



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 3579

DATE FILMED 11/20/92 CAMERA NO. 4

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE
EXECUTIVE SESSION

August 11, 1992

AUG 13 1992

MEMORANDUM

TO: The Commission

FROM: Scott E. Thomas, Vice Chairman *ST*
Trevor Potter, Commissioner *TP*

SUBJECT: Recommendation to make Directive 6 referral to the
Office of the General Counsel (OGC)

Pursuant to Directive 6, we recommend that the Commission find reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, has occurred and refer an apparent violation of the Act to OGC for action consistent with this finding, including subpoenas as discussed below. In today's circulation of "News and Views" from the Press Office was a copy of an ad run in the Washington Times. See attached. It contains express advocacy of the defeat of a particular candidate but omits a disclaimer. This presents a facial violation of 2 U.S.C. § 441d by the person or persons who paid for the communication. The identity of the persons who paid for the advertisement cannot be ascertained from the text because the group listed, "Concerned Voters" is not a registered committee, and it is in any case not stated whether this group paid for the advertisement.

An anonymous advertisement advocating the defeat of a presidential candidate in the midst of a presidential campaign is precisely the sort of conduct which the FECA is designed to prohibit. Accordingly, we believe the Commission should urgently act on this matter to prevent recurrences. We think the Commission would be best served by simultaneously approving the appropriate "reason to believe" determinations and referring this matter to OGC for immediate investigation. At the same time, we also believe that it would be advisable to authorize subpoenas to the named entity, Concerned Voters and/or parties unknown, as well as the Washington Times in the event it will not voluntarily divulge the name of the responsible persons.

The violation is straightforward. In order to head off similar violations, we should act as expeditiously as possible. As soon as possible following Commission action on this matter

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OGC should contact the Washington Times by telephone to ask for the identification of the persons involved.

Recommendations

1. Open a MUR;
2. Find reason to believe that Concerned Voters and/or person or persons unknown violated 2 U.S.C. § 441d relating to the attached advertisement appearing in the Washington Times this day entitled "IS BILL CLINTON AN ADULTERER AND LIAR?";
3. Authorize the issuance of an order for written answers and subpoena for records to Concerned Voters and to the Washington Times;
4. Approve the appropriate Factual and Legal Analysis; and
5. Approve the appropriate letters.

Attachment

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IS BILL CLINTON AN ADULTERER AND LIAR?

The burning question is: Did Bill Clinton have an affair with Gennifer Flowers? First Clinton denied the affair saying that he and Flowers were just good friends. Later on he changed his position. When asked by a young man in the audience at a rally if he, Clinton, was an adulterer, Clinton replied he was tired of being held to a double standard. That he was not going to answer that question. That it was none of the young man's business.

Another presidential candidate, Gary Hart, was held to the same exacting standard for the presidency. Hart denied he was an adulterer and a liar. When the media proved Gary Hart was both an adulterer and a liar, Hart resigned in disgrace.

Shouldn't the same exacting standard also be applied to Clinton? This standard should be applied to all presidential candidates, not just to Gary Hart. All candidates should be held accountable to the voters.

So the question left to be answered: Is Bill Clinton actually an adulterer?

Here is the answer.

Gennifer Flowers stated that though Clinton was married, she was Clinton's mistress for twelve years. She made tape recordings of the intimate telephone conversations between her and Clinton. A transcript of these tapes reveals that Clinton performed certain sexual acts with Flowers. The language used was too obscene to print in a family newspaper.

When he refused to answer the young man's question as to whether or not he was an adulterer, Clinton was in effect saying it was none of your — the voters' — business. Imagine a presidential

candidate saying that it was none of the voters' business whether or not he was an adulterer.

The office of the presidency demands that only men of high moral character be elected to that office. It is your business whether or not a presidential candidate is an adulterer. There are enough men or women in the United States of high moral character to be President without having an adulterer and liar. Clinton is a liar because he first denied that he had the affair with Flowers. Then he took the "Fifth Amendment." No candidate taking the "Fifth" should be permitted to be President.

A beauty queen also said she had an affair with Clinton. He hired private investigators and a law firm to attempt to destroy her credibility. (Remember how the columnists condemned Perot for hiring investigators — how the media have a double standard.) Because in the end, it was his word against her word, she could not prove they had an affair — even though they might have.

But the Gennifer Flowers affair is different. She can prove her affair by her having made tapes of their talks. These tapes prove this affair between Clinton and her beyond a shadow of a doubt. Clinton must withdraw just like Gary Hart did.

So far, the press and TV have generally remained silent about these tapes. It is time the major media voluntarily started a thorough investigation of the matter of candidate Clinton's affair.

Act now — write or call your local newspaper editor to insist he call for an investigation of these tapes and the Flowers affair. Clinton should not be allowed to get away with saying it is none of your business whether or not he was an adulterer. He should quit now. No adulterer and liar should be President of the United States.

CONCERNED VOTERS

P.O. Box 40309
Washington, DC 20016

If you want a transcript of the Flowers tape, send \$3 for postage and handling to above address.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
F.E.C.
SECRETARIAT

92 AUG 13 AM 8:27

SENSITIVE
EXECUTIVE SESSION

August 13, 1992

AUG 13 1992.

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: Agenda Document #92-61

Attached is a proposed Factual and Legal Analysis to accompany Agenda Document #92-61.

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Concerned Voters
and Persons Unknown

MUR:

I. GENERATION OF MATTER

This matter was generated by the Commission on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). It involves an advertisement published in the Washington Times on August 11, 1992, which contains no Section 441d disclaimer.

II. ANALYSIS

Under the Federal Election Campaign Act of 1971, as amended, (the "Act") and Commission regulations, whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through general public advertising, such communication must contain a disclaimer clearly identifying who paid for the communication and whether or not it was authorized by a candidate or candidate's committee. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a)(1).

The advertisement, a copy of which is attached hereto, asserts that Bill Clinton is an adulterer and a liar, and that he "took the 'Fifth Amendment'" when asked about having an affair. The ad then states that "[n]o candidate taking the 'Fifth' should be permitted to be President," and that "[n]o adulterer and liar should be President of the United States. The ad also states that

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"He should quit now." The advertisement clearly identifies Bill Clinton as a Presidential candidate and expressly advocates his defeat. See Buckley v. Valeo, 424 U.S. 1, 44 n. 52 (1976); FEC v. Massachusetts Citizens For Life, 479 U.S. 238, 249 (1986); FEC v. Furgatch, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987). Accordingly, because the advertisement lacked a disclaimer there is reason to believe that Concerned Voters, and persons unknown, violated 2 U.S.C. § 441d(a).

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IS BILL CLINTON AN ADULTERER AND LIAR?

The burning question is: Did Bill Clinton have an affair with Gennifer Flowers? First Clinton denied the affair saying that he and Flowers were just good friends. Later on he changed his position. When asked by a young man in the audience at a rally if he, Clinton, was an adulterer, Clinton replied he was tired of being held to a double standard. That he was not going to answer that question. That it was none of the young man's business.

Another presidential candidate, Gary Hart, was held to the same exacting standard for the presidency. Hart denied he was an adulterer and a liar. When the media proved Gary Hart was both an adulterer and a liar, Hart resigned in disgrace.

Shouldn't the same exacting standard also be applied to Clinton? This standard should be applied to all presidential candidates, not just to Gary Hart. All candidates should be held accountable to the voters.

So the question left to be answered: Is Bill Clinton actually an adulterer?

Here is the answer.

Gennifer Flowers stated that though Clinton was married, she was Clinton's mistress for twelve years. She made tape recordings of the intimate telephone conversations between her and Clinton. A transcript of these tapes reveals that Clinton performed certain sexual acts with Flowers. The language used was too obscene to print in a family newspaper.

When he refused to answer the young man's question as to whether or not he was an adulterer, Clinton was in effect saying it was none of your — the voters' — business. Imagine a presidential

candidate saying that it was none of the voters' business whether or not he was an adulterer.

The office of the presidency demands that only men of high moral character be elected to that office. It is your business whether or not a presidential candidate is an adulterer. There are enough men or women in the United States of high moral character to be President without having an adulterer and liar. Clinton is a liar because he first denied that he had the affair with Flowers. Then he took the "Fifth Amendment." No candidate taking the "Fifth" should be permitted to be President.

A beauty queen also said she had an affair with Clinton. He hired private investigators and a law firm to attempt to destroy her credibility. (Remember how the columnists condemned Perot for hiring investigators — how the media have a double standard.) Because in the end, it was his word against her word, she could not prove they had an affair — even though they might have.

But the Gennifer Flowers affair is different. She can prove her affair by her having made tapes of their talks. These tapes prove this affair between Clinton and her beyond a shadow of a doubt. Clinton must withdraw just like Gary Hart did.

So far, the press and TV have generally remained silent about these tapes. It is time the major media voluntarily started a thorough investigation of the matter of candidate Clinton's affair.

Act now — write or call your local newspaper editor to insist he call for an investigation of these tapes and the Flowers affair. Clinton should not be allowed to get away with saying it is none of your business whether or not he was an adulterer. He should quit now. No adulterer and liar should be President of the United States.

CONCERNED VOTERS

P.O. Box 40309
Washington, DC 20016

If you want a transcript of the Flowers tape, send \$3 for postage and handling to above address.

ATTACHMENT 1

Page 1 of 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3579
Concerned Voters and/or person or)
persons unknown)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 13, 1992, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to the above-captioned matter:

1. Open a MUR.
2. Find reason to believe that Concerned Voters and/or person or persons unknown violated 2 U.S.C. § 441d relating to the advertisement appearing in the Washington Times on August 11, 1992, entitled "IS BILL CLINTON AN ADULTERER AND LIAR?".
3. Authorize the issuance of an order for written answers and subpoena for records to Concerned Voters, to the Washington Times, or to other parties that may have records regarding the expenditure for advertising.
4. Approve the Factual and Legal Analysis submitted in Agenda Document #X92-61-A, as amended in the last line to read: and/or persons unknown violated 2 U.S.C. § 441d(a).

(continued)

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5. Approve appropriate letters.

Commissioners Aikens, Elliott, McGarry, Potter, and
Thomas voted affirmatively for the decision; Commissioner
McDonald was not present.

Attest:

8-13-92
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ian Mackenzie
Mackenzie-McCheyne, Inc.
2555 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

RE: MUR 3579

Dear Mr. Mackenzie:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended (the "Act"). The Commission has issued the attached Subpoena and Order which requires you to provide certain information in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. However, you are required to submit the information within

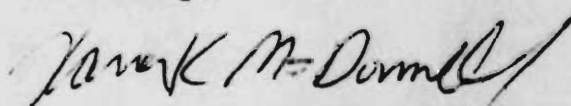
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Mr. Ian Mackenzie
Page 2

7 days of your receipt of this Subpoena and Order. All answers to questions must be submitted under oath.

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

Sincerely,



Xavier K. McDonnell
Attorney

Enclosures
Subpoena and Order
Instructions
Definitions
Questions/Document Requests
Advertisement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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)
)

MUR 3579

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Ian Mackenzie
Mackenzie-McCheyne, Inc.
2555 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

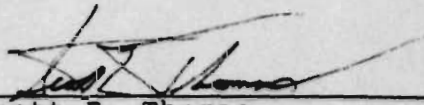
Pursuant to 2 U.S.C. §§ 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to produce the documents requested on the attachment to this Subpoena and orders you to submit written answers to the questions attached to this Order. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 7 days of receipt of this Order and Subpoena.

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Ian MacKenzie
MUR 3579
Subpoena and Order
Page 2

WHEREFORE, the Vice Chairman of the Federal Election
Commission has hereunto set his hand in Washington, D.C. on this
17th, day of *August*, 1992.



Scott E. Thomas
Vice Chairman
Federal Election Commission

ATTEST:

for 

Marjorie W. Emmons
Secretary to the Commission

Attachments
Instructions
Definitions
Questions/Document Requests
Advertisement

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Ian MacKenzie
MUR 3579
Subpoena/Order
Page 3

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery requests shall refer to the time period from January 1, 1992 until the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Mackenzie-McCheyne, Inc., including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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Ian MacKenzie
MUR 3579
Subpoena to Produce Documents and
Attachment to Order to Submit Answers
Page 5

QUESTIONS

1. Identify the person(s) and organization(s) that paid for the production and placement of the advertisement regarding Bill Clinton which appeared in the Washington Times on August 11, 1992. See Attached advertisement (hereinafter "Clinton ad").

2. Identify your client known as "Concerned Voters."

3. State whether the Clinton ad has been published or is scheduled to be published in the Washington Times on any other date in addition to August 11, 1992. If so:

- a) Provide the scheduled dates of publication, i.e., when the Clinton ad has appeared and is scheduled to appear in the Washington Times;
- b) State the total production and publication costs charged or incurred for the Clinton ad, stating separately the amount incurred for publication on each date, including August 11, 1992.

4. State whether the Clinton ad, or any variation of that ad, has appeared or is scheduled to appear or be used in any direct mailings, newsletters, newspapers, magazines, broadcast media, or any other type of general public advertising. If so:

- a) Identify all such appearances and/or uses;
- b) Provide the dates of publication, broadcast or distribution for each item identified in response to Question 4(a);
- c) Provide the production, distribution and publication costs incurred for each item identified in response to Question 4(a), stating separately the amount incurred for each item.

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Ian MacKenzie
MUR 3579
Subpoena to Produce Documents and
Attachment to Order to Submit Answers
Page 6

5. State whether you received any payment or have agreed to provide any goods or services on behalf of Concerned Voters for any other advertisement(s) which contain(s) the name(s) of any Federal candidate(s); If so:

- a) Briefly describe the type of advertisement, e.g. newspaper, radio, mailing, etc.
- b) State the cost involved and/or incurred for each ad;
- c) Provide the date(s) of publication, broadcast, or distribution for each.

DOCUMENT REQUESTS

1. Produce all documents related to the Clinton ad, including but not limited to any contracts, order forms, checks, invoices, ads, scripts, correspondence, audiotapes, videotapes, etc. See definition of "Document" on page 4.

2. Produce all documents related to any advertisement(s), paid for, ordered by, or prepared for the person(s) and organization(s) identified in answer to Question 1, which contain the name(s) of any federal candidate(s), including but not limited to contracts, order forms, checks, invoices, ads, scheduling lists, scripts, audiotapes, videotapes, correspondence, etc.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 18, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Concerned Voters
8001 MacArthur Boulevard
Cabin John, Maryland 20818

RE: MUR 3579

To Whom It May Concern:

On August 13, 1992, the Federal Election Commission found reason to believe that Concerned Voters, and/or person(s) unknown ("respondents") violated 2 U.S.C. § 441d, a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Pursuant to its investigation of this matter, the Commission has issued the attached Order and Subpoena requiring you to provide answers to the enclosed questions and to produce documents which will assist the Commission in carrying out its statutory duty of supervising compliance with the Act. You may consult with an attorney and have an attorney assist you in the preparation of your responses to this Order and Subpoena.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials, along with answers and documents responsive to the enclosed Order and Subpoena, within 7 days of your receipt of this letter.

In the absence of any additional information demonstrating that no further action should be taken against Concerned Voters and/or person or persons unknown, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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Concerned Voters
Page 2

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be shown. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,



Scott C. Thomas
Vice Chairman

Enclosures

Factual and Legal Analysis
Subpoena and Order
Definitions
Instructions
Questions/Document Requests
Procedures
Designation of Counsel Form
Advertisement

92040923990

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR: 3579

RESPONDENTS: Concerned Voters and/or
person(s) unknown

I. GENERATION OF MATTER

This matter was generated by the Commission on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). It involves an advertisement published in the Washington Times on August 11, 1992, which contains no Section 441d disclaimer.

II. ANALYSIS

Under the Federal Election Campaign Act of 1971, as amended, (the "Act") and Commission regulations, whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through general public advertising, such communication must contain a disclaimer clearly identifying who paid for the communication and whether or not it was authorized by a candidate or candidate's committee. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a)(1).

The advertisement, a copy of which is attached hereto, asserts that Bill Clinton is an adulterer and a liar, and that he "took the 'Fifth Amendment'" when asked about having an affair. The ad then states that "[n]o candidate taking the 'Fifth' should

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The ad then states that "[n]o candidate taking the 'Fifth' should be permitted to be President," and that "[n]o adulterer and liar should be President of the United States. The ad also states that "He should quit now." The advertisement clearly identifies Bill Clinton as a Presidential candidate and expressly advocates his defeat. See Buckley v. Valeo, 424 U.S. 1, 44 n. 52 (1976); FEC v. Massachusetts Citizens For Life, 479 U.S. 238, 249 (1986); FEC v. Furgatch, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987). Accordingly, because the advertisement lacked a disclaimer there is reason to believe that Concerned Voters and/or persons unknown, violated 2 U.S.C. § 441d(a).

92040923992

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3579
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Concerned Voters and/or
person(s) unknown
8001 MacArthur Boulevard
Cabin John, Maryland 20818

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 7 days of receipt of this Order and Subpoena.

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Concerned Voters
MUR 3579
Subpoena and Order
Page 2

WHEREFORE, the Vice Chairman of the Federal Election
Commission has hereunto set his hand in Washington, D.C. on this
17th, day of *August*, 1992.



Scott E. Thomas
Vice Chairman
Federal Election Commission

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Attachments
Instructions
Definitions
Questions/Document Requests
Advertisement

92040923994

INSTRUCTIONS

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery requests shall refer to the time period from January 1, 1992 until the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Concerned Voters, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

92040923996

QUESTIONS

1. Identify Concerned Voters and describe what type of entity it is, i.e., an individual, a committee, corporation or membership organization, etc.

2. Identify all persons who drafted, reviewed, or otherwise assisted in the creation, preparation and publication of the advertisement involving Bill Clinton which appeared in the Washington Times on August 11, 1992. See Attached advertisement (hereinafter "Clinton ad").

3. State whether you paid for the production and placement of the Clinton ad.

4. If the answer to question #3 is in the affirmative, identify the person(s) within Concerned Voters who authorized the production and publication of the Clinton ad.

5. Identify the source of funds used to pay for the production and placement of the Clinton ad.

6. State whether the Clinton ad has been published, or is scheduled to be published, in the Washington Times on any other date(s) in addition to August 11, 1992. If so:

a) Provide the dates of publication, i.e., when the Clinton ad has appeared and is scheduled to appear in the Washington Times;

b) State the total production and publication costs involved and/or incurred for the Clinton ad, stating separately the amount incurred for publication on each date, including August 11, 1992.

7. State whether the Clinton ad, or any variation of that ad, has appeared or is scheduled to appear or be used in any direct mailings, newsletters, newspapers, magazines, broadcast media, or any other type of general public advertising. If so:

a) Identify all such appearances and/or uses;

b) Provide the dates of publication, broadcast or distribution for each item identified in response to Question 7(a);

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92040923998
Concerned Voters

MUR 3579

Attachment to Order to Submit Answers
and Subpoena to produce Documents

Page 6

- c) Provide the production, distribution and publication costs incurred for each item identified in response to Question 7(a), stating separately the amount incurred for each item.

8. State whether you made payments or entered into any agreement to pay for any other advertisement(s) which contain(s) the name(s) of federal candidate(s). If so:

- a) Briefly describe the type of advertisement(s), e.g. newspaper, radio, mailing, etc.;

b) State the costs involved and/or incurred for such advertisement(s).

9. Identify Wilson C. Lucom, providing addresses for each of his residences.

DOCUMENT REQUESTS

1. Produce all documents related to the Clinton ad, including but not limited to any contracts, order forms, checks, invoices, ads, scheduling information, scripts, correspondence, videotapes or audiotapes, etc. See definition of "Document" on page 4.

2. Produce all documents related to any advertisement(s) paid for or ordered by you which contain the name(s) of any federal candidate(s), including but not limited to contracts, order forms, checks, invoices, sample ads, ads, scheduling lists, scripts, correspondence, audiotapes, videotapes, etc.

3. Produce all documents relating to the creation, legal status, purposes and activities of Concerned Voters including but not limited to Articles of Incorporation, Bylaws, Board of Directors and employees.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 18, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Concerned Voters
c/o Wilson C. Lucom, Chairman
8001 MacArthur Boulevard
Cabin John, Maryland 20818

RE: MUR 3579

Dear Mr. Lucom:

On August 13, 1992, the Federal Election Commission found reason to believe that Concerned Voters, and/or person(s) unknown ("respondents") violated 2 U.S.C. § 441d, a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Pursuant to its investigation of this matter, the Commission has issued the attached Order and Subpoena requiring you to provide answers to the enclosed questions and to produce documents which will assist the Commission in carrying out its statutory duty of supervising compliance with the Act. You may consult with an attorney and have an attorney assist you in the preparation of your responses to this Order and Subpoena.

Under the Act, you have an opportunity to demonstrate that no action should be taken. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials, along with answers and documents responsive to the enclosed Order and Subpoena, within 7 days of your receipt of this letter.

In the absence of any additional information demonstrating that no further action should be taken against Concerned Voters and/or person or persons unknown, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

92040923999

Wilson C. Lucom, Chairman
Page 2

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be shown. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,



Scott E. Thomas
Vice Chairman

Enclosures

Factual and Legal Analysis
Subpoena and Order
Definitions
Instructions
Questions
Procedures
Designation of Counsel Form
Advertisement

9204092400

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR: 3579

RESPONDENTS: Concerned Voters and/or
person(s) unknown

I. GENERATION OF MATTER

This matter was generated by the Commission on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). It involves an advertisement published in the Washington Times on August 11, 1992, which contains no Section 441d disclaimer.

II. ANALYSIS

Under the Federal Election Campaign Act of 1971, as amended, (the "Act") and Commission regulations, whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through general public advertising, such communication must contain a disclaimer clearly identifying who paid for the communication and whether or not it was authorized by a candidate or candidate's committee. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a)(1).

The advertisement, a copy of which is attached hereto, asserts that Bill Clinton is an adulterer and a liar, and that he "took the 'Fifth Amendment'" when asked about having an affair. The ad then states that "[n]o candidate taking the 'Fifth' should

92040924001

The ad then states that "[n]o candidate taking the 'Fifth' should be permitted to be President," and that "[n]o adulterer and liar should be President of the United States. The ad also states that "He should quit now." The advertisement clearly identifies Bill Clinton as a Presidential candidate and expressly advocates his defeat. See Buckley v. Valeo, 424 U.S. 1, 44 n. 52 (1976); FEC v. Massachusetts Citizens For Life, 479 U.S. 238, 249 (1986); FEC v. Furgatch, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987). Accordingly, because the advertisement lacked a disclaimer there is reason to believe that Concerned Voters and/or persons unknown, violated 2 U.S.C. § 441d(a).

92040924002

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3579
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Concerned Voters and/or
person(s) unknown
c/o Wilson C. Lucom, Chairman
8001 MacArthur Boulevard
Cabin John, Maryland 20818

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 7 days of receipt of this Order and Subpoena.

92040924003

Wilson C. Lucom, Chairman
MUR 3579
Subpoena and Order
Page 2

WHEREFORE, the Vice Chairman of the Federal Election
Commission has hereunto set his hand in Washington, D.C. on this
17th, day of August, 1992.



Scott E. Thomas
Vice Chairman
Federal Election Commission

ATTEST:



Marjorie W. Emmons
Secretary to the Commission

Attachments
Instructions
Definitions
Questions/Document Requests
Advertisement

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Wilson C. Lucom, Chairman
MUR 3579
Subpoena/Order
Page 3

INSTRUCTIONS

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery requests shall refer to the time period from January 1, 1992 until the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Concerned Voters, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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Wilson C. Lucom, Chairman
MUR 3579
Attachment to Order to Submit Answers
and Subpoena to produce Documents
Page 5

QUESTIONS

1. Identify Concerned Voters and describe what type of entity it is, i.e., an individual, a committee, corporation or membership organization, etc.

2. Identify all persons who drafted, reviewed, or otherwise assisted in the creation, preparation and publication of the advertisement involving Bill Clinton which appeared in the Washington Times on August 11, 1992. See Attached advertisement (hereinafter "Clinton ad").

3. State whether you paid for the production and placement of the Clinton ad.

4. If the answer to question #3 is in the affirmative, identify the person(s) within Concerned Voters who authorized the production and publication of the Clinton ad.

5. Identify the source of funds used to pay for the production and placement of the Clinton ad.

6. State whether the Clinton ad has been published, or is scheduled to be published, in the Washington Times on any other date(s) in addition to August 11, 1992. If so:

a) Provide the dates of publication, i.e., when the Clinton ad has appeared and is scheduled to appear in the Washington Times;

b) State the total production and publication costs involved and/or incurred for the Clinton ad, stating separately the amount incurred for publication on each date, including August 11, 1992.

7. State whether the Clinton ad, or any variation of that ad, has appeared or is scheduled to appear or be used in any direct mailings, newsletters, newspapers, magazines, broadcast media, or any other type of general public advertising. If so:

a) Identify all such appearances and/or uses;

b) Provide the dates of publication, broadcast or distribution for each item identified in response to Question 7(a);

Wilson C. Lucom, Chairman
MUR 3579
Attachment to Order to Submit Answers
and Subpoena to produce Documents
Page 6

- c) Provide the production, distribution and publication costs incurred for each item identified in response to Question 7(a), stating separately the amount incurred for each item.

8. State whether you made payments or entered into any agreement to pay for any other advertisement(s) which contain(s) the name(s) of federal candidate(s). If so:

- a) Briefly describe the type of advertisement(s), e.g. newspaper, radio, mailing, etc.
- b) State the costs involved and/or incurred for such advertisement(s).

DOCUMENT REQUESTS

1. Produce all documents related to the Clinton ad, including but not limited to any contracts, order forms, checks, invoices, ads, scheduling information, scripts, correspondence, videotapes or audiotapes, etc. See definition of "Document" on page 4.

2. Produce all documents related to any advertisement(s) paid for or ordered by you which contain the name(s) of any federal candidate(s), including but not limited to contracts, order forms, checks, invoices, sample ads, ads, scheduling lists, scripts, correspondence, audiotapes, videotapes, etc.

3. Produce all documents relating to the creation, legal status, purposes and activities of Concerned Voters including but not limited to Articles of Incorporation, Bylaws, Board of Directors and employees.

92040924008



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 18, 1992

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Concerned Voters
c/o Sophia Dziadura
8001 MacArthur Boulevard
Cabin John, Maryland 20818

RE: MUR 3579

Dear Ms. Dziadura:

On August 13, 1992, the Federal Election Commission found reason to believe that Concerned Voters, and/or person(s) unknown ("respondents") violated 2 U.S.C. § 441d, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Pursuant to its investigation of this matter, the Commission has issued the attached Order and Subpoena requiring you to provide answers to the enclosed questions and to produce documents which will assist the Commission in carrying out its statutory duty of supervising compliance with the Act. You may consult with an attorney and have an attorney assist you in the preparation of your responses to this Order and Subpoena.

Under the Act, you have an opportunity to demonstrate that no action should be taken. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials, along with answers and documents responsive to the enclosed Order and Subpoena, within 7 days of your receipt of this letter.

In the absence of any additional information demonstrating that no further action should be taken against Concerned Voters and/or person or persons unknown, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

92040924009

Sophia Dziadura
Page 2

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be shown. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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 investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,



Scott E. Thomas
Vice Chairman

Enclosures

Factual and Legal Analysis
Subpoena and Order
Definitions
Instructions
Questions
Procedures
Designation of Counsel Form
Advertisement

92040924010

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR: 3579

RESPONDENTS: Concerned Voters and/or
person(s) unknown

I. GENERATION OF MATTER

This matter was generated by the Commission on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). It involves an advertisement published in the Washington Times on August 11, 1992, which contains no Section 441d disclaimer.

II. ANALYSIS

Under the Federal Election Campaign Act of 1971, as amended, (the "Act") and Commission regulations, whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through general public advertising, such communication must contain a disclaimer clearly identifying who paid for the communication and whether or not it was authorized by a candidate or candidate's committee. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a)(1).

The advertisement, a copy of which is attached hereto, asserts that Bill Clinton is an adulterer and a liar, and that he "took the 'Fifth Amendment'" when asked about having an affair. The ad then states that "[n]o candidate taking the 'Fifth' should

92040924011

The ad then states that "[n]o candidate taking the 'Fifth' should be permitted to be President," and that "[n]o adulterer and liar should be President of the United States. The ad also states that "He should quit now." The advertisement clearly identifies Bill Clinton as a Presidential candidate and expressly advocates his defeat. See Buckley v. Valeo, 424 U.S. 1, 44 n. 52 (1976); FEC v. Massachusetts Citizens For Life, 479 U.S. 238, 249 (1986); FEC v. Furgatch, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987). Accordingly, because the advertisement lacked a disclaimer there is reason to believe that Concerned Voters and/or persons unknown, violated 2 U.S.C. § 441d(a).

92040924012

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3579
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Concerned Voters and/or
 person(s) unknown
 c/o Sophia Dziadura
 8001 MacArthur Boulevard
 Cabin John, Maryland 20818

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 7 days of receipt of this Order and Subpoena.

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Sophia Dziadura
MUR 3579
Subpoena and Order
Page 2

WHEREFORE, the Vice Chairman of the Federal Election
Commission has hereunto set his hand in Washington, D.C. on this
17th , day of August, 1992.



Scott E. Thomas
Vice Chairman
Federal Election Commission

ATTEST:

for 

Marjorie W. Emmons
Secretary to the Commission

Attachments
Instructions
Definitions
Questions/Document Requests
Advertisement

92040924014

INSTRUCTIONS

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery requests shall refer to the time period from January 1, 1992 until the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

92040924015

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Concerned Voters, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

92040924016

QUESTIONS

1. Identify Concerned Voters and describe what type of entity it is, i.e., an individual, a committee, corporation or membership organization, etc.

2. Identify all persons who drafted, reviewed, or otherwise assisted in the creation, preparation and publication of the advertisement involving Bill Clinton which appeared in the Washington Times on August 11, 1992. See Attached advertisement (hereinafter "Clinton ad").

3. State whether you paid for the production and placement of the Clinton ad.

4. If the answer to question #3 is in the affirmative, identify the person(s) within Concerned Voters who authorized the production and publication of the Clinton ad.

5. Identify the source of funds used to pay for the production and placement of the Clinton ad.

6. State whether the Clinton ad has been published, or is scheduled to be published, in the Washington Times on any other date(s) in addition to August 11, 1992. If so:

a) Provide the dates of publication, i.e., when the Clinton ad has appeared and is scheduled to appear in the Washington Times;

b) State the total production and publication costs involved and/or incurred for the Clinton ad, stating separately the amount incurred for publication on each date, including August 11, 1992.

7. State whether the Clinton ad, or any variation of that ad, has appeared or is scheduled to appear or be used in any direct mailings, newsletters, newspapers, magazines, broadcast media, or any other type of general public advertising. If so:

a) Identify all such appearances and/or uses;

b) Provide the dates of publication, broadcast or distribution for each item identified in response to Question 7(a);

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Sophia Dziadura
MUR 3579
Attachment to Order to Submit Answers
and Subpoena to produce Documents
Page 6

- c) Provide the production, distribution and publication costs incurred for each item identified in response to Question 7(a), stating separately the amount incurred for each item.

8. State whether you made payments or entered into any agreement to pay for any other advertisement(s) which contain(s) the name(s) of federal candidate(s). If so:

- a) Briefly describe the type of advertisement(s), e.g. newspaper, radio, mailing, etc.;

b) State the costs involved and/or incurred for such advertisement(s).

9. Identify Wilson C. Lucom, providing addresses to each of his residences.

DOCUMENT REQUESTS

1. Produce all documents related to the Clinton ad, including but not limited to any contracts, order forms, checks, invoices, ads, scheduling information, scripts, correspondence, videotapes or audiotapes, etc. See definition of "Document" on page 4.

2. Produce all documents related to any advertisement(s) paid for or ordered by you which contain the name(s) of any federal candidate(s), including but not limited to contracts, order forms, checks, invoices, sample ads, ads, scheduling lists, scripts, correspondence, audiotapes, videotapes, etc.

3. Produce all documents relating to the creation, legal status, purposes and activities of Concerned Voters including but not limited to Articles of Incorporation, Bylaws, Board of Directors and employees.

92040924018

MacKenzie McCheyno, Inc.

2555 Pennsylvania Ave., N.W. • Suite 1005 • Washington, D.C. 20037
(202) 833-5590 • Fax (202) 331-3355

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
AUG 26 11 13 AM '92

August 24, 1992

Mr. Xavier K. McDonnell
Attorney
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3579

Dear Mr. McDonnell:

With reference to your letter and subpoena of August 18 in the matter of MUR 3579, our answers to the listed questions are as follows:

1. The person and organization that paid for the production and placement of the advertisement regarding Bill Clinton in the "Washington Times" on August 11, 1992 were Wilson C. Lucom, chairman, and Concerned Voters, Inc.

2. Our client was Wilson C. Lucom, chairman, Concerned Voters, Inc.

3. We have no knowledge whether this advertisement has been published or is scheduled to be published in the "Washington Times" on any other date in addition to its publication on August 11, 1992.

Therefore:

(a) We have no information on whether the advertisement has been or is to be published on any other date other than its publication in the "Washington Times" on August 11, 1992.

(b) The total production and publication cost of the advertisement published in the "Washington Times" on August 11, 1992 was \$2,200.00.

4. We have no knowledge whether this advertisement or any variation of this is advertisement is scheduled to be published in any other publication or be used in any other distributive form.

Therefore:

(a) We have no knowledge of other uses

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE
AUG 26 PM 3:47

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- (b) We have no information to provide
(c) The total costs of the advertisement published in the "Washington Times" on August 11, 1992 were:

Newspaper space cost	\$ 1,870.00
Production cost & agency commission	<u>330.00</u>
Total cost to Concerned Voters, Inc.	\$ 2,200.00

5. We have not nor are we scheduled at this is time to receive payment or other compensation from Concerned Voters, Inc. for advertisements which contain the name of any Federal candidate.

Therefore:

- (a) We have no information to provide
(b) We have no information to provide
(c) We have no information to provide

Document Request

I. We attach herewith:

(1) Copy of our Advertising Insertion Order MO 609 of August 3, 1992 to the "Washington Times" for the advertisement placed in behalf of Concerned Voters, Inc. for publication on August 11, 1992

(2) Copy of our check #1599 in the amount of \$1,870.00 paid to the "Washington Times" for the advertisement placed in behalf of Concerned Voters, Inc. on August 11, 1992.

2. We attach herewith copy of the Clinton advertisement placed by Concerned Voters, Inc. through us as it appeared in the "Washington Times" on August 11, 1992. The draft of the advertisement, to which we made some minor and style changes, was discarded following publication, as is customary. A job is considered completed once the advertisement appears in print. Instructions from Concerned Voters, Inc. were received verbally. Payment by Concerned Voters, Inc. was made by check prior to publication.

Sincerely,



Ian MacKenzie
President

Encl:
nmjm

92040924020

MacKenzie McChoyne, Inc.

2555 Pennsylvania Avenue, N.W. #1005
Washington, D.C. 20037
Tel: (202) 833-5590. Fax: (202) 331-3355
ADVERTISING INSERTION ORDER

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 AUG 26 PM 3:48

To: THE WASHINGTON TIMES
Attn: Mr. Mark Olley, Advertising exec.
3600 New York Avenue, N.E.
New York, NY 10002
(202) 636-3040

Date: August 3, 1992
Order: MD 609
Account: CONCERNED VOTERS, INC.

Fax (202) 526-9348

Publication Date	Section & Edition	No. of Inserts	Size Col x Lines	Color Specs	No. of Lines	Caption	Gross Cost
AUGUST 11	MAIN NEWS	ONE	4 cols x 11"	B/W		Is Bill Clinton An Adulterer And Liar?	\$ 2,200.

Special Instructions: Ad. text. sent. August 3, 1992

Payment: Invoice less 15% agency

Contact: Ian MacKenzie

MacKenzie
for MacKENZIE McCHEYNE, INC

22
92240
204
2

MACKENZIE McCHEYNE, INC.
2555 PENNSYLVANIA AVE., NW.
SUITE 1005
WASHINGTON, D.C. 20037

1599

AUGUST 21 1992

15-80 3813
540

PAY TO THE ORDER OF THE WASHINGTON TIMES —

\$ 1,870 ⁰⁰/₁₀₀

ONE THOUSAND EIGHT HUNDRED SEVENTY ⁰⁰/₁₀₀ — DOLLARS

SIGNET BANK N.A.
ACH RST 054000807
Washington, D.C.

Mackenzie

FOR _____

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ridin." Demjanjuk's lawyers told the
court last week.
The government's failure to dis-
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neys said.
CREDIT PROBLEMS?
Now you've got a Second Chance!
for your very own VISA
For Information
Call (202) 296-0947 X. 1917

3.99 BOTTLES OF VODKA & SAVE
BUY ANY 3-1.75L BOTTLES OF VODKA & SAVE
THE 3 BOTTLES OF VODKA PURCHASED (Offer
Saturday Aug. 25 only) (Excluding any items on
which there is a cash & sign coupon)
USE AS MANY COUPONS AS YOU CHOOSE
COUPONS MUST
ACCOMPANY PURCHASE
YOU MUST BE 21 OR OLDER TO PURCHASE ANY ALCOHOL
All Merchandise Subject to Prior Sales-No Refunds IF YOU DRINK, PLEASE DON'T DRIVE!

COUPONS MUST
ACCOMPANY PURCHASE
• 3824 Intervet Dr.
• 4040 Redwood Ave.
• 19530 Old Columbia Pike
• 19301 Seven Larks Rd.
• 19517 19 Near Maryland Ave.
• 17127 Fairbank Rd.
• 8702 Flower Ave.
• 12 E. Diamond Ave.
• 13075 Victoria Dr.
• 3733 University Blvd.
• 19233 Walking Mill Rd.
• 12091 A Rockville Pike
• 914 10 Muddy Branch Rd.
• 10101 Village Mart Dr.
• 832 Rockville Pike
• 10132 River Road
• 804 Quince Orchard Rd.
• 8837 10th Street
• 2220 Viers Mill Road
• 8432 Westford Ave.
• 11407 Georgia Ave.
• 11287 New Hampshire A.

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Paid Advertisement

IS BILL CLINTON AN ADULTERER AND LIAR?

The burning question is: Did Bill Clinton have an affair with Gennifer Flowers? First Clinton denied the affair saying that he and Flowers were just good friends. Later on he changed his position. When asked by a young man in the audience at a rally if he, Clinton, was an adulterer, Clinton replied he was tired of being held to a double standard. That he was not going to answer that question. That it was none of the young man's business.

Another presidential candidate, Gary Hart, was held to the same exacting standard for the presidency. Hart denied he was an adulterer and a liar. When the media proved Gary Hart was both an adulterer and a liar, Hart resigned in disgrace.

Shouldn't the same exacting standard also be applied to Clinton? This standard should be applied to all presidential candidates, not just to Gary Hart. All candidates should be held accountable to the voters.

So the question left to be answered: Is Bill Clinton actually an adulterer?

Here is the answer.

Gennifer Flowers stated that though Clinton was married, she was Clinton's mistress for twelve years. She made tape recordings of the intimate telephone conversations between her and Clinton. A transcript of these tapes reveals that Clinton performed certain sexual acts with Flowers. The language used was too obscene to print in a family newspaper.

When he refused to answer the young man's question as to whether or not he was an adulterer, Clinton was in effect saying it was none of your — the voters' — business. Imagine a presidential

candidate saying that it was none of the voters' business whether or not he was an adulterer.

The office of the presidency demands that only men of high moral character be elected to that office. It is your business whether or not a presidential candidate is an adulterer. There are enough men or women in the United States of high moral character to be President without having an adulterer and liar. Clinton is a liar because he first denied that he had the affair with Flowers. Then he took the "Fifth Amendment." No candidate taking the "Fifth" should be permitted to be President.

A beauty queen also said she had an affair with Clinton. He hired private investigators and a law firm to attempt to destroy her credibility. (Remember how the columnists condemned Perot for hiring investigators — how the media have a double standard.) Because in the end, it was his word against her word, she could not prove they had an affair — even though they might have.

But the Gennifer Flowers affair is different. She can prove her affair by her having made tapes of their talks. These tapes prove this affair between Clinton and her beyond a shadow of a doubt. Clinton must withdraw just like Gary Hart did.

So far, the press and TV have generally remained silent about these tapes. It is time the major media voluntarily started a thorough investigation of the matter of candidate Clinton's affair.

Act now — write or call your local newspaper editor to insist he call for an investigation of these tapes and the Flowers affair. Clinton should not be allowed to get away with saying it is none of your business whether or not he was an adulterer. He should quit now. No adulterer and liar should be President of the United States.

CONCERNED VOTERS

P.O. Box 40309
Washington, DC 20016

If you want a transcript of the Flowers tape, send \$3 for postage and handling to above address.

OGC 6227

CONCERNED VOTERS

P.O. Box 404
Washington, D.C. 20818
(301) 229-1897

WILSON C. LUCOM
Chairman

August 26, 1992

FEDERAL ELECTIONS COMMISSION
Washington, D.C. 20463

RE: MUR 3579
Att: Scott E. Thomas
Vice Chairman

Gentlemen:

Upon receiving your subpoena I forfeited a \$6,000 tour of Denmark and Sweden and immediately returned to the United States to answer your subpoena.

On arriving home hurricane Andrew was in progress and I had to evacuate my home. I have just returned to it.

Because of this real emergency and my need to secure counsel I ask for a 20 days or more extension.

This extension will be appreciated.

Yours truly,

Wilson C. Lucom

Wilson C. Lucom, Chairman
CONCERNED VOTERS, INC.
8001 MacArthur Boulevard
Cabin John, Maryland 20818

cc: Senator Graham
Senator Mack

92040924024



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 27, 1992

Wilson C. Lucom, Chairman
Concerned Voters, Incorporated
8001 MacArthur Boulevard
Cabin John, Maryland 20818

RE: MUR 3579
Concerned Voters, Inc.

Dear Mr. Lucom:

This is in response to your letter dated August 26, 1992, in which you request an extension of "20 days or more" to respond to the Commission's Subpoena and Order in the above-captioned matter. After considering the circumstances presented in your letter, the Office of General Counsel has granted a one-time 20 day extension for you and/or your counsel to respond to the Commission's Subpoena and Order. No further extensions shall be granted by this Office.

According to our records, a response was originally due on August 28, 1992. Therefore, the response is now due by the close of business on Friday, September 11, 1992. If you have any questions, please contact me at (202) 219-3400.

Sincerely,

A handwritten signature in dark ink, reading "Xavier K. McDonnell", is written over a light, textured background.

Xavier K. McDonnell
Attorney

92040924025

CONCERNED VOTERS

P.O. Box 404
Washington, D.C. 20818
(301) 229-1897

WILSON C. LUCOM
Chairman

August 27, 1992

FEDERAL ELECTIONS COMMISSION
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 AUG 31 AM 11:55

RE: MUR 3579

Att: ~~Commissioners~~

✓ Joan D. Aikens, Chairman
Scott E. Thomas, Vice Chairman
Lee Ann Elliott, Danny Lee McDonald
John W. McGarry, Trevor Potter

Gentlepersons:

In Buckley v. Valeo, 424 U.S. 1, the headnote Constitutional Law
S. 925 - freedom of speech - political expression states:

4. The First Amendment affords the broadest protection to political expression as to public issues and qualifications of candidates for office in order to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people; although First Amendment protections are not confined to the expositions of ideas, a major purpose of the Amendment is to protect the free discussion of governmental affairs, including the discussion of candidates." (Underscore supplied.)

In our ad we were solely discussing the qualifications of all candidates not just Clinton's. This discussion of qualifications of any candidate has the First Amendment protection i.e. "A major purpose of the Amendment is to protect the free discussion of governmental affairs, including the discussion of candidates."

Reference is made to your factual and legal analysis you sent to us (copy attached.) You state "the advertisement clearly identifies Bill Clinton as a Presidential candidate and expressly advocates his defeat." This language is contained in S.44ld, i.e.

Publication or distribution of political statements.

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate..."

In the ad, we did not expressly advocate the defeat or election of

920426

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William Clinton which is a condition and prerequisite for S. 441d to authorize the Commission to have legal jurisdiction. Attached is the ad. Nowhere do you find this express language advocating Clinton's defeat.

Webster's Unabridged Dictionary defines "expressly" as "in an express manner, explicitly." It also defines explicitly: "fully and clearly expressed; leaving nothing merely implied." Express advocacy cannot be implied.

Whoever prepared the Factual and Legal Analysis improperly fabricated express language that does not exist in the ad. Then he or she incorrectly quoted this non-existent language ("expressly advocating the defeat of William Clinton) as being in the ad, when it was not, thereby giving your Commission illegal jurisdiction over the ad. It is clearly unconstitutional. It is a sad day for the American people when a government commission misrepresents facts in an attempt to gain jurisdiction.

Therefore, the Commission positively lacks jurisdiction over this ad and is in violation of the First Amendment to the Constitution. Our ad has a broadly protected First Amendment right, i.e

BUCKLEY v. VALEO, ibid

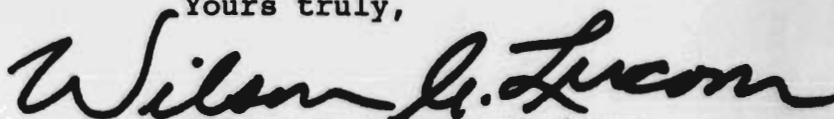
"4.The First Amendment affords the broadest protection to political expression as to public issues and qualifications of candidates for office..."

In sending us a subpoena and starting an investigation into this broadly protected First Amendment right of freedom of speech to discuss qualifications of candidates, you have violated our Constitutional First Amendment rights.

We must request that you immediately cease any further action or investigation on your part as being unconstitutional and in violation of the First Amendment which as prior stated "affords the broadest protection to political expression as to public issues and qualifications of candidates for office..."

Please advise us that you have ceased all further action and that we have a protected constitutional right to discuss the qualifications of candidates for public office as protected by the First Amendment. We are prepared to go to the Federal Court if necessary claiming violation of this broadly protected First Amendment right to discuss qualifications of candidates.

Yours truly,



Wilson C. Lucom, Chairman
CONCERNED VOTERS

cc: Senator Graham
Senator Mack

IS BILL CLINTON AN ADULTERER AND LIAR?

The burning question is: Did Bill Clinton have an affair with Gennifer Flowers? First Clinton denied the affair saying that he and Flowers were just good friends. Later on he changed his position. When asked by a young man in the audience at a rally if he, Clinton, was an adulterer, Clinton replied he was tired of being held to a double standard. That he was not going to answer that question. That it was none of the young man's business.

Another presidential candidate, Gary Hart, was held to the same exacting standard for the presidency. Hart denied he was an adulterer and a liar. When the media proved Gary Hart was both an adulterer and a liar, Hart resigned in disgrace.

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When he refused to answer the young man's question as to whether or not he was an adulterer, Clinton was in effect saying it was none of your — the voters' — business. Imagine a presidential

candidate saying that it was none of the voters' business whether or not he was an adulterer.

The office of the presidency demands that only men of high moral character be elected to that office. It is your business whether or not a presidential candidate is an adulterer. There are enough men or women in the United States of high moral character to be President without having an adulterer and liar. Clinton is a liar because he first denied that he had the affair with Flowers. Then he took the "Fifth Amendment." No candidate taking the "Fifth" should be permitted to be President.

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But the Gennifer Flowers affair is different. She can prove her affair by her having made tapes of their talks. These tapes prove this affair between Clinton and her beyond a shadow of a doubt. Clinton must withdraw just like Gary Hart did.

So far, the press and TV have generally remained silent about these tapes. It is time the major media voluntarily started a thorough investigation of the matter of candidate Clinton's affair.

Act now — write or call your local newspaper editor to insist he call for an investigation of these tapes and the Flowers affair. Clinton should not be allowed to get away with saying it is none of your business whether or not he was an adulterer. He should quit now. No adulterer and liar should be President of the United States.

CONCERNED VOTERS

P.O. Box 40309

Washington, DC 20016

If you want a transcript of the Flowers tape, send \$3 for postage and handling to above address.

92040924028

BEFORE THE FEDERAL ELECTION COMMISSION SEP -4 PM 4: 54

In the Matter of
Concerned Voters
and persons unknown

MUR 3579

SENSITIVE
EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT

SEP 15 1992

I. BACKGROUND

On August 13, 1992, the Commission found reason to believe that Concerned Voters and/or person or persons unknown violated 2 U.S.C. § 441d in connection with an advertisement appearing in the Washington Times on August 11, 1992, entitled "IS BILL CLINTON AN ADULTERER AND LIAR ?" By same date, the Commission authorized the issuance of a subpoena and order to Concerned Voters and to other parties that may have had records regarding the expenditures for the advertisement.¹

The subpoena and order were received by Concerned Voters ("respondent"), and its Chairman, Wilson C. Lucom, on August 20, 1992. Attachment 3 at pages 1-3. On August 28, 1992, Mr. Lucom submitted what appears to constitute a motion to quash the

1. Mackenzie-McCheyne, the advertising agency which placed the ad and which describes Mr. Lucom, Chairman of Concerned Voters, Inc. as its client, has complied with the discovery requests and indicates that the production and distribution costs for the ad, which they arranged to be published only on August 11, 1992, were \$2,200. Attachment 2 at pages 1 and 2. The information sought from Concerned Voters, however, is more extensive than that which was sought from the ad agency and includes questions about the source of funds used and the nature of Concerned Voters, as well as information about any additional distribution of the communication. Therefore, the response from the ad agency does not eliminate the necessity of obtaining the information from Concerned Voters. We note, however, that the ad agency has identified Concerned Voters as a corporation.

92040924029

Commission's subpoena and order on the grounds that the Commission's investigation in this matter is without authority and is illegal. Attachment 1 at pages 1 and 2. Because respondent's motion has been untimely filed and, in any event, the Commission's subpoena and order were issued for a proper statutory purpose, this Office recommends that the Commission deny Concerned Voters' motion to quash the subpoena and order in this matter, and authorize the General Counsel to institute a civil action absent full compliance within 5 days of receipt of notification of its decision.

II. FACTUAL AND LEGAL ANALYSIS

The Commission's regulations provide that a motion to quash must be made "prior to the time specified therein for compliance, but in no event more than 5 days after the date of receipt of such subpoena." 11 C.F.R. § 111.15(a). Concerned Voters received the Commission's subpoena and order on August 20, 1992, yet the motion was not submitted to the Commission until August 28, 1992, more than 5 days after receipt. Attachment 3 at pages 1-3.² Accordingly, the motion should be denied.

In addition to being untimely filed, Concerned Voters' motion fails to apply the proper standards for determining whether subpoenas and orders of an administrative agency shall be enforced. It is well established that an administrative agency subpoena or order will be enforced so long as it was issued for a

2. On August 26, 1992, Concerned Voters requested a "20 day or more" extension. An extension of 20 days was granted by letter dated August 27, 1992. The above-referenced response was received a day later. See Attachment 3 at pages 4-5.

92040924030

proper purpose, the information sought is relevant to the purpose, and the statutory procedures were observed. United States v. Powell, 379 U.S. 48, 57-58 (1964); United States v. Morton Salt Co., 338 U.S. 632, 652 (1950); SEC v. Blackfoot Bituminous, Inc., 622 F.2d 512, 514 (10th Cir.), cert. denied, 449 U.S. 955 (1980).

The stated grounds for the motion to quash are that the advertisement at issue does not, in Mr. Lucom's view, constitute "express advocacy" and that therefore the Commission lacks jurisdiction, and the investigation is in violation of Concerned Voter's First Amendment rights. Attachment 1 at page 2. At best, Mr. Lucom's response could be construed as an argument that this inquiry is not within the scope of the Commission's statutory authority, i.e., for a proper purpose.

The Commission has broad authority to administer and enforce the statute. See 2 U.S.C. §§ 437c(b)(1), 437d, 437g and 438. In order to investigate whether a violation has occurred, the Commission, by an affirmative vote of at least four of its members, need determine only that there is "reason to believe" a violation has occurred. 2 U.S.C. § 437g(a)(2). In this matter, the Commission found reason to believe a violation of Section 441d(a) occurred in connection with the ad in question and issued the subpoena and order pursuant to 2 U.S.C. §§ 437d(a)(1) and (3). It is the Commission's duty to enforce the provisions of 2 U.S.C. § 441d(a). Thus the subpoena and order were issued for a proper purpose.

Finally, while at this time the substantive merits of this matter need not be reached by the Commission, it appears that Mr.

92040924031

Lucom's arguments are based upon an erroneous understanding of the "express advocacy" requirement.³ A communication need not contain "magic words," i.e., "vote for," "elect", etc., to constitute express advocacy. FEC v. Massachusetts Citizen's For Life, 479 U.S. 238, 249 (1986); FEC v. Furgatch, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987). The ad in question repeatedly refers to Bill Clinton as a candidate; it specifically states that Clinton "should quit now" and that he "must withdraw" even before the election; and it relates that Clinton "took the 'Fifth Amendment,'" and that "[n]o candidate taking the 'Fifth' should be permitted to be President."⁴

For the foregoing reasons, this Office recommends that the Commission deny the respondent's motion to quash the subpoena and order and, given the public interest at stake and the possibility that respondent will release the same or similar communications

3. In his response, Mr. Lucom asserts that the Factual and Legal Analysis quoted certain "express advocacy" language, and that the Analysis incorrectly indicated that such language appeared in the ad. Attachment 1 at page 2. The sentence he appears to be referring to is: "The advertisement clearly identifies Bill Clinton as a Presidential candidate and expressly advocates his defeat." That sentence was part of the Analysis itself, it was not placed in quotation marks, and the Analysis did not indicate it appeared in the advertisement. However, an end quote was omitted from a portion of the advertisement which appeared in the Factual and Legal Analysis, and this may have caused some confusion on the part of Mr. Lucom. See Attachment 1 at page 6 (line 3).

4. The message of the ad is similar to the ad at issue in Furgatch, which the court held did constitute express advocacy. The ad in Furgatch stated, among other things that, Jimmy Carter was "degrading the electoral process and lessening the prestige of his office," that his "meanness of spirit is divisive and reckless McCarthyism at its worse," and "he leaves a legacy of low-level campaigning." Furgatch, 807 F.2d at page 858.

92040924032

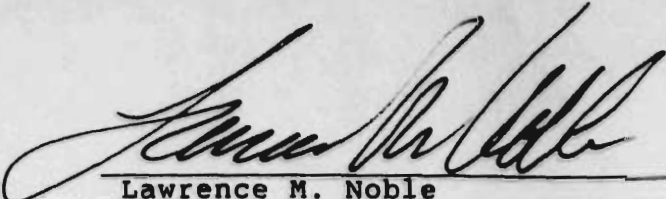
between now and the general election, this Office recommends that the Commission authorize this Office to institute a civil action for enforcement of the subpoena and order absent full compliance within 5 days of receipt of notification of its decision.

III. RECOMMENDATIONS

1. Deny the motion of Concerned Voters, and Wilson C. Lucom, as Chairman, to quash the subpoena to produce documents and order to submit written answers.
2. Authorize the Office of the General Counsel to institute a civil action for subpoena enforcement in the United States District Court against Concerned Voters, and Wilson C. Lucom, as Chairman, absent full compliance with the subpoena and order within 5 days of receipt of notification.
3. Approve the appropriate letter.

92040924033
Date

9/4/92


Lawrence M. Noble
General Counsel

Attachments

1. Response from Concerned Voters
2. Responses from Mackenzie-McCheyne
3. Correspondence

Staff Assigned: Xavier K. McDonnell

Klein

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3579
Concerned Voters and)
Persons Unknown)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on
September 15, 1992, do hereby certify that the Commission
decided by a vote of 6-0 to take the following actions in
MUR 3579:

1. Deny the motion of Concerned Voters, and
Wilson C. Lucom, as Chairman, to quash
the subpoena to produce documents and
order to submit written answers.
2. Authorize the Office of the General Counsel
to institute a civil action for subpoena
enforcement in the United States District
Court against concerned Voters, and Wilson
C. Lucom, as Chairman, absent full
compliance with the subpoena and order
within five days of receipt of notification.

(continued)

92040924034

3. Approve the appropriate letter as recommended in the General Counsel's report dated September 4, 1992.

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

Attest:

9-17-92
Date

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

92040924035

06C #6449

CONCERNED VOTERS

P.O. Box 404
Washington, D.C. 20818
(301) 229-1897

WILSON C. LUCOM
Chairman

September 9, 1992

CERTIFIED - RETURN RECEIPT REQUESTED

FEDERAL ELECTIONS COMMISSION
Washington, D.C. 20463

RE: MUR 3579

Att: Commissioners

Joan D. Aikens, Chairman
Scott E. Thomas, Vice Chairman
Lee Ann Elliott, Danny Lee McDonald
John W. McGarry, Trevor Potter

Gentlepersons:

As yet, I have not received a reply to our letter to you of August 27, 1992 (copy attached).

As you can read, I stated that you had no jurisdiction over the ad for which you issued a subpoena to us and our agents because we did not in our ad "expressly advocate the election of defeat of a clearly identified candidate. The candidate was clearly identified but we did not in the ad "expressly advocate his election or defeat" as required by SS 441d, for you to acquire jurisdiction. When we did not in the ad expressly advocate the defeat of William Clinton you never had jurisdiction over this ad or Concerned Voters.

Your illegal subpoena had a "chilling effect" on our First Amendment Rights as stated in the U.S. Supreme Court Decision, Buckley v. Valeo 424 US 1, 46 2D L. Ed. 659, 96 S Ct 612. (I cited from the 46 L. Ed 2D 659 for this case.)

Therefore we respectfully request that you immediately withdraw the illegal subpoena because it was issued in error when you erroneously thought you had jurisdiction. Otherwise, you are knowingly continuing to violate our First Amendment Rights. We still request a written letter from your Commission be sent to us stating that discussion of the moral qualification of the candidates is broadly protected by the First Amendment of the Constitution and the subpoena was issued in error.

We do not understand the delay because it is an open and shut case of First Amendment protection by the Constitution.

Yours truly,

Wilson C. Lucom

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE
92 SEP 15 PM 3:26

92040924036

OGC 6483

**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

September 17, 1992

VIA HAND DELIVERY

Xavier K. McDonnell, Esquire
General Counsel Office
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D.C. 20463

Dear Mr. McDonnell:

Pursuant to our telephone discussion, enclosed is a copy of our designation of counsel in MUR 3579. As I indicated in our discussion today, we have been recently retained to represent Mr. Lucom on this matter. It is our intention to supplement Mr. Lucom's response of August 27. For these reasons, we request from the Commission an additional two weeks from today to provide a supplemental response to the Commission.

If you have any questions in regards to this matter, please do not hesitate to contact this office.

Very truly yours,



E. Mark Braden

EMB/bss
Enclosure

1735.EMB.McDonald.Ltr.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 SEP 17 PM 3:16

92040924037

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: Bill Schweitzer, Esq.
ADDRESS: Baker & Hostetler, Counsellors at Law
Washington Square, Suite 1100
1050 Connecticut Avenue N.W.
Washington D.C. 20036
TELEPHONE: (202) 861-1500

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.

September 14, 1992
Date

Wilson C. Lucom
Signature

RESPONDENT'S NAME: Wilson C. Lucom
ADDRESS: 260 No. Ocean Boulevard
Palm Beach, FL 33480
HOME TELEPHONE: (407) 655-0198
BUSINESS PHONE: same

92040924038



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 18, 1992

BY TELEFAX

E. Mark Braden, Esquire
Bill Schweitzer, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3579
Concerned Voters
Wilson C. Lucom, Chairman

Dear Messrs. Braden and Schweitzer:

This Office is in receipt of your letter dated September 17, 1992, in which you have indicated that your firm is now representing Concerned Voters and Wilson C. Lucom, Chairman, and in which you have requested an extension of 20 days to supplement your clients' response to the Commission.

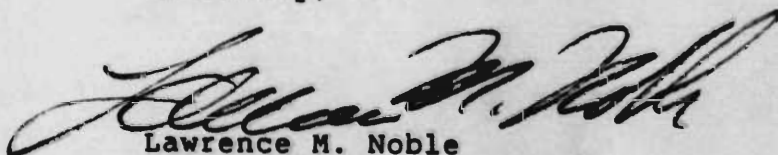
As you know, Mr. Lucom initially responded by letter submitted on August 27, 1992. Mr. Lucom refused to comply with the Commission's discovery requests on the grounds that the Commission's investigation is without authority and is illegal. The Commission treated Mr. Lucom's response as a motion to quash the Subpoena and Order, which it denied on September 15, 1992. By same date, the Commission authorized this Office to institute a civil action for subpoena enforcement in the United States District Court absent full compliance within 5 days of notification. Accordingly, if your clients wish to avoid subpoena enforcement litigation, responses to the Commission's Subpoena and Order must be received by September 25, 1992.

92040924039

E. Mark Braden, Esquire
Bill Schweitzer, Esquire
Page 2

With respect to your request to submit a supplemental response to the Commission's reason to believe findings, this Office has granted the requested extension. Accordingly, your response is due on October 1, 1992. If you have any questions or wish to discuss this matter further, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence M. Noble", is written over the typed name.

Lawrence M. Noble
General Counsel

92040924040

CONCERNED VOTERS

P.O. Box 404
Washington, D.C. 20818
(301) 229-1897

WILSON C. LUCOM
Chairman

September 17, 1992

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

Gentlemen and Gentlewomen:

Re: MUR 3579

Reference is made to SS. 437g. " Enforcement. (3) (B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation was made."

In conformance with this Regulation, we are hereby specifically giving the Federal Elections Commission written consent to make this case public (MUR 3579). We understand the Chief Deputy of Senator Connie Mack telephoned inquiring about this case and was told it was confidential. No longer is this case to be kept confidential but it is to be made public; therefore, when Mr. Rich again calls please give him all such information.

Also, if any newspapers call inquiring, kindly give them the pertinent details.

Thank you.

Yours truly,

Wilson C. Lucom

cc: Senator Connie Mack
Att: Mr. John Rich
Deputy Chief

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 SEP 21 PM 3:36

RECEIVED
FEDERAL ELECTION COMMISSION
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**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

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WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1531

September 22, 1992

VIA TELECOPIER

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

ATTENTION: Xavier K. McDonnell, Esq.

RE: MUR 3579 Concerned Voters
Wilson C. Lucom, Chairman

Dear Mr. Noble:

This letter is written pursuant to a telephone conversation with Mr. Xavier K. McDonnell of yesterday. This is a request to delay until October 1, 1992 any civil action for subpoena enforcement in the United States District Court.

As indicated in our telephone discussion and September 17th correspondence, we have been recently retained by Mr. Lucom in this matter. Following a review of this issue, and discussion with our client, it may be possible to avoid any civil action for subpoena enforcement.

Although I cannot assure that our client will comply with your request for documents, the delay requested is minimal in comparison to the resources that would be involved in a civil suit to enforce a subpoena.

We look forward to your response in this matter. If you should have any questions regarding our request, please do not hesitate to contact my office.

Very truly yours,

William H. Schweitzer

William H. Schweitzer

WHS/rch

cc: Mr. Wilson C. Lucom

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 SEP 24 PM 3:26

92040924042



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 23, 1992

BY TELEFAX

Bill Schweitzer, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3579
Concerned Voters
Wilson C. Lucom, Chairman

Dear Mr. Schweitzer:

This is a follow up to our recent telephone conversations and in response to your letter of September 22, 1992. The designation of counsel form you provided indicates that you have been representing Wilson Lucom and Concerned Voters since September 14, 1992. Yesterday, we received a letter directly from Mr. Lucom notifying the Commission of his desire to waive confidentiality pursuant to 2 U.S.C. § 437g(a)(12)(A). Given our responsibility to communicate through counsel, this Office cannot take any action regarding Mr. Lucom's waiver request. We would appreciate your advising your client that all future communications should be made by or through you and your firm.

In your letter, you request a delay until October 1, 1992, for enforcement of the Commission's Subpoena and Order, which was issued August 13, 1992. However, you indicate that you cannot assure this Office that your clients would comply with the Subpoena and Order if the extension was granted. In light of the time that has already elapsed since the Subpoena and Order were issued and your inability to represent that your clients will eventually comply, this Office cannot grant the extension requested. If you have any questions, please call me at (202) 219-3400.

Sincerely,

Xavier K. McDonnell
Xavier K. McDonnell
Attorney

cc: E. Mark Braden, Esquire

92040924043



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 1, 1992

BY TELEFAX

Mark Braden, Esquire
Bill Schweitzer, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3579
Concerned Voters
Wilson C. Lucom, Chairman

Dear Messrs. Braden and Schweitzer:

This letter is to confirm that, at your request, representatives of the Office of the General Counsel will meet with you and Mr. Lucom Friday, October 2, 1992, at 3:30 P.M. to discuss the above-captioned matter. The meeting will be held at the Office of the General Counsel, located on the Sixth Floor of 999 E Street, N.W., Washington, D.C. If there are any changes or if you have any questions, please contact me at (202) 219-3400.

Sincerely,

A handwritten signature in dark ink, appearing to read "Xavier K. McDonnell", is written over a horizontal line.

Xavier K. McDonnell
Attorney

92040924044

SEP-24-1992 16:00 FROM RICHARD S. LEHMAN, P.A.
SENT BY: Baker & Hostler D.C. : 9-16-92 : 8:11PM :

TO
202001111001

12022193923 P.02
14070807713:0 E

STATEMENT OF DESIGNATION OF COUNSEL

NR 3579
NAME OF COUNSEL: Richard S. Lehman
ADDRESS: 75 Valencia Avenue
Suite # 101
Corral Gables, FL 33134
(Washington) 381-9955
TELEPHONE: (305) 381-9955

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 SEP 25 AM 9:05

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.

September 24, 1992
Date

Wilson C. Loom
Signature

RESPONDENT'S NAME: Wilson C. Loom
ADDRESS: 200 No. Ocean Boulevard
Palm Beach, FL 33480
HOME TELEPHONE: (407) 655-0190
BUSINESS PHONE: SAME

92040924045

WILSON C. LUCOM 06C6741
260 North Ocean Blvd.
Palm Beach, Florida 33480
407-655-0198

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 OCT -2 PM 4:17

October 1, 1992

Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036

Attention: Mr. Schweitzer

Re: MUR 3579

Dear Mr. Schweitzer:

By this letter, I am authorizing you to notify the Commission in writing that I wish the investigation on this matter not remain confidential in accordance with 2 U.S.C. Section 437g(a)(4)(B) and 437g(a)(12)(A). Please promptly notify the Commission of my request.

Thank you for your assistance.

Very truly yours,



WILSON C. LUCOM

WCL:bgv
Enclosure (Affidavit)

92040924046

National Report

The New York Times

TUESDAY, SEPTEMBER 29, 1992

A8 Y

SHOULD THE PRESIDENT OF THE UNITED STATES BE OF HIGH MORAL CHARACTER?

The United States is still a great country and the leader of the Free World. Yes, the leader of the Free World should be a man of high moral character. A country that does not have high moral values will eventually self-destruct or become a second-rate nation. The U.S. must be prevented from self-destructing or becoming a second-rate nation.

The president of our country is regarded as a role model by the majority of our citizens. If the president does not have high moral values, some of our citizens may lower their own moral values to those of our president's. That is why the moral character question is legitimate and must be discussed in advance. This high moral character standard must be applied to all candidates.

There is no malice intended towards any candidate. It is in keeping with the First Amendment to robustly discuss the qualifications of any candidate for high public office. I do not expressly advocate the defeat or election of any candidate. Specifically, I do not advocate the defeat of William Clinton. What I am asking is that the qualification of character of the candidates to hold high office be discussed as protected by the First Amendment of the Constitution.

When a man voluntarily seeks high public office his private life is no longer private but open to the examination of the voters he is asking to vote for him. Only after full disclosure and inspection of his qualifications by the voters will the voters know what is his moral character — high or low. Clinton refuses to answer and to be held to this high moral standard.

Gary Hart was originally thought to be of high moral character. He had to quit in disgrace. Clinton should be held to the same high moral standards as was Gary Hart.

Clinton first denied Gennifer Flowers was his mistress saying she was just a good friend. Later he changed his story and said, in effect, it was none of the voters' business whether or not he was an adulterer. At a rally a young man asked him pointblank if he was an adulterer. Clinton first replied he was tired of being held to a double standard. Then he replied that he was not going to answer the question of whether he was an adulterer. You have a right to know.

Gennifer Flowers, Clinton's mistress, according to her, made tape recordings of their intimate telephone conversations. According to the transcript of these telephone conversations, Flowers described an intimate sex act. She said Clinton replied, "Well, you can tell them (reporters) that if I don't run for president." If true, this shows low moral character. From the transcripts of these conversations it sounds as though Gennifer Flowers was Clinton's mistress while he was married to his wife Hillary.

It is shocking but true, virtually none of the major media: The New York Times, The Washington Post, Los Angeles Times, NBC News, ABC News, CBS News, Associated Press, United Press International, CNN or Larry King Live will ask Clinton if he is an adulterer. A reporter asked the Republican candidate President Bush, and his wife, if he was an adulterer, which he vehemently denied.

They consider the question of Clinton's alleged draft evasion a legitimate question to be raised because it goes to his moral character. They are very wrong when they contend that adultery does not go to the moral character of a man. Alleged adultery is a far greater legitimate question than draft evasion. Yet the major media and the talk shows do not have the guts to put this question to Clinton. If President Bush was asked this question surely it must be judged a legitimate question to ask William Clinton. Yet the media refuse to acknowledge this.

The major media group is to be severely condemned for not doing so. They have a duty to ask Clinton if he was an adulterer. They also have a duty, as they did with Gary Hart, to investigate in depth Gennifer Flowers and her tape recordings of her telephone conversations with Clinton. They should report to you, the voters, the sexual act described on the tapes, without any editing. If this act is too offensive to modesty or decency, then he is not of high moral character and he should quit as Gary Hart quit.

Write to any one of these news media demanding they publicly ask candidate Clinton whether he was an adulterer, was Gennifer Flowers his mistress, and his attitude towards the Flowers tapes. In not asking these legitimate questions of Clinton the media are failing in their duty to their readers, listeners and viewers, and to you — the voters. Write today.

Wilson C. Lucom
A DEMOCRATIC CONCERNED VOTER
P.O. Box 2467
Palm Beach, Florida 33480

Disclaimer: This ad is not authorized by or paid for by any candidate or any committee representing such candidate. It is authorized and paid for entirely by me, Wilson C. Lucom, a Democratic voter, who firmly believes the voters have a right to know and discuss the qualification of moral character of the presidential candidates. I am spending my own money so the major media will finally do their job, which they have not done to date.

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FEDERAL ELECTION COMMISSION

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AFFIDAVIT

STATE OF FLORIDA)
)...s...
COUNTY OF PALM BEACH)

92 OCT -2 PM 4:03

I, WILSON C. LUCOM, after being first duly sworn, depose and say:

1. I drafted the advertisement published in the August 11th Washington Times with the heading "Is Bill Clinton an Adulterer and Liar?"

2. I paid all costs associated with the drafting and placement of this advertisement.

3. It was not drafted or placed in cooperation, consultation or concert with any candidate or agent. The advertisement was not the result of any request or suggestion of any candidate or their agent.

4. The advertisement was not intended to expressly advocate the election or defeat of any candidate.

5. I had no knowledge or reason to believe that this advertisement could be viewed as conflicting with any federal law.

6. I had no knowledge or reason to believe that any federal statute might require a disclaimer specifically, stating who paid and/or authorized the advertisement.

7. It was my belief that the First Amendment guarantees of freedom of speech permitted me to freely comment on public issues without regulation by any government agency.

FURTHER, AFFIANT SAYETH NAUGHT.

Wilson C. Lucum
WILSON C. LUCOM

Subscribed to before me this 1st day of October, 1992

Betty G. Verplank
NOTARY PUBLIC

My commission expires:



BETTY G. VERPLANK
MY COMMISSION EXPIRES
December 12, 1994
SIGNED THIS 1ST DAY OF OCTOBER, 1992

92 OCT 9 2 40 48

**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

OGC6732

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1531

RECEIVED
FEDERAL ELECTION COMMISSION
92 OCT -2 AM 11:51

October 2, 1992

VIA HAND DELIVERY

Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20563

Attention: Xavier K. McDonnell, Esquire

Re: MUR 3579 Concerned Voters/Wilson C. Lucom

Dear Mr. Noble:

This letter is written in response to your letter dated August 18, 1992 from the Federal Election Commission ("Commission") to Concerned Voters, c/o Wilson C. Lucom. In your letter, you stated that the Commission had found reason to believe that Concerned Voters, and/or person(s) unknown had violated 2 U.S.C. § 441d of the Federal Election Campaign Act of 1971, as amended ("Act"). With your letter, you enclosed a factual and legal analysis which formed the basis of the Commission's initial finding.

This matter is generated from an advertisement (see Attachment A) published in The Washington Times on August 11, 1992, which contains no statement explicitly stating the name or organization which paid for and/or authorized the advertisement. Your office's analysis states that the advertisement clearly identifies Bill Clinton as a presidential candidate and expressly advocates his defeat. The analysis concludes with the line: "Accordingly, because the advertisement lacked a disclaimer there is reason to believe that Concerned Voters and/or person unknown, violated 2 U.S.C. § 441d(a)."

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Mr. Wilson C. Lucom drafted the advertisement published in the August 11th edition of The Washington Times. Mr. Lucom personally paid for all costs associated with the drafting and placement of the advertisement. Mr. Lucom also placed a somewhat similar advertisement on September 15, 1992 in The Washington Times (see Attachment B). These advertisements were not drafted or placed in cooperation, consultation or concert with any candidate or their agent. These advertisements are not the result of any request or suggestion of any candidate or their agent.

The factual and legal analysis provided with the Commission's letter was neither lengthy nor complex. This is not a Matter Under Review ("MUR") that should involve extensive factual investigation. There are no factual disputes. The sole issue confronting the Commission in this MUR is whether the advertisement paid for by Mr. Lucom in the August 11th edition of The Washington Times was required to have a disclaimer under the Act and the Commission's regulations. The Act provides in part that "[w]henver any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate," the communication should clearly state who paid and/or authorized the communication. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a) (1).

The Act does not authorize the Commission to be a general regulator of political disclosure, nor could the Commission perform such a function without conflict with the First Amendment. The Commission's regulations and the Act can only reach communications that expressly advocate the election or defeat of a clearly identified candidate.

The respondent does not contend that a clearly identified candidate is not present in the newspaper advertisement. Bill Clinton is identified in the advertisement by name and as a presidential candidate. The issue is whether the advertisement "expressly advocates" the election or defeat of candidate Clinton.

The specific language of the Act's section in question finds its origin in Buckley v. Valeo, 424 U.S. 1 (1976). For the Act to be constitutional in light of its significant impact on fundamental First Amendment rights, the Supreme Court required it be interpreted narrowly. The Supreme Court limited its restrictions on political communications to those that in "express terms" advocated the election or defeat of a clearly identified candidate for federal office. The Court went on to specifically describe what expressed terms of advocacy were; "communications containing express words of advocacy of election or defeat, such as 'vote

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for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" Buckley, 424 U.S. at 44 n.52. The direction of the Supreme Court was explicit to Congress and the Commission. Any statute must be narrowly drafted and interpreted. The discussion of public issues and debates on the qualifications of candidates are integral to the operation of our system of government as established by the Constitution. The First Amendment affords the broadest possible protection to discuss political expressions in order to assure the unfettered exchange of ideas for the purpose of political and social changes desired by the people.

Does the advertisement contain words expressly advocating the election or defeat as delineated by the Supreme Court in Buckley? A comparison shows that none of the expressed advocacy language listed in the Buckley footnote appears in this advertisement, nor does the advertisement contain their synonyms. This advertisement is not a clever use of a thesaurus to avoid any "magic" words with language that still conveys an "expressed advocacy" of election or defeat.

The advertisement does expressly advocate action. It asks the reader to write or call their local newspaper editor to insist that they call for an investigation of audio tapes made by Jennifer Flowers and the Flowers affair. It specifically advocates that Governor Clinton quit his campaign for President. The advertisement advocates that "[I]t is time the major media voluntarily started a thorough investigation of the matter of candidate Clinton's affair." These are all expressed advocacy of: (1) action by the media, (2) communications to the media and (3) action by Governor Clinton. There is no request that anyone vote for Mr. Clinton or vote for President Bush. There is no request to elect anyone. There is no request to support any candidate. There is no request to cast your ballot for any candidate. There is no suggestion of advocacy of Bush for President. There is no vote against Clinton language. There is no defeat Clinton language. There is no reject language. Contrary to the General Counsel office's analysis there is no language in the advertisement that expressly advocates Clinton's defeat. The Supreme Court in Buckley properly expressed its significant concern that the distinction between discussions of issues and candidates may often dissolve in practical application, so a "bright line test" is required in order to subject any speech to government regulations.

Of course, Buckley was not the Supreme Court's last occasion to address this issue. In Federal Election Comm'n v. Massachusetts Citizen for Life, Inc., 479 U.S. 238, 249 (1986), the Supreme

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Court reiterated to the Commission its position as to what constitutes expressed advocacy. The court stated: "Buckley adopted the 'expressed advocacy' requirement to distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons. We, therefore, concluded in that case that a finding of 'expressed advocacy' depended upon the use of language such as 'vote for,' 'elect,' 'support,' etc., Buckley, supra at 44, n. 52." In Citizens for Life, the Court determined that an expressed advocacy occurred when a publication urged voters to vote for pro-life candidates and then identified and provided photographs of specific candidates fitting that description. The General Counsel's analysis cites this case for the proposition that Mr. Lucom's advertisement is expressed advocacy. Yet, Mr. Lucom's Washington Times advertisement has no vote for language. No exhortation to vote for any candidate appears in this Washington Times advertisement.

The General Counsel office's position in their initial analysis of this matter is strikingly familiar to their flawed position in Federal Election Comm'n v. Central Long Island Tax Reform Immediately Comm., 616 F.2d 45 (2d Cir. 1980). The Second Circuit recognized that the history of the Act

"clearly establish that, contrary to the position of the FEC, the words 'expressly advocating' means exactly what they say. The FEC, to support its position, argues that '[t]he TRIM bulletins at issue here were not disseminated for such a limited purpose' as merely informing the public about the voting record of a government official. FEC Reply Brief at 4 (emphasis supplied). Rather, the purpose was to unseat 'big spenders.' Thus, the FEC would apparently have us read 'expressly advocating the election or defeat' to mean for the purpose, expressed or implied, of encouraging election or defeat. This would, by statutory interpretation, nullify the change in the statute ordered in Buckley v. Valeo and adopted by Congress in the 1976 Amendments. The position is totally meritless."

Central Long Island Tax Reform, 616 F.2d at 53.

The General Counsel also cites Federal Election Comm'n v.

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Furgatch, 807 F.2d 857 (9th Cir. 1987), cert. denied, 484 U.S. 850 (1987) as supporting their interpretation that the Act reaches this particular advertisement. Arguably, the Ninth Circuit did take a more expansive interpretation of expressed advocacy than have other Federal Appeals courts; alternatively see Faucher v. Federal Election Comm'n, 928 F.2d 468 (1st Cir.), cert. denied, 112 S.Ct. 79 (1991); Federal Election Comm'n v. National Organization for Women, 713 F. Supp. 428 (D.D.C. 1989), but even the language of the Furgatch opinion does not reach this advertisement. The Furgatch court wrote "speech is 'express' for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning. Second, speech may only be termed advocacy if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act. Finally, it must be clear what action is advocated. Speech cannot be 'express advocacy of the election or defeat of a clearly identified candidate' when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action." Furgatch, 807 F.2d at 864. Mr. Lucom's advertisement is not ambiguous as to the action it urges its readers to take. It urges them to write or call their local newspaper editor to call for an investigation of "these tapes and the Flowers affair." The advertisement asks Governor Clinton to withdraw like "Gary Hart did."

Surely, this is not the time for the Commission to undertake another misguided mission to expand its jurisdiction to include discussions which do not specifically advocate the election or defeat of a candidate. As Chief Judge Kaufman wrote concurring in Central Long Island Tax Reform:

If speakers are not granted wide latitude to disseminate information without government interference, they will 'steer far wider of the unlawful zone.' Speiser v. Randall, 357 U.S. 513, 526, 78 S.Ct. 1332, 1342, 2 L.Ed. 2d 1460 (1958), thereby depriving citizens of valuable opinions and information. This danger is especially acute when an official agency of government has been created to scrutinize the content of political expression, for such bureaucracies feed upon speech and almost ineluctably come to view unrestrained expression as a potential "evil" to be tamed, muzzled or sterilized. United States v. National Committee for Impeachment, 469 F.2d 1135, 1142 (2d Cir. 1972). Accordingly, it is

not completely surprising that the FEC should view the content of defendants' leaflet in a substantially different light than the members of this court.

The possible inevitability of this institutional tendency, however, renders this abuse of power no less disturbing to those who cherish the First Amendment and the unfettered political process it guarantees. Buckley v. Valeo, supra, imposed upon the FEC the weighty, if not impossible, obligation to exercise its powers in a manner harmonious with a system of free expression. Our decision today should stand as an admonition to the Commission that, at least in this case, it has failed abysmally to meet this awesome responsibility."

Central Long Island Tax Reform, 616 F.2d at 54-55.

The courts' directions are abundantly clear that the Commission should limit its jurisdiction to communications "expressly advocating election."

Even though he believes that this type of issue discussion is outside the Commission's jurisdiction, Mr. Lucom has decided to voluntarily place a disclaimer in any similar future advertisements. (See attachment B) Mr. Lucom intends also to file a report of his disbursements for such advertisements in a form that is consistent with the Commission's regulations (11 C.F.R. § 109.2) even though he continues to believe that the Commission's regulations have no applicability to his actions.

Mr. Lucom had no knowledge that any federal statute could be interpreted as imposing any restrictions on the advertisement he drafted and placed in The Washington Times. Even if the Commission had jurisdiction over the advertisement a vigorous enforcement proceeding is not appropriate since the failure to place a disclaimer in the advertisement was not a knowing or willful act by Mr. Lucom.

92040924054

Lawrence M. Noble, Esquire
October 2, 1992
Page 7

Conclusion

This MUR should be promptly closed by the Commission without further action.

Very truly yours,

William H. Schweitzer

William H. Schweitzer

E. Mark Braden

E. Mark Braden

WCS.EMB.1ucom.Response.Ltr

92040924055

WASHINGTON TIMES
8/11/92 - P. A5

IS BILL CLINTON AN ADULTERER AND LIAR?

The burning question is: Did Bill Clinton have an affair with Gennifer Flowers? First Clinton denied the affair saying that he and Flowers were just good friends. Later on he changed his position. When asked by a young man in the audience at a rally if he, Clinton, was an adulterer, Clinton replied he was tired of being held to a double standard. That he was not going to answer that question. That it was none of the young man's business.

Another presidential candidate, Gary Hart, was held to the same exacting standard for the presidency. Hart denied he was an adulterer and a liar. When the media proved Gary Hart was both an adulterer and a liar, Hart resigned in disgrace.

Shouldn't the same exacting standard also be applied to Clinton? This standard should be applied to all presidential candidates, not just to Gary Hart. All candidates should be held accountable to the voters.

So the question left to be answered: Is Bill Clinton actually an adulterer?

Here is the answer.

Gennifer Flowers stated that though Clinton was married, she was Clinton's mistress for twelve years. She made tape recordings of the intimate telephone conversations between her and Clinton. A transcript of these tapes reveals that Clinton performed certain sexual acts with Flowers. The language used was too obscene to print in a family newspaper.

When he refused to answer the young man's question as to whether or not he was an adulterer, Clinton was in effect saying it was none of your — the voters' — business. Imagine a presidential

candidate saying that it was none of the voters' business whether or not he was an adulterer.

The office of the presidency demands that only men of high moral character be elected to that office. It is your business whether or not a presidential candidate is an adulterer. There are enough men or women in the United States of high moral character to be President without having an adulterer and liar. Clinton is a liar because he first denied that he had the affair with Flowers. Then he took the "Fifth Amendment." No candidate taking the "Fifth" should be permitted to be President.

A beauty queen also said she had an affair with Clinton. He hired private investigators and a law firm to attempt to destroy her credibility. (Remember how the columnists condemned Perot for hiring investigators — how the media have a double standard.) Because in the end, it was his word against her word, she could not prove they had an affair — even though they might have.

But the Gennifer Flowers affair is different. She can prove her affair by her having made tapes of their talks. These tapes prove this affair between Clinton and her beyond a shadow of a doubt. Clinton must withdraw just like Gary Hart did.

So far, the press and TV have generally remained silent about these tapes. It is time the major media voluntarily started a thorough investigation of the matter of candidate Clinton's affair.

Act now — write or call your local newspaper editor to insist he call for an investigation of these tapes and the Flowers affair. Clinton should not be allowed to get away with saying it is none of your business whether or not he was an adulterer. He should quit now. No adulterer and liar should be President of the United States.

CONCERNED VOTERS

P.O. Box 40309
Washington, DC 20016

If you want a transcript of the Flowers tape, send \$3 for postage and handling to above address.

92 OCT -2 AM 11:51

FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK

92040924056

SHOULD THE PRESIDENT OF THE UNITED STATES BE OF HIGH MORAL CHARACTER?

The United States is still a great country and the leader of the Free World. Yes, the leader of the Free World should be a man of high moral character. A country that does not have high moral values will eventually self-destruct or become a second-rate nation. The U.S. must be prevented from self-destructing or becoming a second-rate nation.

The president of our country is regarded as a role model by the majority of our citizens. If the president does not have high moral values, some of our citizens may lower their own moral values to those of our president's. That is why the moral character question is legitimate and must be discussed in advance. This high moral character standard must be applied to all candidates.

There is no malice intended towards any candidate. It is in keeping with the First Amendment to robustly discuss the qualifications of any candidate for high public office. I do not expressly advocate the defeat or election of any candidate. Specifically, I do not advocate the defeat of William Clinton. What I am asking is that the qualification of character of the candidates to hold high office be discussed as protected by the First Amendment of the Constitution.

When a man voluntarily seeks high public office his private life is no longer private but open to the examination of the voters he is asking to vote for him. Only after full disclosure and inspection of his qualifications by the voters will the voters know what is his moral character — high or low. Clinton refuses to answer and to be held to this high moral standard.

Gary Hart was originally thought to be of high moral character. He lied when he denied being an adulterer. He was caught being an adulterer. He had to quit in disgrace. Clinton should be held to the same high moral standards as was Gary Hart.

Clinton first denied Gennifer Flowers was his mistress saying she was just a good friend. Later he changed his story and said, in effect, it was none of the voters business whether or not he was an adulterer. At a rally a young man asked him pointblank if he was an adulterer. Clinton first replied he was tired of being held to a double standard. Then he replied that he was not going to answer the question of whether he was an adulterer. You have a right to know.

Gennifer Flowers, Clinton's mistress, according to her, made tape recordings of their intimate telephone conversations. According to the transcript of these telephone conversations, Flowers describes an intimate sex act with Clinton saying "You ate good p—y." She said Clinton replied, "Well, you can tell them (reporters) that if I don't run for president." If true, this shows low moral character. From the transcripts of these conversations it sounds as though Gennifer Flowers was Clinton's mistress while he was married to his wife Hillary.

It is shocking but true, virtually none of the major media: The New York Times, The Washington Post, Los Angeles Times, NBC News, ABC News, CBS News, Associated Press, United Press International, CNN or Larry King Live will ask Clinton if he is an adulterer. A reporter asked the Republican candidate President Bush, and his wife, if he was an adulterer, which he vehemently denied.

They consider the question of Clinton's alleged draft evasion a legitimate question to be raised because it goes to his moral character. They are very wrong when they then contend that adultery does not go to the moral character of a man. Alleged adultery is a far greater legitimate question than draft evasion. Yet the major media and the talk shows do not have the guts to put this question to Clinton. If President Bush was asked this question surely it must be judged a legitimate question to ask William Clinton. Yet the media refuse to acknowledge this.

This major media group is to be severely condemned for not doing so. They have a duty to ask Clinton if he was an adulterer. They also have a duty, as they did with Gary Hart, to investigate in depth Gennifer Flowers and her tape recordings of her telephone conversations with Clinton. They should report to you, the voters, the sexual act described on the tapes, without any editing. If this act is too offensive to modesty or decency, then he is not of high moral character and he should quit as Gary Hart quit.

Write to any one of these news media demanding they publicly ask candidate Clinton whether he was an adulterer, was Gennifer Flowers his mistress, and his attitude towards the Flowers tapes. In not asking these legitimate questions of Clinton the media are failing in their duty to their readers, listeners and viewers, and to you — the voters. Write today.

Wilson C. Lucom
A DEMOCRATIC CONCERNED VOTER
P. O. Box 2467
Palm Beach, Florida 33480

Disclaimer: This ad was not authorized by or paid for by any candidate or any committee representing such candidate. It was authorized for and paid for entirely by Wilson C. Lucom, a Democratic voter, who firmly believes the voters have a right to know and discuss the qualification of moral character of the presidential candidates. He is spending his own money so the major media will finally do their job, which they have not done to date.

92 OCT -2 AM 11:52

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK

92040924057

OGC6904

AFFIDAVIT

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

MUR 3579

92 OCT 13 PM 5:11

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgements, personally appeared this day MR. WILSON C. LUCOM, Chairman of CONCERNED VOTERS, INC. who after being duly sworn, deposes and says as follows:

1. I am personally acquainted with the facts set forth herein.
2. I acted as Chairman of CONCERNED VOTERS, INC.
3. CONCERNED VOTERS, Inc. paid for the production and placement of the advertisement with the heading "Is Bill Clinton an Adulterer and Liar?" in the August 11, 1992 Washington Times.
4. I used CONCERNED VOTERS funds to pay for the production and placement of this advertisement. As an individual I contributed \$2,200 to CONCERNED VOTERS, INC. for the cost of this ad. There was no other source of funding or contributions to CONCERNED VOTERS, INC. This one advertisement is all the advertisements we have placed in publications which refer to the issue "Is Bill Clinton an Adulterer and Liar?" Governor Clinton's qualifications as issue advocacy were referred to incidentally as part of this issue, should the president of the United States be of high moral character. We have not placed this advertisement or any variation in any other type of general public advertising.
5. I certify that the independent expenditures for the advertisement described herein was not made with the cooperation

92040924058

or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

FURTHER AFFIANT SAYETH NAUGHT.

Wilson C. Lucum

WILSON C. LUCOM
Chairman
CONCERNED VOTERS, INC.

The foregoing instrument was acknowledged before me this 12th day of October, 1992 by WILSON C. LUCOM, Chairman, CONCERNED VOTERS, INC. who is personally known to me.

Betty G. Verplank
NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires:



BETTY G. VERPLANK
MY COMMISSION EXPIRES
December 12, 1994
BONDED THRU TROY FAIR INSURANCE, INC.

92040924059

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgements, personally appeared this day MR. WILSON C. LUCOM, who after being duly sworn, deposes and says as follows:

1. I am personally acquainted with the facts set forth herein.
2. I acted solely as an individual.
3. I personally paid for the production and placement of the advertisement with the heading "Should the President of the United States be of High Moral Character" in the September 15, 1992 Washington Times.
4. I personally paid for the producing and placement of the advertisement with the heading "Should the President of the United States be of High Moral Character?" in September 29, 1992 New York Times.
5. I personally paid for the producing and placement of the advertisement with the heading "Should the President of the United States be of High Moral Character?" which is appearing in the October 13, 1992 Washington Post.
6. I used my personal funds to pay for the production and placement of these advertisements. There was no other source of funding or contributions. These three advertisements are all the advertisements I personally placed in publications which refer to

92 OCT 13 PM 5:11

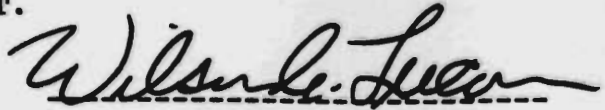
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92040924060

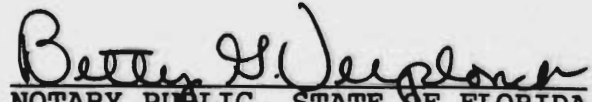
the issue "Should the President of the United States be of High Moral Character." Governor Clinton's qualifications were referred to only incidentally as part of this issue. I, personally, have not placed these advertisements or any variation in any other type of general public advertising. In these advertisements I used the FEC required disclaimer of my having no connections whatsoever with any of the candidates or their committees.

7. I certify that the independent expenditures for the advertisements described herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

FURTHER AFFIANT SAYETH NAUGHT.


WILSON C. LUCOM

The foregoing instrument was acknowledged before me this 12th day of October, 1992 by WILSON C. LUCOM who is personally known to me.


NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires:



BETTY Q. VERPLANCK
MY COMMISSION EXPIRES
December 12, 1994
BONDED THRU TROY PAW INSURANCE, INC.

92040924061

AND CONTRIBUTIONS RECEIVED
(To be used by a Person Other Than a Political Committee)

(See Instructions on Reverse Side)

1. (a) Name WILSON C. LUCOM	(e) Occupation PRIVATE INVESTOR
(b) Address P.O. Box 2467	2. Identification Number 138-18-4434
(c) City, State and ZIP Code Palm Beach, FL 3 3480	3. Is this Report an Amendment? ☐ YES ☒ NO
(d) Name of Employer Self-employed	

4. TYPE OF REPORT (check appropriate boxes):

- | | |
|---|--|
| ☐ April 15 Quarterly Report
☐ July 15 Quarterly Report
☒ October 15 Quarterly Report
☐ January 31 Year End Report
☐ July 31 Mid Year Report | ☐ Twelfth Day Report preceding _____ election on _____ in the State of _____
☐ Thirtieth Day Report following the General Election on _____ in the State of _____ |
|---|--|

5. This Report covers the period - FROM: 07/16/92 THROUGH: 10/15/92

6. CONTRIBUTION(S) RECEIVED

Full Name, (Mailing Address and ZIP Code of Contributor)	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
NONE				

7. EXPENDITURES MADE

Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check One		Name and Office Sought (District, (State) of Federal Candidate)
				Support	Oppose	
Wilson C. Lucom	AD	09/15/92	\$3,900.00	NEITHER		Presidency issue
Washington Times	AD	09/29/92	\$15,844.50	NEITHER		advocacy ad
New York Times	AD	10/13/92	\$5,292.00	NEITHER		
Washington Post						

8. Total Contributions \$ -0-
9. Total Expenditures \$ 25,036.50

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

Subscribed and sworn to before me this 12th day of October, 1992

My Commission Expires:

Betty Q. Verplanck
 (Notary Public)

BETTY Q. VERPLANCK
 MY COMMISSION EXPIRES
 December 12, 1994



Wilson C. Lucom
 SIGNATURE
 10/12/92
 Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

For further information contact:

Federal Election Commission
 Toll Free 800-424-9530
 Local 202-693-1000
 376-3120

Any information reported herein may not be copied for sale or use by any person for the purpose of soliciting contributions or for any other commercial purpose (except that the name and address of any political committee may be used to solicit contributions from such committee).

RECEIVED
 FEDERAL ELECTION COMMISSION
 OFFICE OF THE CLERK
 OCT 13 PM 5:11

92040924062

**REPORT OF INDEPENDENT EXPENDITURES
AND CONTRIBUTIONS RECEIVED**
(To Be Used by a Person Other Than a Political Committee)

(See Instructions on Reverse Side)

1. (a) Name <u>CONCERNED VOTERS, INC.</u> <u>Wilson C. Lucom, Chairman</u>	(c) Occupation <u>Chairman, Concerned Voters</u>
(b) Address <u>P.O. Box 40309</u>	2. Identification Number <u>1114 YEM 001</u>
(c) City, State and ZIP Code <u>Washington, DC</u>	3. Is this Report an Amendment? ☐ YES ☒ NO
(d) Name of Employer _____	

4. TYPE OF REPORT (check appropriate boxes):

- | | |
|---|---|
| ☐ April 15 Quarterly Report | ☐ Twelfth Day Report preceding _____ election on _____ |
| ☐ July 15 Quarterly Report | in the State of _____ |
| ☒ October 15 Quarterly Report | ☐ Thirtieth Day Report following the General Election on _____ |
| ☐ January 31 Year End Report | in the State of _____ |
| ☐ July 31 Mid Year Report | |

5. This Report covers the period - FROM: 07/16/92 THROUGH: 10/15/92

6. CONTRIBUTION(S) RECEIVED

Full Name, Mailing Address and ZIP Code of Contributor	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
Wilson C. Lucom 260 N. Ocean Boulevard Palm Beach, FL 33480	Self-employed	Private Investor	7/31/92	\$2,200.00

7. EXPENDITURE(S) MADE

Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check One		Name and Office Sought (District, State) of Federal Candidate
				Support	Oppose	
Wilson C. Lucom Chairman P.O. Box 40309 Washington, DC 20016	AD Washington Times	8/11/92	\$2,200.00	NEITHER		Issue advocacy Ad

8. Total Contributions \$ 2,200.00

9. Total Expenditures \$ 2,200.00

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or agent or authorized committee of the candidate.

Subscribed and sworn to before me this 12th
day of October, 19 92

My Commission Expires _____

Betty G. Thompson

BETTY G. THOMPSON
 FEDERAL ELECTION COMMISSION
 15 DECEMBER 31, 1994
 BOSTON, NEW YORK, SAN FRANCISCO, D.C.

Wilson C. Lucom 10/12/92
 SIGNATURE Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

For further information contact:
 Federal Election Commission
 Toll Free 800-424-9530
 Local 202-462-6000
 376-3120

Any information reported herein may not be copied for sale or use by any person for the purpose of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

OGC 6960

**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357278
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

9 OCT 16 PM 4:33

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK

October 16, 1992

VIA HAND DELIVERY

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

Attention: Xavier K. McDonnell, Esquire

Re: MJR 3579 Concerned Voters/Wilson C. Lucom

Dear Mr. McDonnell:

Enclosed with this letter is a copy of the check for the purchase of the August 11, 1992 Washington Times advertisement with the heading "Is Bill Clinton an Adulterer and A Liar?". I have also enclosed an additional affidavit from Mr. Lucom which I believe will clarify any remaining factual question which your office may have relating to this matter.

It is my understanding pursuant to my most recent telephone conversation that this check and the prior materials provided to your office represent a full compliance with the Commission's subpoena dated the 17th day of August, 1992, addressed to Concerned Voters/Wilson C. Lucom, Chairman.

Since Mr. Lucom has fully complied with the Commission's subpoena, we anticipate that you will vacate the Show Cause Order of October 9th and will dismiss the District Court petition to enforce the subpoena. If this is not accurate, please contact this office immediately.

As I indicated in our conversation, it is our intention to file a letter next week directed to the Commission further amplifying our client's position as to why the Commission should

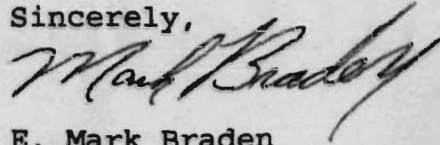
92040924064

Mr. Xavier K. McDonnell, Esquire
October 16, 1992
Page 2

take no further action in this matter. Should you have additional questions regarding this matter, please do not hesitate to contact me.

Thank you for your cooperation.

Sincerely,



E. Mark Braden

EMB/bss

cc: Mr. Wilson C. Lucom

920409224065

AFFIDAVIT

CITY OF WASHINGTON)
)
DISTRICT OF COLUMBIA)

BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgements, personally appeared this day MR. WILSON C. LUCOM, Chairman of CONCERNED VOTERS, INC. who after being duly sworn, deposes and says as follows:

1. I am personally acquainted with the facts set forth herein.

2. I acted as Chairman of CONCERNED VOTERS, INC.

3. CONCERNED VOTERS, Inc. was formed for the express purpose of promoting political ideas and not to engage in any commercial business activities.

4. I, Wilson C. Lucom, am the sole shareholder of Concerned Voters, Inc. There are no other shareholders or other persons affiliated so as have a claim on assets or earnings or other economic disincentives for disassociating themselves from Concerned Voters issue or political activities.

5. Concerned Voters, Inc. was not established by a business corporation or labor union and has not accepted contributions from such entities. I personally have been the sole source of funds for Concerned Voters, Inc.

FURTHER AFFIANT SAYETH NAUGHT.


Wilson C. Lucom

92040924066

309

CONCERNED VOTERS

P. O. BOX 404
WASHINGTON, D.C. 20010

July 31 19 92

1-108

THE
SER OF IAN MAC KENZIE

\$2,200.00--

---TWO THOUSAND TWO HUNDRED AND 00/100-----

DOLLARS



RIGGS

The Riggs National Bank of Washington, DC
Member FDIC
Washington, DC 20004-0001

W WCL

TO IAN TO COVER CLINTON AD IN WASH. TIMES

William L. Lucas

⑈000309⑈ ⑆054000030⑆

17117950⑈

92040924067

**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

OG C7031

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

October 21, 1992

VIA HAND DELIVERY

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

Attention: Xavier K. McDonnell, Esquire

Re: MUR 3579 Concerned Voters/Wilson C. Lucom

Dear Xavier:

Pursuant to our telephone conversation of this afternoon, I am providing you with some of the additional information you requested. Concerned Voters, Inc. is a Delaware corporation. The date of incorporation was June 6, 1990. As of Monday, October 19, 1992, Concerned Voters, Inc. received \$372 for transcripts; \$282 in checks, \$90 in cash from 94 persons.

I understand that our only outstanding remaining subpoena issues regard:

1. Whether Mr. Lucom/Concerned Voters purchased or payed for any other advertisement which contain the name of a federal candidate since January 1, 1992.
2. Name of Concerned Voters registered agent.
3. Copy of documents relating to the advertisement other than the check already provided.
4. Copy of Articles of Incorporation, By-laws, Directors, etc.

It is my understanding that providing these items will complete compliance with the Commission's subpoena to Lucom/Concerned Voters. If this information will not, please provide specific additional guidance.

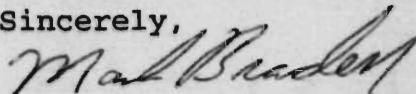
RECEIVED
FEDERAL ELECTION COMMISSION
92 OCT 21 AM 10:06

92040924068

As to the FEC Form 5 provided to your office signed by Mr. Lucom, I am endeavoring to determine whether there are modification of this form which Mr. Lucom would be willing to make to meet your request. Upon determination of his position, if appropriate, I will provide you with a modified FEC Form 5. At that time, I intend to provide a statement to the Commission as to why if it rejects Mr. Lucom's legal position the Commissioners should in the alternative determine that this is not a matter which would be appropriate for further action by the Commission.

I look forward to resolving this matter in the near future.

Sincerely,



E. Mark Braden

EMB/bss

cc: Mr. Wilson C. Lucom

1735\EMB\84643\92001\FEC.LTR

92040924069

06C709D

**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

October 23, 1992

VIA HAND DELIVERY

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

Attention: Xavier K. McDonnell, Esquire

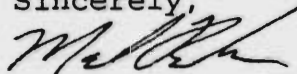
Re: MUR 3579 Concerned Voters/Wilson C. Lucom

Dear Xavier:

Pursuant to our discussions, enclosed is a copy of FEC Forms 5 with the modifications suggested by your office. Mr. Lucom/Concerned Voters has neither purchased nor paid for any advertising which contained the name of a federal candidate since January 1, 1992 other than those indicated on the FEC Forms 5 enclosed.

Also enclosed are the documents relating to the August 11th Washington Times advertisement and from the Delaware Secretary of State, the corporate records requested pursuant to your subpoena. Corporation Trust is the registered agent. It is my understanding that these items will complete compliance with the Commission's subpoena to Lucom/Concerned Voters. Please call to confirm. Thank you for your cooperation in this matter.

Sincerely,



E. Mark Braden

EMB/bss
Enclosures

cc: Mr. Wilson C. Lucom

RECEIVED
FEDERAL ELECTION COMMISSION
92 OCT 23 PM 4:51

92040924070

(See Instructions on Reverse Side)

4. TYPE OF REPORT (check appropriate boxes):

8. This Report covers the period - FROM: July 16, 1992 THROUGH: October 15, 1992

Any information reported herein may not be copied for sale or use by any person for the purpose of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

2232539

730157022

FILED

JUN 6 1990

CERTIFICATE OF INCORPORATION

OF

CONCERNED VOTERS, INC.

John H. [Signature]
SECRETARY OF STATE
2 PM

92 OCT 23 PM 4:56

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK

1. The name of the corporation is:

CONCERNED VOTERS, INC.

2. The address of its registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

3. The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

4. The total number of shares of stock which the corporation shall have authority to issue is Six Hundred (600) and the par value of each of such shares is One Dollar (\$1.00) amounting in the aggregate to Six Hundred Dollars (\$600.00).

5. The board of directors is authorized to make, alter or repeal the by-laws of the corporation. Election of directors need not be by written ballot.

6. The name and mailing address of the incorporator is:

M. C. Kinnamon
Corporation Trust Center
1209 Orange Street
Wilmington, Delaware 19801

I, THE UNDERSIGNED, being the incorporator hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of Delaware, do make this certificate, hereby declaring and certifying that this is my act and deed and the facts herein stated are true, and accordingly have hereunto set my hand this 6th day of June, 1990.

M. C. Kinnamon
M. C. Kinnamon

92040924073

State of Delaware



Office of Secretary of State

I, MICHAEL RATCHFORD, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE CERTIFICATE OF INCORPORATION OF THE "CONCERNED VOTERS,
INC.", FILED IN THIS OFFICE ON THE SIXTH DAY OF JUNE, A.D. 1990, AT
2 O'CLOCK P.M.



922965156

Michael Ratchford

Michael Ratchford, Secretary of State

AUTHENTICATION:

DATE:

10/22/1992

State of Delaware



Office of Secretary of State

I, MICHAEL RATCHFORD, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF ANNUAL REPORT OF THE "CONCERNED VOTERS, INC.", FILED IN THIS OFFICE THE TWENTY-NINTH DAY OF JANUARY, A.D. 1991.



922965156

Michael Ratchford

Michael Ratchford, Secretary of State

AUTHENTICATION:

A. M. Duff

DATE: 10/22/1992

92040924075

Filed: 01/29/91
Franchise Tax
State of Delaware

1992 ANNUAL FRANCHISE TAX REPORT

STATE OF DELAWARE

FORM P90-AF



MICHAEL N. CASTLE, Governor
MICHAEL HARKINS, Secretary of State
Phone: (302) 739-4228

AGENT 000010
THE CORPORATION TRUST COMPANY
CORPORATION TRUST CENTER
1200 GRANT STREET
WILMINGTON DE 19801

2 030191 2232539 000005000 0 6

DO NOT ALTER FILE NUMBER

1. FILE NUMBER 2232539 6		CORPORATION NAME CONCERNED INTERESTS, INC.		PHONE NUMBER		DOB. NO. 018094	
3. INCORPORATION DATE 08/08/1990		RENEWAL DATE		REVOCATION DATE		FEDERAL EMPLOYER ID NO. TYPE GENERAL	
4. NATURE OF BUSINESS				5. PRINCIPAL PLACE OF BUSINESS OUTSIDE OF DELAWARE		6. EXPIRES NOT DATE FROM DATE TO 1/1/91 1/1/91	
7. AUTHORIZED STOCK A. BEGIN DATE 08/08/90		B. ENDING DATE		C. DESIGNATION OR STOCK CLASS COMMON		D. NO. OF SHARES 800	
				E. PAR VALUE/SHARE 1.0000		F. NO. SHARES ISSUED	
				G. TOTAL GROSS ASSETS 23,000		H. ASSET DATE 1/18/91	
9. A. FRANCHISE TAX 30.00		B. (30.00) PENALTY (IF APPLICABLE)		C. 1% MONTHLY INTEREST ON TAX & PENALTY (IF APPLIC.) .00		D. ANNUAL FILING FEE 20.00	
				E. PREP. CREDIT OR BALANCE DUE .00		F. PREPAID QUARTERLY PAYMENTS .00	
9. ASSETS FOR REGULATED INVESTMENT CORP. Jan. 1st Dec. 31st				DD. PAYMENT'S MADE AFTER 11/23/90		E. QUARTERLY INTEREST/CHECK CHG. .00	
				F. TOTAL PAYMENT DUE 50.00			
10. APPOINTED DATE OF NEXT ANNUAL MEETING OF STOCKHOLDERS TO ELECT DIRECTORS (MM/DD/YY) 1/12/92							
11. DIRECTORS NAME STREET/CITY/STATE/ZIP DATE TERM EXPIRES WILSON C. LUCOM 1/12/92							
12. OFFICERS NAME STREET/CITY/STATE/ZIP DATE TERM EXPIRES PRESIDENT WILSON C. LUCOM, 8001 M ⁴ CARTHUR BLVD. VICE-PRESIDENT E. ARTHUR BLVD. SECRETARY WILSON C. LUCOM TREASURER WILSON C. LUCOM OTHER OFFICERS							
13. ORIGINAL SIGNATURE (OFFICER, DIRECTOR OR INCORPORATOR) TITLE DATE X Wilson C. Lucum Director 1/18/91							

92040924076

State of Delaware



Office of Secretary of State

I, MICHAEL RATCHFORD, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF ANNUAL REPORT OF THE "CONCERNED VOTERS, INC.", FILED IN THIS OFFICE THE TWENTY-SEVENTH DAY OF JANUARY, A.D. 1992.

RECEIVED
FEDERAL ELECTION COMMISSION
92 OCT 23 PM 4:51

77040924077



922965156

A handwritten signature in cursive script, appearing to read "Michael Ratchford".
Michael Ratchford, Secretary of State

AUTHENTICATION

A handwritten signature in cursive script, appearing to read "G. M. Duffin".

DATE

10/22/1992

SEND ORIGINAL COPY TURN ENTIRE COPY DO NOT SEND PHOTO COPY

Filed: 01/27/92
Franchise Tax
State of Delaware

1991 ANNUAL FRANCHISE TAX REPORT

FORM

STATE OF DELAWARE



MICHAEL N. CASTLE, Governor
MICHAEL HARKINS, Secretary of State
Phone (302) 739-6225

900010
THE CORPORATION TRUST COMPANY
CORPORATION TRUST CENTER
1200 ORANGE STREET
WILMINGTON DE 19801

2 030192 2232537 000004500 0 3

DO NOT ALTER FILE NUMBER

1. FILE NUMBER 2232537 CORPORATION TRUST COMPANY, INC. PHONE NUMBER 200 NO 018412

2. EXPIRATION DATE RENEWAL DATE REVOCATION DATE FEDERAL EMPLOYMENT TYPE

3. NATURE OF BUSINESS 4. PRINCIPAL PLACE OF BUSINESS OUTSIDE OF DELAWARE 5. PERIODS NOT DATE FROM DATE TO

6. AUTHORIZED STOCK 7. ENDING DATE 8. NO OF SHARES 9. PAR VALUE 10. NO SHARES ISSUED 11. TOTAL GROSS ASSETS 12. ASSET DATE
\$22000.00 1/17/92

13. FRANCHISE 14. PENALTY 15. MONTHLY INTEREST ON TAX & PENALTY 16. ADDED PAYING PER 17. PREV CREDIT 18. PREPAID QUARTERLY PAYMENTS

19. ASSETS FOR REGULATED INVESTMENT CORP 20. DEDUCT PAYMENTS MADE 21. QUARTERLY INTEREST CHECK CHG 22. TOTAL PAYMENT DUE
Jan 1st Dec 31st 1/17/91 00 45.00

23. APPOINTED DATE OF NEXT ANNUAL MEETING OF STOCKHOLDERS TO ELECT DIRECTORS (MM/DD/YY) 1/1/93

24. DIRECTOR NAME STREET/CITY/STATE ZIP DATE TERM EXPIRES
Wilson C. Lucorn 1/2/93

25. OFFICERS NAME STREET/CITY/STATE ZIP DATE TERM EXPIRES
PRESIDENT Wilson C. Lucorn 8001 McArthur Blvd. 1/2/93
VICE-PRESIDENT John John, MD
SECRETARY Wilson C. Lucorn
TREASURER Wilson C. Lucorn
OTHER OFFICERS

26. ORIGINAL SIGNATURE OF OFFICER DIRECTOR OR INCORPORATOR TITLE DATE
X Wilson C. Lucorn 1/17/92

DO NOT DETACH
THE CORPORATION TRUST COMPANY
CORPORATION TRUST CENTER
1200 ORANGE STREET
WILMINGTON DE 19801

YOUR REPORT WILL NOT BE CONSIDERED FILED UNLESS THE ENTIRE REPORT IS RETURNED
STUB FOR BANK USE ONLY

DO NOT DETACH

1991 ANNUAL FRANCHISE TAX REPORT

DO NOT ALTER FILE NUMBER

2232537 CORPORATION TRUST COMPANY, INC. SEQUENCE NO 018412

\$50.00 PENALTY if not Received on or before MARCH 1, 1992

2 030192 2232537 000004500 0 3

MAKE CHECK PAYABLE TO
DELAWARE SECRETARY OF STATE
CHECK NO AMOUNT ENCLOSED
45.00

22040924078

92 NOV -2 AM 11:26

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Concerned Voters, Inc.)
and Wilson C. Lucom)

SENSITIVE

MUR 3579

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter involves an advertisement which appeared in the Washington Times on August 11, 1992, entitled "IS BILL CLINTON AN ADULTERER AND LIAR?" The ad asserts that Bill Clinton is an adulterer and liar, and that he "took the 'Fifth Amendment'" when asked about having an affair. It states that "[n]o candidate taking the 'Fifth' should be permitted to be President," and that "[n]o adulterer and liar should be President of the United States." The ad also states that "He should quit now," and urges readers to contact their local newspapers to call for an investigation of Clinton's alleged affair. The ad offered transcripts of the private telephone conversations related to the alleged affair for \$3.00, to cover postage and handling. At the bottom of the ad appeared the name "CONCERNED VOTERS," and a Washington, D.C. post office box number. The ad did not contain a statement indicating who paid for it nor whether it was authorized by any candidate or candidate's committee.

On August 13, 1992, the Commission found reason to believe that Concerned Voters and persons unknown violated 2 U.S.C. § 441d in connection with the advertisement, and authorized the issuance of a Subpoena and Order to Concerned Voters and to other parties

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that may have had records regarding the expenditures for the advertisement. Concerned Voters initially refused to comply, and on September 15, 1992, the Commission authorized the Office of General Counsel to institute a civil action in U.S. District Court absent full compliance with the Subpoena and Order within 5 days. Counsel for the Respondents requested that this Office postpone filing suit for a week but could not represent that their clients would comply with the Subpoena and Order even if the request were granted. Civil suit therefore was filed, and Mr. Lucum, the Chairman of Concerned Voters, Incorporated ("CVI") thereafter agreed to comply with the Commission's Subpoena and Order. After reviewing the responses and documents produced by respondents, this Office voluntarily dismissed the subpoena enforcement action on October 26, 1992.

In addition to complying with the Commission's discovery requests, respondents have taken action to meet the requirements of the statute, including placing complete disclaimers on advertisements subsequently published in three major newspapers and filing independent expenditure statements pursuant to 2 U.S.C. § 434(c). Counsel for respondents, citing their clients' eventual compliance, the isolated occurrence of the violation, and the remedial action taken, request that the Commission take no further action and close the file in this matter.¹

1. By letter dated October 16, 1992, counsel noted his intention to file a letter amplifying the reasons the Commission should take no further action against Mr. Lucum, whom he has described as a principled man in his seventies. To date no such letter has been received.

II. FACTS ASCERTAINED THROUGH DISCOVERY

The August 11, 1992 advertisement that appeared without a disclaimer was paid for by CVI and cost \$2,200. Discovery has revealed that CVI was incorporated in Delaware in 1990 and funded by Wilson C. Lucom. Mr. Lucom avers that CVI was not formed to engage in any business activities, that he is the sole shareholder and the sole source of funds, that it was not formed by a corporation or labor union and has not accepted contributions from such entities. Attachment 4 at 3. According to CVI's annual franchise tax reports, Mr. Lucom is also the lone agent of CVI, serving as its President, Secretary and Treasurer. Attachment 6 at 7 and 9. The certification of incorporation states that "the nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity," although Mr. Lucom avers that CVI was formed for the express purpose of promoting political ideas and not to engage in any commercial business activities.

Compare Attachment 4 at 3 and Attachment 6 at 4.

Mr. Lucom, acting in his capacity as Chairman of Concerned Voters, Inc., drafted the August 11, 1992 advertisement which he avers was not drafted or placed in cooperation, consultation or concert with or at the request of any candidate or agent. Attachment 1 at 3. He also avers he personally was the sole source of funds for Concerned Voters, Inc., Attachment 3 at 1, and that he paid all costs associated with the ad. Attachments 1 and 3. CVI has received a total of \$372 from 94 persons who responded to the ad's invitation for a transcript of the Flowers' tape.

Since publication of the ad on August 11, 1992 in the

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Washington Times, Mr. Lucom has placed additional advertisements which are quite similar to the one at issue.² However, each of the subsequently published ads identifies Mr. Lucom by name as the person who is paying for the ads and each expressly states that the ad is not authorized by any candidate or any committee representing such candidate. See Attachment 8. Mr. Lucom avers that he has personally paid all expenses related to these more recent ads, which now total more than \$30,000, and that there has been no other source of funding for them.³ Attachment 3. He further avers that he has not personally placed any variation of these advertisements in any other form of general public advertising or paid for any advertisements which contain the names of any other federal candidate. Attachment 6.

III. ANALYSIS

It is clear that the initial ad expressly advocated the defeat of a clearly identified federal candidate without the requisite Section 441d statement. It is also clear that payment

2. The newer ads contain many of the same assertions and much of the same language as the initial one. These ads were published in the New York Times, the Washington Post and the Washington Times.

3. Mr. Lucom has also submitted FEC Form 5 statements setting forth the information required to be filed for independent expenditures. One statement is for the ad which appeared on August 11, 1992, and indicates that expenditures in the sum of \$2,200, were made by Concerned Voters, Inc., and Mr. Lucom as Chairman. The statement for the newer and revised ads during the period from July 16th through October 15th indicates that the expenditures, totaling \$25,036.50, were paid by Mr. Lucom. Attachment 7. Each submission contains a statement that Mr. Lucom believes that the ads constitute a "discussion of the qualifications of presidential candidates." Id.

for this ad came from a corporate account, possibly in violation of 2 U.S.C. § 441b(a).⁴ Moreover, Mr. Lucom states that CVI was formed for the express purpose of promoting political ideas, that the ad in question cost \$2,200, and that 94 persons paid \$327 to receive transcripts of the candidate's alleged conversations, which raise questions about CVI's political committee status, and possible reporting obligations. See 2 U.S.C. §§ 431, 433, 434.

On the other hand, Mr. Lucom, the sole officer and financial supporter of CVI, has ceased CVI's activities which gave rise to this matter. Mr. Lucom has stated under oath that he "had no knowledge or reason to believe that any federal statute might require a disclaimer specifically, (sic) stating who paid and/or authorized the advertisement," Attachment 1 at 3, and he has placed an appropriate disclaimer on all ads published subsequent to his receipt of the Commission's reason to believe notification letter. Moreover, he has ceased using the CVI account in paying for these ads. Finally, Mr. Lucom adamantly believes that his ads do not expressly advocate the election or defeat of any candidate but rather merely discuss the qualifications of presidential candidates protected under Buckley v. Valeo, 424 U.S. 1 (1976). Nonetheless, in an effort to cooperate with the Commission, he has filed the statements required for independent expenditures.

In sum, it appears that our enforcement proceeding has succeeded in changing Mr. Lucom's behavior and stopped the

4. The affidavit of Mr. Lucom appears to suggest that CVI is within the narrow class of corporations exempt from the prohibitions of 2 U.S.C. § 441b(a). See FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986).

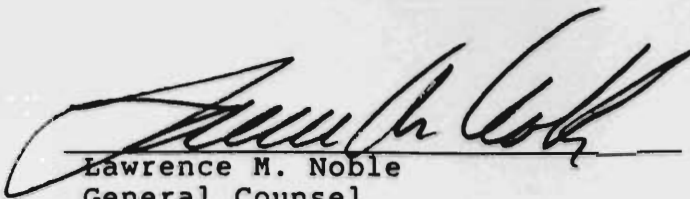
publication of an anonymous ad advocating the defeat of a clearly identified candidate in the midst of a presidential campaign. In addition, CVI has ceased making expenditures and has ceased receiving funds in connection with these ads. Given that the disclaimer violation and the use of the corporate form have been isolated by the Commission's swift intervention and that the respondents have altered their behavior to conform with the requirements of the statute, this Office recommends that the Commission take no further action and close the file. This Office will include an admonishment in its letter to CVI and Wilson Lucom, as Chairman.

II. RECOMMENDATIONS

1. Take no further action against Concerned Voters, Incorporated, and Wilson C. Lucom, as Chairman.
2. Approve the appropriate letter.
3. Close the file

Date

11/2/92


Lawrence M. Noble
General Counsel

Attachments
Responses from CVI

Staff Assigned: Xavier K. McDonnell

92040924084

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Concerned Voters, Inc.) MUR 3579
and Wilson C. Lucom.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 5, 1992, the Commission decided by a vote of 5-0 to take the following actions in MUR 3579:

1. Take no further action against Concerned Voters, Incorporated, and Wilson C. Lucom, as chairman.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated November 2, 1992.
3. Close the file.

Commissioners Aikens, Elliott, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioner McDonald did not cast a vote.

Attest:

11-6-92
Date

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

Received in the Secretariat: Mon., Nov. 2, 1992 11:26 a.m.
Circulated to the Commission: Mon., Nov. 2, 1992 4:00 p.m.
Deadline for vote: Thurs., Nov. 5, 1992 4:00 p.m.

dr

92040924085



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 12, 1992

CLOSED

Mark Braden, Esquire
Bill Schweitzer, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3579
Concerned Voters
Wilson C. Lucom, Chairman

Dear Messrs. Braden and Schweitzer:

On August 20, 1992, Concerned Voters and persons unknown were notified that the Federal Election Commission found reason to believe that they violated 2 U.S.C. § 441d. In October and November, 1992, you submitted responses on behalf of your clients in connection with the Commission's reason to believe finding and its discovery requests.

After considering the circumstances of the matter, the Commission determined on November 5, 1992, to take no further action against your clients and closed the file.

The Commission reminds your clients that failing to place a disclaimer on any advertisement which expressly advocates the election or defeat of a clearly identified candidate is a violation of 2 U.S.C. § 441d(a). Your clients should continue to take steps to insure that this activity does not occur in the future.

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

Sincerely,

Xavier K. McDonnell

Xavier K. McDonnell
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 3579

DATE FILMED 11/20/92 CAMERA NO. 4

CAMERAMAN E.E.S.

92040924087



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

☒ Microfilm
☐ Public Rcds
☐ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3579.

11/24/92

93040924543

REPORT OF INDEPENDENT EXPENDITURES AND CONTRIBUTIONS RECEIVED

(To Be Used by a Person Other Than a Political Committee)

(See Instructions on Reverse Side)

OGC 7204

RECEIVED
FEDERAL ELECTION COMMISSION
OCT 29 PM 3:44

1. (a) Name Wilson C. Lucom	(e) Occupation Private Investor
(b) Address P. O. Box 2467	2. Identification Number 138-18-4434
(c) City, State and ZIP Code Palm Beach, FL 33480	3. Is this Report an Amendment? ☐ YES ☒ NO
(d) Name of Employer SELF-EMPLOYED	

4. TYPE OF REPORT (check appropriate boxes):

- | | |
|--|--|
| ☐ April 15 Quarterly Report
☐ July 15 Quarterly Report
☐ October 15 Quarterly Report
☐ January 31 Year End Report
☐ July 31 Mid Year Report | ☐ Twelfth Day Report preceding _____ election on _____ in the State of _____
☐ Thirtieth Day Report following the General Election on _____ in the State of _____ |
|--|--|

5. This Report covers the period — **FROM: July 16, 1992** **THROUGH: October 15, 1992**

6. CONTRIBUTIONS RECEIVED				
Full Name, Mailing Address and ZIP Code of Contributor	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
NONE				

7. EXPENDITURES MADE						
Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check One		Name and Office Sought (District, State) of Federal Candidate
				Support	Oppose	
Wilson C. Lucom	AD	09/15/92	\$ 3,900.00		X	Bill Clinton/President*
Washington Times	AD	09/29/92	\$15,844.50		X	" " "
New York Times	AD	10/13/92	\$ 5,292.00		X	" " "
Washington Post	AD	10/16/92	\$ 5,292.00		X	" " "
*MR. LUCOM BELIEVES THAT THE ADS ARE A DISCUSSION OF THE QUALIFICATIONS OF PRESIDENTIAL CANDIDATES.						

8. Total Contributions..... \$ _____

9. Total Expenditures..... \$ _____

Under penalty of perjury I certify that the independent expenditures reported herein were not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or agent or authorized committee of such candidate. Furthermore, these expenditures did not involve the financing of, the dissemination, distribution or republication, in whole or in part, of any campaign materials prepared by the candidate or an agent or authorized committee of the candidate.

Wilson C. Lucom
SIGNATURE Date

Subscribed and sworn to before me this 29th day of October, 1992.

My Commission Expires:
Toni On Ali
 (Notary Public)
 DISTRICT OF COLUMBIA
 My Commission Expires April 14, 1995

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

For further information contact:
 Federal Election Commission
 Toll Free 800-494-6333
 Local 202-696-6000 219-3420

Any information reported herein may not be copied for sale or use by any person for the purpose of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

93040924544

(To Be Used by a Person Other Than a Political Committee)

1. (a) Name Concerned Voters, Inc. Wilson C. Lucon	(e) Occupation: Chairman Concerned Voters
(b) Address Post Office Box 40309	2. Identification Number
(c) City, State and ZIP Code Washington, DC	3. Is this Report an Amendment? ☐ YES ☒ NO
(d) Name of Employer	

(a) ☐ April 15 Quarterly Report
☐ July 15 Quarterly Report
☐ October 15 Quarterly Report
☐ January 31 Year End Report
☐ July 31 Mid Year Report

☐ Twelfth Day Report preceding _____ election on _____
in the State of _____.

☐ Thirtieth Day Report following the General Election on _____
in the State of _____.

CONTRIBUTIONS RECEIVED				
Full Name, Mailing Address and ZIP Code of Contributor	Name of Employer	Occupation	Date (Month, Day, Year)	Amount
Wilson C. Lucom 260 N. Ocean Boulevard Palm Beach, FL 33480	Self-Employed	Private Investor	7/31/92	\$2,200.00

7. EXPENDITURES MADE						
Full Name, Mailing Address and ZIP Code of Payee	Purpose of Expenditure	Date (Month, Day, Year)	Amount	Check: One		Name and Office Sought (District, State) of Federal Candidate
				Support	Oppose	
Wilson C. Lucom, Chairman PO Box 40309 Washington, DC 20016	AD Washington Times	8/11/92	\$2,200.00		X	Bill Clinton/President*
*MR. LUCOM BELIEVES THAT THE AD IS A DISCUSSION OF THE QUALIFICATIONS OF PRESIDENTIAL CANDIDATES						

Any information reported herein may not be copied for sale or use by any person for the purpose of soliciting contributions or for any other commercial purpose except that the name and address of any political committee may be used to solicit contributions from such committee.

**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

RECEIVED
FEDERAL ELECTION COMMISSION
PUBLIC DISCLOSURE DIVISION

92 OCT 30 PM 5:57

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

October 30, 1992

VIA HAND DELIVERY

Commissioners
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D.C. 20463

Attention: Xavier K. McDonnell, Esquire

Re: MUR 3579

Dear Commissioners:

This letter is written to explain why this matter under review would be appropriate for the Federal Election Commission ("Commission") to promptly close without further action. It arises from an advertisement published in The Washington Times on August 11, 1992 which contained no statement specifically naming the individual or organization which paid for and/or authorized the advertisement. The advertisement clearly identifies Bill Clinton as a presidential candidate. The Commission's General Counsel believes that it also expressly advocates Clinton's defeat. For this reason, their analysis concludes that there is reason to believe the advertisement is a violation of 2 U.S.C. §441d(a).

In a letter at the beginning of this month, I provided to the General Counsel's office our analysis of the relevant statutes and court opinions from which we concluded that this advertisement does not expressly advocate the election or defeat of any candidate, so the failure to include a disclaimer does not violate any provision of the Federal Election Campaign Act. I will not repeat those arguments in this letter.

The purpose of this letter is solely to argue that even if the Commissioners should reject our legal analysis that this advertisement is not a violation of the Act, still the Commission should not take further action in this matter.

Mr. Lucom lacked any knowledge that his Washington Times advertisement would incur any reporting requirement under the Act or require a disclaimer. Once informed that the Commission might

92 NOV -3 AM 11:02

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF PUBLIC DISCLOSURE

93040924546

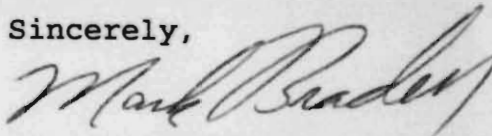
Commissioners
Federal Election Commission
October 30, 1992
Page 2

93040924547
conclude that an advertisement like that appearing in The Washington Times would require a disclaimer, Mr. Lucom has in subsequent like advertisements included a disclaimer explicitly stating he personally paid for and authorized the advertisement. Even though he continues to doubt his obligations to file independent expenditure disclosure reports with the Commission, he has and will in the future file complete and accurate reports with the Commission regarding any advertisement containing the name of a federal candidate. Even if the General Counsel's analysis is correct, Mr. Lucom's violation was inadvertent, not knowing and willful. Given the minimal nature of the possible violation (a missing disclaimer in a single newspaper advertisement) and Mr. Lucom's full cooperation with the General Counsel's office plus his willingness to comply with the Commission's interpretation of the Act in the future, this is simply not a matter which the Commission limited resources would be wisely used in further pursuing.

This Matter Under Review cannot be resolved through the conciliation process. Mr. Lucom has personally reviewed the statute and federal court decisions interpreting the Act contained in our earlier letter. He has concluded that his actions did not violate the Act. He will under no circumstances agree to a conciliation agreement which would state that his actions did not comport with all applicable federal statutes and regulations. Mr. Lucom will contest vigorously in court any Commission determination adverse to him.

If you have additional questions in regards to this matter, please do not hesitate to contact me. I want to thank the General Counsel office for its cooperation in this matter.

Sincerely,



E. Mark Braden

EMB/bss



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 6, 1992

Mark Braden, Esquire
Bill Schweitzer, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3579
Concerned Voters
Wilson C. Lucom, Chairman

Dear Messrs. Braden and Schweitzer:

This is in response to the letter you submitted on behalf of your clients, dated October 1, 1992, wherein a waiver of confidentiality was requested pursuant to 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A).

The Commission acknowledges the waiver requested pursuant to 2 U.S.C. § 437g(a)(12)(A). The Commission will consider requests for information concerning this matter subject to the following considerations. First, requests must be in writing. Second, such requests will be considered by the Commission subject to the provisions of the Freedom of Information Act, the Government in Sunshine Act, and all relevant privileges which limit or preclude the release of such requested information.

The Commission, however, does not consent to waive the confidentiality of information and actions taken pursuant to any conciliation attempt. See 2 U.S.C. § 437g(a)(4)(B)(i).

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

Sincerely,

Xavier K. McDonnell
Xavier K. McDonnell
Attorney

93040924548