



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4566

DATE FILMED 9-28-97 CAMERA NO. 4

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Republican National Committee

Thomas J. Josefak
Counsel

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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November 1, 1996

MUR 4566

Chairman Lee Ann Elliott
Federal Election Commission
999 E. Street, N.W.
Washington, DC 20463

Re: Failure to Comply with FEC Disclaimer Provisions

Dear Chairman Elliott:

Pursuant to 2 U.S.C. § 437(g), and upon information and belief, the Republican National Committee ("RNC") brings this complaint to the Federal Election Commission ("the Commission") regarding violations of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. ("FECA"), by the Democratic National Committee ("DNC"), Vice President Al Gore ("Al Gore"), Mark Warner for Senate Committee ("Warner '96"), and the Democratic Party of Virginia ("DPV"). Specifically, the violations result from making expenditures for the purpose of financing communications expressly advocating the election of a clearly identified candidate through a direct mailing which failed to clearly state the name of the person or persons who paid for the mailing as required by FECA.

Statement of the Facts

There is reason to believe that either the DNC, Al Gore, Warner '96 or DPV, or a combination thereof, have violated 2 U.S.C. § 441d as well as FEC regulations at 11 C.F.R. § 110.11. The RNC respectfully requests that the Commission find reason to believe and initiate an investigation of this matter.

Based upon the direct mailing (See Attachment I) in question expressly advocating the election of Mark Warner, candidate for United States Senate from Virginia, there is reason to believe that either the DNC, Al Gore, Warner '96 or DPV, or combination thereof, failed to present, in a clear and conspicuous manner, the required disclaimer providing the reader notice of the person or committee who paid for the direct mailing and, if appropriate, whether such mailing was authorized by Warner '96 as required by FECA.

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Legal Analysis

FECA requires that whenever a person makes an expenditure for the purpose of financing direct mailings expressly advocating the election or defeat of a clearly identified candidate, such mailing must contain a disclaimer identifying who paid for such mailing and, if appropriate, whether it was authorized by the candidate or the candidate's committee. 2 U.S.C. § 441d.

The direct mailing in question expressly advocating the election of U.S. Senate candidate Mark Warner is signed by Al Gore. Such mailing expressly states, "[t]hat is why I am writing you to urge your support for Mark Warner's candidacy for the United States Senate." The direct mailing does not contain a disclaimer identifying who paid for such mailing and whether it was authorized by candidate Mark Warner's principle campaign committee. The only identifying marks are the name and signature of Al Gore and the return address, "Al Gore, 430 South Capitol Street, S.E., Washington, DC 20003." The address is that of the DNC. Therefore, the direct mailing in question does not contain any disclaimer as required by FECA.

Conclusion

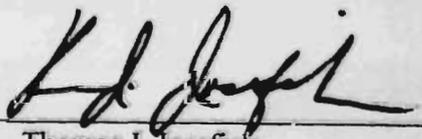
Based upon the facts as known, the Complainant has reason to believe that the Respondents violated FECA by failing to include a required disclaimer in a direct mailing that expressly advocates the election of a clearly identified candidate.

For these reasons, the Commission should find reason to believe that the DNC, Al Gore, Warner '96 and DPV violated 2 U.S.C. § 441d and take appropriate action.

I hereby affirm that to the best of my knowledge and belief the foregoing is true and correct.

Respectfully submitted,

Republican National Committee

By: 
Thomas J. Josefiak
Counsel

CITY OF WASHINGTON)

DISTRICT OF COLUMBIA)

SS:

Subscribed and sworn (affirmed) to before me, this 1st day of November 1996.

M D Acton

Notary Public

My commission expires 7/14/1999

M. D. Acton
Notary Public, District of Columbia
My Commission Expires July 14, 1999

97046036373

AL GORE

Attachment I

***** ECRL0T ** C063

The Christianson Family
3409 Canter Cir
Roanoke, VA 24018-3801

Dear Christianson Family:

Many Virginians remember Senator Warner for his courageous opposition to Ollie North. But over the last two years, Senator Warner has used his vote to advance so much of the agenda that Mr. North supports. John Warner has repeatedly supported Newt Gingrich's efforts to slash Medicare, cut education, scale back environmental protection and deny working families the right to leave for new children and family emergencies.

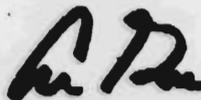
In fact, according to the *Congressional Quarterly*, John Warner voted with the Dole/Gingrich Republican leadership 94% of the time in 1995.

That is why I am writing you to urge your support for Mark Warner's candidacy for the United States Senate.

Mark Warner will bring many important qualities to the Senate. He is a successful businessman who understands the technologies that are shaping our future. He offers fresh ideas, new energy and a strong commitment to the principles that most Democrats share.

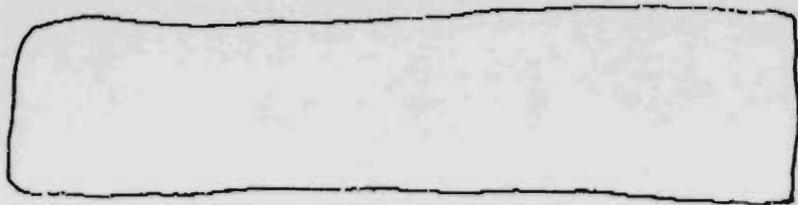
Today, Democrats have a real chance to take back the Senate. Your vote for Mark Warner can help elect a Congress that can work with President Clinton and me to build the better future all Americans deserve. Please do your part by supporting Mark's candidacy with your vote on election day.

Sincerely,



Al Gore

91043835374



AL GORE
430 SOUTH CAPITOL STREET, S.E.
WASHINGTON, DC 20003

*no postage mark -
rec'd 10/34/96 -*

*window envelope -
only thing on front is USA Bulk
(no # or price or stamp) Rate Stamp*

97043835375



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 8, 1996

Thomas J. Josefiak, Counsel
Republican National Committee
310 First Street, SE
Washington, DC 20003

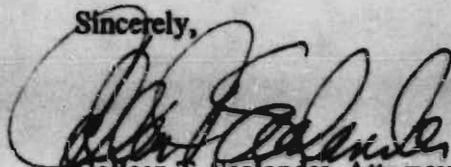
RE: MUR 4566

Dear Mr. Josefiak:

This letter acknowledges receipt on November 1, 1996, of the complaint you filed 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 4566. 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,


Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

97043835376



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 8, 1996

R. Scott Pastrick, Treasurer
DNC Services Corporation/Democratic National Committee
430 South Capitol Street, SE
Washington, DC 20003

RE: MUR 4566

Dear Mr. Pastrick:

The Federal Election Commission received a complaint which indicates that the DNC Services Corporation/Democratic National Committee ("DNC") 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 4566. Please refer to this number in all future correspondence.

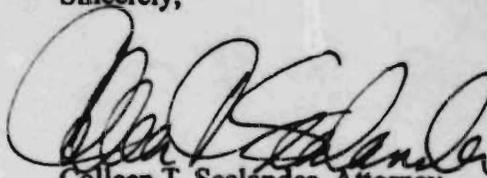
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the DNC and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements 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.

97043035377

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

97043635378



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 8, 1996

The Honorable Albert Gore, Jr.
Vice President of the United States
Old Executive Office Building
17th Street and Pennsylvania Avenue, NW
Washington, DC 20500

RE: MUR 4566

Dear Mr. Vice President:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4566. Please refer to this number in all future correspondence.

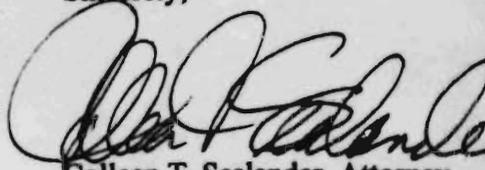
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under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

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

97043035379

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

9704303538C



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 8, 1996

Gerald S. McGowan, Treasurer
Friends of Mark Warner
1227 25th Street, NW, Suite 700
Washington, DC 20037

RE: MUR 4566

Dear Mr. McGowan:

The Federal Election Commission received a complaint which indicates that Friends of Mark Warner ("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 4566. 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.

97043635381

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

cc: Mark Warner

97043636382



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 8, 1996

Abbi G. Easter, Treasurer
Democratic Party of Virginia - Federal Campaign Committee
1108 E. Main Street, Second Floor
Richmond, VA 23219

RE: MUR 4566

Dear Ms. Easter:

The Federal Election Commission received a complaint which indicates that the Democratic Party of Virginia - Federal Campaign Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4566. Please refer to this number in all future correspondence.

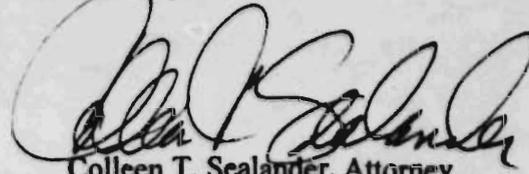
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements 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.

97043035383

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

97043035384

STATEMENT OF DESIGNATION OF COUNSEL

MUR: 4566

NAME OF COUNSEL: Leslie J. Kerman

FIRM: Epstein Becker & Green, P.C.

ADDRESS: 1227 25th Street, N.W.

Suite 700

Washington, D.C. 20037

TELEPHONE: (202) 861-1877

FAX: (202) 728-0960

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

11/12/96
Date

[Signature]
Signature

RESPONDENT'S NAME: Friends of Mark Warner and Gerald McGowan, as treasurer

ADDRESS: c/o 1227 25th Street, N.W.

Suite 700

Washington, D.C. 20037

HOME PHONE: N/A

BUSINESS PHONE: (202) 861-1877

97040035386

CLINTON GORE 96

November 21, 1996

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

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
NOV 21 2 17 PM '96

RE: MUR 4566
The Honorable Al Gore, Vice President of the United States

Dear Mr. Noble:

I represent the Honorable Al Gore and have enclosed a statement of designation of counsel stating such. This letter requests an extension of time on behalf of Vice President Al Gore to respond to the complaint filed by Thomas Josefiak of the Republican National Committee.

Due to commitments by counsel at the time the response is due and our need to obtain and adequately review all of our records in order to file a complete response, we hereby request an extension of time of ten days. Accordingly, we propose to file our response on December 10, 1996.

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

Sincerely,

Lyn Utrecht
Lyn Utrecht
General Counsel

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4566

NAME OF COUNSEL: Lyn Utrecht Eric Kleinfeld

FIRM: Oldaker, Ryan, Phillips & Utrecht Clinton/Gore '96

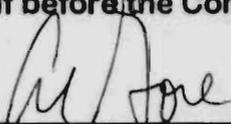
ADDRESS: 818 Connecticut Ave., NW P.O. Box 19100
Suite 1100 Washington, D.C. 20036
Washington, D.C. 20006

TELEPHONE: (202) 728-1010 (202) 496-5051

FAX: (202) 466-2023 (202) 496-1039

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.

11/21/96
Date


Signature

RESPONDENT'S NAME: Al Gore

ADDRESS: Clinton/Gore '96
P.O. Box 19100
Washington, D.C. 20036

TELEPHONE: HOME() _____

BUSINESS(202) 331-1996

NOV 21 2 20 PM '96

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COMMISSION
OFFICE OF GENERAL
COUNSEL

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 22, 1996

Leslie J. Kerman, Esquire
EPSTEIN BECKER & GREEN, PC
1227 25th Street, NW, Suite 700
Washington, D.C. 20037

RE: MUR 4566
Friends of Mark Warner
Gerald McGowan, as treasurer

Dear Ms. Kerman:

This is in response to your letter dated November 19, 1996, which we received on that day, requesting an extension until December 20, 1996, to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on December 20, 1996.

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

Sincerely,

Alva E. Smith, Paralegal
Central Enforcement Docket

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The Democratic Party of Virginia

1108 E. Main Street, 2nd Floor
Richmond, Virginia 23219
(804) 644-1966

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT



Nov 25 4 10 PM '96

JOHN HARDIN YOUNG
General Counsel

JAY B. MYERSON
STATE COUNSEL

November 20, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
NOV 25 4 39 PM '96

Chairman Lee Ann Elliott
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4566

Dear Chairman Elliott:

This letter is submitted on behalf of the Democratic Party of Virginia and Abbi G. Easter, Treasurer, in response to the complaint filed by the Republican National Committee ("RNC"). The RNC has alleged that the Democratic National Committee, Vice President Gore, the Mark Warner for Senate Committee and/or the Democratic Party of Virginia violated 2 U.S.C. § 441d by making expenditures for the purpose of financing communications expressly advocating the election of Mark Warner to the United States Senate through a direct mailing which failed to clearly state the name of the person or persons who paid for it. The mailing in question was allegedly a letter signed by the Vice President advocating the election of Mark Warner.

The Democratic Party of Virginia was not involved with this mailing. The Democratic Party of Virginia did not prepare the mailing, approve or authorize the mailing, or expend any funds on the mailing in question.

Accordingly, there is no reason to believe that the Democratic Party of Virginia violated 2 U.S.C. § 441d and this matter should be closed at this time.

Respectfully submitted,

John Hardin Young
General Counsel

Jay B. Myerson
State Counsel

cc: Leslie J. Kerman
Counsel, Mark Warner for Senate Committee

9704303539C



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 26, 1996

Lynn Utrecht, General Counsel
Clinton Gore '96
P.O. Box 1900
Washington, DC 20036

re: MUR 4566

Dear Ms. Utrecht:

This is in response to your letter of November 21, 1996, requesting an extension of time in which to respond to the complaint filed in connection with the above-captioned Matter Under Review.

Your request is approved, based upon the good cause shown in your letter. Your response will be due no later than the close of business on Tuesday, December 10, 1996.

Many thanks for your consideration. If we can be of any further assistance, please contact Ms. Alva Smith of my staff at (202) 219-3690.

Very truly yours,

A handwritten signature in black ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

97043035391



DEMOCRATIC * NATIONAL * COMMITTEE

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

November 26, 1996

Colleen T. Sealander, Esq.
Office of the General Counsel
Central Enforcement Docket
Federal Election Commission
999 E Street, NW, Room 639
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Nov 27 9 12 AM '96

RE: Response to MUR 4566

Dear Ms. Sealander:

This letter constitutes the response of the DNC Services Corporation/Democratic National Committee ("DNC"), and R. Scott Pastrick, as Treasurer, to the Commission's initiation of MUR 4566. The undersigned represent the DNC in this matter. A Designation of Counsel is enclosed.

The DNC hereby requests the Federal Election Commission ("FEC" or "the Commission") to find no reason to believe the DNC committed any violation with respect to the issues raised take no action against the DNC in this matter.

BACKGROUND

This matter relates to a complaint filed by the Republican National Committee against the DNC, Al Gore, the Mark Warner for Senate Committee, and the Democratic Party of Virginia with respect to a direct mailing sent in October of this year. The complainant alleges that the mailing expressly advocated the election of Mark Warner to the United States Senate, and lacked the disclaimer required by 2 U.S.C. 441d.

ARGUMENT

While the RNC does not have knowledge as to who actually financed this communication, it alleges that the DNC is at least partially responsible for this alleged omission. The complaint offers no proof for this proposition beyond noting that the street address the Democratic National Headquarters was used as the return address on the mailing under the name "Al Gore."

In fact, the DNC had no involvement with this mailing in any way. It is our understanding that this mailing was undertaken and financed solely by the Friends of Mark Warner.

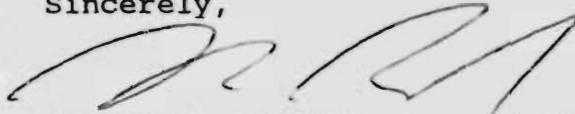
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Colleen Sealander, Esq.
November 26, 1996
Page Two

Section 441d requires that any person or authorized committee of a candidate who makes an expenditure for the purpose of financing a communication expressly advocating the election of defeat of a clearly identified candidate clearly state who paid for the communication, and, in the case of an expenditure by a person other than an authorized committee of a candidate, whether or not the communication was authorized by a candidate. Since the DNC did not make any expenditure in connection with this mailing, there could have been no violation of section 441d by the DNC.

For these reasons, the Commission should find no reason to believe the DNC violated 2 U.S.C. 441d and close this matter with respect to the DNC.

Sincerely,



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

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CLINTON
GORE 96

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

DEC 10 2 56 PM '96

December 10, 1996

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

Re: MUR 4566, The Honorable Al Gore

Dear Mr. Noble:

9704003324

We represent the Honorable Al Gore, Vice President of the United States, in the above captioned Matter Under Review ("MUR") and submit this response to the complaint filed in this matter. In short, the complaint completely fails to state a factual or legal basis for any Commission findings regarding the Vice President, and, accordingly, the Commission should find no reason to believe that the Vice President committed any violation of the Federal Election Campaign Act of 1971, as amended, (the "Act") and close the file as it pertains to him.

Statement of the Case

The basis for complainant's accusations is a letter signed by the Vice President in support of Mark Warner's candidacy for the United States Senate seat from Virginia. This letter does not appear to contain a disclaimer stating who paid for the costs associated with its production and distribution. While the Vice President does not dispute that he may have, in fact, signed the letter complained of, he was not responsible for paying, nor did he, in fact, personally incur, any expenses associated with the production or distribution of this letter.

Legal Analysis

1. The Commission's disclaimer requirements relate specifically to the person or entity paying for a communication.

Pursuant to the Commission's disclaimer requirements, whenever any person expends funds for a communication sent by means of direct mail which expressly advocates the election of a clearly identified candidate, specific language must be attached to that communication identifying who paid for and, in certain cases, who authorized the communication. See 2 U.S.C.

P.O. Box 19100 • WASHINGTON, D.C. 20036-9100 • VOICE: 202-331-1996 • TTY: 202-530-2170 • FAX: 202-496-4849

PAID FOR BY THE CLINTON/GORE '96 GENERAL COMMITTEE, INC.

§441d and 11 C.F.R. §110.11. Obviously, from the plain language of the Act and the Commission's regulations, the only requirements are the name of the person or entity which paid for the mailing and -- again, in some cases, -- the name of the person or entity which authorized the mailing.

No where does the statute or Commission regulations require the disclaimer to include information other than that set forth above. For example, in the case of an endorsement letter, the name of the endorser need not appear in the disclaimer, if the endorser did not pay for the costs of producing and distributing the letter. Obviously, the endorsement message should be clear from the content of such a letter itself.

2. Because Vice President Gore had no role with respect to paying for this mailing, there is no basis for finding any violation by him.

In the case of the Warner letter, the Vice President was simply asked to sign a letter endorsing the candidacy of Mark Warner. The Vice President was asked neither to produce nor to distribute the letter and did not expend any funds to do so. He simply had no role other than to respond to a request to sign this particular letter -- a request that is made of him by numerous candidates for Federal, state and local offices. As the Commission is aware, endorsement letters are a common component of campaign activity, and endorsements are sought quite frequently from elected officials, without having those officials spend money on behalf of the person they are endorsing. Accordingly, because the Vice President's role in this matter was limited to his signature, and because he had no responsibility whatsoever for the production and distribution of this letter, his name was not the name required in the specific disclaimer language.¹

While the Vice President does not dispute the fact that the envelope submitted with the complaint contains the address of 430 South Capitol Street, SE, Washington DC, 20003, which is the address of the Democratic National Committee (the "DNC"), he has, in fact, no specific knowledge as to whether the DNC or some other entity, such as the Democratic Party of Virginia or Mark Warner's principal Senate campaign committee, actually paid for the costs of this mailing. However, as stated above, the payor's identity is not relevant to the request herein to close this matter as it pertains to the Vice President.

Therefore, based on the facts that the Vice President had no responsibilities for the mailing and did not incur any expenses for this mailing, there is nothing in the accusations presented by the complainant which triggers an alleged violation of the Act or Commission regulations by the Vice President. In fact, complainant, through its obvious familiarity with this

¹It should be noted that the neither of the Vice President's campaign committees -- the Clinton/Gore '96 Primary Committee or the Clinton/Gore '96 General Committee -- had any role with respect to the letter in question.

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type of commonplace political activity, clearly knows that this endorsement letter was not paid for by the Vice President, but chose to name him as a respondent anyway, for purely partisan political purposes. The Commission should firmly reject the partisan political aspect of the allegations, by removing the Vice President from this matter.

Conclusion

For the reasons stated above, complainant's allegations with respect to the Vice President fail to demonstrate a factual or legal basis for any Commission finding against him. Where, as here, an endorser does not incur any expenses for a mailing containing an endorsement, the disclaimer need not include the endorser's name. We respectfully request that the Commission find no reason to believe that the Honorable Al Gore violated any provision of the Act or Commission regulations and close this matter as it pertains to him.

Respectfully submitted,

Lyn Utrecht / EK
Lyn Utrecht
Eric Kleinfeld

97043635396

EPSTEIN BECKER & GREEN, P.C.

ATTORNEYS AT LAW

1227 25TH STREET, N.W.

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CONNECTICUT, VIRGINIA AND TEXAS ONLY

December 20, 1996

VIA FACSIMILE (202/219-3923)
AND HAND-DELIVERED

Colleen T. Sealander, Esquire
Central Enforcement Docket
Office of the General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Room 657
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Dec 23 10 24 AM '96

RE: **M.U.R. 4566: RESPONDENTS FRIENDS OF MARK WARNER AND
GERALD McGOWAN, AS TREASURER**

Dear Ms. Sealander:

On behalf of our clients, Friends of Mark Warner and Gerald McGowan (hereinafter collectively referred to as "the Respondents"), we hereby file this response in connection with the above-referenced matter.

On or about November 1, 1996, the Republican National Committee filed with the Federal Election Commission ("the Commission") a complaint alleging that the Respondents violated 2 U.S.C. §441d. Specifically, it is alleged that the Respondents violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by failing to include a disclaimer on a mailing advocating the election of Mark Warner to the United States Senate.

97043035397

Colleen T. Sealander, Esquire
December 20, 1996
Page 2

It is uncontroverted that the mailing in question advocated the election of Mark Warner to the United States Senate; was paid for by the Friends of Mark Warner ("the Committee"); and did not include the disclaimer required by 2 U.S.C. § 441d. However, for the reasons set forth below, we respectfully urge the Commission to close this matter without taking any further action.

The Mailing

During the course of the 1996 election the Committee contracted with The November Group, Inc., a direct-mail vendor, to produce and distribute direct-mail pieces in connection with Mark Warner's campaign for the United States Senate.

The mailing in question was one of numerous pieces prepared by The November Group. On several occasions prior to the piece being mailed, Anita Rimler, campaign manager of the Committee, as well as other Committee staff, spoke with representatives of The November Group about the direct mail piece in question. During these conversations, Ms. Rimler and other Committee staff noted the absence of the disclaimer on the draft letter and were assured by The November Group that the disclaimer would be added prior to the piece being mailed. See Letter from Mal Malchow, attached hereto. Based on prior experience with The November Group, it was reasonable for the Committee to believe that the disclaimer would be added prior to the piece being mailed.

It was not until after the letters were mailed did the fact that the disclaimer was omitted come to the attention of the Committee. At no time did Ms. Rimler, nor any member of the Committee, intend to mail the letters without the required disclaimer. At all times it was the intent of the Committee to comply with the Act and to have the disclaimer appear on the letter. As is evidenced in the letter from Mal Malchow, The November Group is "completely at fault for this error."

Previous Commission Action Where Disclaimers Were Omitted Due to the Fault of a Vendor Rather Than the Principal Campaign Committee.

In previous MURs involving the omission of a disclaimer -- where the omission was due to an error on the part of a third party vendor -- the Commission closed the matters without making a finding that there was reason to believe a violation of the Act occurred.

MUR 4154

In 1994, a print ad in a local magazine advocating the election of Senator William Roth appeared without the required disclaimer because of an error by the magazine. The magazine's executive editor, in a letter to the Roth Committee, noted that "due to our mistake, the disclaimer 'Paid for by the Roth Senate Committee' was inadvertently left off the advertisement that ran in our

Colleen T. Sealander, Esquire

December 20, 1996

Page 3

October 1994 issue." The editor offered the magazine's apologies and "assume[d] all responsibilities for this error."

The First General Counsel's Report on the matter, dated November 28, 1994, noted that

Although the required disclaimer was clearly omitted, the facts in this matter indicate that this matter should not be pursued. In the past, the Commission has not pursued matters when the respondent has shown that the proper disclaimer was inadvertently omitted by a vendor. See MUR 3705 (newspaper responsible for omission of disclaimer on several advertisements) and MUR 3739 (newspaper responsible for omission of disclaimer). Consistently, this Office recommends that the Commission open a MUR, find no reason to believe the Roth Senate Committee and Thomas P. Sweeney, as treasurer, violated 2 U.S.C. § 441d(a) and close the file in this matter.

The Commission accepted the General Counsel's recommendations and closed its file on the matter.

MUR 3739

In 1993, the National Republican Senatorial Committee filed a complaint with the Commission alleging that Senator Bob Krueger's Committee violated the Act by failing to include a disclaimer in a campaign ad which ran in *The Washington Post*. In its response to the complaint, the Krueger campaign demonstrated that the omission of the disclaimer was due to an error by the newspaper.

The First General Counsel's Report noted that

Although the advertisement at issue lacked the proper disclaimer when it was published on February 18, 1993, the facts at hand indicate that it was an inadvertent omission by the vendor. In the past, the Commission has not pursued Respondents when the omission was made by the vendor, rather than the committee. See Matters Under Review 3705 and 2634. Given the foregoing, this Office recommends that the Commission find no reason to believe that the Bob Krueger campaign, and Nina Guinn, as treasurer, violated 2 U.S.C. § 441d(a).

Again, the Commission concluded that no violation occurred and closed the matter without taking any further action.

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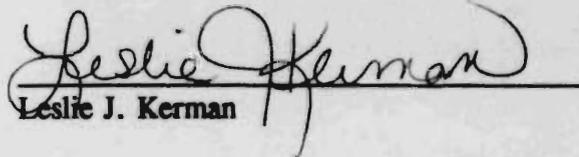
Colleen T. Sealander, Esquire
December 20, 1996
Page 4

Conclusion

The instant matter is directly on point with the matters cited above, i.e., an inadvertent omission of a disclaimer by a vendor and not a political committee does not result in a violation of the Act by the political committee. Therefore -- based on Commission precedent -- this matter should be closed without any finding that the Respondents violated the Act.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me at (202) 861-1877.

Sincerely,


Leslie J. Kerman

Enclosure

97043035400



November 26, 1996

Ms. Anita Rimler
Friends of Mark Warner
Post Office Box 1996
Richmond, VA 23218-1996

Dear Anita:

As you know, the letter from Vice-President Gore mailed to Democratic primary voters on behalf of Mark Warner's campaign did not contain a disclaimer indicating that it was paid for by Friends of Mark Warner.

The absence of a disclaimer was discussed by your staff with our staff. Our staff determined that the most economical way to include the disclaimer was to laser it onto the printed page when the personalization process took place. It is my understanding that the laser shop was instructed to do so although I have no written documentation to that effect. In any event, when we proofed the setups from the laser shop, our staff did not detect that the disclaimer was not included. Therefore, the package mailed without the disclaimer.

We are completely at fault for this error. It was our job to make certain that the disclaimer was included and that your concerns about its absence were addressed prior to mailing. I apologize and accept full responsibility for this mistake.

In producing more than 1000 mailings for candidates of all kinds, we have never before missed a disclaimer and I hope we never will again.

Sincerely,

Hal Malchow

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BEFORE THE FEDERAL ELECTION COMMISSION

FEDERAL ELECTION COMMISSION
SECRET

In the Matter of)
)
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)

ENFORCEMENT PRIORITY

AUG 14 4 21 PM '97

SENSITIVE

AUG 19 1997

**EXECUTIVE SESSION
SUBMITTED LATE**

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

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

II. CASES RECOMMENDED FOR CLOSURE.

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

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

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

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

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

B. Stale Cases

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

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

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

97043035403

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

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

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

⁵ These cases are: MUR 3796 (*Jay Kim for Congress*); MUR 3798 (*Jay Kim*); MUR 4275 (*Jay Kim*); and MUR 4356 (*Dynamic Energy Resources*). In dismissing the Jay Kim cases, we also recommend closing Pre-MUR 352, which is the transmittal of the guilty plea agreement and related documentation in the criminal case against Congressman Kim forwarded by United States Attorney's office.

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

III. RECOMMENDATIONS.

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

Pre-MUR 336

Pre-MUR 352

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

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

97043635405

8/14/97

Date

Lawrence M. Noble (A2)

Lawrence M. Noble
General Counsel

Attachment:
Case Summaries

BEFORE THE FEDERAL ELECTION COMMISSION

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

CERTIFICATION

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

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

(continued)

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Federal Election Commission
Certification: Enforcement Priority
August 19, 1997

Page 2

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

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

Attest:

8-21-97
Date

Marjorie W. Emons
Marjorie W. Emons
Secretary of the Commission

97043635407



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas J. Josefiak, Counsel
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 4566

Dear Mr. Josefiak:

On November 1, 1996, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act")

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on August 29, 1997. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043835408

MUR 4566
AL GORE

Thomas Josefiak, Counsel for the Republican National Committee, alleges that DNC, The Honorable Albert Gore, Friends of Mark Warner, the Democratic Party of Virginia, or a combination thereof, failed to include the proper disclaimer for a direct mailing to Virginia voters in support of candidate Mark Warner.

Friends of Mark Warner ("Committee") and its treasurer, Gerald McGowan, states that the vendor inadvertently omitted the disclaimer from the direct mail piece. Prior to the mailing, a representative of the Committee noticed that the disclaimer was missing. The direct mail vendor assured the Committee that the disclaimer would be added prior to the piece being mailed.

The Democratic Party of Virginia and DNC respond by stating that they were not involved with the mailing of the direct mail. Additionally, Vice President Albert Gore's role was limited to signing the direct mail piece.

There's no indication of any intent to violate the FECA. This matter is less significant relative to other matters pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Abbi G. Easter, Treasurer
Democratic Party of Virginia
Federal Campaign Committee
1108 E. Main Street, Second Floor
Richmond, VA 23219

RE: MUR 4566

Dear Ms. Easter:

On November 8, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Democratic Party of Virginia - Federal Campaign Committee and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on August 29, 1997.

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

If you have any questions, please contact Alva E. Smith on our toll-free telephone number. (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043035410

MUR 4566
AL GORE

Thomas Josefiak, Counsel for the Republican National Committee, alleges that DNC, The Honorable Albert Gore, Friends of Mark Warner, the Democratic Party of Virginia, or a combination thereof, failed to include the proper disclaimer for a direct mailing to Virginia voters in support of candidate Mark Warner.

Friends of Mark Warner ("Committee") and its treasurer, Gerald McGowan, states that the vendor inadvertently omitted the disclaimer from the direct mail piece. Prior to the mailing, a representative of the Committee noticed that the disclaimer was missing. The direct mail vendor assured the Committee that the disclaimer would be added prior to the piece being mailed.

The Democratic Party of Virginia and DNC respond by stating that they were not involved with the mailing of the direct mail. Additionally, Vice President Albert Gore's role was limited to signing the direct mail piece.

There's no indication of any intent to violate the FECA. This matter is less significant relative to other matters pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Leslie J. Kerman, Esquire
EPSTEIN BECKER & GREEN, PC
1227 25th Street, N.W., Suite 700
Washington, D.C. 20037

RE: MUR 4566
Friends of Mark Warner and Gerald McGowan, as treasurer

Leslie
Dear Ms. Kerman:

On November 22, 1996, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

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

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

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043835412

MUR 4566
AL GORE

Thomas Josefiak, Counsel for the Republican National Committee, alleges that DNC, The Honorable Albert Gore, Friends of Mark Warner, the Democratic Party of Virginia, or a combination thereof, failed to include the proper disclaimer for a direct mailing to Virginia voters in support of candidate Mark Warner.

Friends of Mark Warner ("Committee") and its treasurer, Gerald McGowan, states that the vendor inadvertently omitted the disclaimer from the direct mail piece. Prior to the mailing, a representative of the Committee noticed that the disclaimer was missing. The direct mail vendor assured the Committee that the disclaimer would be added prior to the piece being mailed.

The Democratic Party of Virginia and DNC respond by stating that they were not involved with the mailing of the direct mail. Additionally, Vice President Albert Gore's role was limited to signing the direct mail piece.

There's no indication of any intent to violate the FECA. This matter is less significant relative to other matters pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Lyn Utrecht, Esquire
OLDAKER, RYAN, PHILLIPS & UTRECHT
818 Connecticut Avenue, N.W., Suite 1100
Washington, D.C. 20006

Eric Kleinfeld, Esquire
Clinton/Gore '96
PO Box 19100
Washington, D.C. 20036

RE: MUR 4566
The Honorable Albert Gore, Jr.

Dear Ms. Utrecht and Mr. Kleinfeld:

On November 8, 1996, the Federal Election Commission notified your client of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion to take no action against your clients. See attached narrative. Accordingly, the Commission closed its file in this matter on August 29, 1997.

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

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The Honorable Albert Gore, Jr.
Page 2

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,



F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043035415

MUR 4566
AL GORE

Thomas Josefiak, Counsel for the Republican National Committee, alleges that DNC, The Honorable Albert Gore, Friends of Mark Warner, the Democratic Party of Virginia, or a combination thereof, failed to include the proper disclaimer for a direct mailing to Virginia voters in support of candidate Mark Warner.

Friends of Mark Warner ("Committee") and its treasurer, Gerald McGowan, states that the vendor inadvertently omitted the disclaimer from the direct mail piece. Prior to the mailing, a representative of the Committee noticed that the disclaimer was missing. The direct mail vendor assured the Committee that the disclaimer would be added prior to the piece being mailed.

The Democratic Party of Virginia and DNC respond by stating that they were not involved with the mailing of the direct mail. Additionally, Vice President Albert Gore's role was limited to signing the direct mail piece.

There is no indication of any intent to violate the FECA. This matter is less significant relative to other matters pending before the Commission.

97043835416



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 29, 1997

Carol Pensky, Treasurer
DNC Services Corporation
Democratic National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 4566

Dear Ms. Pensky:

On November 8, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the DNC Services Corporation Democratic National Committee and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on August 29, 1997.

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

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043835417

MUR 4566
AL GORE

Thomas Josefiak, Counsel for the Republican National Committee, alleges that DNC, The Honorable Albert Gore, Friends of Mark Warner, the Democratic Party of Virginia, or a combination thereof, failed to include the proper disclaimer for a direct mailing to Virginia voters in support of candidate Mark Warner.

Friends of Mark Warner ("Committee") and its treasurer, Gerald McGowan, states that the vendor inadvertently omitted the disclaimer from the direct mail piece. Prior to the mailing, a representative of the Committee noticed that the disclaimer was missing. The direct mail vendor assured the Committee that the disclaimer would be added prior to the piece being mailed.

The Democratic Party of Virginia and DNC respond by stating that they were not involved with the mailing of the direct mail. Additionally, Vice President Albert Gore's role was limited to signing the direct mail piece.

There's no indication of any intent to violate the FECA. This matter is less significant relative to other matters pending before the Commission.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4566

DATE FILMED 9-23-97 CAMERA NO. 4

CAMERAMAN JMJ

97043635419