approach to express advocacy taken in the Furgatch opinion. The Commission also received specific suggestions for delineating the class of nonprofit corporations falling within NCFL's exemption. Two comments advocated a broad scope for the exemption created in NCFL, while a third comment emphasized the narrowness of the group of organizations possessing the three essential features delineated in NCFL and Austin.

Subsequently, the Court of Appeals for the First Circuit upheld the District Court's decision in Faucher. Faucher v. Federal Election Commission, 938 F.2d 468 (1st Cir. 1991), cert. denied, U.S. , 112 S. Ct. 79 (1991). Consequently, the Commission sought certiorari in Faucher, arguing that the express advocacy standard should not be made applicable to the 441b prohibition on corporate expenditures. On October 7, 1991, the Supreme Court denied the petition for certiorari, and thus declined to consider narrowing or otherwise modifying the statements it made in NCFL regarding the scope of section 441b. Accordingly, the Commission moved for the dismissal of its appeal in NOW and resumed consideration of several substantial changes to its regulations necessitated by the NCFL decision.

The Commission published a Notice of Proposed Rulemaking on July 29, 1992 seeking public comment on draft rules codifying the reduced scope of the prohibition on corporate expenditures. The proposed language set forth the general rule that corporations and labor organizations are prohibited from making expenditures for communications to the general public expressly advocating the election or defeat of a clearly identified candidate. The draft regulations also sought to establish criteria for determining whether nonprofit corporations qualify for the exemption from section 441b's prohibition on independent expenditures.

The Commission received 35 separate comments on the NPRM from 32 commenters between July 29, 1992 and November 22, 1993. The Commission also received 149 form comments during that period. The Commission held a public hearing on October 13 and 16, 1993, at which 18 of these commenters testified on the issues presented in the NCPD decision and the proposed rules. The comments and testimony are discussed in more detail below.

III. DISCUSSION

A. The Express Advocacy Standard

The draft final rules incorporate an express advocacy standard in several sections of 11 CFR Part 114. First, new language in section 114.2 prohibits corporations and labor organizations from making expenditures for communications to the general public that expressly advocate the election or defeat of a clearly identified candidate, group of candidates, or candidates of a clearly identified political party.^{1/} The express advocacy standard in the final rules would apply to expenditures, but not contributions. The current prohibition against contributions made by corporations and labor organizations in connection with federal elections remains the same. Most, but not all, commenters supported the adoption of an express advocacy standard for evaluating expenditures under section 441b of the FECA.

The provision prohibiting expenditures for communications containing express advocacy applies to all corporations and labor organizations except for qualified nonprofit corporations meeting the criteria set out in new section 114.10. Thus, these qualified nonprofit corporations may make expenditures for communications to the general public which contain express advocacy, including registration and voting communications, official registration and voting information, voting records and voter guides, if made independently of any candidates. However, if the qualified nonprofit corporation coordinated these activities with candidates, it would be subject to the rules set forth in section 114.4 regarding coordination, and could not include express advocacy if the communication is directed beyond the restricted class. Coordination may compromise the independence of the communications and possible future communications, thereby resulting in prohibited in-kind contributions.

The draft final rules preserve the current distinction between communications to the restricted class (set forth at 11 CFR 114.3) and communications beyond the restricted class (set

^{1/} Please note that some portions of the regulations refer to "communications containing express advocacy." This term has the same meaning as the references elsewhere to "communications expressly advocating the election or defeat of a clearly identified candidate, group of candidates, or candidates of a clearly identified political party."

this will result in prohibited in-kind contributions, and will compromise the independence of future communications to the general public. For example, a prohibited in-kind contribution would result if a voter guide is prepared and distributed after consulting with the candidate regarding his or her plans, projects or needs regarding the campaign. Please note that, in the case of a communication just to the restricted class, coordination will not cause that activity or future communications to the restricted class to be considered in-kind contributions. However, such coordination may compromise the ability of a corporation's or labor organization's separate segregated fund to make independent expenditures to those outside the restricted class in the future. References to the definition of expenditure, which is found in 114.1, would also be added in section 114.2 for clarity.

The provisions in section 114.3(a)(1) regarding communications to the restricted class would be revised to explicitly state that campaign-related activities described in this section may be coordinated with candidates and political committees. For example, they may involve discussions with candidates regarding candidates' plans, projects, or needs. While such coordination will not affect subsequent activities directed only to the restricted class, communications to the restricted class that are based on a candidate's plan, projects and needs may result in the content of subsequent communications to the general public. The revised section 114.4, communications to the general public, are based on a candidate's plan, projects and needs, regarding the independent expenditures to the general public, but would not apply to the restricted class.

Additional provisions regarding candidate debates, candidate endorsements, candidate caucuses, voting records, endorsements, and vote drives, and facilitation are described below.

B. Candidate Debates (Section 114.4(F))

The proposed rules regarding the candidate debate provisions in section 114.4(F) and 114.4(G) by deleting the current provisions and replacing it with a new provision. It was necessary by the staging organization to address the staging organization and the candidate's coordination. In response to the comments received on this topic, this Office recommends the following rules in a number of significant respects.

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438(d)(2).² This is, as the Supreme Court has noted, an "indication that Congress does not look unfavorably" upon the Commission's construction of the Act. FPC v. Democratic Senatorial Campaign Committee, 457 U.S. 33, 34 (1982). See also, U.S. v. Brown, 344 U.S. 1, 16 (1952) ("That no adverse action was taken by Congress indicates, at least, that no transgression of legislative policy was found"). Accordingly, the draft final rules would follow the current provisions by retaining the term "bona fide" to describe newspapers and magazines that may stage candidate debates.

Finally, please note that the purpose of section 110.13 and 114.4(f) is to provide a specific exception to permit certain types of corporations to stage debates, without being deemed to have made contributions to the candidates taking part in the debate. Thus, individuals and unincorporated entities wishing to stage debates are not covered by the exception.

(2) Debate Structure and Requirements

This Office recommends modifying the requirements in section 110.13(b) regarding the structure of candidate debates by eliminating the proposed restriction on discussing campaign strategy and tactics, and by adding language focusing on whether there was coordination in terms of the candidate's plans, projects or needs relating to the campaign. These changes recognize that a limited amount of contact with candidates is necessary to conduct debates. The comments were critical of the original proposal.

The draft final rules indicate that staging organizations may not expressly advocate in support of or opposition to any clearly identified candidate during the debate. This restriction applies during the entire event, including any pre-debate or post-debate commentary and analysis. However, a news organization that stages a candidate debate may disseminate material containing express advocacy with the same restrictions as the definitions of contributions under sections 100.7(b)(3) and 100.6(b)(2).

The final rules have revised the requirements regarding debate structure to clarify that staging organizations may not manipulate the debate by allocating the time unequally between the candidates or by giving only one candidate advance information as to the nature of the topics to be covered or the specific questions to be asked.

² An earlier version of the candidate debate rules was disapproved by Congress on September 18, 1979. See 44 Fed. Reg. 22300 (July 3, 1979)

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B. Candidate Appearances (11 CFR 114.3(c)(2) and 114.4(b))

(1) Notifying and Inviting Other Candidates; Audience

The Commission sought comments on several questions regarding corporate and labor organization funding of candidate appearances before the restricted class and other employees, and on several possible amendments to the regulations at 11 CFR 114.3(c)(2) and 114.4(b).

Section 114.4(b), as set out in the NPRM, followed the current rules at 11 CFR 114.4(a)(2) by allowing rank and file employees who are not in the restricted class to attend candidate appearances organized by corporations or labor organizations. In situations where one candidate appears at a corporate or labor organization event, the proposed rules in section 114.4(b) followed the current provisions by requiring corporations and labor organizations to let the other candidates for that office come and speak if they so request. However, comments were sought on possibly requiring a corporation to notify the other candidates in advance whenever they invite a candidate to appear. Prior notification would provide the other candidates with a real opportunity to request comparable appearances. In cases where a candidate shows up to speak based on corporate promises, without a prior invitation, notice would be given to the other candidates as soon as possible. However, the commenters expressed concern that such a rule would be difficult to enforce. Instead, the draft final rule would require the candidate to be notified by requiring the corporation to notify in advance, in advance, whether or not the candidate may appear, upon request. Such a rule would ensure that all candidates would remain notified of the opportunity to appear, upon request. The number of presidential candidates is small.

Section 114.4(b) is more in line with the structure of the current rules. For example cited was giving the right to one candidate but not the other. It is clearly unfair to give one candidate with similar opportunities, but not the other. In response to another comment that the structure of the current and timing of a candidate's appearance, the Commission is revising the language in section 114.4(b)(1) to clarify that candidates cannot be given substantially unequal amounts of time or locations for their appearances.

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The proposed rules also sought to replace the current language in section 114.3 allowing "limited invited guests" to attend candidates' appearances with more specific language covering guests who are being heard or speaking or participating in the event. In response to a concern of one commenter, this change has also been made in section 114.4(b). Another commenter was concerned that the provision in section 114.3 would interfere with its ability to allow its members to attend. Under these provisions, all those who qualify as members, and are therefore in its restricted class, would be able to attend.

(2) Collection of Contributions by Candidates and Party Representatives During the Appearance

Another question presented in the NPRM was whether the candidate or party representative may solicit and collect contributions during an appearance before either the restricted class, or all employees. This is specifically allowed under current section 114.3(d)(2) for appearances before the restricted class. There is no provision in section 114.4 either allowing or disallowing this practice when the audience extends to all employees. The NPRM sought comments on whether the candidate should be able to pass the hat or place donation boxes in the room. Both the present and the proposed language in section 114.4 prohibit the corporation or labor organization from soliciting contributions during appearances by candidates or party representatives. The new rules in section 114.3(d) also incorporate the Commission's established policy that corporations and labor organizations are not permitted to facilitate the making of contributions, or political contributions other than those made by the candidate or party representative, by providing envelopes for contributions. See 117-15, p. 3. The Commission would like to know if candidates should be able to use donation boxes or envelopes without this being treated as a contribution by the corporation or labor.

The Commission is allowing candidates to request contributions from the restricted class. The rules needed to clarify that this is not a contribution by the corporation or labor organization. The Internal Revenue Service found no conflict between the rules regarding candidate appearances and its rules.

Section 114.3(d)(2) of the final rules provides that a candidate or party representative may ask for contributions and solicit contributions from the restricted class to make contributions, such as by passing a hat or mailing address. However, this section also provides that candidates and party representatives may not solicit contributions during the event. A reference in section 114.3(d)(2)(iv) would be added to indicate that this rule applies to appearances before the restricted class, and appearances before employees not in the restricted class. The collection of contributions by the candidate or the campaign staff

would, in essence, turn the candidate appearance into a fundraising event sponsored by the corporation or labor organization. In both situations, the corporation or labor organization also may not collect these contributions.

(3) Presence of the News Media

Several issues have arisen regarding section 114.3(c)(2), which governs the presence of news media at candidate appearances before only the restricted class. For example, a news organization may wish to reprint or broadcast the candidate's appearance in its entirety. Concerns have been raised that a candidate appearance before a corporation's or labor organization's restricted class would be transformed by this type of level-to-level coverage into a general public appearance. Accordingly, the Commission sought comments on two alternative proposals. Under Alternative C-1, such coverage was contemplated for appearances before the restricted class, as well as those to the other employees, provided that two conditions are met. First, if the corporation or labor organization permits one media representative to cover the appearance, all bona fide media organizations must be given the opportunity to cover the event. This could be accomplished through pooling arrangements, if necessary. Secondly, if the corporation or labor organization permits the news media to cover an appearance by one candidate, the news media must be given the opportunity to cover all other candidates who appear. Alternative C-2 indicated that the corporation or labor organization may not permit the media to cover such candidate appearances before just the restricted class. Instead, under Alternative C-2, in addition to the two requirements on media access, media coverage of candidate appearances is only permissible if rank and file employees may also attend. All candidates for the same seat who request to appear are given a similar opportunity, and the corporation or labor organization may not actively advocate, or encourage the audience to actively advocate, the election or defeat of any candidate.

One commenter felt that level-to-level coverage indicated that the candidate's speech is noteworthy, and that there is no evidence of a problem involving the exclusion of the news media. Others argued that it interfered with their ability to have officials address employees on topics of interest to the employees when the officials are candidates for office.

The Office believes that Alternative C-2 is preferable. It ensures that the basic considerations of fairness are accorded to all candidates wishing to appear at an event that is broadcast to the general public. Consequently, this approach is found in sections 114.3(c)(2)(iii) and 114.4(b)(2)(viii).

It is important to note that these amendments do not adversely affect the ability of corporations or labor organizations to invite their restricted class or other employees

to attend a speech given by an officeholder or other prominent individual who is also a federal candidate, if the speech is not campaign-related. See, e.g., AO 1992-6.

F. Colleges and Universities (11 CFR 114.4(c)(7))

(1) General Considerations

The FECA prohibits corporations from making contributions to or giving anything of value to a federal candidate, including free use of facilities, such as halls and auditoriums. Since most private colleges and universities are incorporated, this prohibition applies to them. The proposed rules included provisions to clarify the Commission's interpretation of this statutory prohibition as it applies to educational institutions. In the proposed rules, section 114.4(c)(7) included an exception to permit colleges, universities, and other incorporated nonprofit educational institutions that are exempt from federal taxation under 26 U.S.C. 501(c)(3) to make their premises available to groups that are associated with the school and wish to invite candidates to address students, faculty and the general public, under certain conditions.

Several comments and witnesses expressed an overall concern that the Commission is attempting to over-regulate political speech on campuses. They pointed out that historically, universities have sought to promote the free exchange and debate of ideas in an intellectual environment, and have tried to stimulate student interest in democratic processes and institutions. They were also concerned that the new rules could affect classroom discussion.

The intent of the new provisions was to clarify the law as it applies to colleges, universities, and other incorporated nonprofit educational institutions that make their premises available to groups that wish to invite candidates to address students, faculty and the general community. Through this rulemaking, the Commission is trying to modify its rules in this area by specifying conditions under which auditoriums and halls could be made available to candidates at no cost or for less than the usual and normal charge. Moreover, under the new provisions, educational institutions may continue to charge candidates the usual and normal charge for the use of their facilities. They may also continue to allow individuals who are candidates to appear in another capacity, such as an officeholder or a prominent speaker on a particular issue. See, e.g., AO 1992-6. Finally, the draft rules do not prevent candidates from participating in campus events in other capacities, such as when the candidate is also a faculty member.

(2) Public vs. Private Institutions; Candidate Debates

Some commenters did not understand why the proposals were restricted to private colleges and universities, and did not apply

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(3) Objective Criteria

The proposed rule in section 110.12(b)(1) contemplated continuing the current policy of permitted staging organizations to decide which candidates to include in a debate, so long as debates included at least two candidates. The Explanation and Justification for the current rules expressly allowed staging organizations to restrict general election debates to major party candidates, and to restrict primary election debates to the candidates of one political party. 44 Fed. Reg. 76735 (Dec. 27, 1979).

Many comments, and much public testimony, was received on whether the Commission should establish reasonable, objective, nondiscriminatory criteria to be used by staging organizations in determining who must be invited to participate in candidate debates. In the alternative, it was suggested that the Commission could allow staging organizations to use their own pre-established sets of reasonable, objective, nondiscriminatory criteria, provided the criteria are subject to Commission review and are announced to the candidates in advance.

In response to the comments and testimony, this Office has prepared a new paragraph (c) that would require all staging organizations to use pre-established objective criteria to determine which candidates are allowed to participate in debates. Thus, the new rule would not allow a staging organization to bar minor party candidates or independent candidates from participating simply because they have not been nominated by a major party. Since the Commission has permitted corporate funding of candidate debates, it is necessary to spell out more precisely how selection of participating candidates should be accomplished, so as to avoid the potential for a quid pro quo, and to ensure the fairness of the process. Accordingly, paragraph (c) lists various objective criteria that may be used, as well as several examples of subjective criteria. The suggestion that the criteria be subjective is unnecessary because reasonable, objective criteria, while the draft final rules do not specifically require the criteria to be "nondiscriminatory," are contained in section 110.12(b)(2)(iv) and are for this purpose. Reliance on the objective criteria contained in this rule would be an affirmative defense.

The final rules which follow also continue the current policy that sponsoring a primary debate for candidates of one political party does not require the staging organization to organize a debate for the candidates of any other party. Finally, the draft final rules also contemplated allowing staging organizations to restrict the number of candidates participating in a debate to six. This number was chosen because it would be difficult to conduct or to participate in a debate with more than six candidates.

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election, such as "Smith '92" or "Jones Is The One".

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(4) Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate means-

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(iii) And also does not include limited communications with candidates, candidates' agents and authorized committees of candidates regarding candidate appearances, candidate debates, voter guides, endorsements and publications, to the extent described in 11 CFR 110.13(b)(4), 114.2(e), 114.3 and 114.4.

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PART 110 - CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

§ 110.13. Candidate debates.

(a) Eligible organizations.

(1) Nonprofit organizations described in 26 U.S.C. 501(c)(3) or (c)(4) and which do not endorse, support, or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 CFR 114.4(f).

(2) Broadcasters, print film newspapers, magazines and other periodical publications may stage candidate debates in

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accordance with this section and 11 CFR 114.4(f).

(b) Debate structure. The structure of debates staged in accordance with this section and 11 CFR 114.4(f) is left to the discretion of the staging organization(s), provided that:

- (1) Such debates include at least two candidates;
- (2) No candidate receives more time than other participating candidates during the debate or more advance information regarding the topics to be addressed or the specific questions to be asked;
- (3) No communication made by the staging organization(s) during the debate expressly advocates the election or defeat of any clearly identified candidate, clearly identified group of candidates, or candidates of any clearly identified political party. Communications made at other times by staging organizations that are broadcasters, bona fide newspapers, magazines and periodical publications shall be governed by 11 CFR 100.7(b)(2) and 100.8(b)(2); and
- (4) Communication with the candidate, the candidate's agents and the candidate's authorized committee(s) may include discussions of the structure, format and timing of the debate and the candidate's positions on issues, but shall not include discussions of the candidate's plans, projects or needs relating to the campaign.

(c) Criteria for candidate selection. For debates held prior to a primary election, caucus or convention, staging organizations may restrict candidate participation to candidates seeking the

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nomination of one party, and need not stage a debate for candidates seeking the nomination of any other political party or independent candidates. For all debates, staging organisation(s) must use pre-established objective criteria to determine which candidates may participate in a debate. If more than six (6) candidates meet the pre-established objective criteria, the staging organisation(s) may use additional objective criteria to limit the candidate debate to no more than six (6) candidates.

(1) Examples of objective criteria may include, but are not limited to:

- (i) Whether a candidate satisfies all legal requirements to hold the office sought;
- (ii) Whether the individual has publicly announced his or her intention to be a candidate, or has become a candidate under 11 CFR 100.3, 9002.2, or 9012.2, as appropriate;
- (iii) Whether the candidate's name will appear on the ballot, or for presidential candidates, on the ballot in a predetermined number of states;
- (iv) Whether the candidate's authorized committee(s) have raised a pre-established amount of contributions within a specific time period; or
- (v) Whether the candidate is entitled to receive payments from the Presidential Election Campaign Fund or the Presidential Primary Matching Payment Account, but such entitlement shall not be the sole

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criterion for inclusion in or exclusion from a candidate debate.

- (2) Objective criteria shall not include:
- (i) Subjective evaluations of whether an individual is a significant, major or important candidate;
 - (ii) Polls or other assessments of a candidate's chances of winning the nomination or election;
 - (iii) For general election debates, nomination by a major party; or
 - (iv) Criteria based on the specific characteristics of the candidates in a particular election, such as place of residence or offices previously or currently held.

PART 114 - CORPORATE AND LABOR ORGANIZATION ACTIVITY

§ 114.1 Definitions.

- (a) (1) The terms contribution and expenditure shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a State bank, a Federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, if such loan is made in accordance with 11 CFR 100.7(b)(11)) to any candidate, political party or committee, organization, or any other person in

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of paragraph (d)(4) of this section. The notification shall be made in writing at the time of the registration or get-out-the-vote drive.

(e) Incorporated membership organizations, incorporated trade associations, incorporated cooperatives and corporations without capital stock. An incorporated membership organization, incorporated trade association, incorporated cooperative or corporation without capital stock may permit candidates, candidates' representatives or representatives of political parties to address or meet members and employees of the organization, and their families, on the organization's premises or at a meeting, convention or other function of the organization, in accordance with the conditions set forth in paragraphs (b)(1)(i) through (viii) of this section.

(f) Candidate debates.

- (1) A nonprofit organization described in 11 CFR 110.13(a)(1) may use its own funds and may accept funds donated by corporations or labor organizations under paragraph (f)(3) of this section to defray costs incurred in staging candidate debates held in accordance with 11 CFR 110.13.
- (2) A broadcaster, bona fide newspaper, magazine or other periodical publication may use its own funds to defray costs incurred in staging public candidate debates held in accordance with 11 CFR 110.13.
- (3) A corporation or labor organization may donate funds to nonprofit organizations qualified under 11 CFR

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110.13(a)(1) to stage candidate debates held in accordance with 11 CFR 110.13 and 114.4(f).

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§ 114.10 Nonprofit corporations exempt from the prohibition on independent expenditures.

(a) Scope. This section describes those nonprofit corporations that qualify for an exemption from the prohibition on independent expenditures contained in 11 CFR 114.2. It sets out the requirements for demonstrating qualified nonprofit corporation status, for reporting independent expenditures, and for disclosing the potential use of solicited funds to support or oppose candidates. It also indicates when these corporations will be considered political committees.

(b) Definitions. For the purposes of this section --

(1) The promotion of political ideas includes issue advocacy, election influencing activity, and research, training or educational activity that is expressly tied to the organization's political goals.

(2) A corporation's express purpose includes:

(i) The corporation's purpose as stated in its charter, articles of incorporation, or bylaws, except that a statement such as "any lawful purpose," "any lawful activity," or other comparable statement will not preclude a finding under paragraph (c) of this section that the corporation's only express purpose is the promotion of political ideas;

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LEAGUE OF WOMEN VOTERS EDUCATION FUND
CANDIDATE SELECTION CRITERIA
FOR GENERAL ELECTION DEBATE PARTICIPATION

ADOPTED October 6, 1987

It is the intention of the League of Women Voters Education Fund (LWVEF) to sponsor a series of nonpartisan debates among significant candidates for the offices of President and Vice President of the United States in the 1988 general election.

The LWVEF sponsors the debates to educate the public about the issues in the campaign and the candidates' positions on those issues. At the same time, the debates are intended to stimulate and to increase voter interest and participation in the general election. These purposes are best served by inviting to participate in the debates only those candidates who have a possibility of winning the general election and who have demonstrated a significant measure of nationwide voter interest and support.

In recognition of the central role the two major parties play in our political system and the undeniably substantial voter interest in the positions on issues espoused by the nominees of those parties, the LWVEF will sponsor one presidential debate to which it will invite only the nominees of the two major parties. This debate will ensure that the nation's voters are given at least one opportunity to hear the two major parties' nominees debate each other one on one. Invitations to the other debates in the series will be extended to the nominees of the two major parties and may be extended to other significant candidates who meet the selection criteria of the LWVEF.¹

The criteria for selecting candidates to participate in the debates have been developed in light of the requirements of the Federal Election Commission and the purposes of the debates. Federal Election Commission regulations permit the LWVEF to sponsor nonpartisan candidate debates. The structure of such debates is left by the FEC "to the discretion" of the LWVEF "provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another."

The LWVEF has adopted criteria for selection which it believes are nonpartisan, are capable of objective application, are understandable by the general public, and draw upon the LWVEF's long history of involvement in and study of policy issues inherent in sponsorship of nonpartisan candidate debates.

The criteria are designed to ensure that the debates further the LWVEF's educational purposes.

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The LWVEF will invite the presidential nominees of the two major parties to each of its presidential debates. In the event that the LWVEF schedules a vice presidential debate, the running mates of these nominees will be invited to participate in the vice presidential debate.

The eligibility for participation of non-major party candidates in the debates which may include non-major party candidates will be determined by the LWVEF initially in August 1988 on a case-by-case basis pursuant to the selection criteria discussed below. In the event that the LWVEF schedules a vice presidential debate, the running mates of presidential candidates eligible to debate automatically will be eligible to participate in that vice presidential debate.²

There are three basic criteria for inviting Presidential candidates to debate: (1) constitutional eligibility; (2) ballot accessibility; and (3) demonstrated significant voter interest and support. Throughout the debate series, the LWVEF will retain the option to reassess the participation of non-major party candidates in the event of significantly changed circumstances. The LWVEF may do so in order to determine whether any additional candidates who did not meet the criteria in August have become eligible pursuant to those criteria to be invited to participate in the remaining debates or whether participation by a non-major party candidate would no longer advance the purposes of the debates, because he or she no longer meets the criteria.

SELECTION CRITERIA FOR NON-MAJOR PARTY PRESIDENTIAL CANDIDATE PARTICIPATION

I. CONSTITUTIONAL ELIGIBILITY CRITERION

Only those candidates who meet the eligibility requirements of Article II, Section I, of the Constitution will be invited to participate in the debates since the purposes of the LWVEF would not be served by permitting participation of the candidates who are ineligible to become President.

II. BALLOT ACCESS CRITERION

1. A Presidential candidate must be on the ballot in a sufficient number of states to have a mathematical possibility of winning a majority of votes (270) in the Electoral College.

EXPLANATION: One of the LWVEF's purposes in sponsoring the debates is to educate the public about the candidates who may become President of the United States in the general election. A candidate must win a majority of electoral votes to be elected. Adoption of a standard that allows participation in the debates by candidates who are not on enough ballots to win in the Electoral College would not further that purpose.

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2. At the time the LWVEF decides whom to invite to debate, it is possible that in a number of states there will be no clear indication of candidate ballot status. In some states, a candidate may have filed the requisite numbers of signatures but not be officially certified on the ballot. In others, there may be legal challenges to (1) early filing deadlines and (2) independent and third party candidate petitions. In addition, candidates still may be in the process of qualifying to be on ballots when the LWVEF is making its decisions on participants.

The LWVEF will request non-major party candidates who have expressed an interest in participating in the debates to provide it with reasonable assurances that they will meet the ballot access criterion by the date of the election. The LWVEF will then assess whether the candidate is likely to qualify, taking into account, for example, the number of signatures already collected, the extent of the candidate's past efforts to qualify, and the likelihood that the candidate's planned efforts will be successful. To the extent indicated, the LWVEF will confirm with appropriate state officials the facts presented to it.

EXPLANATION: The LWVEF will not require candidates to be qualified on the requisite number of ballots at the time it needs to issue invitations to debate. This is because the law in some states permits candidates to qualify to be on the ballot after the time that the LWVEF will need to make its decisions. The LWVEF will not require candidates to meet a more onerous ballot access criterion than that required by the states themselves; what the LWVEF seeks to ascertain by this criterion is whether a presidential candidate has a possibility of winning a general election in November.

III. DEMONSTRATED SIGNIFICANT VOTER INTEREST AND SUPPORT CRITERION

The LWVEF will also require that non-major party Presidential candidates have significant voter interest and support. For all debates but its debate between the two major party nominees, the LWVEF, exercising its "good faith editorial judgment," will decide whether any non-major party candidates satisfy the standard of having demonstrated significant voter interest and support.

In assessing the significance of a candidacy, the LWVEF will consider a number of factors including the following:

a) Active campaigning in a number of states for the presidency. Candidates who have established an active campaign presence in a number of states nationwide may pose a significant national candidacy for the general election. A candidate's efforts to be named on ballots, his or her fundraising activities, the extent of the candidate's campaign organization, the amount and scope of his or her campaign appearances as well as other factors evidencing substantial national campaign activity may be considered.

b) Substantial recognition by the national media that a candidate merits serious national media attention. Since coverage of candidates by major electronic and print media tends to evidence a recognition of

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substantial voter interest in a candidate and serves independently to foster such interest. This criterion is an appropriate consideration in determining the significance of particular candidates in the national campaign.

2. Such other factors that in the LWVEF's good faith judgment may provide substantive evidence of nationwide voter interest in a candidate, such as national voter poll results.

END NOTES

1 There is ample justification for treating the candidates of major parties differently from non-major party candidates. Major party nominees already have demonstrated voter interest and support by virtue of their nomination. Non-major party candidates, however, have not met any similar test. It is therefore necessary for the LWVEF to ascertain whether non-major political party presidential candidates have the support of a significant portion of the electorate in addition to their being eligible for office and theoretically capable of winning the election.

2 The LWVEF will not invite any such person to participate in the vice presidential debate if he or she is not eligible for the office of president under Article II, Section I of the U.S. Constitution.

3 This phrase was used by former U.S. Representative Frank Thompson, then Chairman of the House Committee on Administration, in a 1980 letter to the Federal Election Commission (Congressional Record H1822, 3/12/80) in response to the Commission's decision in the Nashua Telegraph case, involving candidate selection criteria.

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

J

Stephen A. KOCZAK
2923 Macomb Street, N.W.
Washington, D.C. 20008

Re: MUR 1617

3C

Dear Mr. Koczak:

The Federal Election Commission has reviewed the allegations of your complaint dated January 17, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles M. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

98043665505

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
House Democratic Caucus, et. al.) MUR 1617

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 14, 1984, the Commission decided by a vote of 6-0 to take the following actions in MUR 1617:

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.
2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.
3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.
4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.
5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.
6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.
7. Find no reason to believe Askev for President Committee violated the Federal Election Campaign Act of 1971, as amended.

(Continued)

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8. Find no reason to believe Hollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.
9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.
10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.
11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.
12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.
13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.
14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.
15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.
16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.
17. Close the file.

(Continued)

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Certification
MUR 1617
General Counsel's Report
Signed May 9, 1984

- 18. Approve the letters as attached to the General Counsel's Report signed May 9, 1984.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

May 15 1984

Date

Judy C. Finson

for Marjorie W. Emmons
Secretary of the Commission

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Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

5-10-84, 16:40
5-10-84, 4:00

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

REC-10
MAY 10 1984

In the Matter of

84 MAY 10 A10: 40

House Democratic Caucus,)
 Corporation for Public Broadcasting,)
 Public Broadcasting Service, University)
 of New Hampshire Public Television,)
 WGBH Educational Foundation, Program)
 Fund-Corporation for Public Broad-)
 casting, Dartmouth College, Ted Koppel,)
 Phil Donahue, Nelson A. Rockefeller)
 Center for the Social Sciences, Askew)
 for President Committee, Hollings for)
 President, Inc., Americans With Hart,)
 John Glenn Presidential Committee, Inc.,)
 Jesse Jackson for President,)
 Mondale for President Committee, Inc,)
 McGovern for President Committee, Inc.,)
 and Cranston for President Committee,)
 Inc.)

MUR 1617

GENERAL COUNSEL'S REPORT

I. BACKGROUND/PREVIOUS COMMISSION ACTION

This matter was generated by a complaint filed by Stephen A. Koczak (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"):

House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askew for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

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Due to the granting of extensions of time to Respondents, a First General Counsel Report without recommendation was circulated to the Commission on March 5, 1984. Responses have been received from all the Respondents except Cranston for President Committee, Inc. (See Attachment 1, pages 1-77 of the attachments).

II. FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the January 15, 1984, New Hampshire Dartmouth College Debate.

The complaint is not specific as to what violations of the Act have occurred. However, Complainant appears to allege that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which state that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other (11 C.F.R. § 118.13(b)(2)).

Therefore, Complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, Complainant contends that: a) the stager and any sponsor or producer of the debate made illegal in-kind or corporate contributions to the

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eight candidates; b) the candidates have accepted illegal in-kind or corporate contributions; c) the House Democratic Caucus must register and report as a political committee; and d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign. Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

In general, the question before the Commission is whether Respondents have violated the Act by staging, funding, sponsoring, covering and or participating in the Dartmouth College Debate.

a. NonPartisanship under 11 C.F.R. § 110.13/Dartmouth College

Dartmouth College (hereinafter "Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences^{1/} staged and provided the facilities for the January 15, 1984, debate in New Hampshire.

Under 11 C.F.R. § 110.13(a)(1) a nonprofit educational and charitable organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3), and does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b) and § 114.4(e).

^{1/} According to Dartmouth College, the Nelson A. Rockefeller Center for Social Sciences has no status independent of Dartmouth and, thus, it should not have been named as a separate respondent in Mr. Koczak's complaint.

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According to the response of Dartmouth, it is a non-profit tax exempt organization under 501(c)(3) of the Internal Revenue code which does not endorse, support or oppose candidates for elective office or political parties (See Attachment 1, pages 2 and 4 of the attachments). Therefore, Dartmouth was a proper staging organization for the event.

Dartmouth states that its purpose in sponsoring the debate "was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process (See Attachment 1, page 2 of the attachments). Dartmouth, in consultation with the House Democratic Caucus, determined "that only those Presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate" (See Attachment 1, page 3 of the attachments). Due to the time constraints of the January 15, 1984, debate, Dartmouth decided to limit the debate to candidates the public viewed as truly significant candidates.^{2/}

Dartmouth College argues that nonpartisan and objective criteria were developed and applied to determine which

^{2/} According to Dartmouth, there were 22 candidates on the ballot in New Hampshire for the Democratic nomination. Dartmouth also states, "that traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a \$1,000 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some empirical evidence of voter support, e.g. signed petitions" (See Attachment 1, page 3 of the attachments).

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candidates should be invited to the debate (See Attachment 1, page 2 of the attachments). Dartmouth and the Center state that the criteria used was modeled after the criteria used by the League of Women Voters' Education Fund (See Attachment 1, pages 2, 4, 6, and 7 of the attachments).

The basic tests used by Dartmouth for determining participation in the debate were:

- (1) Public announcement of the intention to seek the Democratic Party's presidential nomination;
- (2) Constitutional eligibility to hold the Office of President;
- (3) A significant candidacy as evidenced by
 - (a) eligibility for federal matching funds,
 - (b) active campaigning in several states,
 - (c) recognition by the national media as a national candidate, and
 - (d) other factors including public opinion polls and broad based fundraising efforts.

(See Attachment 1, page 4 of the attachments).

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Dartmouth, in applying these criteria, noted that the Complainant was qualified to appear on the ballot in only one state, New Hampshire. Complainant had made no submission to qualify for matching funds. Additionally, Complainant appeared to lack other elements that would evidence a significant national campaign. He was not actively campaigning in several states, was not recognized as a national candidate, and had not scored on public opinion polls. Based on the foregoing, Dartmouth determined that "Mr. Koczak simply did not pass muster under these criteria" (See Attachment 1, page 2 of the attachments).

11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

Dartmouth College has complied with the Commission regulations. First, it appears that the Complainant did not meet the threshold requirements of candidacy under the Act. The 1979 amendments to the Act that became effective January 8, 1980,

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added new criteria to the determination of candidacy. Now the threshold requirement for candidate status is the receiving of contributions or the making of expenditures that in either case aggregate over \$5,000. 2 U.S.C. § 431(2). Once an individual becomes a candidate he has 15 days to designate in writing a principal campaign committee by filing a statement of candidacy (FEC Form 2). 2 U.S.C. § 432(e). All political committees must register (Statement of Organization, FEC Form 1) and report under the Act. 2 U.S.C. § 433 and § 434.

On December 13, 1983, Complainant filed a statement of candidacy designating the Koczak for President Committee as his principal campaign committee. This committee, if it exists, has not registered or filed reports as required by 2 U.S.C. § 433 and § 434. Therefore, it appears that the \$5,000 threshold for candidacy was never reached by the Complainant.

Second, Dartmouth adopted criteria which were used in inviting candidates to participate in the debate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. Koczak's candidacy did not meet the standards when evaluated by Dartmouth. Dartmouth's evaluation was reasonable and fair.

In conclusion, Mr. Koczak does not appear to be a candidate for purposes of the Act and did not meet the criteria employed by Dartmouth College. Therefore, the exclusion of Mr. Koczak from the Democratic presidential debate in New Hampshire on

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January 15, 1984, does not violate 11 C.F.R. § 110.13(b). Consequently, Dartmouth has not made illegal corporate contributions or expenditures.

b. House Democratic Caucus

Complainant alleges that the House Democratic Caucus is a political committee and that it failed to register and report as required by the Act.

According to the response of the House Democratic Caucus it is an official entity within the House of Representatives.^{3/} The role of the House Democratic Caucus as a consultant was to encourage participation in the Debate (See Attachment 1, page 52 of the attachments). Dartmouth College, not the House Democratic Caucus, paid for the costs incurred in staging the debate. The debate was in compliance with the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Accordingly, the House Democratic Caucus was not required to register and to report as a political committee.

c. Broadcasters/Media Entities

Complainant alleges that the broadcasters of the debate made illegal corporate contributions. The broadcast entities involved were the Corporation for Public Broadcasting, Public Broadcasting Service, The University of New Hampshire - Public Television and WGBH Educational Foundation.

^{3/} From this, the House Democratic Caucus argues that it is statutorily excluded from being a political committee since the federal government is specifically excluded from the definition of "person" under the Act (See Attachment 1, pages 8-10 of the attachments). However, it is not necessary to reach this question since the debate was paid for by Dartmouth College and staged in compliance with 11 C.F.R. § 110.13(b).

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The above mentioned broadcasters did not have any control over the structure of the debate, e.g. choice of moderators, format, and candidate participants (See Attachment 1, pages 39, 41, and 48 of the attachments). The only involvement of these media entities were as co-producers of the public television coverage of the debate (See Attachment 1, pages 37-49 of the attachments).

2 U.S.C. § 431(9)(B)(i) creates an exclusion for "any news story, commentary or editorial distributed through the facilities of any broadcasting station ... unless such facilities are owned or controlled by any political party, political committee, or candidate" 11 C.F.R. § 110.7(b)(2) and 11 C.F.R. § 100.8(b)(2). Moreover, the Explanation and Justification of the debate regulations emphasizes the right of broadcasters stating:

Nothing in this section limits the right of broadcasters ... to cover or broadcast debates staged by other entities. That activity is specifically exempted from the provisions of the Act

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The media entities argue that the New Hampshire debate was a bona fide news story within the meaning of this exemption (See Attachment 1, pages 38, 39, 41-42, 44, and 49 of the attachments). A large number of the press attended the debate, and it received live television and radio coverage, as well as extensive commentary in the print media and in nightly newscasts (See Attachment 1, pages 41 of the attachments).

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Additionally, the actual location of the debate at Dartmouth and the broadcast of the debate through the facilities of PBS, were facilities that are neither owned nor controlled by any political party or candidate.

The Broadcasters fall squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(i). Therefore, their role of distributing and financing broadcast coverage of the debate was not an illegal corporate contribution.

d. Candidates

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Complainant alleges that the illegal funds contributed to the candidates exceeded the spending limit permitted those candidates receiving matching funds. As discussed supra, the selection of candidates to participate in the debate complied with the requirements of nonpartisanship under 11 C.F.R. § 110.13 (See also, Attachment 1, pages 50-68 of the attachments). Therefore, no illegal in-kind or corporate contribution has been accepted by the candidates. Consequently, the funds involved would not be chargeable to the amount that the candidate may legally expend on a primary election campaign.

e. Commentators

As noted by the responses of Ted Koppel and Phil Donahue no specific allegations are made against them. The only reference to them in the complaint are in the enumeration of the Respondents and the statement in the complaint requesting the Commission "[t]o obtain from Mr. Ted Koppel and from Mr. Phil Donohue statements as to costs, contracts, undertakings

and agreements reached with any of the parties named in the complaint" (See Attachment 1, pages 69-77 of the attachments).

Mr. Ted Koppel's and Mr. Phil Donohue's roles as commentators of the New Hampshire Debate did not violate any provision of the Act.

RECOMMENDATION

1. Find no reason to believe that Dartmouth College and Rockefeller Center for the Social Sciences violated the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe that the House Democratic Caucus violated the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe that Corporation for Public Broadcasting and the Program Fund violated the Federal Election Campaign Act of 1971, as amended.

4. Find no reason to believe the Public Broadcasting Service violated the Federal Election Campaign Act of 1971, as amended.

5. Find no reason to believe the University of New Hampshire Public Television violated the Federal Election Campaign Act of 1971, as amended.

6. Find no reason to believe that WGBH Educational Foundation violated the Federal Election Campaign Act of 1971, as amended.

7. Find no reason to believe Askew for President Committee violated the Federal Election Campaign Act of 1971, as amended.

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8. Find no reason to believe Rollings for President, Inc., violated the Federal Election Campaign Act of 1971, as amended.

9. Find no reason to believe Americans with Hart violated the Federal Election Campaign Act of 1971, as amended.

10. Find no reason to believe John Glenn Presidential Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

11. Find no reason to believe Jesse Jackson for President violated the Federal Election Campaign Act of 1971, as amended.

12. Find no reason to believe Mondale for President Committee, Inc. violated the Federal Election Campaign Act of 1971, as amended.

13. Find no reason to believe McGovern for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

14. Find no reason to believe Cranston for President Committee, Inc., violated the Federal Election Campaign Act of 1971, as amended.

15. Find no reason to believe Ted Koppel violated the Federal Election Campaign Act of 1971, as amended.

16. Find no reason to believe Phil Donahue violated the Federal Election Campaign Act of 1971, as amended.

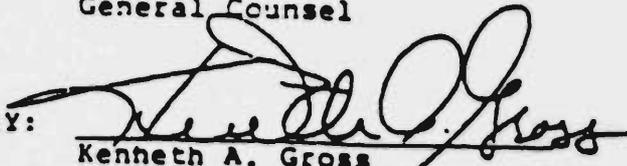
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- 17. Close the file.
- 18. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

BY: 
Kenneth A. Gross
Associate General Counsel

Attachments

- 1. Responses from Respondents (pages 1-77)
- 2. Letters to Respondents (pages 78-93)
- 3. Letter to Complainant (page 94)

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VERNER, LIFFERT, BERNHARD AND MCGUIRE

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MUR 1617
CROSS

452-7476

March 9, 1984

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

Re: MUR 1617

Dear Mr. Gross:

This letter constitutes the response of The Trustees of Dartmouth College ("Dartmouth") and the Nelson A. Rockefeller Center for the Social Sciences ("Center") to the complaint filed by Mr. Stephen A. Koczak ("Koczak") with the Federal Election Commission ("Commission") alleging violations by Dartmouth and the Center of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, Mr. Koczak's complaint appears to allege, inter alia, that Dartmouth and the Center violated the Act by failing to permit Koczak to participate in the debate between significant candidates for the Democratic Party's presidential nomination that was sponsored by Dartmouth on January 15, 1984.

As to the allegations regarding Dartmouth and the Center, Mr. Koczak's complaint is totally without merit. Accordingly, the Commission should take no action against Dartmouth or the Center and should dismiss the complaint as it pertains to each institution. Dartmouth's actions in sponsoring the January 15, 1984 debate were fully consistent with the Act, the Commission's specific regulations governing political debates and the Commission's decisions interpreting and enforcing those regulations. As the Commission's regulations and previous enforcement decisions make clear, an organization staging a political debate is not obligated to invite every single declared

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candidate for the elective office at issue so long as the criteria used to select the participants are both nonpartisan and objective. Rather, a staging organization may invite to its debate only those candidates that it determines are significant.

That is exactly what happened here. Nonpartisan and objective criteria, patterned after those used by the League of Women Voters' Education Fund, were employed to select the participants in the January 15 debate. Mr. Koczak simply did not pass muster under these criteria. Accordingly, there was no obligation to invite Mr. Koczak to participate in the debate. For these reasons, Mr. Koczak's allegations have no merit and should be dismissed.

As further support for this conclusion, Dartmouth submits the following:

1. Dartmouth is a private educational institution located in Hanover, New Hampshire. In addition to the four-year undergraduate college, other major academic centers at Dartmouth include the Dartmouth Medical School, the Thayer School of Engineering, the Amos Tuck School of Business Administration and the Rockefeller Center.

As a private educational institution, Dartmouth is an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. In addition, it has never been Dartmouth's policy or practice to support or oppose candidates for elective office or to support one political party over another.

2. In deciding to sponsor the January 15 Democratic Presidential Debate, Dartmouth's intention was to educate the public about campaign issues and the candidates' positions on those issues, and to stimulate increased voter interest and participation in the electoral process. In order to achieve this

1/ As an academic center within Dartmouth College, the Center has no status independent of Dartmouth and, thus, should not have been named as a separate respondent in Mr. Koczak's complaint.

objective, it was determined, in consultation with the Democratic Caucus of the House of Representatives ("Caucus")^{2/} that only those Democratic presidential candidates who had a possibility of winning the Democratic Party's presidential nomination and who had demonstrated a significant measure of nationwide voter support and interest should be invited to participate in the debate.

As experience with the political debate framework has shown, there is an inverse relationship between the number of participants, on the one hand, and the time available for the expression of views and the opportunity for effective interchange between or among the participants, on the other. Debates that are too lengthy or that include candidates for whom the public has little voting interest will not be effective.

3. Because of the limited amount of time available in the January 15 debate, it was decided that it was necessary to limit participation to candidates whom the public would regard as truly significant candidates. To do the opposite, i.e., invite all declared candidates for the Democratic presidential nomination would have been impossible. For example, in New Hampshire alone, there were 22 candidates on the ballot contesting for the Democratic presidential nomination.^{3/}

Therefore, nonpartisan and objective criteria were developed to determine which candidates should be invited to appear in the

2/ From the outset, Dartmouth, in its role as sponsor of the debate, worked closely with the Caucus. Dartmouth affirmatively sought the Caucus' active assistance and expertise to help manage and implement the complex tasks involved in staging a televised, multi-candidate debate.

3/ Traditionally, the New Hampshire Presidential Primary attracts a large number of marginal candidates since a person can get on that ballot simply by filing a declaration of candidacy and paying a \$1,000.00 fee. Many of these candidates subsequently are unable to gain access to other states' ballots because that usually requires some empirical evidence of voter support, e.g. signed petitions.

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debate. These criteria were modeled after the criteria employed on numerous occasions by the League of Women Voters' Education Fund. See Attachment A. The basic tests for determining participation in the January 15 debate were:

- (1) Public announcement of the intention to seek the Democratic Party's presidential nomination;
- (2) Constitutional eligibility to hold the Office of President;
- (3) A significant candidacy as evidenced by
 - (a) eligibility of federal matching funds,
 - (b) active campaigning in several states,
 - (c) recognition by the national media as a national candidate, and
 - (d) other factors including public opinion polls and broad based fundraising efforts.

Based on these criteria, it was determined that Mr. Koczak was not eligible to participate in the Dartmouth debate.

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4. In view of these facts, the allegations raised by Mr. Koczak against Dartmouth and the Center must be dismissed as groundless. Under the Commission's regulations, Dartmouth, as a nonpartisan and nonprofit organization exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, "may stage nonpartisan candidate debates in accordance with 11 C.F.R. § 110.13(b)." Section 110.13(b) states that "[t]he structure of debates...is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another."

4/ 11 C.F.R. § 110.13(a)(1).

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

8330-D
21-570
C2-137

In re Complaint of)
Stephen A. Koczak)
against)
University of New Hampshire)

Staff Ruling

Adopted: February 16, 1984 ; Released: February 16, 1984

By the Chief, Fairness/Political Programming Branch:

1. The Commission has before it a complaint, received on January 24, 1984, filed by Mr. Stephen A. Koczak, a Democratic candidate for the Office of President of the United States.

2. Koczak states that on January 15, 1984, New Hampshire Public Television 1/ aired a program he referred to as the "Dartmouth College Debate," which was a debate among eight Democratic presidential candidates. 2/ Koczak states that at the time the Dartmouth College Debate was aired he was a legally qualified candidate in New Hampshire 3/, and three days after the debate was aired, he requested "equal opportunities," pursuant to 47 U.S.C. 315(a), based on the appearance of his eight opponents on that program. He states that the licensee denied his request on the basis that the subject program was a "bona fide news event."

3. Koczak alleges "that New Hampshire Public Television, licensed to telecast noncommercial broadcasts, had relinquished control over the debate because it was in fact a partisan broadcast which should have been telecast commercially." He states that the debate was actually organized by a partisan political body, the National House Democratic Caucus, which had arbitrarily excluded other Democratic candidates from the debate. Furthermore, he alleges

1/ Commission records indicate that the University of New Hampshire is the licensee of five New Hampshire noncommercial television stations, which are WEDS-TV, Berlin, WENH-TV, Durham, WLEB-TV, Hanover, WENH-TV, Keene, and WLEB-TV, Littleton.

2/ The Democratic candidates who appeared on the program were Reubin Askew, Ernest Hollings, Alan Cranston, Jessie Jackson, John Glenn, George McGovern, Gary Hart, and Walter Mondale.

3/ In this connection, Mr. Koczak has enclosed a copy of his "Declaration of Candidacy" filed with the Secretary of State in New Hampshire.

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that "the broadcast was tainted by the illegal use and misappropriation of Federal government funds by the National House Democratic Caucus, the Corporation for Public Broadcasting . . . and the Public Broadcasting Service." Therefore, Koczak alleges that this debate, which was organized by a partisan political body and funded with federal monies, could not be considered a "bona fide news event." 4/

Discussion

4. The Commission has ruled that a broadcaster-sponsored debate will fall within the § 315(a)(4) exemption as on-the-spot coverage of a bona fide news event. Henry Geller, FCC 2d (FCC 83-529, released November 16, 1983). Therefore, with respect to the allegation that New Hampshire Public Television had relinquished control over the subject debate, we find that control is an irrelevant consideration for purposes of a broadcaster determining whether a debate is a bona fide news program. The Geller decision served to broaden Section 315(a)(4) to include broadcaster-sponsored debates, but it did not remove third-party sponsored debates from the scope of the exemption.

5. With regard to Koczak's allegation that the debate was "tainted" by the use of federal funds, such matters are beyond the scope of the Commission's statutory jurisdiction. Koczak has presented no information which would indicate New Hampshire Public Television was unreasonable in concluding that the subject debate was a newsworthy event.

6. Therefore, the complaint IS DENIED.

7. Staff action is taken under delegated authority. Application for Review by the full Commission may be requested within thirty days of the date of public notice of this document (see Commission Rule 1.4(b) [47 C.F.R. § 1.4(b)]) by writing the Secretary, Federal Communications Commission, Washington, D.C. 20534, stating the factors warranting consideration and, if

4/ By letter received February 7, 1984, Koczak amended his complaint to make the same allegations against WGBH Educational Foundation (WEF). Commission records indicate that WEF is the licensee of the following noncommercial broadcast stations, which have been included in this proceeding: WGBH-TV, WGBX-TV, and WGBH-FM, all in Boston, Massachusetts, and WGBY-TV, Springfield, Massachusetts.

Because the service areas of these stations allegedly extend into New Hampshire, where the debate was held and Koczak is legally qualified, he includes them as part of his complaint. He states that he made an "equal opportunities" request of WEF within seven days of the debate, but he has received no response to date. Due to our ruling herein, it is unnecessary for the Commission to determine which service areas of these noncommercial Massachusetts stations extend into New Hampshire, and if any do, whether such coverage is sufficient to warrant Section 315 obligations.

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ailed, should be sent by certified mail. Copies must be sent to the parties to the complaint. See Commission Rule 1.115 (47 C.F.R. § 1.115).

FEDERAL COMMUNICATIONS COMMISSION

Milton O. Gross, Chief,
Fairness/Political Programming Branch
Enforcement Division
Mass Media Bureau

cc: University of New Hampshire
UNH Educational Foundation
Council

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FEDERAL ELECTION COMMISSION
1325 K Street, NW
Washington, D.C. 20463

COMMUNICATIONS SECTION
84 MAR 6 A10:00

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION:

3/6/84
10:00

MFR 1517
DATE COMPLAINT REC'D BY OGC

1-18-84

DATE OF NOTIFICATION TO

RESPONDENT 1-25-84

STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Stephen A. Koczak

RESPONDENTS' NAMES: House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askev for President Committee, Hollings for President, Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc, McGovern for President Committee, Inc., and Cranston for President Committee, Inc.

RELEVANT STATUTE: 2 U.S.C. §§ 431(4)(8) & (9), 433, 434; 11 C.F.R. §§ 110.13, 114.4(e) and 26 U.S.C. § 9033

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On January 18, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (Attachment 1) from Stephen A. Koczak alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the following parties (hereinafter "Respondents"): House Democratic Caucus, Corporation for Public Broadcasting, Public Broadcasting

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Service, University of New Hampshire Public Television, WGBH Educational Foundation, Program Fund-Corporation for Public Broadcasting, Dartmouth College, Ted Koppel, Phil Donahue, Nelson A. Rockefeller Center for the Social Sciences, Askev for President Committee, Hollings for President Inc., Americans With Hart, John Glenn Presidential Committee, Inc., Jesse Jackson for President, Mondale for President Committee, Inc. and McGovern for President Committee, Inc.

Complainant alleges that because he was excluded as a participant, the Dartmouth College Debate was a partisan event. Complainant contends that his exclusion constitutes a violation of Commission regulations which states that candidate debates should be nonpartisan in that they must not promote or advance one candidate over the other. 11 C.F.R. § 110.13(b). Therefore, complainant concludes that the Dartmouth College Debate was illegal under the Act. Consequently, complainant contends that:

- a) the sponsors and producers of the debate have made illegal in-kind or corporate contributions to the eight candidates;
- b) the candidates have accepted illegal in-kind or corporate contributions;
- c) the House Democratic Caucus must register and report as a political committee;
- d) those receiving matching funds have exceeded the amount that they may legally expend on a primary election campaign.

Complainant also requests an accounting of all money spent to produce the Dartmouth College Debate.

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Complainant filed a amendment and supplement to the complaint on January 24, 1984. (Attachment 2) Responses to the complaint and amendment were due on March 1, 1984. However, Dartmouth College, the Nelson A. Rockefeller Center for the Social Sciences, the Mondale for President Committee and the House Democratic Caucus have asked for and have been granted an extension of time to answer the notification of complaint. The due date of their responses is March 9, 1984.

FACTUAL AND LEGAL ANALYSIS

Complainant is running for the Office of President of the United States and has filed with the Federal Election Commission. Complainant has also filed with the Secretary of State in New Hampshire for the Presidential Primary which was held on February 28, 1984. Complainant was not invited to participate in the New Hampshire Dartmouth College Debate.

The question before the Commission is whether the Respondents have violated the Act by funding, sponsoring or participating in the New Hampshire debates. As soon as the Respondents have submitted their responses, a report will be circulated to the Commission for its consideration.

Charles W. Steele
General Counsel

March 5, 1984
Date

BY: 
Kenneth A. Gross
Associate General Counsel

Attachments

- 1. Complaint
- 2. Amendment and Supplement to the complaint

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

May 25, 1984

Brooksley Born
Arnold & Porter
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036

RE: MUR 1659
League of Women Voters
Education Fund

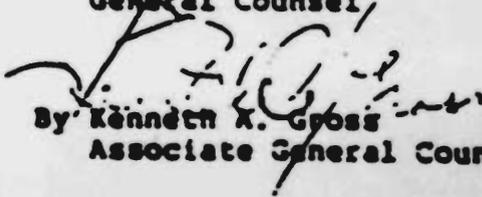
Dear Ms. Born:

On April 3, 1984, the Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 22, 1984, determined that on the basis of the information in the complaint, and information provided by your client, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth X. Gross
Associate General Counsel

Enclosure
First General Counsel's Report

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CONFIDENTIAL

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED
MAY 10 1984

FIRST GENERAL COUNSEL'S REPORT DATE: 4/10/84

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: 5/10/84 - 10:40
FORM 1659
DATE COMPLAINT RECEIVED BY OGC: 4-2-84
DATE OF NOTIFICATION TO RESPONDENT: 4-3-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: The LaRouche Campaign
RESPONDENT'S NAME: League of Women Voters Education Fund
RELEVANT STATUTE: 2 U.S.C. § 441b, 11 C.F.R. § 110.13 and 11 C.F.R. § 114.6(e)
INTERNAL REPORTS CHECKED: RULES 1207, 1167, 1168 and 1170
FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On April 2, 1984, the Office of General Counsel received a signed, sworn and notarized complaint (See Attachment 1, pages 1-5 of the attachments) from the LaRouche Campaign committee (hereinafter "Complainant") alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act"), by the League of Women Voters Education Fund (hereinafter "LWVFP").

Specifically, Complainant alleges that Lyndon H. LaRouche, Jr. was excluded from a debate sponsored by Respondent. Complainant alleges that the exclusion of Mr. LaRouche violates the requirements of nonpartisanship under 11 C.F.R. § 110.13(b). Therefore, Complainant contends that a violation of 2 U.S.C. § 441b has occurred.

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On April 18, 1984 LWVEF responded to the complaint (See Attachment 2, pages 6-142 of the attachments).

FACTUAL AND LEGAL ANALYSIS

A. Background

Mr. LaRouche is seeking the Democratic Party's nomination for President. Mr. LaRouche has filed with the Federal Election Commission. The Complainant, the LaRouche Campaign, is Mr. LaRouche's principal campaign committee.

On April 5, 1984, LWVEF sponsored a debate in Pittsburgh, Pennsylvania among three candidates for the Democratic Party's nomination for President. Mr. LaRouche was not invited to participate in the April 5, 1984, debate.

The Complainant, on behalf of Mr. LaRouche, alleges that LaRouche's exclusion from the April 5, 1984, debate "makes it a partisan enterprise which will 'promote or advance one candidate over another'" (See Attachment 1, pages 2 of the attachments). Therefore, Complainant contends that the sponsors of the April 5, 1984, debate have violated 2 U.S.C. § 441b and 11 C.F.R. § 110.13 (See also Attachment 1, page 2 of the attachments).

Complainant states that "Mr. LaRouche is a significant candidate for the Democratic presidential nomination as defined by the League's Selection Criteria" (See Attachment 1 page 1 of the attachments). In support of this assertion, Complainant states that Mr. LaRouche has raised over \$1 million dollars and has qualified for matching funds. Complainant believes that this fundraising capacity is comparable to the three candidates invited to the April 5, 1984 debate (See Attachment 1, page 1

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of the attachments). Complainant states that Mr. LaRouche is recognized by the national media as a significant candidate. Additionally, Complainant states that Mr. LaRouche is on the "primary ballot or scheduled to participate in state caucuses where approximately forty percent of the delegates to the Democratic National Convention are at stake" (See Attachment 1, page 2 of the attachments). Mr. LaRouche plans to actively campaign "in the large pivotal states of Pennsylvania, Texas, Ohio, New Jersey, and California" (See Attachment 1, page 2 of the attachments).

B. Staging Organization

11 C.F.R. § 110.13(a) limits the sponsorship of candidates debates to three types of groups. One of those groups is a non profit organization which is exempt from federal taxation under 26 U.S.C. § 501(c)(3) and which does not endorse, support or oppose political candidates or political parties.

According to LWVEF, it is a nonprofit, nonpartisan charitable trust established by the League of Women Voters in 1957. It is devoted exclusively to educational purposes. (See Attachment 2, page 9 of the attachments). Its specific educational purpose is to inform citizens "about public affairs and the democratic process." LWVEF states that it is exempt from federal taxation under § 501(c)(3) of the Internal Revenue Code. LWVEF indicates that in order to maintain its 501(c)(3) status, it may not participate in political campaigns or any partisan activity (See Attachment 1, page 9 of the attachments).

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Therefore, LWVEF was a proper staging organization for the April 5, 1984, debate. Complainant does not challenge LWVEF on this ground.

C. Selection Criteria

LWVEF in its response to the complaint recounts its historical role in conducting debates for Presidential candidates at the primary and general election level. LWVEF states that its goal in sponsoring Presidential primary debates this year "is to educate the nation's electorate about the issues in the 1984 campaign and to stimulate increased voter interest and participation in the electoral process" (See Attachment 2, pages 10-11 of the attachments). LWVEF determined to limit participation in the debates to "significant candidates whose participation would further these ends" (See Attachment 2, page 11 of the attachments).

According to LWVEF, Mr. LaRouche's request to participate in the April 5, 1984, debate was the second request made by Mr. LaRouche to participate in a LWVEF debate. In January, Mr. LaRouche had also requested to participate in the New Hampshire debate. (See Attachment 2, page 13 of the attachments). On each occasion LWVEF requested Mr. LaRouche to submit supporting materials evidencing a significant national candidacy. On each occasion, Mr. LaRouche submitted written information and documents (See Attachment 2, pages 7-8, pages 51-96, and 89-142 of the attachments).

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According to LWVEF each request by Mr. LaRouche received careful consideration. Based on the "material provided by LaRouche, as well as other information available to LWVEF" the Executive "Committee concluded unanimously that LaRouche was not a significant national candidate for the Democratic Party's nomination for President" (See Attachment 2, page 14 of the attachments).

The basic components of LWVEF's selection criteria are as follows:

- 1) Public announcement of intention to seek the Democratic Party's presidential nomination;
- 2) Legally qualified to hold the office of President;
- 3) A significant candidacy as evidenced by a number of factors
 - a) eligibility to receive federal matching funds
 - b) active campaigning in a number of states for the Democratic Party's nomination;
 - c) recognition by the national media as a candidate meriting media attention;
 - d) other factors providing substantive evidence of national voter interest in a candidate, such as national voter poll results (Attachment 2, pages 12, 49 and 50 of the attachments).

The Complainant does not assert that all candidates must be included in the debate sponsored by LWVEF. Nor does the Complainant challenge the selection criteria employed by LWVEF in

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determining which candidates to invite to the debate. Rather, the complainant alleges that LWVEF made a partisan decision when it applied the selection criteria and determined not to invite Mr. LaRouche.

LWVEF states that its decision not to invite Mr. LaRouche was an independent nonpartisan decision and was determined by applying the above listed criteria. First, LWVEF states Mr. LaRouche was not certified eligible to receive matching funds nor did he receive any matching funds prior to the April 5, 1984, debate. Although Mr. LaRouche states that he has qualified for matching funds, the Commission did not make a final determination of his eligibility to make receive matching funds until April 12, 1984.^{1/}

Second, LWVEF concluded that Mr. LaRouche did not have an active national campaign. LWVEF notes that Mr. LaRouche stated in his March 20, 1984, submission that he was on the ballot in nine states. However, LWVEF contends that the documentary evidence in this submission only confirmed that he was on the ballot in two states. Further, LWVEF states that the LaRouche submission failed to indicate the "size and extent of his national campaign organization" (See Attachment 2, page 25 of the attachments). LWVEF states that materials submitted by LaRouche to evidence a national campaign focused on the efforts of "LaRouche candidates" to be elected to local public office and

^{1/} Mr. LaRouche was certified eligible to receive 1984 matching funds after he finally satisfied conditions set by the Commission in late January.

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not on Mr. LaRouche's efforts to further his own Presidential candidacy (Attachment 2, page 25 of the attachments).

Third, LWVEF determined that Mr. LaRouche had not attracted serious media attention. LWVEF states that the information provided by LaRouche on coverage of his candidacy did not evidence national media recognition nor substantial voter interest. LWVEF indicates that broadcast coverage of Mr. LaRouche consisted primarily of paid appearances by Mr. LaRouche or appearances on the networks pursuant to FCC's "equal time" requirements under 47 C.F.R. § 73.1940 (See Attachment 2, page 26 of the attachments). LWVEF notes that most of the newspaper clippings were from local rather than national newspapers and that most of the reports did not stress the serious nature of his candidacy. (See Attachment 2, pages 26-27 of the attachments). Most of the newspaper clippings dealt with the fringe nature of LaRouche's candidacy and with his various problems with different entities including the FEC, NBC and the Treasury Department (See Attachment 2, page 27 of the attachments).

Fourth, LWVEF looked at major national opinion polls from January through March.^{2/} LWVEF states that none of the polls

^{2/} Among the polls consulted were the following: Year End ABC New Poll; CBS/New York Times Poll, January 1984; Gallop Poll, February 16, 1984; Lou Harris Survey, February 20, 1984; National Public Radio/Harris Poll, February 28, 1984; Harris Survey, March 5, 1984; Gallop Poll, March 7, 1984; and New York Times Poll, March 27, 1984.

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inquired about Mr. LaRouche or reflected any voter interest in his candidacy. LWVEF indicates "that LaRouche's inability to impress major national polls takers sufficiently to inquire about him demonstrates the low level of voter interest in his candidacy" (See Attachment 2, page 28 of the attachments).

Fifth, LWVEF states that other factors also indicated the marginal nature of the LaRouche candidacy. LWVEF states that LaRouche has participated in only one primary (Pennsylvania). LWVEF also states that Mr. LaRouche won only .05 percent of the popular vote in 1976 and he won only one percent of the total votes cast in the 1980 Democratic primaries (See Attachment 2, page 30 of the attachments). Additionally, LWVEF notes that Mr. LaRouche has not qualified for secret service protection. Secret service protection is given to all presidential candidates determined by an advisory committee to be major candidates.

11 C.F.R. § 110.13(b) defines the parameters of candidate debates stating:

the structure of debates staged in accordance with 11 C.F.R. § 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another. emphasis added.

The Explanation and Justification in prescribing 11 C.F.R. § 110.13(b) states that although the precise structure of the candidate debate is left to the discretion of the staging

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organization: "such debates must, however, be nonpartisan in nature and they must provide fair and impartial treatment of candidates. The primary question in determining nonpartisanship is the selection of candidates to participate in such debates." 44 Fed. Reg. 76,735 (1979).

Although, no specific requirements are listed for the selection of candidates to participate in a debate, the Explanation and Justification implies that fair and reasonable criteria must exist in order to be applied in the selection of candidates for a debate. In promulgating the debate regulations, the Commission recognized that "[a] nonpartisan candidate debate ... provides a forum for significant candidates to communicate their views to the public." 44 Fed. Reg. 76,734 (1979).

LWVEF has complied with the Commission regulations. It adopted criteria which were used in inviting candidates to participate in the debate. The criteria were fair and impartial and were aimed at selecting those individuals who had significant candidacies. Mr. LaRouche's candidacy did not meet the standards when evaluated by the LWVEF. LWVEF's evaluation was reasonable and fair.

Therefore, the Office of General Counsel recommends that the Commission find no reason to believe the League of Women Voters violated 2 U.S.C. § 441b and 11 C.F.R. § 110.13.

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RECOMMENDATION

1. Find no reason to believe the League of Women Voters violated the Federal Election Campaign Act, as amended.
2. Approve attached letters.

Charles N. Steele
General Counsel

May 9, 1984
Date

Kenneth A. Gross
By: Kenneth A. Gross
Associate General Counsel

Attachment

1. Complaint (pages 1-5)
2. Response of Respondent (pages 6-142)
3. Letters to Respondent (page 143)
4. Letter to Complainant (page 144)

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

24 MAY 17 09:43

SENSITIVE

MEMORANDUM TO: The Commission
FROM: Charles N. Steele
General Counsel
Kenneth A. Gross
Associate General Counsel *KAG*
SUBJECT: Addendum MUR 1659; First General Counsel's
Report

Please add a recommendation to close the file in MUR 1659, which is dated May 9, 1984, and scheduled for Commission discussion on May 22, 1984. All the other recommendations remain the same.

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11 CFR 110.13 PUBLISHED AT 57 FED. REG. 33561, JULY 29, 1992
FEDERAL ELECTION COMMISSION NOTICE OF PROPOSED RULE MAKING
FULL TEXT

§ 110.13 Candidate debates.

(a) Staging organizations.

(1) A nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3) or (c)(4) and which does not endorse, support or oppose political candidates or political parties may stage candidate debates in accordance with 11 CFR 110.13(b) and 114.4(f).

(2) Broadcasters, bona fide newspapers, magazines and other periodical publications may stage candidate debates in accordance with 11 CFR 110.13(b) and 114.4(f).

(b) Debate structure.-- the structure of debates staged in accordance with 11 CFR 110.12 and 114.4(f) is left to the discretion of the staging organization, provided that:

(1) Such debates include at least two candidates;

(2) No candidate is favored through the structure of the candidate debate, such as [b]y designing the debate to provide one or more candidates with more time than other participating candidates, or by providing one candidate with more advance information regarding the topics to be addressed or the specific questions to be asked;

(3) No communication made by the staging organization during the debate expressly advocates the election or defeat of any clearly identified candidate, clearly identified group of candidates, or candidates of any clearly identified political party. Communications made at other times by staging organizations that are broadcasters, bona fide newspapers, magazines and periodical publications shall be governed by 11 CFR 100.7(b)(2) and 100.8(b)(2).

(4) Contact with the candidate, the candidate's agents and the candidate's authorized committee(s) shall be limited to communications reasonably necessary to staging the debate, such as discussions of the structure, format and timing of the debate, and discussion of the candidates' positions on issues, but shall not include discussion of campaign strategy or tactics not necessary to staging the debate.

57 Fed. Reg. 33561 (July 29, 1992).

11 CFR 110.13 PUBLISHED AT 60 FED. REG. 64273, DECEMBER 14, 1995
FEDERAL ELECTION COMMISSION NOTICE OF FINAL RULE
FULL TEXT

§ 110.13 Candidate debates.

(a) Staging organizations.

(1) Nonprofit organizations described in 26 U.S.C. 501(c)(3) or (c)(4) and which do not endorse, support or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 CFR 114.4(f).

(2) Broadcasters, bona fide newspapers, magazines and other periodical publications may stage candidate debates in accordance with this section and 11 CFR 114.4(f).

(b) Debate structure. The structure of debates staged in accordance with this section and 11 CFR 114.4(f) is left to the discretion of the staging organization(s), provided that:

(1) Such debates include at least two candidates; and

(2) The staging organization(s) does not structure the debates to promote or advance one candidate over another.

(c) Criteria for candidate selection. For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate. For debates held prior to a primary election, caucus or convention, staging organizations may restrict candidate participation to candidates seeking the nomination of one party, and need not stage a debate for candidates seeking the nomination of any other political party or independent candidates.

60 Fed. Reg. 64273 (December 14, 1995).

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RECEIVED
FEDERAL ELECTION
COMMISSION MAIL ROOM

Nov 27 3 00 PM '96

November 27, 1996

Colleen T. Sealander, Esq.
Central Enforcement Docket
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20436

RE: MUR 4473

Dear Ms. Sealander:

This letter responds to your September 22, 1996 and October 22, 1996 letters in the above-referenced MUR regarding a complaint by Perot '96, Inc. against the Commission on Presidential Debates ("CPD"). The complaint first claims that the CPD's nonpartisan candidate selection criteria, which requires candidates to have a "realistic chance" of winning to participate in the 1996 CPD-sponsored presidential and vice presidential debates, violate 11 CFR § 110.13(c) because the criteria allegedly are not objective. Second, the complaint contends that because Ross Perot and Pat Choate failed to satisfy the nonpartisan selection criteria, the CPD "support[ed]" the Republican and Democratic nominees and "oppose[d]" Ross Perot in violation of 11 CFR § 110.13(a). Based on these claimed violations of the Federal Election Commission's ("FEC") debate regulations, the complaint infers that expenditures by the CPD should be viewed as corporate contributions to the Republican and Democratic presidential campaigns in violation of 2 U.S.C. § 441b.

The allegations in the complaint that the CPD's expenditures on debate preparations should be attributed to Dole/Kemp '96 are misplaced. The CPD made its selections on September 17, 1996. Perot '96, Inc. immediately filed a complaint with the FEC, and Ross Perot and John Hagelin both filed complaints in federal district court seeking a preliminary injunction based on the same allegations discussed above, among others. The Perot and Hagelin complaints were dismissed by the United States District of Columbia and the dismissal was affirmed by the United States Court of Appeals for the District of Columbia Circuit before the first presidential debate was held. U.S. Court of Appeals for the District of Columbia Circuit (96-5287 and 96-5288); U.S. District Court for the District of Columbia (96-2196 and 96-2132). Neither the Federal courts nor the FEC took any action before the 1996 presidential and vice presidential debates that indicated the CPD's selections violated Federal election law in any way. Thus, Dole/Kemp '96 reasonably relied on the CPD's public statements that its selection criteria were objective, fair, and complied with Federal law.

Although Dole/Kemp '96 has no independent knowledge of the CPD's selection process, the CPD's inquiry into which candidates have a "realistic chance" of winning the general election appears to be rigorous and objective. The CPD's published "Candidate Selection Criteria for

Nov 29 10 23 AM '96

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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Colleen T. Sealander, Esq.

November 27, 1996

Page 2

1996 General Election Debate Participation," which are attached to the complaint as exhibit E, define "realistic chance" of winning by reference to four factors that indicate evidence of national organization, five factors that constitute signs of national newsworthiness and competitiveness, and two factors that indicate national public enthusiasm or concern. The selection criteria also require the CPD's independent advisory committee to consider the advice of nonpartisan professionals and federal election experts as to whether proposed participants have anything more than a theoretical chance of winning. The independent advisory committee found, and the CPD unanimously agreed, that based on application of the published criteria only President Clinton and Senator Dole had a "realistic chance" of winning the 1996 general election.

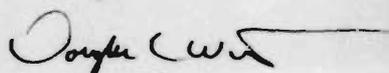
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The CPD's application of objective criteria in its candidate selections demonstrates that it does not support or oppose any candidate in violation of FEC regulations. History also bears out the CPD's nonpartisanship. In 1992, Ross Perot had dropped out of the presidential race and reentered just before debate selections were made. Nevertheless, the CPD's independent advisory committee concluded -- based on public polls before Mr. Perot's withdrawal and on Mr. Perot's access to campaign funding -- that Mr. Perot's prospects for winning were "unlikely but not unrealistic." See September 17, 1996 Richard E. Neustadt Letter for the Advisory Committee on Candidate Selection, attached to the complaint as exhibit H. The CPD invited Mr. Perot and his running mate to participate in the 1992 presidential and vice presidential debates in reliance on this conclusion, despite the strong likelihood that they would not win the general election. The nonpartisan nature of the CPD cannot be questioned four years later merely because Mr. Perot failed to meet the same objective criteria for inclusion in the 1996 presidential debates.

Finally, even if the FEC were to find that the CPD violated the debate regulations, this finding would not compel a conclusion that the CPD violated 2 U.S.C. § 441b. The CPD used the same selection criteria in 1992 that were used in 1996, and the CPD has been recognized as a nonpartisan sponsor of presidential debates since 1988. Any finding that the composition of the CPD or its application of the selection criteria violates the Federal Election Campaign Act, as amended, would require thorough consideration of the CPD's constitutional rights and any indications of legislative intent regarding sponsorship of presidential debates.

For the reasons discussed above, the FEC should find no reason to believe Dole/Kemp '96 violated any Federal law by participating in the 1996 presidential and vice presidential debates. Please advise me of any further information you may need.

Sincerely,



Douglas C. Wurth
General Counsel

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Nov 10 3 27 PM '97

NR 4473

NAME OF COUNSEL: Joseph E Sandler - General Counsel

ADDRESS: Neil Reiff - Deputy Counsel

430 S Capitol SE

Washington DC 20003

TELEPHONE: 202-863-8000

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

11-4-97
Date

Carol Pawley
Signature DNC/DNC Services
Treasurer

RESPONDENT'S NAME: Democratic National Committee/DNC Services

ADDRESS: 430 S Capitol SE

Washington DC 20003

HOME PHONE: _____

BUSINESS PHONE: 202-863-8000

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL

STATEMENT OF DESIGNATION OF COUNSEL

Nov 12 8 55 AM '97

NR 4473

NAME OF COUNSEL: KENNETH A. GROSS
ADDRESS: SKADDEN ARPS SLATE MEAGHER & FLOM

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005

TELEPHONE: (202) 371-7007

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.

Nov 10, 1997
Date


Signature

RESPONDENT'S NAME: DOLE/KEEP '96 Inc. (Blanket designation for all matters)

ADDRESS: 810 FIRST STREET, N.E.
WASHINGTON, D.C. 20002

HOME PHONE: _____

BUSINESS PHONE: _____

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FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 4451

DATE COMPLAINT FILED: September 6, 1996
DATE OF NOTIFICATION: September 13, 1996
DATE ACTIVATED: April 15, 1997

STAFF MEMBERS: J. Duane Pugh Jr.
Susan L. Kay

MUR 4473

DATE COMPLAINT FILED: September 20, 1996
DATE OF NOTIFICATION: September 26, 1996
DATE ACTIVATED: April 15, 1997

STAFF MEMBERS: J. Duane Pugh Jr.
Susan L. Kay

COMPLAINANTS:

MUR 4451

Dr. John Hagelin
Dr. Mike Tompkins
Natural Law Party

MUR 4473

PEROT '96, INC.

RESPONDENTS:

MUR 4451

ABC, Inc.
Clinton/Gore '96 General Committee, Inc., and Joan C.
Pollitt, as Treasurer
Commission on Presidential Debates
Dole/Kemp '96, Inc., and Robert E. Lighthizer, as
Treasurer
Fox Broadcasting Company
Public Broadcasting Service

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MUR 4473

Clinton/Gore '96 General Committee, Inc., and Joan C. Pollitt, as Treasurer
 Commission on Presidential Debates
 DNC Services Corporation/Democratic National Committee and Carol Pensky, as Treasurer
 Dole/Kemp '96, Inc., and Robert E. Lighthizer, as Treasurer
 Republican National Committee and Alec Poitevint, as Treasurer

**RELEVANT
 STATUTES/REGULATIONS:**

2 U.S.C. § 431(4), (8) and (9)
 2 U.S.C. § 433
 2 U.S.C. § 434
 2 U.S.C. § 441a(b)
 2 U.S.C. § 441b(a) and (b)(2)
 11 C.F.R. § 100.5
 11 C.F.R. § 100.7(a)(1), (a)(1)(iii)(A), (b)(2) and (b)(21)
 11 C.F.R. § 100.8(a)(1), (a)(1)(iv)(A), (b)(2) and (b)(23)
 11 C.F.R. § 102.1(d)
 11 C.F.R. § 104.1(a)
 11 C.F.R. § 110.8(g)
 11 C.F.R. § 110.13
 11 C.F.R. § 114.1(a)(1) and (a)(2)(x)
 11 C.F.R. § 114.2(b)
 11 C.F.R. § 114.4(f)
 11 C.F.R. § 114.10
 11 C.F.R. § 114.12(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

**FEDERAL AGENCIES
 CHECKED:** None

I. GENERATION OF MATTERS

These matters arise from two complaints filed with the Federal Election Commission (the "Commission"). The first complaint, MUR 4451, was submitted by the Natural Law Party and Drs. John Hagelin and Mike Tompkins, the Natural Law Party's candidates in the 1996 election for President and Vice President of the United States, respectively (collectively "NLP").

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The second complaint, MUR 4473, was submitted by PEROT '96, INC. ("Perot"), which is the authorized general election campaign committee of Mr. Ross Perot, who was the Reform Party's candidate for President in the 1996 election.¹

Both the NLP and Perot complaints challenge the criteria used by the Commission on Presidential Debates ("CPD") to select the candidates for President and Vice President to be invited to participate in debates sponsored by CPD, alleging that CPD's criteria do not comply with the standards for such criteria in 11 C.F.R. § 110.13(c). On this basis, the Perot complaint alleges that the debates constitute a corporate contribution to the participants' campaigns in violation of 2 U.S.C. § 441b and 11 C.F.R. § 114.2(b).² The Perot complaint further alleges that CPD is a political committee that has failed to register pursuant to 2 U.S.C. § 433(a) and 11 C.F.R. § 102.1(d). The NLP also challenges election-related television programming proposed by three television networks, alleging that the proposed programs would not qualify as news coverage or debate sponsorship and would therefore constitute prohibited corporate contributions.

In addition to CPD, the NLP names as respondents three television networks: ABC, Inc. ("ABC"), Fox Broadcasting Company ("Fox") and the Public Broadcasting Service ("PBS").

¹ The complainants were also among the parties to a lawsuit related to these debates, in which plaintiffs sought injunctive and declaratory relief. The U.S. District Court for the District of Columbia denied the requested injunctive relief and, deferring to the Commission's administrative enforcement procedure, granted summary judgment to the Commission. See *Hagelm v. FEC*, 1996 WL 546762 (D.D.C. Oct. 1, 1996), *aff'd sub nom. Perot v. FEC*, 97 F.3d 553 (D.C. Cir. 1996), *cert. denied*, 117 S.Ct. 1692 (1997). In the candidates' appeal, the court of appeals held that the proper procedure was to dismiss the actions on jurisdictional grounds without prejudice to the filing of a new suit that challenges the Commission's authority to promulgate 11 C.F.R. § 110.13. See *Perot*, at 557 and 561. In doing so, the court of appeals expressly noted that it did not address "the merits of appellants' other claims . . . that they were wrongfully excluded from the debates." See *id.*, at 555.

² Unlike the Perot complaint, the NLP complaint does not allege that the failures of CPD's debate participant selection criteria render the debates corporate in-kind contributions to the participants' campaigns. This analysis infers that NLP, like Perot, alleges that CPD's noncompliance renders the debates prohibited contributions to the campaigns. The respondents made similar assumptions.

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alleging that the television programming each of the networks proposed would constitute corporate contributions to participating candidates.

The Office of General Counsel notified additional entities fairly implicated in the allegations in the complaints. To the NLP complaint, this Office also sought a response from Clinton/Gore '96 General Committee, Inc., and Joan C. Pollitt, as its treasurer (collectively "Clinton/Gore"), and Dole/Kemp '96 and Robert E. Lighthizer, as its treasurer (collectively "Dole/Kemp"). To the Perot complaint, this Office also sought a response from the general election committees and their treasurers named above and from the DNC Services Corporation/Democratic National Committee and Carol Pensky, as its treasurer (collectively the "DNC"), and from the Republican National Committee and Alec Poitevint, as its treasurer (collectively the "RNC").³

All of the responses to the complaints that were sought have been received.

Attachments 1-10.

³ Several of the additional respondents noted objections to this Office's provision of an opportunity to respond when they were not named as respondents by the complainants. See Attachment 5, at 1; Attachment 7, at 1; and Attachment 8, at 1-2. The complainants' allegations implicate the additional respondents in the allegedly illegal conduct. This Office provided the respondents with an opportunity to respond in order to permit the respondents to be heard at the earliest feasible point and to provide the Commission with full information regarding the allegations. See 11 C.F.R. § 111.5(a).

Clinton/Gore responded to the complaint in MUR 4473 on October 11, 1996. Clinton/Gore responded to the complaint in MUR 4451 on March 4, 1997. In its response in MUR 4451, Clinton/Gore states that it is relying upon the response it submitted in connection with MUR 4473. Dole/Kemp responded to the complaint in MUR 4473 on November 27, 1996. Dole/Kemp responded to the complaint in MUR 4451 on February 18, 1997. With the exception of noting that the complaints were filed by different complainants and have different MUR numbers, both responses are otherwise identical.

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II. CPD'S DEBATE SELECTION CRITERIA

A. Legal Standard

Under the Federal Election Campaign Act of 1971, as amended ("FECA"), corporations are prohibited from making contributions⁴ or expenditures⁵ in connection with federal elections. 2 U.S.C. § 441b(a); *see also* 11 C.F.R. § 114.2(b).⁶ The Commission has promulgated a regulation that defines the term "contribution" to include: "A gift, subscription, loan . . . , advance or deposit of money or anything of value made . . . for the purpose of influencing any election for Federal office." 11 C.F.R. § 100.7(a)(1). *See also* 11 C.F.R. § 114.1(a). "Anything of value" is defined to include all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A). The regulatory definition of contribution also provides: "[u]nless specifically exempted under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge . . . is a contribution."

Id.

Section 100.7(b) of the Commission's regulations specifically exempts expenditures made for the purpose of staging debates from the definition of contribution. 11 C.F.R. § 100.7(b)(21). This exemption requires that such debates meet the requirements of 11 C.F.R. § 110.13,⁷ which establishes parameters within which staging organizations must conduct such

⁴ FECA defines contribution to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i); *see also* 2 U.S.C. § 441b(b)(2).

⁵ FECA defines expenditure to include "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i); *see also* 2 U.S.C. § 441b(b)(2).

⁶ The presidential candidates of the major parties who accept public funds cannot accept contributions from any source, except in limited circumstances that are not raised herein. 26 U.S.C. § 9003(b)(2); *see also* 11 C.F.R. § 9012.2(a).

⁷ The exemption also requires that such debates meet the requirements of 11 C.F.R. § 114.4, which permits certain nonprofit corporations to stage candidate debates and other corporations and labor organizations to donate funds to organizations that are staging such debates. 11 C.F.R. §§ 114.4(f)(1) and (3). This section also requires the debates to be staged in accordance with the standards in 11 C.F.R. § 110.13. *Id.*

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debates. The parameters address: (1) the types of organizations that may stage such debates, (2) the structure of debates, and (3) the criteria that debate staging organizations may use to select debate participants. With respect to participant selection criteria, 11 C.F.R. § 110.13(c) provides, in relevant part:

Criteria for candidate selection. For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.

11 C.F.R. § 110.13(c). When promulgating this regulation, the Commission explained its purpose and operation as follows:

Given that the rules permit corporate funding of candidate debates, it is appropriate that staging organizations use pre-established objective criteria to avoid the real or apparent potential for a quid pro quo, and to ensure the integrity and fairness of the process. The choice of which objective criteria to use is largely left to the discretion of the staging organization. . . .

. . . . Staging organizations must be able to show that their objective criteria were used to pick the participants, and that the criteria were not designed to result in the selection of certain pre-chosen participants. The objective criteria may be set to control the number of candidates participating in a debate if the staging organization believes there are too many candidates to conduct a meaningful debate.

Under the new rule, nomination by a particular political party, such as a major party, may not be the sole criterion used to bar a candidate from participating in a general election debate. But . . . nomination by a major party may be one of the criteria.

60 Fed. Reg. 64,262 (Dec. 14, 1995).

Thus, if an appropriate corporation staged a debate among candidates for federal office and that debate was staged in accordance with all of the requirements of 11 C.F.R. § 110.13, then the costs incurred by the sponsoring corporation would be exempt from the definition of contribution pursuant to the operation of 11 C.F.R. § 100.7(b)(21). *See also* 11 C.F.R.

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§§ 114.1(a)(2)(x) and 114.4(f)(1). Similarly, other corporations could legally provide funds to the sponsoring corporation to defray expenses incurred in staging the debate pursuant to the operation of 11 C.F.R. §§ 114.1(a)(2)(x) and 114.4(f)(3). Conversely, if a corporation staged a debate that was not in accordance with 11 C.F.R. § 110.13, then staging the debate would not be an activity "specifically permitted" by 11 C.F.R. § 100.7(b), but would constitute a contribution to any participating candidate under the Commission's regulations. See 11 C.F.R.

§ 100.7(a)(1)(iii)(A) (noting "unless specifically exempted" anything of value provided to the candidate constitutes a contribution). The participating candidates would be required to report receipt of the in-kind contribution as both a contribution and an expenditure pursuant to 11 C.F.R. § 104.13(a)(1) and (2). See 2 U.S.C. § 434(b)(2)(C) and (4).

B. CPD's Debate Participant Selection Criteria

CPD was incorporated in the District of Columbia on February 19, 1987, as a private, not-for-profit corporation to "organize, manage, produce, publicize and support debates for the candidates for President of the United States." See Attachment 4, at 45. Prior to the 1996 campaign, CPD sponsored six debates, five between candidates for President, and one between candidates for Vice President. In the 1996 campaign, CPD sponsored two Presidential debates and one Vice Presidential debate. Only the candidates of the Democratic and Republican parties were invited to participate in the debates. CPD produced written candidate selection criteria for the 1996 general election debate participation. The introduction to these criteria explains as follows:

In light of the large number of declared candidates in any given presidential election, [CPD] has determined that its voter education goal is best achieved by limiting debate participation to the next President and his or her principal rival(s).

A Democratic or Republican nominee has been elected to the Presidency for more than a century. Such historical prominence and sustained voter interest

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warrants the extension of an invitation to the respective nominees of the two major parties to participate in [CPD's] 1996 debates.

In order to further the educational purposes of its debates, [CPD] has developed nonpartisan criteria upon which it will base its decisions regarding selection of nonmajor party candidates to participate in its 1996 debates. The purpose of the criteria is to identify nonmajor party candidates, if any, who have a realistic (i.e., more than theoretical) chance of being elected the next President of the United States and who properly are considered to be among the principal rivals for the Presidency.

The criteria contemplate no quantitative threshold that triggers automatic inclusion in a [CPD]-sponsored debate. Rather, [CPD] will employ a multifaceted analysis of potential electoral success, including a review of (1) evidence of national organization, (2) signs of national newsworthiness and competitiveness, and (3) indicators of national enthusiasm or concern, to determine whether a candidate has a sufficient chance of election to warrant inclusion in one or more of its debates.

Attachment 4, at 57-58. Thus, CPD identified its objective of determining which candidates have a realistic chance of being elected the next President, and it specified three primary criteria for determining which "nonmajor" party candidates to invite to participate in its debates. CPD further enumerated specific factors under each of the three primary criteria that it would consider in reaching its conclusion.

For "evidence of national organization," CPD introduces the factors by explaining that the criterion "encompasses objective considerations pertaining to the eligibility requirements . . . [and] also encompasses more subjective indicators of a national campaign with a more than theoretical prospect of electoral success." *Id.* The factors to be considered include:

- a. Satisfaction of the eligibility requirements of Article II, Section 1 of the Constitution of the United States.
- b. Placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority.
- c. Organization in a majority of congressional districts in those states.

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d. Eligibility for matching funds from the Federal Election Commission or other demonstration of the ability to fund a national campaign, and endorsement by federal and state officeholders.

Id.

CPD's selection criteria note that the second criterion, "signs of national newsworthiness and competitiveness" focuses "both on the news coverage afforded the candidacy over time and the opinions of electoral experts, media and non-media, regarding the newsworthiness and competitiveness of the candidacy at the time [CPD] makes its invitation decisions." *Id.* Five factors are listed as examples of "signs of national newsworthiness and competitiveness":

- a. The professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks.
- b. The opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration.
- c. The opinions of representative political scientists specializing in electoral politics at major universities and research centers.
- d. Column inches on newspaper front pages and exposure on network telecasts in comparison with the major party candidates.
- e. Published views of prominent political commentators.

Id.

Finally, CPD's selection criteria state that the factors to be considered as "indicators of national public enthusiasm" are intended to assess public support for a candidate, which bears directly on the candidate's prospects for electoral success. The listed factors include:

- a. The findings of significant public opinion polls conducted by national polling and news organizations.
- b. Reported attendance at meetings and rallies across the country (locations as well as numbers) in comparison with the two major party candidates.

Id.

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C. Complainants' Allegations

Both complainants allege that CPD's criteria violate 11 C.F.R. § 110.13(c) in two ways: first, both allege that CPD's selection criteria are not objective as required by 11 C.F.R. § 110.13(c); and second, both allege that CPD's selection criteria provide an invitation to the Democratic and Republican nominees solely on the basis of their parties' nominations in violation of 11 C.F.R. § 110.13(c). On this basis, the Perot complaint alleges that the debates constitute a corporate contribution to the participants' campaigns in violation of 2 U.S.C. § 441b and 11 C.F.R. § 114.2(b).⁹

The Perot complaint alleges that CPD's criteria are not objective as required by 11 C.F.R. § 110.13(c). The Perot complaint contends that three of the factors listed under signs of national newsworthiness are examples of the "predominantly subjective" CPD criteria.⁹ The Perot complaint identifies another factor that calls for examination of the findings of significant public opinion polls as "leaving much room for subjectivity." Finally, the Perot complaint cites *Association of the Bar of the City of New York v. Commissioner*, 858 F.2d 876 (2d Cir. 1988), *cert. denied*, 490 U.S. 1030 (1989), and argues that the Commission should adopt the Second Circuit's analysis in that case of whether data are objective or subjective. In the context of examining the Bar Association's tax exempt status, the Second Circuit evaluated what is objective by defining "objective data."¹⁰ The Second Circuit stated:

⁹ See note 2 *supra*.

⁹ The three factors identified as "predominantly subjective" in the Perot complaint are: "[t]he professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks; [t]he opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration; [and] [t]he published views of prominent political commentators." Although the Perot complaint concedes that four elements of CPD's criteria are objective, it does not identify which four are objective in its view.

¹⁰ The Second Circuit stated that the Bar Association's ratings and endorsements of judicial candidates as "approved," "not approved," or "approved as highly qualified" were not objective, disagreeing with the bar

Objective data are data that are independent of what is personal or private in our apprehension and feelings, that use facts without distortion by personal feelings or prejudices and that are publicly or intersubjectively observable or verifiable, especially by scientific methods. *Webster's Third International Dictionary*, 1556 (1971). Objective representations have been described judicially as "representations of previous and present conditions and past events, which are susceptible of exact knowledge and correct statement." *United Ben. Life Ins. Co. v. Knapp*, 175 Okla. 25, 26, 51 P.2d 963, 964 (1935).

Id., at 880-81.¹¹

Similarly, the NLP complaint discusses each of CPD's three criteria and the factors related to each, arguing that CPD's criteria are "inherently vague and subjective." With respect to the "evidence of national organization" criterion, the NLP complaint admits that the first two factors are objective, as is the portion of the third factor that examines eligibility for federal matching funds. NLP cites CPD's description of the remaining factors under this criterion, in which CPD admits: "This criterion also encompasses more subjective indicators of a national campaign with a more than theoretical prospect of electoral success." Organization in a majority of congressional districts in those states in which a candidate is on the ballot is too indefinite to be deemed objective, according to NLP. NLP added that this factor is also irrelevant and

association's defense that it merely collected and disseminated objective data. The Second Circuit overturned the Tax Court's grant of a tax exemption under 26 U.S.C. § 501(c)(3) to the local bar association based on Section 501(c)(3)'s bar on participating or intervening in political campaigns. See *Assoc. of the Bar of the City of New York v. Commissioner*, 858 F.2d at 890-81.

¹¹ The Forst complaint argues that the Second Circuit's rationale in *Association of the Bar of the City of New York* with respect to subjective criteria was applied to a candidate debate sponsor in *Fulani v. Brady*, 809 F. Supp. 1112 (S.D.N.Y. 1993), *aff'd on other grounds*, 35 F.3d 49 (2d Cir. 1994).

In the *Fulani* case, the Southern District of New York found the League of Women Voters' debate participant selection criteria to be subjective and therefore inconsistent with the League's tax exempt status. *Fulani*, 809 F. Supp. at 1125-26 (stating that the following criteria are subjective: "significant candidate," "recognition by the national media as a candidate meriting media attention," "active campaigning in a number of states for the . . . nomination," and "such other factors that in the League's good faith judgment may provide substantive evidence of nationwide voter interest"). The district court also held, however, that it did not have the authority to grant the requested relief. *Id.* at 1127-28. The Second Circuit affirmed the result, but on the grounds that the plaintiff had no standing to challenge the tax exempt status of the League. 35 F.3d 49 (2d Cir. 1994). This case is part of a series of challenges brought by the plaintiff against the League and CPD. See *Fulani v. League of Women Voters Educ. Fund*, 684 F. Supp. 1185 (S.D.N.Y. 1988), *aff'd*, 882 F.2d 621 (2d Cir. 1989) and *Fulani v. Brady*, 729 F. Supp. 158 (D.D.C. 1990), *aff'd*, 935 F.2d 1324 (D.C. Cir. 1991), *cert. denied*, 502 U.S. 1048 (1992).

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constitutes a "significant obstacle" to "debate inclusion" of third party candidates. NLP also argues that "ability to fund a national campaign" is too indefinite, as is "endorsement by federal and state officeholders." The latter is also deemed an attempt "to disguise partisan bias as an objective criteria" due to the dominance of the Democratic and Republican parties among federal and state officeholders. Further, NLP alleges that endorsements are merely subjective evaluations, and such "secondhand subjective evaluations" should not be permitted in debate participant selection criteria.

NLP attacks each of the factors under the "national newsworthiness" criteria. Four of the five are based on the opinions of specified individuals, and NLP alleges that on this basis alone the four factors are subjective. All five of the factors under this criteria require the CPD to consider evidence from sources that are described, but not precisely identified, and NLP alleges that this permits CPD to "shop around" and include only certain opinions within its consideration.

Both of the factors related to the "national public enthusiasm" criteria are deficient according to the NLP. The first, related to findings of "significant public opinion polls," is subjective because the polls are not identified, leaving too much room for subjective decision making, in NLP's view. Additionally, the polls themselves reflect the subjective judgments of those polled and may also reflect biases of the polltakers. Reported attendance at rallies is insufficiently defined, and comparisons to the major parties are inappropriate because such standards reflect the preferential treatment afforded to the major parties, according to NLP.

Finally, the NLP complaint challenges CPD's criteria considered together because CPD fails to specify any relative weights assigned to each of the factors and criteria, which renders the

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process of applying the criteria to candidates and evaluating the responses subjective.¹² Thus, even if the criteria were objective, "the process of evaluating and weighing the criteria is a subjective one," according to the NLP complaint. NLP argues that the logic and reasoning of this Office's 1994 recommendation to the Commission that the regulation should specify objective criteria should be invoked to invalidate CPD's criteria as subjective.¹³

Both the Perot complaint and the NLP complaint further allege a second failing of CPD's criteria to comply with 11 C.F.R. § 110.13(c), arguing that CPD's criteria provide an invitation to the Democratic and Republican nominees based solely on their nominations by their respective parties. Citing the CPD's selection criteria for 1996, the Perot complaint alleges that CPD did not reach the conclusion that either of the major party's candidates had a "realistic chance of being elected."

D. Responses

1. CPD's Response

CPD explains that both to develop and subsequently to apply the debate participant selection criteria, it convened advisory committees, which submitted recommendations to CPD. The Advisory Committee that was convened to apply the criteria to the 1996 candidates reached the unanimous conclusion that only the Democratic and Republican candidates met all of CPD's criteria and had a realistic chance of being elected. The CPD Board of Directors unanimously approved the Advisory Committee's recommendation that only the Democratic and Republican candidates met CPD's debate participant selection criteria.

¹² The NLP complaint also alleges that CPD's criteria fail to provide any other indication as to exactly how the criteria will be applied to a given candidate

¹³ NLP refers to a Memorandum from this Office to the Commission dated February 8, 1994 regarding "[FEC v. Massachusetts Citizens for Life, 479 U.S. 238 (1986)] Rulemaking: Summary of Comments and Draft Rules."

CPD maintains that its criteria are objective and that the process used fully complies with the requirements of 11 C.F.R. § 110.13(c). CPD points out the regulation does not define "objective." CPD argues that its criteria are consistent with the ordinary meaning of that term because the criteria do not call for CPD members to rely on "personal" or "private feelings," but instead require CPD to consider a strictly proscribed body of evidence. CPD also points to several prior uses of the term "objective" in the context of debate participant criteria, arguing that these uses were similar to its own.¹⁴

Furthermore, CPD asserts that "complainants would read the rule to bar the exercise of any judgment whatsoever by the staging organization," but would instead mandate "that . . . determinations be made solely on criteria that can be mechanically applied." CPD argues that it "must retain at least a modicum of judgment in applying its 'objective criteria' so as to ensure the avoidance of a potentially 'bizarre' or unwelcome result . . . based solely on quantitative factors." In support of its position, CPD points to federal appellate court decisions that held that "objective criteria" in contexts other than debate participant selection criteria were not limited to "numerical or quantitative standards" and conceded that "utilization of 'objective criteria' allows for some subjective judgment on the part of the evaluators."¹⁵ CPD claims that the interpretation of "objective" advanced in the Perot and NLP complaints is such a radical alteration of the previous

¹⁴ CPD cites a previous complaint before the Commission, MUR 1617, in which respondent Dartmouth College referred to similar debate participant selection criteria as objective, and the Commission did not challenge that characterization in its disposition of that complaint. CPD also cites the League of Women Voters Education Fund's 1988 Criteria for General Election Debate Participation, which stated that similar criteria would be "objectively appli[ed]."

¹⁵ See *Wilson v. Dep't of Health & Human Svcs.*, 770 F.2d 1048, 1055 (Fed. Cir. 1985). In this regard, CPD distinguishes the relevance of *Association of the Bar of the City of New York v. Commissioner*, 858 F.2d 876 (2d Cir. 1988), cert. denied, 490 U.S. 1030 (1989). CPD argues that that case is irrelevant because CPD does not assess the merits of any candidate and does not endorse the election of any candidate. CPD cites the Bar Association's admission that its criteria were designed to prevent the election of the unqualified as a distinguishing factor.

standard that the regulation would be unenforceable as having been promulgated without adequate notice. CPD argues that Perot and NLP's interpretation of "objective" would render the regulation defective under the First Amendment to the Constitution for its failure to be narrowly tailored to achieve a compelling governmental interest.

Finally, CPD disputes that it "automatically" invited the nominees of the Democratic and Republican parties. CPD maintains that its determination to invite the nominees of the two major parties was limited to 1996 and was based on its evaluation of the sustained voter interest in the major parties as witnessed by the historical prominence of those parties. Furthermore, both the Executive Director of CPD, Janet H. Brown, and the chairman of CPD's Advisory Committee, Professor Richard E. Neustadt of Harvard University's John F. Kennedy School of Government, stated in declarations submitted with the response that the Advisory Committee applied the 1996 selection criteria to the Democratic and Republican candidates, although the criteria did not require them to do so.¹⁶

2. Clinton/Gore's Response

In response to the complaints, Clinton/Gore requests that the Commission find no reason to believe that any violations occurred and dismiss these matters. Clinton/Gore acknowledges that President Clinton participated in the debates, but maintains that it is inconsistent with FECA "to hold participating candidates responsible for the costs of the debates, when the sponsor has exercised its independent decision-making authority as to who should be included" in the debate.

¹⁶ The declarations were submitted to the United States District Court for the District of Columbia in the lawsuit described above in note 1 and the accompanying text. CPD's counsel does not refer to the Advisory Committee's application of the criteria to the major party candidates in its response to the Perot and NLP complaints.

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citing Advisory Opinion ("A.O.") 1986-37.¹⁷ Clinton/Gore maintains that doing so will "have an obvious chilling effect on the debates and cause candidates to decline participation in a forum which, to them, appears to be otherwise permissible, though in a less than perfect structure." Clinton/Gore further states that the Commission's regulations do not require "candidates, as a condition of participating [in a debate], to make an independent conclusion as to whether the sponsor complied with the requirements of" 11 C.F.R. § 110.13 and notes that it had nonetheless publicly sought for Perot to be included in the debates at issue here.

3. Dole/Kemp's Response

In its response to the complaints, Dole/Kemp also requests that the Commission find no reason to believe that any violations occurred. Dole/Kemp acknowledges that Senator Dole and Representative Kemp participated in the events, but asserts that Dole/Kemp "reasonably relied upon [CPD's] public statements that its selection criteria were objective, fair, and complied with Federal law." Dole/Kemp further states that CPD's selection criteria appear "to be rigorous and objective." In support of this assertion, Dole/Kemp identifies the various criteria that make up the CPD selection criteria and notes that CPD "relies upon the advice of nonpartisan professionals and federal election experts as to whether proposed participants have anything more than a theoretical chance of winning."

E. Analysis

Based upon the available evidence, there is reason to believe that CPD's Candidate Selection Criteria for 1996 General Election Debate Participation do not comply with the

¹⁷ In A.O. 1986-37, the Commission determined that the debates proposed by the National Conservative Foundation would not qualify as candidate debates because they would not include a face-to-face confrontation among the candidates. The Commission held that the proposed events would therefore violate 2 U.S.C. § 441b.

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requirements of 11 C.F.R. § 110.13(c). Some of the factors appear to be subjective on their face and other factors are so vague as to be imprecise in their definition. Given the resulting uncertainty, it appears that CPD's criteria are not objective as required by 11 C.F.R. § 110.13(c).

As a general standard, CPD assessed whether particular candidates had a "realistic chance" of winning the general election. CPD used three elements to make this determination. CPD's criteria contain examples of factors to be considered with respect to each element. However, the list of factors to be considered uses nonexhaustive terms, which suggests that CPD may have used other factors that were not enumerated in making its decision.

Of the enumerated factors, CPD describes some of the factors as "more subjective" in its document presenting the candidate selection criteria. See Attachment 4, at 57.¹⁸ Furthermore, Professor Neustadt, who served as Chair of the subcommittee that developed CPD's criteria and as Chair of the Advisory Committee that applied the criteria in 1996, has been quoted as describing CPD's standard of realistic chance of election and underlying criteria as follows:

The criteria that were listed are to inform [CPD's] judgment [in applying] that standard. It's a single standard, it's a standard for the future, and to that extent it is by nature subjective. It has to be--it's a judgment in the future.

Campaign for President: The Managers Look at '96. 165 (Harvard Univ. Inst. of Pol., ed. 1997).

The five factors that are specified as part of CPD's criterion "signs of national newsworthiness and competitiveness" are the most problematic of the three groups of factors. Four of those five factors call for consideration of the opinions of groups of professionals that are described, but not precisely identified in the pre-established criteria. The Office of General

¹⁸ CPD first established its selection criteria under the earlier version of 11 C.F.R. § 110.13 which did not require that the criteria be objective. Despite the Commission's rulemaking that added the objectivity requirement, CPD adopted nearly identical criteria and continued to describe some of those criteria as "subjective." See Attachment 4, at 51, 57 and 124; see also 60 Fed. Reg. 64,260 (Dec. 14, 1995).

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Counsel is unsure how CPD applied these factors, but such factors appear to suffer from at least two deficiencies. First, the data that underlie each factor appear to be accumulated subjective judgments. For example, "opinions of representative political scientists specializing in electoral politics at major universities and research centers" seems to call for consideration of the subjective determinations of the political scientists. Second, it seems that a number of highly subjective judgments must be made to compile the data underlying this factor, ranging from the identification of which universities can be considered major universities to the question of what mix of political scientist would be "representative." Thus, there is reason to believe that such criteria fail CPD's proffered definition of objective because such matters may not be independent of what is personal and rational minds could certainly disagree on such questions. Such criteria can be said to include two levels of subjectivity: first, identifying the pool of sources involves numerous subjective judgments, and second, once the pool is identified, the subjective judgments of its members is considered. Criteria with such double levels of subjective judgments may not be consistent with 11 C.F.R. § 110.13(c)."

Moreover, in the absence of additional information, there is reason to believe that the other selection criteria appear to be similarly insufficiently defined to comply with 11 C.F.R. § 110.13(c)'s objectivity requirement: "other demonstration of the ability to fund a national campaign," "[c]olumn inches on newspaper front pages and exposure on network telecasts in comparison with the major party candidates," "the findings of significant public opinion polls conducted by national polling and news organizations," and "reported attendance at meetings and

¹⁹ See also *Fulani v. Brady*, 809 F. Supp. 1112, 1124-25 (S.D.N.Y. 1993) (characterizing similar criteria as subjective).

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rallies across the country (locations as well as numbers) in comparison with the two major party candidates."

As noted by the Commission when it promulgated the current version of 11 C.F.R. § 110.13, "[s]taging organizations must be able to show that their objective criteria were used to pick the participants," 60 Fed. Reg. 64,262 (Dec. 14, 1995), and so too must the staging organization be able to show that its criteria were objective. Thus, this Office does not foreclose the possibility that a criterion that is vague or undefined as written could be shown to be sufficiently objective to meet the requirements of 11 C.F.R. § 110.13(c).²⁰

CPD's failure to describe its multifaceted analysis of its factors and criteria makes it impossible to know at this point whether the criteria were applied in an objective or subjective manner. Although 11 C.F.R. § 110.13(c) does not specifically require staging organizations to specify the relative importance of each factor, the Commission contemplated that a method of application would be included in debate participant selection criteria, as is shown by the example in the explanation and justification for this regulation. See 60 Fed. Reg. 64,262 (Dec. 14, 1995) (stating: "for example, candidates must satisfy three of five objective criteria").

The manner in which the factors are to be considered and used to compare candidates is not clear. For example, the Advisory Committee cited Mr. Perot's acceptance of federal funds and the resultant limitation on total expenditures as one of the reasons why the committee recommended that he not be invited to participate in the CPD debates. See Attachment 4, at 128.

²⁰ For example, one of CPD's criteria considers the endorsements of federal and state officeholders. As CPD puts forth this factor under its "evidence of national organization" criterion, it is vague in that it fails to identify which federal and state officeholders are to be considered. However, a staging organization could defend a similar criterion as objective if it narrowed the group of officeholders, thus eliminating the vagueness of the factor.

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Yet, CPD's criteria list eligibility for federal funds as a factor that appears to support the invitation of a candidate.

CPD also lists its criteria and factors in non-exhaustive fashions, each time stating: "The factors to be considered include." That CPD apparently reserves the right to introduce additional criteria or factors into the consideration may add another aspect of subjectivity to the process.²¹ Omitting such important aspects of the operation of the criteria is also inconsistent with the Commission's advice to make such criteria available to the candidates prior to the election. See 60 Fed. Reg. 64,262 (Dec. 14, 1995) ("staging organizations would be well advised to reduce their objective criteria to writing and to make the criteria available to all candidates before the debate").

Moreover, this Office has received additional information regarding the role that Clinton/Gore and Dole/Kemp may have played in excluding Mr. Perot from CPD's debates. In December 1996, a conference entitled "Campaign Decision Makers" was held, and it included representatives of Clinton/Gore, Dole/Kemp, and Perot as well as Frank Fahrenkopf, Co-Chair of CPD, and Professor Neustadt, Chair of CPD's Advisory Committee. An edited transcript of the conference was recently published, and some of the statements made at the conference appear to show that Clinton/Gore and Dole/Kemp both played a role in the decision to exclude Mr. Perot from CPD's debates. For example, George Stephanopoulos, Senior Adviser to the President, stated, referring to Dole/Kemp:

[t]hey didn't have leverage going into the negotiations. They were behind, they needed to make sure Perot wasn't in it. As long as we would agree to Perot not

²¹ The Advisory Committee cited the election results of 1992 as one of the reasons why the committee recommended that Mr. Perot not be invited to participate in the CPD debates. See Attachment 4, at 128. Yet, CPD's criteria do not list prior election results as part of the debate participant selection criteria.

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being in it we could get everything else we wanted going in. We got our time frame, we got our length, we got our moderator

Campaign for President: The Managers Look at '96, 170 (Harvard Univ. Inst. of Pol., ed. 1997)

Tony Fabrizio, Chief Pollster for Dole/Kemp, seems to confirm Mr. Stephanopoulos's statement by following it with: "And the fact of the matter is, you got the number of dates." *Id.* Mr. Fabrizio also later stated: "George made very good observations about the positions we walked into the negotiations." *Id.*, at 171. Thus, there is evidence that both Clinton/Gore and Dole/Kemp campaigns appear to have participated in the selection process. Such information further obfuscates CPD's methodology and raises the possibility that CPD did not apply its pre-established criteria.

Thus, there is reason to believe that CPD's selection criteria, as written and as applied in 1996, do not comply with 11 C.F.R. § 110.13(c). If so, CPD is not entitled to the protection of the safe harbor created by 11 C.F.R. §§ 100.7(b)(21) and 110.13(c). *See also* 11 C.F.R. §§ 114.1(a)(2)(x) and 114.4(f). On this basis, there is reason to believe that the debates CPD sponsored were contributions to both of the participating candidates. Therefore, this Office recommends that the Commission find reason to believe that CPD violated 2 U.S.C. § 441b(a).

Additionally, CPD's criteria, as written, specify that the nominees of the Democratic and Republican parties are to be invited solely by virtue of their nominations by the respective parties. Such "automatic" invitations are in direct violation of 11 C.F.R. § 110.13(c). In this instance, however, CPD alleges that it did not follow its standards as written. Instead, CPD states that it applied its analysis of a realistic chance of being elected to both President Clinton and Senator Dole and determined that both candidates met the test. *See Attachment 4, at 53 and 124-25.* The Perot complaint contradicts CPD's claim, alleging that these criteria were not

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applied to the Democratic and Republican candidates. Information obtained in discovery should resolve this disputed factual issue and determine whether CPD's selection criteria failed to comply with 11 C.F.R. § 110.13(c) in this regard.

In response to the allegation that they received an in-kind contribution, the Clinton/Gore and Dole/Kemp campaigns claim that they merely relied on CPD's determination of debate participants. However, these arguments appear to be inconsistent with the information showing that both campaigns played a role in the selection process. Even if the campaigns were not involved in the selection process, their claimed reliance upon CPD's determination of which candidates could participate in the debates would not vitiate their receipt of free appearances in the debates sponsored and organized by CPD, a corporation, as an in-kind contribution. FECA provides that it is unlawful for any candidate or political committee to "knowingly . . . accept or receive" corporate contributions, and it appears that Clinton/Gore and Dole/Kemp knowingly accepted the in-kind contributions from CPD.²² 2 U.S.C. § 441b(a). Because CPD's standards include a statement that at least some of its criteria are subjective, reliance on any assurance that CPD's criteria complied with 11 C.F.R. § 110.13 may have been unreasonable. Therefore, there is reason to believe that Clinton/Gore and Dole/Kemp knowingly accepted a prohibited contribution. Accordingly, this Office recommends that the Commission find reason to believe

²² In *FEC v. California Medical Association*, 502 F. Supp. 196 (N.D. Calif. 1980), the court held that the recipient committee's knowledge of the facts that rendered its conduct unlawful was sufficient to create civil liability under the "knowing" standard of 2 U.S.C. § 441a(f). *Id.* at 203. That court so held despite its specific finding that a legal issue related to the illegal conduct had not yet been resolved at the time the committee received the contribution. *See id.* *See also* *FEC v. John A. Drummi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986) (holding that a facially defective contribution requires further inquiry to determine whether it is in compliance); *United States v. Marvin*, 687 F.2d 1221 (8th Cir. 1982), *cert. denied*, 460 U.S. 1081 (1983) (analyzing knowing standard similarly in another context). The Commission's Advisory Opinion 1986-37, which is cited by Clinton/Gore, stated that the debates proposed therein would violate 2 U.S.C. § 441b, but does not state which parties would violate that provision. The cited statutory section prohibits both corporate contributions and the receipt of such contributions by candidates or committees.

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that Clinton/Gore and Dole/Kemp violated 2 U.S.C. § 441b(a) by knowingly accepting a prohibited corporate contribution from CPD.²³ If Clinton/Gore and Dole/Kemp accepted an in-kind contribution from CPD, the general election committees were required to report the contribution.²⁴ However, neither committee did so. Therefore, this Office further recommends that the Commission find reason to believe that Clinton/Gore and Dole/Kemp violated 2 U.S.C. § 434(b) by failing to report CPD's in-kind contribution.

III. CPD'S ALLEGED STATUS AS A POLITICAL COMMITTEE

A. Legal Standard

FECA defines "political committee" as, in part: "any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year." 2 U.S.C. § 431(4); *see also* 11 C.F.R. § 100.5. Political committees are required to register with the Commission, and to report contributions received and expenditures made in accordance with FECA and the Commission's regulations. *See* 2 U.S.C. § 433 and 11 C.F.R. § 102.1(d) (requiring political committees to register with the Commission); *see also* 2 U.S.C. § 434 and 11 C.F.R. § 104.1(a) (requiring political committees to file specified reports with the

²³ As publicly financed candidates, Clinton Gore and Dole Kemp are subject to an expenditure limit, 2 U.S.C. § 441a(b)(1)(B), and expenditures made by any person at the candidates' request or authorization are counted toward the limit, 2 U.S.C. § 441a(b)(2)(B)(ii). *See also* 11 C.F.R. § 110.8. Any contributions from CPD may have caused Clinton/Gore and Dole/Kemp to exceed their expenditure limits. Both Clinton/Gore and Dole/Kemp have not reported expenditures in response to FEC Form 3P, line 13, "Expenditures Subject to Limitation," during the period from their inception through September 30, 1997. The amount of actual expenditures subject to the limitation will be determined in the Commission's audit and examination of each committee pursuant to 26 U.S.C. § 9007(a). Therefore, the Office of General Counsel will make any appropriate recommendations based on information from the Commission's audits and examinations.

²⁴ *See* 2 U.S.C. § 434(b)(2)(A) and (D) (requiring committees to report contributions from persons other than political committees and from political committees); 434(b)(3)(A) and (B) (requiring committees to identify certain contributors); 434(b)(4)(A) (requiring committees to report expenditures); *see also* 11 C.F.R. § 104.13(a)(2) (requiring committees to report in-kind contributions as expenditures).

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Commission). Political committees that are "established, financed, maintained or controlled by the same . . . person, or group of persons . . . are affiliated." 11 C.F.R. § 100.5(g)(2).

In *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986), the Supreme Court cited *Buckley v. Valeo*, 424 U.S. 1, 79 (1976), and its requirement that "an entity subject to regulation as a 'political committee' under [FECA] is one that is either 'under the control of a candidate or the major purpose of which is the nomination or election of a candidate.'" *FEC v. Massachusetts Citizens for Life*, 479 U.S. at 252 n.6. Thus, in order to be a political committee under FECA, an organization that is not controlled by a candidate must have as its major purpose the nomination or election of a candidate in addition to meeting the statutory contribution or expenditure thresholds in 2 U.S.C. § 431(4).²⁵

Political committees remain subject to the prohibition of contributing corporate funds to federal candidates in 2 U.S.C. § 441b. See 11 C.F.R. § 114.12(a) (exempting political committees that are incorporated "for liability purposes only"). In *FEC v. Massachusetts Citizens for Life*, the Supreme Court held that application of 2 U.S.C. § 441b's ban on corporate independent expenditures to corporations that meet certain qualifications was an unconstitutional restriction of First Amendment rights. However, its holding was expressly limited to corporate independent expenditures; even qualified nonprofit corporations remain subject to the prohibition of corporate contributions. See 11 C.F.R. § 114.10(d)(2).²⁶

²⁵ But see *Alins v. FEC*, 101 F.3d 731, 742 (D.C. Cir. 1996) (holding that Supreme Court's major purpose test applies only to expenditures, and not to contributions or coordinated expenditures), cert. granted, 117 S.Ct. 2451 (1997). The Commission continues to contest this decision, and its petition for certiorari was granted. The Supreme Court has heard oral argument on the case, but has not yet issued a decision. See also A.O. 1996-3 (April 19, 1996) and A.O. 1996-13 (June 10, 1996) (applying major purpose test to organizations that made contributions after the *Alins en banc* hearing was granted and the panel decision was vacated).

²⁶ The Commission has codified the *FEC v. Massachusetts Citizens for Life* decision in its regulations. 11 C.F.R. § 114.10. CPD is not eligible for the exemption in 11 C.F.R. § 114.10 because it is a 26 U.S.C. § 501(c)(3) corporation. See 11 C.F.R. § 114.10(c)(5). Additionally, the exemption in 11 C.F.R. § 114.10 is limited to

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Staging organizations for candidate debates are limited to organizations that are exempt from federal taxation under 26 U.S.C. §§ 501(c)(3) or 501(c)(4) and that do not endorse, support or oppose political parties or candidates. 11 C.F.R. § 110.13. Therefore, if political committees stage candidate debates, their efforts will be contrary to 11 C.F.R. § 110.13(a)(1) and the debates will be contributions to the participating candidates and must comply with the prohibitions and limitations for contributions.

B. Complainants' Allegations

The Perot complaint alleges that CPD qualifies as a political committee under FECA. Consequently, CPD is ineligible to stage candidate debates pursuant to 11 C.F.R. § 110.13(a) and it has failed to register as required by 2 U.S.C. § 433, according to the Perot complaint. The Perot complaint alleges that CPD is an affiliated committee of the Democratic National Committee and the Republican National Committee. CPD is "a bipartisan political organization that expends money and resources to assist in the election of either the nominee of the Democratic Party or of the Republican Party." according to the Perot complaint, which cites as evidence of this affiliation each of CPD's joint chairmen's status as a former chairman of one of the two major parties and CPD's membership's alleged equal division between representative of the Democratic and Republican parties. The Perot complaint also cites DNC and RNC press releases at the time of CPD's formation that describe the organization as "bi-partisan" that was formed to sponsor debates "by the National Republican and Democratic Committees between

independent expenditures, 11 C.F.R. § 114.10(d), and CPD's activities were sufficiently coordinated with the campaigns to constitute contributions. With respect to 11 C.F.R. § 114.10, see *Minnesota Citizens Concerned for Life v. FEC*, 113 F.3d 129 (8th Cir. 1997) (holding 11 C.F.R. § 114.10 void) and *FEC v. Survival Educ. Fund, Inc.*, 65 F.3d 285 (2d Cir. 1995) (holding requirement that qualified nonprofit corporations have a policy of not accepting corporate contributions invalid)

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their respective nominees." The NLP complaint also includes an allegation that CPD is a "bipartisan organization composed of Republicans and Democrats."

C. Responses

1. CPD's Response

CPD characterizes the Perot complaint's argument that CPD is a political committee as an "ancillary attack" that fails because CPD's debate participant selection criteria are in compliance with 11 C.F.R. § 110.13(c). CPD cites its limited mission to sponsor presidential debates and conduct closely related educational activities as evidence that its expenditures are not made to endorse, support or oppose any candidate or party. CPD cites *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 252 n.6 (1986), as stating that an entity's "major purpose" must be to secure the nomination or election of a candidate in order for that entity to constitute a political committee under FECA.

CPD maintains that it does not assess or endorse candidates; it only invites certain candidates to participate in debates sponsored by CPD. According to CPD, the Commission's debate regulation is premised on the notion that such invitations cannot constitute endorsement or support of the invited candidates. Finally, CPD states that because its funds are used to defray cost incurred staging debates, the expenditures do not constitute contributions or expenditures under FECA, and therefore, CPD does not meet FECA's definition of a political committee.

2. RNC's Response

In its response to MUR 4473, the RNC requests that the Commission find no reason to believe that a violation occurred. According to the RNC, the "CPD is not an affiliated committee of the RNC." The RNC acknowledges that the CPD was established by Frank Fahrenkopf and

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Paul Kirk, then the chairs of the RNC and the DNC, respectively, but the RNC maintains that they did so "separate and apart from their party organizations" and that they no longer serve as the chairs of the major national party committees. The RNC further maintains that the CPD "was never an officially sanctioned or approved organization of the RNC," nor is it "a political committee established, . . . financed, maintained or controlled by the RNC." The RNC argues that, accordingly, the complaint in this matter should be dismissed.

3. DNC's Response

In its response to MUR 4473, the DNC also requests that the Commission find no reason to believe that any violations occurred in this matter and dismiss the complaint. The DNC argues that "even if CPD could conceivably be considered a 'political committee,' it has not been 'established, financed, maintained or controlled' by the DNC." The DNC acknowledges that CPD was established by the former chairs of the Democratic and Republican national parties, but denies that the DNC in anyway controls CPD. The DNC argues that the "CPD is controlled by an independent board of directors, none of whom are DNC members, officers or employees."

D. Analysis

The Office of General Counsel is recommending that the Commission find reason to believe that CPD violated 2 U.S.C. § 441b(a) as a result of CPD's status as a corporation. However, there are also allegations and some supporting information that CPD may be a political committee. Political committees that are incorporated for liability purposes are not prohibited by 2 U.S.C. § 441b(a) from making contributions or expenditures even though they have corporate status. 11 C.F.R. § 114.12(a). The reason for CPD's incorporating is unknown, so it is not possible to determine if 11 C.F.R. § 114.12(a) is applicable to CPD. Therefore, the questions

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that must be addressed are whether CPD made expenditures of \$1,000 and whether its major purpose is the nomination or election of a candidate.

As set forth in its Articles of Incorporation, CPD's purpose is "to organize, manage, produce, publicize and support debates for the candidates for President of the United States." CPD's purpose may have been to conduct debates and to do so in a manner that would not result in a contribution to either candidate. However, it appears that Clinton/Gore and Dole/Kemp may have played a role in the selection of debate participants. Such a role is not anticipated in CPD's criteria and the extent of involvement of the two campaigns in CPD actions cannot be known without further investigation. This factual issue raises the possibility that CPD might have a major purpose related to the election of candidates. Until the activities of Clinton/Gore and Dole/Kemp in connection with CPD have been investigated, it is impossible to be assured of CPD's major purpose.

Moreover, it appears that both the DNC and RNC played a substantial role in founding CPD. CPD continues to refer to its Co-Chairs' prior positions as former chairman of either the DNC or the RNC. At CPD's establishment in 1987, both Messrs. Fahrenkopf and Kirk were Chairman of the RNC and DNC, respectively, and it was in their capacity as party chairmen that they announced the creation of CPD at a joint press conference, according to a press release from the Democratic and Republican National Committees. According to that press release, the parties' chairmen stated that CPD was created to "better fulfill our party responsibilities to inform and educate the electorate, [and] strengthen the role of political parties in the electoral process" (emphasis added). Finally, the press release also cites an earlier agreement between the two party chairmen in which they "agree[d] in principle to pursue the party [debate] sponsorship

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concept." That Memorandum of Agreement from November 26, 1985 was signed by both chairmen explicitly on behalf of their respective parties.

The role played by Clinton/Gore and Dole/Kemp in CPD's debate participant selection process and the role played by the DNC and the RNC in the creation CPD suggest that CPD's major purpose may be to facilitate the election of either of the major parties' candidates for president. Therefore, there is reason to believe that CPD is a political committee, and this Office recommends that the Commission find reason to believe that CPD violated 2 U.S.C. §§ 433 and 434.²⁷

IV. NETWORKS' PROGRAMS

A. Legal Standard

FECA specifically exempts costs incurred by media organizations covering news stories from the definition of expenditures. The exemption states: "The term 'expenditure' does not include any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i). The Commission's regulations similarly exclude coverage of news events from the definitions of both contribution and expenditure. 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2).²⁸

²⁷ Because the role that the DNC and the RNC played in CPD's status as a political committee is unclear, the Office of General Counsel is not making any recommendations against the DNC and the RNC at this time. Additionally, if CPD is a political committee, it would be prohibited from receiving corporate contributions, 2 U.S.C. § 441b(a), and it would be permitted to accept contributions subject to the contribution limitations, 2 U.S.C. § 441a(f). With respect to these issues, this Office may make additional recommendations based on the investigation.

²⁸ The regulatory exemption is limited if the facility is owned or controlled by any political party, political committee, or candidate. If a facility is so-owned or controlled, the exemption will still apply if the costs for a news story "represent[] a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and which is part of campaign-related news account which give reasonably equal coverage to all opposing candidates in the circulation or listening area." 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2).

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The legislative history for the statutory exemption for news stories explains that the exemption was intended "to make it plain that it is not the intent of Congress . . . to limit or burden in any way the first amendment freedoms of the press or of association. [This exemption] assures the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns." H.R. Rep. No. 1239, 93d Cong., 2d Sess. 4 (1974). Thus, television networks (as groups of television broadcasting stations) enjoy a statutory and regulatory exemption for any of the described costs incurred covering the election campaigns.

Certain media organizations are also permitted to sponsor candidate debates. The Commission's regulation on candidate debates permits broadcasters that are not owned or controlled by a political party, political committee or candidate to stage debates in accordance with the provisions of 11 C.F.R. § 110.13. 11 C.F.R. § 110.13(a)(2). That regulatory provision explicitly recognizes the dual role played by broadcasters in connection with candidate debates. It states: "In addition, broadcasters (including a cable television operator, programmer or producer), *bona fide* newspapers, magazines and other periodical publications, acting as press entities, may also cover or carry candidate debates in accordance with 11 C.F.R. 100.7 and 100.8." *Id.*

B. NLP's Allegations

NLP's complaint challenges television programming that Fox, PBS and ABC proposed to produce and broadcast in pleadings filed with the Federal Communications Commission ("FCC"). According to published reports, Fox permitted both President Clinton and Senator Dole to make 10 one-minute statements on its network. PBS permitted each of the two candidates to make six statements of two and one-half minutes per statement on its network. *See*

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C. Adasiewicz et al., *Free Television for Presidential Candidates: the 1996 Experiment*, 6-7 (Annenberg Pub. Policy Ctr. of the Univ. of Pa. No. 11, 1997). ABC had proposed a one-hour debate, but both of the major parties' candidates declined to participate, and ABC canceled its program. See Stephen Seplow, *Experiment in Giving Candidates Free Airtime Had Mixed Results*, *Phila. Inquirer* (Nov. 1, 1996).

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According to NLP, Fox and PBS proposed to invite only those candidates selected by CPD for participation in CPD's debates to participate in their programs. NLP alleges that, under Fox's proposal, Fox would place its production facilities at the candidates' disposal free of charge, and that such an action must constitute a contribution under FECA. NLP anticipates Fox's claim that the news story exemption would apply, but NLP argues that the news story exemption does not apply to the cost of producing (only "covering" or "carrying") a news story. NLP alleges that Fox's proposal is more analogous to an advertisement than to a news story. Further, NLP alleges that the news story exemption is inapplicable because Fox's facilities will be under the control of the candidates at least briefly and the news story exemption specifically requires that broadcasters with facilities under the control of candidates provide reasonably equal coverage to all opposing candidates in the viewing area.

The NLP complaint also challenges PBS's proposal because candidates would be "unrestricted as to content within certain minimal guidelines," according to NLP. This "gift of free air time" constitutes a contribution, according to NLP. Alternatively, NLP alleges that if PBS's programming is to be considered a debate, its debate participant selection are neither pre-announced, nor objective, to the extent PBS intends to rely on CPD's selection of candidates.

C. The Networks' Responses

In its response, Fox outlined its proposal, which included the format of the programs as aired: a series of one-minute position statements by each participating candidate, responding to ten identical questions from Fox that pertain to issues of "demonstrable concern to voters" that were broadcast on Tuesdays, Saturdays and Sundays from September 17 to October 15, 1996. *See Adasiewicz, supra*, at 6. Fox selected the candidates to participate "by reference to the decision of [CPD]" of which candidates to invite to participate in its debates. Fox retained a nonpartisan team of consultants to formulate the questions posed to candidates, and the order of appearance was determined by a coin toss. Fox did not permit the candidates to edit or otherwise modify or enhance the responses in the post-production process, and both candidates' presentations were recorded under the supervision of a Fox representative. The candidates declined Fox's offer to use its production facilities.

PBS responded by correcting a fact asserted in NLP's complaint: PBS proposed and, in fact, provided candidates with segments of two and one-half minutes, not hours, during which candidates stated their views without restriction as to content, except for PBS's reservation of the right to delete libelous material. These segments were broadcast on successive business days from October 17 to November 1, 1996. *See Adasiewicz, supra*, at 7. PBS also described its efforts to ensure equality of treatment. PBS maintained control over the program in the exercise of its bona fide news judgment. To prevent candidates from incorporating campaign materials into the program, PBS required that only candidates appear on camera and that the candidates remain on screen for the entire length of the program.

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Both networks defend their proposals as meeting FECA's standards for news coverage that is excluded from the definitions of contribution and expenditure. Similarly, both networks presented the alternative argument that their programs also meet the standards of a candidate debate that is excluded from the definitions of contribution and expenditure. Both networks also emphasized that the FCC had determined that the programming as proposed in the networks' pleadings would be exempt from the "equal opportunities" requirement of Section 315 of the Communications Act of 1934, as amended, 47 U.S.C. § 315, because the programming would constitute *bona fide* news event coverage under the Communications Act.²⁹

D. Analysis

Initially, the Office of General Counsel notes that NLP's complaint was filed before any of the programming was actually broadcast, and its allegations are based on the proposals for such programming put forth by Fox, PBS and ABC in their FCC pleadings. See 11 C.F.R. § 111.4(a). Some of the program details as actually produced and broadcast differed from the proposals; however, none of the variations was material to this analysis. Therefore, this report analyzes the programs as they were broadcast. Additionally, because ABC canceled its program, the complaint with respect to ABC is moot.

The networks' programs appear to comply with the requirements for the news story exemption from the definition of a contribution. Prior Commission actions have held similar programs to constitute news stories. The Commission has issued several Advisory Opinions that held programs similar to those challenged by NLP to fall within the news story exemption. In

²⁹ The FCC's declaratory ruling resolved issues related to the Communications Act that are of great importance to networks, as broadcasters regulated by the FCC. However, the FCC's resolution of Communications Act issues raised by the networks' proposal does not resolve this matter that involves issues under FECA. Nonetheless, this Office's recommendation is consistent with the FCC's action in this matter.

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Advisory Opinion 1982-44, the Commission stated that the provision of free air time on a cable television network was not a contribution. The air time was to be given to both of the major parties, one of which had outlined a program that included various leading party members discussing public issues from their party's perspective and soliciting contributions to their party. Some of the participants were candidates for office. Nonetheless, the Commission held that the program qualified as commentary on the election and therefore it fell within the news story exemption.

Another advisory opinion authorized a multimedia presentation proposed by U.S. News & World Report to include a series of articles and candidate interviews in its magazine and television programs. In this Advisory Opinion, the Commission did not limit its holding to any particular structure of the proposed news coverage. See A.O. 1987-8. Thus, Commission precedent does not require that news stories or commentary conform to particular formats. The presentation of candidate views and positions that each of the networks' programs entails qualifies each of the networks' programs to meet the standard for the news story exemption. On this basis, there is reason to believe that both networks' programs constitute the presentation of a news story or commentary that meets FECA's standards for an exemption from the definition of contribution and expenditure.

Finally, neither of the programs constituted a debate under the Commission's requirement that a face-to-face confrontation is an essential element to a debate for purposes of 11 C.F.R. § 110.13. See A.O. 1986-37. The programs consisted of serial appearances by the participating candidates and lacked even opportunities for one candidate to respond to another. Thus, the programs did not provide any confrontation and cannot be considered a debate. Therefore, the

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requirements of 11 C.F.R. § 110.13(c) are not applicable to the networks' programs.

Consequently, this Office recommends that the Commission find no reason to believe that any of the respondents³⁰ violated 2 U.S.C. § 441b(a) with respect to the challenged television programs.

V. CONCLUSION AND PROPOSED DISCOVERY PLAN

The Office of General Counsel proposes to seek information about CPD's selection criteria. Such information would include documents indicating how CPD defined the enumerated factors, how CPD applied the selection criteria, and what criteria were used to determine that the major parties' candidates should be invited to participate in the debates. Additionally, this Office proposes to seek information regarding the role of the Clinton/Gore and Dole/Kemp campaigns in the selection of debate participants. This Office also proposes to seek information to identify CPD's major purpose, including specifically the role of the campaigns and of the DNC and RNC in CPD's activities. In order to evaluate whether CPD should be considered a political committee that is affiliated with the DNC and RNC, information related to CPD's establishment is included within the information this Office proposes to seek. Finally, this Office proposes to seek documentation of the cost incurred by CPD to stage the debates by the candidates as a measure of the value of any contribution to Clinton/Gore and Dole/Kemp for the two Presidential debates and the Vice Presidential debate.³¹

In order to do so, this Office recommends that the Commission approve the attached subpoena directed to CPD requiring it to submit written answers to questions and to produce

³⁰ The respondents to this allegation are ABC, Inc.; Clinton/Gore '96 General Committee, Inc., and Joan C. Pollitt, as its Treasurer; Dole/Kemp '96 and Robert E. Lighthizer, as its Treasurer; Fox Broadcasting Company; and the Public Broadcasting Service.

³¹ The value of any media coverage of CPD's debates is not included in the value of the contribution because the media's coverage of the debates is exempt pursuant to the news story exemption in 2 U.S.C. § 431(9)(B)(i) and 11 C.F.R. § 100.7(b)(2).

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documents that relate to the debates it staged. Additionally, this Office recommends that the Commission approve the attached subpoenas directed to the participating candidates' committees and to the DNC and the RNC. After this Office has reviewed the responses to the subpoenas, we will report back to the Commission with appropriate recommendations.

VI. RECOMMENDATIONS

1. Find reason to believe that the Commission on Presidential Debates violated 2 U.S.C. §§ 433, 434 and 441b(a).
2. Find reason to believe that the Clinton/Gore '96 General Committee, Inc., and Joan C. Pollitt, as its treasurer; and Dole/Kemp '96 and Robert E. Lighthizer, as its treasurer, violated 2 U.S.C. §§ 434(b)(2)(C), 434(b)(4) and 441b(a) with respect to the candidate debates staged by the Commission on Presidential Debates.
3. Find no reason to believe that ABC, Inc., Fox Broadcasting Company or the Public Broadcasting Service violated 2 U.S.C. § 441b(a).
4. Find no reason to believe that the Clinton/Gore '96 General Committee, Inc., and Joan C. Pollitt, as its treasurer; and Dole/Kemp '96 and Robert E. Lighthizer, as its treasurer, violated 2 U.S.C. § 441b(a) with respect to the television programs challenged by the complaints filed in MURs 4451 and 4473.
5. Approve the appropriate letters.
6. Approve the attached Factual and Legal Analyses and subpoenas.

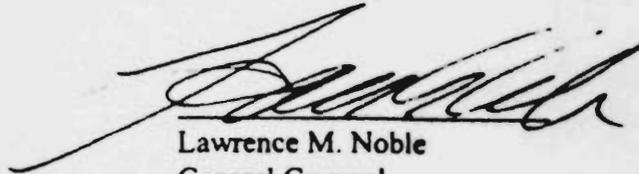
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7. Close the files in MUR 4451 with respect to ABC, Inc., Fox Broadcasting Company and Public Broadcasting Service.

Date

2/6/98

Lawrence M. Noble
General Counsel



Attachments:

- 1 Response from Fox Broadcasting Company
- 2 Response from ABC, Inc.
- 3 Response from Public Broadcasting Service
- 4 Response from Commission on Presidential Debates
- 5 Response from Dole/Kemp '96 and Robert E. Lighthizer, as its treasurer, to MUR 4451
- 6 Response from Clinton/Gore '96 General Committee, Inc., and Joan C. Pollitt, as its treasurer, to MUR 4451
- 7 Response from Clinton/Gore '96 General Committee, Inc., and Joan C. Pollitt, as its treasurer, to MUR 4473
- 8 Response from DNC Services Corporation/Democratic National Committee and R. Scott Pastrick, as its treasurer, to MUR 4473
- 9 Response from the Republican National Committee and William J. McManus, as its treasurer, to MUR 4473
- 10 Response from Dole/Kemp '96 and Robert E. Lighthizer, as its treasurer, to MUR 4473
- 11 Factual and Legal Analyses (3)
- 12 Subpoenas (5)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
ABC, Inc.;) MURs 4451
Clinton/Gore '96 General) and 4473
Committee, Inc., and Joan)
C. Pollitt, as Treasurer;)
Commission on Presidential Debates;)
Dole/Kemp '96, Inc., and Robert E.)
Lighthizer, as Treasurer;)
Fox Broadcasting Company;)
Public Broadcasting Service;)
DNC Services Corporation/Democratic)
National Committee and Carol)
Pensky, as Treasurer;)
Republican National Committee and)
Alec Poitevint, as Treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on February 24, 1998, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MURs 4451 and 4473:

1. Find no reason to believe that the Commission on Presidential Debates violated 2 U.S.C. §§ 433, 434, and 441b(a).
2. Find no reason to believe that the Clinton/Gore '96 General Committee, Inc., and Joan C. Pollitt, as its treasurer; and Dole/Kemp '96 and Robert E. Lighthizer, as its treasurer, violated 2 U.S.C. §§ 434(b)(2)(C), 434(b)(4) and 441b(a) with respect to the candidate debates staged by the Commission on Presidential Debates.

(continued)

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3. Find no reason to believe that ABC, Inc., Fox Broadcasting Company or the Public Broadcasting Serviced violated 2 U.S.C. § 441b(a).
4. Find no reason to believe that the Clinton/Gore '96 General Committee, Inc. and Joan C. Pollitt, as its treasurer; and Dole/Kemp '96 and Robert E. Lighthizer, as its treasurer, violated 2 U.S.C. § 441b(a) with respect to the television programs challenged by the complaints filed in MURs 4451 and 4473.
5. Approve the appropriate letters.
6. Close the file with respect to all of the respondents in MURs 4451 and 4473.

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

Attest:

2-25-98
Date

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

9804363588



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Michael Poss
Perot '96, Inc.
7616 LBJ Freeway, Suite 727
Dallas, Texas 75251

RE: MUR 4473

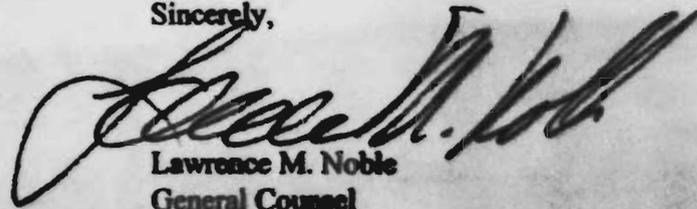
Dear Mr. Poss:

On February 24, 1998, the Federal Election Commission reviewed the allegations in your complaint dated September 19, 1996, and found that on the basis of the information provided in your complaint, there is no reason to believe that the Commission on Presidential Debates, Clinton/Gore '96 General Committee, Inc. and Joan C. Pollitt, as treasurer, or Dole/Kemp '96 and Robert E. Lighthizer, as treasurer, violated the Federal Election Campaign Act of 1971, as amended. Accordingly, on February 24, 1998, the Commission closed the file in this matter. A Statement of Reasons providing a basis for the Commission's decision and the General Counsel's Report will follow.

This matter will become part of the public record within 30 days after it has been closed with respect to all other respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

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

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Certification of Commission action

98043865589



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1998

Lyn Utrecht, Esq.
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, N.W.
Suite 1100
Washington, D.C. 20036

Eric Kleinfeld, Esq.
Clinton/Gore '96 General Committee, Inc.
P.O. Box 19100
Washington, D.C. 20036

RE: MURs 4451 and 4473

Dear Ms. Utrecht and Mr. Kleinfeld:

On September 26, 1996 and on January 30, 1997, the Federal Election Commission notified Clinton/Gore '96 General Committee, Inc. and Joan C. Pollitt, as treasurer, of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On February 24, 1998, the Commission found, on the basis of the information in the complaints, that there is no reason to believe that any of the respondents violated the Act. Accordingly, the Commission closed its files in these matters. A Statement of Reasons explaining the Commission's decision and the General Counsel's Report will follow.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and these matters are now public. In addition, although the complete files 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 files may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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If you have any questions, please contact Duane Pugh, the attorney assigned to these matters at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Kim L. Bright-Coleman
Associate General Counsel

Enclosure
Certification of Commission Action

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1998

Lewis K. Loss, Esq.
Ross, Dixon & Masback, L.L.P.
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2688

RE: MURs 4451 and 4473

Dear Mr. Loss:

On September 13, 1996 and on September 26, 1996, the Federal Election Commission notified your client, the Commission on Presidential Debates, of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On February 24, 1998, the Commission found, on the basis of the information in the complaints, that there is no reason to believe that any of the respondents violated the Act. Accordingly, the Commission closed its files in these matters. A Statement of Reasons explaining the Commission's decision and the General Counsel's Report will follow.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and these matters are now public. In addition, although the complete files 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 files may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Duane Pugh, the attorney assigned to these matters at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

Kim Bright-Coleman

BY: Kim L. Bright-Coleman
Associate General Counsel

Enclosure
Certification of Commission Action

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1998

Joseph E. Sandler, General Counsel
Democratic Party Headquarters
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MURs 4451 and 4473

Dear Mr. Sandler:

On September 26, 1996 and on January 30, 1997, the Federal Election Commission notified DNC Services Corporation/Democratic National Committee and R. Scott Pastrick, as treasurer, of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On February 24, 1998, the Commission closed the file with respect to the Republican National Committee.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and these matters are now public. In addition, although the complete files 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 files may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Duane Pugh, the attorney assigned to these matters at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink that reads "Kim L. Bright-Coleman".

BY: Kim L. Bright-Coleman
Associate General Counsel

Enclosure
Certification of Commission Action

98043065393



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1998

Douglas C. Wurth, Esq.
Dole/Kemp '96, Inc.
810 First Street, N.E.
Suite 300
Washington, D.C. 20002

RE: MURs 4451 and 4473

Dear Mr. Wurth:

On September 26, 1996 and on January 30, 1997, the Federal Election Commission notified Dole/Kemp '96, Inc. and Robert E. Lighthizer, as treasurer, of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On February 24, 1998, the Commission found, on the basis of the information in the complaints, that there is no reason to believe that any of the respondents violated the Act. Accordingly, the Commission closed its files in these matters. A Statement of Reasons explaining the Commission's decision and the General Counsel's Report will follow.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and these matters are now public. In addition, although the complete files 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 files may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Duane Pugh, the attorney assigned to these matters at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Kim L. Bright-Coleman
Associate General Counsel

Enclosure
Certification of Commission Action

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Pugh



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 12, 1998

Thomas J. Josefiak, Esq.
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MURs 4451 and 4473

Dear Mr. Josefiak:

On September 26, 1996 and on January 30, 1997, the Federal Election Commission notified Republican National Committee and William J. McManus, as treasurer, of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

On February 24, 1998, the Commission closed the file with respect to the Republican National Committee.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and these matters are now public. In addition, although the complete files 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 files may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Duane Pugh, the attorney assigned to these matters at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Kim L. Bright-Coleman
Associate General Counsel

Enclosure
Certification of Commission Action

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 16, 1998

**BY FACSIMILE &
CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

J. Michael Poss
Perot '96, Inc.
7616 LBJ Freeway, Suite 727
Dallas, Texas 75251

RE: MUR 4473

Dear Mr. Poss:

By letter dated March 12, 1998, you were notified that the Commission closed the file in this matter. The second paragraph of that letter indicated that the file was not closed with respect to all respondents. However, the Commission closed the file with respect to all respondents on February 24, 1998. Therefore, the confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Duane Pugh, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Lawrence M. Noble
General Counsel

Kim Bright-Coleman

BY: Kim Bright-Coleman
Associate General Counsel

98043865596



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 19, 1998

Douglas C. Wurth, Esq.
Dole/Kemp '96, Inc.
810 First Street, N.E.
Suite 300
Washington, D.C. 20002

RE: MURs 4451 and 4473

Dear Mr. Wurth:

Enclosed please find a copy of the General Counsel's Report in the above-cited matters. As stated to you in a letter from this Office dated March 12, 1998, a Statement of Reasons providing a basis for the Commission's decision in these matters will also be provided to you.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Duane Pugh Jr.", written in a cursive style.

J. Duane Pugh Jr.
Attorney

Enclosure
General Counsel's Report

98043865597



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 19, 1998

Lewis K. Loss, Esq.
Ross, Dixon & Masback, L.L.P.
601 Pennsylvania Avenue, N.W.
North Building
Washington, D.C. 20004-2688

RE: MURs 4451 and 4473

Dear Mr. Loss:

Enclosed please find a copy of the General Counsel's Report in the above-cited matters. As stated to you in a letter from this Office dated March 12, 1998, a Statement of Reasons providing a basis for the Commission's decision in these matters will also be provided to you.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Duane Pugh Jr.".

J. Duane Pugh Jr.
Attorney

Enclosure

General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 19, 1998

J. Michael Poss
Perot '96, Inc.
7616 LBJ Freeway, Suite 727
Dallas, Texas 75251

RE: MUR 4473

Dear Mr. Poss:

Enclosed please find a copy of the General Counsel's Report in the above-cited matter. As stated to you in a letter from this Office dated March 12, 1998, a Statement of Reasons providing a basis for the Commission's decision in this matter will also be provided to you.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Duane Pugh Jr.".

J. Duane Pugh Jr.
Attorney

Enclosure
General Counsel's Report

cc: Samuel W. Lanham, Jr., Esq.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 19, 1998

Lyn Utrecht, Esq.
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, N.W.
Suite 1100
Washington, D.C. 20036

Eric Kleinfeld, Esq.
Clinton/Gore '96 General Committee, Inc.
P.O. Box 19100
Washington, D.C. 20036

RE: MURs 4451 and 4473

Dear Ms. Utrecht and Mr. Kleinfeld:

Enclosed please find a copy of the General Counsel's Report in the above-cited matters. As stated to you in a letter from this Office dated March 12, 1998, a Statement of Reasons providing a basis for the Commission's decision in these matters will also be provided to you.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "J. Duane Pugh Jr.".

J. Duane Pugh Jr.
Attorney

Enclosure
General Counsel's Report

98043665600



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 19, 1998

Lyn Utrecht, Esq.
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, N.W.
Suite 1100
Washington, D.C. 20036

Eric Kleinfeld, Esq.
Clinton/Gore '96 General Committee, Inc.
P.O. Box 19100
Washington, D.C. 20036

RE: MURs 4451 and 4473

Dear Ms. Utrecht and Mr. Kleinfeld:

Enclosed please find a copy of the General Counsel's Report in the above-cited matters. As stated to you in a letter from this Office dated March 12, 1998, a Statement of Reasons providing a basis for the Commission's decision in these matters will also be provided to you.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "J. Duane Pugh Jr.".

J. Duane Pugh Jr.
Attorney

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 19, 1998

Thomas J. Josefiak, Esq.
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 4473

Dear Mr. Josefiak:

Enclosed please find a copy of the General Counsel's Report in the above-cited matter. As stated to you in a letter from this Office dated March 12, 1998, a Statement of Reasons providing a basis for the Commission's decision in this matter will also be provided to you.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "J. Duane Pugh Jr.".

J. Duane Pugh Jr.
Attorney

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 19, 1998

Joseph E. Sandler, General Counsel
Democratic Party Headquarters
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 4473

Dear Mr. Sandler:

Enclosed please find a copy of the General Counsel's Report in the above-cited matter. As stated to you in a letter from this Office dated March 12, 1998, a Statement of Reasons providing a basis for the Commission's decision in this matter will also be provided to you.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Duane Pugh Jr.".

J. Duane Pugh Jr.
Attorney

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Commission on Presidential Debates)
)
 Clinton/Gore '96 General Committee,)
 Inc., and Joan C. Pollitt, as Treasurer)
)
 Dole/Kemp '96, Inc., and)
 Robert E. Lighthizer, as Treasurer)
)
 DNC Services Corporation/Democratic)
 National Committee and Carol Pensky,)
 as Treasurer)
)
 Republican National Committee and)
 Alec Poitevint, as Treasurer)

MURs 4451 and 4473

STATEMENT OF REASONS

Chairman Joan Aikens
 Vice Chairman Scott E. Thomas
 Commissioner Lee Ann Elliott
 Commissioner Danny Lee McDonald
 Commissioner John Warren McGarry

I. INTRODUCTION

On February 24, 1998, the Commission found no reason to believe that the Commission on Presidential Debates ("CPD") violated the law by sponsoring the 1996 presidential debates or by failing to register and report as a political committee. The Commission also found no reason to believe that Clinton/Gore '96 General Committee, Inc., Dole/Kemp '96, and their treasurers (collectively, the "Committees"), violated the law by accepting and failing to report any contributions from CPD. The Commission

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closed the file with respect to all of the respondents. The reasons for the Commission's findings are set forth in this statement.

II. SELECTION OF PARTICIPANTS FOR CANDIDATE DEBATES

A. Legal Framework

Under the Federal Election Campaign Act of 1971, as amended ("FECA"), corporations are prohibited from making contributions¹ or expenditures² in connection with federal elections. 2 U.S.C. § 441b(a); *see also* 11 C.F.R. § 114.2(b).³ The Commission has promulgated a regulation that defines the term "contribution" to include: "A gift, subscription, loan . . . , advance or deposit of money or anything of value made . . . for the purpose of influencing any election for Federal office." 11 C.F.R. § 100.7(a)(1). *See also* 11 C.F.R. § 114.1(a). "Anything of value" is defined to include all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A). The regulatory definition of contribution also provides: "[u]nless specifically exempted under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge . . . is a contribution." *Id*

Section 100.7(b) of the Commission's regulations specifically exempts expenditures made for the purpose of staging debates from the definition of contribution. 11 C.F.R. § 100.7(b)(21). This exemption requires that such debates meet the requirements of 11 C.F.R. § 110.13,⁴ which establishes parameters within which staging organizations must conduct such debates. The parameters address: (1) the types of organizations that may stage such debates, (2) the structure of debates, and (3) the criteria that debate staging organizations may use to select debate participants. With respect to participant selection criteria, 11 C.F.R. § 110.13(c) provides, in relevant part:

¹ FECA defines contribution to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."

² 2 U.S.C. § 431(8)(A)(i); *see also* 2 U.S.C. § 441b(b)(2).

³ FECA defines expenditure to include "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i); *see also* 2 U.S.C. § 441b(b)(2).

⁴ The presidential candidates of the major parties who accept public funds cannot accept contributions from any source, except in limited circumstances that are not raised herein. 26 U.S.C. § 9003(b)(2); *see also* 11 C.F.R. § 9012.2(a).

⁵ The exemption also requires that such debates meet the requirements of 11 C.F.R. § 114.4, which permits certain nonprofit corporations to stage candidate debates and other corporations and labor organizations to donate funds to organizations that are staging such debates. 11 C.F.R. §§ 114.4(f)(1) and (3). This section also requires the debates to be staged in accordance with the standards in 11 C.F.R. § 110.13. *Id*

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Criteria for candidate selection For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.

11 C.F.R. § 110.13. When promulgating this regulation, the Commission explained its purpose and operation as follows:

Given that the rules permit corporate funding of candidate debates, it is appropriate that staging organizations use pre-established objective criteria to avoid the real or apparent potential for a *quid pro quo*, and to ensure the integrity and fairness of the process. The choice of which objective criteria to use is largely left to the discretion of the staging organization. . . .

. . . Staging organizations must be able to show that their objective criteria were used to pick the participants, and that the criteria were not designed to result in the selection of certain pre-chosen participants. The objective criteria may be set to control the number of candidates participating in a debate if the staging organization believes there are too many candidates to conduct a meaningful debate.

Under the new rules, nomination by a particular political party, such as a major party, may not be the sole criterion used to bar a candidate from participating in a general election debate. But, in situations where, for example, candidates must satisfy three of five objective criteria, nomination by a major party may be one of the criteria. This is a change from the Explanation and Justification for the previous rules, which had expressly allowed staging organizations to restrict general election debates to major party candidates. See Explanation and Justification, 44 FR 76735 (December 27, 1979). In contrast, the new rules do not allow a staging organization to bar minor party candidates or independent candidates from participating simply because they have not been nominated by a major party.

60 Fed. Reg. 64,260, 64,262 (Dec. 14, 1995).

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Thus, if an appropriate corporation staged a debate among candidates for federal office and that debate was staged in accordance with all of the requirements of 11 C.F.R. § 110.13, then the costs incurred by the sponsoring corporation would be exempt from the definition of contribution pursuant to the operation of 11 C.F.R. § 100.7(b)(21). See also 11 C.F.R. §§ 114.1(a)(2)(x) and 114.4(f)(1). Similarly, other corporations legally could provide funds to the sponsoring corporation to defray expenses incurred in staging the debate pursuant to the operation of 11 C.F.R. §§ 114.1(a)(2)(x) and 114.4(f)(3). On the other hand, if a corporation staged a debate that was not in accordance with 11 C.F.R. § 110.13, then staging the debate would not be an activity "specifically permitted" by 11 C.F.R. § 100.7(b), but instead would constitute a contribution to any participating candidate under the Commission's regulations. See 11 C.F.R. § 100.7(a)(1)(iii)(A) (noting "unless specifically exempted" anything of value provided to the candidate constitutes a contribution). The participating candidates would be required to report receipt of the in-kind contribution as both a contribution and an expenditure pursuant to 11 C.F.R. § 104.13(a)(1) and (2). See 2 U.S.C. § 434(b)(2)(C) and (4).

B Commission on Presidential Debates Selection Criteria

CPD was incorporated in the District of Columbia on February 19, 1987, as a private, not-for-profit corporation designed to organize, manage, produce, publicize and support debates for the candidates for President of the United States. Prior to the 1992 campaign, CPD sponsored six debates, five between candidates for President, and one between candidates for Vice President. In the 1996 campaign, CPD sponsored two Presidential debates and one Vice Presidential debate. Only the candidates of the Democratic and Republican parties were invited to participate in the 1996 debates. CPD produced written candidate selection criteria for the 1996 general election debate participation. Relying on these criteria and the recommendation of an advisory committee consisting of a broad array of independent professionals and experts, the CPD determined that only the Democratic and Republican candidates had a "realistic chance of winning" the 1996 election.

The introduction to the candidate selection criteria explains, in pertinent part:

In light of the large number of declared candidates in any given presidential election, [CPD] has determined that its voter education goal is best achieved by limiting debate participation to the next President and his or her principal rival(s).

A Democratic or Republican nominee has been elected to the Presidency for more than a century. Such historical prominence and sustained voter interest warrants the extension of an invitation

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to the respective nominees of the two major parties to participate in [CPD's] 1996 debates.

In order to further the educational purposes of its debates, [CPD] has developed nonpartisan criteria upon which it will base its decisions regarding selection of nonmajor party candidates to participate in its 1996 debates. The purpose of the criteria is to identify nonmajor party candidates, if any, who have a realistic (i.e., more than theoretical) chance of being elected the next President of the United States and who properly are considered to be among the principal rivals for the Presidency.

The criteria contemplate no quantitative threshold that triggers automatic inclusion in a [CPD]-sponsored debate. Rather, [CPD] will employ a multifaceted analysis of potential electoral success, including a review of (1) evidence of national organization, (2) signs of national newsworthiness and competitiveness, and (3) indicators of national enthusiasm or concern, to determine whether a candidate has a sufficient chance of election to warrant inclusion in one or more of its debates.

February 6, 1998 General Counsel's Report ("G.C. Report") at Attachment 4, at 57.

Thus, CPD identified its objective of determining which candidates have a realistic chance of being elected the next President, and it specified three primary criteria for determining which "nonmajor" party candidates to invite to participate in its debates. CPD further enumerated specific factors under each of the three primary criteria that it would consider in reaching its conclusion.

For its first criterion, "evidence of national organization," CPD explained that this criterion "encompasses objective considerations pertaining to [Constitutional] eligibility requirements . . . [and] also encompasses more subjective indicators of a national campaign with a more than theoretical prospect of electoral success." *Id.* The factors to be considered include:

- a. Satisfaction of the eligibility requirements for Article II, Section I of the Constitution of the United States.
- b. Placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority.

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- c. Organization in a majority of congressional districts in those states.
- d. Eligibility for matching funds from the Federal Election Commission or other demonstration of the ability to fund a national campaign, and endorsement by federal and state officeholders.

Id

CPD's second criterion, "signs of national newsworthiness and competitiveness," focuses "both on the news coverage afforded the candidacy over time and the opinions of electoral experts, media and non-media, regarding the newsworthiness and competitiveness of the candidacy at the time [CPD] makes its invitation decisions." *Id*. Five factors are listed as examples of "signs of national newsworthiness and competitiveness":

- a. The professional opinions of the Washington bureau chiefs of major newspapers, news magazines, and broadcast networks.
- b. The opinions of a comparable group of professional campaign managers and pollsters not then employed by the candidates under consideration.
- c. The opinions of representative political scientists specializing in electoral politics at major universities and research centers.
- d. Column inches on newspaper front pages and exposure on network telecasts in comparison with the major party candidates.
- e. Published views of prominent political commentators.

Id at 58.

Finally, CPD's third selection criterion states that the factors to be considered as "indicators of national public enthusiasm" are intended to assess public support for a candidate, which bears directly on the candidate's prospects for electoral success. The listed factors include:

- a. The findings of significant public opinion polls conducted by national polling and news organizations.

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b. Reported attendance at meetings and rallies across the country (locations as well as numbers) in comparison with the two major party candidates.

Id

C Discussion

After a thorough and careful examination of the factual record, the undersigned commissioners unanimously concluded the Commission on Presidential Debates used "pre-established objective criteria" to determine who may participate in the 1996 Presidential and Vice-Presidential debates. 11 C.F.R. §110.13.⁵ As a result, CPD did not make, and the candidate committees did not receive, a corporate contribution.

The CPD was set up and structured so that the individuals who made the ultimate decision on eligibility for the 1996 debates relied upon the independent, professional judgment of a broad array of experts. The CPD used multifaceted selection criteria that included: (1) evidence of a national organization; (2) signs of national newsworthiness and competitiveness, and (3) indicators of national enthusiasm or concern. We studied these criteria carefully and concluded that they are objective. Moreover, we could find no indication or evidence in the factual record to conclude that the criteria "were designed to result in the selection of certain pre-chosen participants." Explanation and Justification of 11 C.F.R. §110.13(c), 60 *Fed. Reg.* at 64262.

The CPD debate criteria contain exactly the sort of structure and objectivity the Commission had in mind when it approved the debate regulations in 1995. Through those regulations, the Commission sought to reduce a debate sponsor's use of its own personal opinions in selecting candidates. It was essential, in the Commission's view, that this selection process be neutral. It is consistent with the 1995 regulations for a debate sponsor to consider whether a candidate might have a reasonable chance of winning through the use of outside professional judgment. Indeed, if anything, the use of a broad array of independent professionals and experts is a way of ensuring the *decision makers* are objective in assessing the "realistic chances" of a candidate.

⁵ Although not required to do so under the Commission's regulation, CPD reduced its candidate selection criteria to writing. See Explanation and Justification of 11 C.F.R. §110.13, 60 *Fed. Reg.* at 64262.

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The pool of experts used by CPD consisted of top level academics and other professionals experienced in evaluating and assessing political candidates. By basing its evaluation of candidates upon the judgment of these experts, CPD took an objective approach in determining candidate viability.⁶

Significantly, the debate regulations sought to give debate sponsors wide leeway in deciding what specific criteria to use. During the Commission's promulgation of §110.13, the Commission considered the staff's recommendation to specify certain ostensibly objective selection criteria in the regulations and to expressly preclude the use of "[p]olls or other assessments of a candidate's chances of winning the nomination or election." See Agenda Document #94-11 at 74 (February 8, 1994) and Explanation and Justification of 11 C.F.R. §110.13, 60 *Fed. Reg.* at 64262. The Commission unanimously rejected this approach.⁷ *Id.* Instead, the Commission decided the selection criteria choice is at the discretion of the staging organization and indicated that the use of outside professional judgment in considering candidate potential is permissible. Accordingly, the Commission cannot now tell the CPD that its employment of such an approach is unacceptable and a violation of law.

The Office of General Counsel, in effect, seemed to want to apply its own debate regulation proposal from several years ago in the instant matters. It argued the use of candidate assessments, such as CPD's "signs of newsworthiness and competitiveness," are "problematic" for many of the same reasons it argued in 1994. G.C. Report at 17. Specifically, the Office of General Counsel contended the CPD criteria contain "two levels of subjectivity: first, identifying the pool of sources involves numerous subjective judgments, and second, once the pool is identified, the subjective judgments of its members is considered." *Id.* at 18. The staff further insisted that there also is "reason to believe that the other selection criteria appear to be similarly insufficiently defined to comply with §110.13(c)'s objectivity requirement." *Id.*

⁶ That one reference in CPD's materials states that the criterion for evidence of national organization "encompasses more *subjective* indicators of a national campaign with a more than theoretical prospect of electoral success", see G.C. Report at 11 (emphasis added), is not dispositive. Indeed, the factors referred to appear to be *objective* on their face and not subjective

- a Satisfaction of the eligibility requirements of Article II, Section I of the Constitution of the United States.
- b Placement on the ballot in enough states to have a mathematical chance of obtaining an electoral college majority.
- c Organization in a majority of congressional districts in those states.
- d Eligibility for matching funds from the Federal Election Commission or other demonstration of the ability to fund a national campaign, and endorsements by federal and state officeholders.

Id. at Attachment 4, at 57.

⁷ Under the staff's proposed regulation, a debate sponsor could not look at the latest poll results even though the rest of the nation could look at this as an indicator of a candidate's popularity. This made little sense to us.

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The questions raised in the General Counsel's Report are questions which can be raised regarding *any* candidate assessment criterion. To ask these questions each and every time a candidate assessment criterion is used, however, would render the use of that criterion unworkable, contrary to the direction given by the Commission at the regulatory stage. Absent specific evidence that a candidate assessment criterion was "fixed" or arranged in some manner so as to guarantee a preordained result, we are not prepared to look behind and investigate every application of a candidate assessment criterion. This approach is consistent with the Commission's Explanation and Justification which states "reasonableness is implied" when using objective criteria. Explanation and Justification of 11 C.F.R. §110.13(c), 60 *Fed. Reg.* at 64262. We are satisfied with the affidavits presented by the CPD that its "criteria were not designed to result in the selection of certain pre-chosen participants." *Id.* See G.C. Report at Attachment 4, at 121-126 (affidavit of professor Richard E. Neustadt); Attachment 4 at 43-56 (affidavit of Janet H. Brown). Significantly, we have been presented with no evidence in the factual record which threatens the veracity of these sworn affidavits.

The General Counsel's Report contains several other points which must be addressed. First, the Report's suggestion that CPD misapplied Mr. Perot's qualification for public funding reflects a misunderstanding of CPD's reasoning. See G.C. Report at 19-20. While qualification for public funding is significant, the CPB observed that as a practical matter Mr. Perot's hands would be tied since he could not contribute his own money. Thus, compared to 1992, his "realistic" chances of winning in 1996 were greatly reduced.

[In 1992], we concluded that his prospect of election was unlikely but not unrealistic. With the 1992 results and the circumstances of the current campaign before us, including Mr. Perot's funding limited by his acceptance of a *federal subsidy*, we see no similar circumstances at the present time. Nor do any of the academic or journalistic individuals we have consulted.

G.C. Report at Attachment 4, at 128 (Letter of Professor Richard E. Neustadt) (**emphasis added**). A limit on the amount of funds which can be spent by a candidate is **certainly an objective factor** which can be legitimately used by a sponsoring organization.

The General Counsel's Report also asserts the Democratic and Republican party nominees were issued "automatic" invitations to the debates as a result of their party nominations in violation of §110.13. See February 6, 1998 G.C. Report at 21-22. We find persuasive the specific denials by the CPD on this point. The CPD flatly **denies** it based its decision on this factor alone:

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[I]n 1996, the CPD Board asked me to act as chairman of the advisory committee that applied the 1996 candidate selection criteria. The advisory committee convened on September 16, 1996 for the purpose of applying CPD's nonpartisan candidate selection criteria to more than 130 candidates running for the Presidency and Vice-Presidency in the 1996 general election campaign. *Although the candidate selection criteria do not require it to do so, the advisory committee independently applied the criteria to the Democratic and Republican party candidates.* After reviewing and discussing the facts and circumstances of the 1996 general election campaign, it was the unanimous conclusion of the advisory committee that, as of September 16, 1996, only President Clinton and Senator Dole have a realistic chance in 1996 of being elected President, and only Vice President Gore and Congressman Kemp have a realistic chance of being elected Vice President.

G.C. Report at Attachment 4, at 124-125 (Affidavit of Professor Richard E. Neustadt)(emphasis added). *See also id.* at 53-54 (Affidavit of Janet H. Brown)("After receipt of the data provided to the 1996 Advisory Committee and its own deliberation and discussion, *the CPD Board unanimously accepted the 1996 Advisory Committee's recommendation that only President Clinton and Senator Dole be invited to participate in CPD's 1996 Presidential debate and only Vice President Gore and Congressman Kemp be invited to participate in CPD's 1996 vice presidential debate.*")(emphasis added).

Additionally, we do not fully agree with the staff's conclusion that "'automatic' invitations are in direct violation of 11 C.F.R. §110.13(c)." G.C. Report at 21. Section 110.13(c) provides, in pertinent part, that "[f]or general election debates, **staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.**" The phrase "whether to include" was intended to prevent a debate sponsor from *excluding* a candidate from a debate solely because the candidate was not a major party nominee. For example, a debate sponsor could not use the following as its "objective" criterion: "Only major party candidates are eligible to participate in the debate." The regulation's purpose was not to prevent a debate sponsor from issuing debate invitations to major party nominees.

The Explanation and Justification of §110.13(c) confirms this understanding of the regulation: "Under the new rules, nomination by a particular party, such as a major party, may not be the sole criterion used *to bar a candidate from participating in a general election debate.*" Explanation and Justification of 11 C.F.R. §110.13(c), 60 *Fed. Reg.* at 64262 (emphasis added). Indeed, the entire paragraph explaining this new regulatory language focuses on the fact that "the new rules do not allow a **staging organization to bar minor party candidates or independent candidates from participating**

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simply because they have not been nominated by a major party." *Id.* Conversely, no mention is made in the Explanation and Justification that the new rules were somehow intended to prevent the issuance of invitations to major party nominees. We believe it is consistent with the purpose of the regulation for the CPD to issue an invitation to the major party candidates in view of the "historical prominence" of, and "sustained voter interest" in, the Republican and Democratic parties. G.C. Report at Attachment 4, at 57.

Finally, the General Counsel's Report suggests the Clinton/Gore Committee and the Dole/Kemp Committee expressed an interest to either include or exclude Mr. Perot and that, as a result, the two candidate committees somehow tainted the debate selection process. G.C. Report at 20-21. Absent specific evidence of a controlling role in excluding Mr. Perot, the fact the Committees may have discussed the effect of Mr. Perot's participation on their campaigns is without legal consequence. There certainly is no credible evidence to suggest the CPD acted upon the instructions of the two campaigns to exclude Mr. Perot. To the contrary, it appears one of the campaigns wanted to include Mr. Perot in the debate. See G.C. Report at Attachment 6, at 7 ("since the start of the general election, the [Clinton/Gore] Committee fully supported the wishes of Ross Perot to be included in the CPD-sponsored presidential debates and had hoped that the CPD would make a determination to include him.") (response of Clinton/Gore '96). In fact, CPD's ultimate decision to exclude Mr. Perot (and others) only corroborates the absence of any plot to equally benefit the Republican and Democratic nominees to the exclusion of all others.

III STATUS AS A POLITICAL COMMITTEE

The FECA defines "political committee" as, in part: "any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year." 2 U.S.C. § 431(4); see also 11 C.F.R. § 100.5. Political committees are required to register with the Commission, and to report contributions received and expenditures made in accordance with the FECA and the Commission's regulations. See 2 U.S.C. § 433 and 11 C.F.R. § 102.1(d) (requiring political committees to register with the Commission); see also 2 U.S.C. § 434 and 11 C.F.R. § 104.1(a) (requiring political committees to file specified reports with the Commission). Since CPD did not make a contribution to or an expenditure on behalf of the Committees, it was not a political committee within the meaning of 2 U.S.C. § 431(4). Accordingly, CPD was not required to register and report with the Commission.

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IV. CONCLUSION

For all the reasons set forth above, the Commission did not approve the General Counsel's recommendations with regard to alleged violations of the FECA by the Commission on Presidential Debates, Clinton/Gore '96 General Committee and the Dole/Kemp '96 Committee and their treasurers.

4/16/98
Date

Joan D. Aikens
Joan D. Aikens
Chairman

4/6/98
Date

Scott E. Thomas
Scott E. Thomas
Vice Chairman

Date

Lee Ann Elliott
Lee Ann Elliott
Commissioner

4/6/98
Date

Danny L. McDonald
Danny L. McDonald
Commissioner

Date

John Warren McGarry
John Warren McGarry
Commissioner

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